

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 MAY, 2007**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.02pm.

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

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

Officers

Mr Stephen Tindale	Chief Executive Officer
Mr Graham Pattrick	Manager Corporate Services/Deputy CEO
Mr Andrew Jackson	Manager Planning & Development Services
Mr Geoff Trigg	Manager Engineering Services
Ms Georgina Cooper	Executive Assistant

Apologies

Nil.

Leave of Absence (previously approved)**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

4 PUBLIC QUESTION TIME**Mr Chris Wiggins – 50 John Street – Network City**

Mr Wiggins asked what the status of the Network City Program is in relation to item 10.2.7 on draft TPS3 and how it was to be entertained in that regard. He also asked what is the document referred to as the LPS?

Mr Jackson advised that Network City is the guiding Strategic Plan for the metropolitan region which looks at implementation measures such as town planning schemes to help manage the growth of Perth. This is the reference

for the WAPC and has an influence on what goes into town planning schemes, in accordance with the system and guidelines for town planning schemes. LPS means the Local Planning Strategy which forms part of the town planning scheme documentation.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Furlong

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

Carried 11/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 The western suburbs local governments have been successful in convincing the State Government not to forcibly amalgamate the western suburbs local governments.

7.2 A decision will be handed-down by the Supreme Court of Appeal at 10.00am tomorrow regarding the proposed redevelopment of the Cottesloe Beach Hotel which is under review by the State Administrative Tribunal.

8 PUBLIC STATEMENT TIME

Mr William Gower, 32 Boreham Street – Item 10.1.1, 463 Stirling Highway – Appeal – Objections from Community

Requested that Council reflect the views of the community in its actions. Whilst door-knocking to get signatures for a petition, he found that the overwhelming majority of people in the local area are not in favour of changing the use of the residence to business.

Mr Ken Adam, 183 Broome Street – Item 10.2.1, Unit 1, No 3 Princes Street – Two-Storey Grouped Dwelling

Acting on behalf of the neighbours at 5 Princes Street and requests that the overall height be reduced by 294mm. A greater height reduction could have been requested.

The applicant may argue that reducing the height by 294mm would create problems however, from an architectural and structural point of view, he can see no problems as the ceiling height would still be generous.

Mr Ben McCarthy on behalf of Mr & Mrs Muir – Item 10.2.5, No 34 Lyons Street – Two-Storey Residence with Undercroft and Swimming Pool

There are not many issues associated with the application. The stair-case window will be screened with opaque glass and they will look at solutions to retain the street tree.

Mr Grant Alderson, 300 Marmion Street – Item 10.2.6 – Consideration of Retention of Tree in Relation to Upgrading of Right of Way

Cannot complete the paving and drainage of the right-of-way and unable to do so until the shrubs and trees are removed from the right of way. The tree has been planted without Council approval and makes the right-of-way only 4.2m wide. One car has to be parked on the street verge and the tree restricts the line of sight. It will cause problems in the future with the sewerage main. Will also set a precedent for planting in any right-of-way and Council will be liable if anything happens in the future. Rights-of-way are for vehicles and pedestrian and should be kept clear of any planting and trees.

Mr Ian Ogborne, 42 Hawkstone Street – Item 10.2.6 – Consideration of Retention of Tree in Relation to Upgrading of Right of Way

Respects that the lane way is Council property and is happy to remove the shrubs from around the tree trunk which will make the distance from the garage door at 300 Marmion Street more than 7m, so manoeuvring will not be a problem. Additions to the residence were built on energy-efficiency principles and the tree was already there. Thirty residents have signed a petition to retain the tree. Requests Council to allow the tree to remain.

Mr Graham Disney, 147 Broome Street – Item 10.2.6 – Consideration of Retention of Tree in Relation to Upgrading of Right of Way

Agrees with the recommendation of the Committee to remove the tree. Photos were circulated to Councillors show the difficulty for a vehicle to drive down the right of way and access adjoining driveways. There will be problems with tree roots growing into sewerage lines in the future and Council will be liable for this. The contractor has refused to pave and drain the right-of-way until the tree has been removed and will take no liability for any damage that occurs.

Ms Rosie Walsh, 35 Grant Street – Item 10.2.7 – Draft Town Planning Scheme No. 3 – WAPC Feedback on Scheme Proposals and Consent to Advertise

Network City will not work in the Town of Cottesloe. There is a need for family size blocks to accommodate families, vehicles, pets, etc. Increase in density will cause traffic and environmental problems. The Grant Street station is too small and trains rarely stop there and this is not a viable argument to increase density in the area. How many Cottesloe people use the train?

Cottesloe has a 12m height limit for the beachfront and requests the Minister for Planning and Infrastructure listen to the community. The community has firmly stated its position and requests Council to represent the community.

Ms Sally Pyvis, 14A Forrest Street – Item 10.2.7 – Draft Town Planning Scheme No. 3 – WAPC Feedback on Scheme Proposals and Consent to Advertise

Would like to remind Council that over 4000 residents signed a petition to retain the height limit on the beachfront to be 12m. There are concerns about

overshadowing and environmental impact. The best coastal destinations are low rise. Requests Council to listen to the vocal majority who object to over 12m.

Ms Ruth Harms, 37 Elizabeth Street – Item 10.2.7 – Draft Town Planning Scheme No. 3 – WAPC Feedback on Scheme Proposals and Consent to Advertise

Reminded Council of its mission statement which is on the website. An increase in density and infill will be an environmental disaster, increase in noise and traffic, less natural light for residents and reduction in trees for shade. Cottesloe is known as a leafy green suburb with lots of fauna and this will be reduced if infill is increased. Please care for Cottesloe and be strong representatives for the community and not buckle to pressure from the WAPC.

Mr Chris Wiggins, 50 John Street – Item 10.2.7 – Draft Town Planning Scheme NO. 3 – WAPC Feedback on Scheme Proposals and Consent to Advertise

Congratulate staff on the detailed report and recommendations. Concurs with proposal to consult residents for their opinions on the WAPC comments regarding increased densities. Requests Council to enforce the current height limits for the beachfront and town generally. Would like Council to liaise with SOS regarding the material that will be used for consultation with the community.

Mr John Hammond, 1 Windsor Street – Item 10.2.7 – Draft Town Planning Scheme NO. 3 – WAPC Feedback on Scheme Proposals and Consent to Advertise

Requests Council to view the web page for Noosa Council. It could be substituted for Cottesloe. No buildings in Noosa are over four stories and Noosa Council won the war. Cottesloe is on the right track. However, the greatest challenge for Cottesloe is the overall vision and most residents do not want any high rise. It is very clear what this town wants and that is to Keep Cott Low.

Ms Leah Tocas, Unit 3, 8 Overton Gardens – Item 10.3.1 – Liquor Licencing Application Blue Waters

Major renovations have been carried out on Blue Waters restaurant. There is enough being offered to the younger generation and seeks permission to allow the 35 to 80 age group to purchase an alcoholic drink without buying food. 75% of the clientele are locals and there is support for this change. This licence will allow an alternative to visiting the local pubs and will not reduce the hotel trade.

Does not trade on Sundays after 3.00pm due to the volume of people visiting the pubs and the increased behavioural problems associated with that. This application should not be refused because of the hotels and would not like to be penalised because of that.

Ms Margaret Frayne, 20 Hurstford Close, Peppermint Grove – Item 10.3.7 – Library – Community Consultation

The bowling club has taken action against Peppermint Grove Council against the wrongful termination of a lease and is seeking financial damages and to restore the 20 year lease. If this legal action was successful it would have an impact on the library project.

Mr Rod Eagleton, 7 Nailsworth Street – Item 10.3.7 – Library – Community Consultation

Commends Council on its support for the new library project and requests Council to support the next stage. The current building is over 40 years old and the three councils have got their value out of this building. Council will have no financials worries in contributing to this project nor should it be concerned with the imposition of the present site. The matter of the legal complications is under control. The new building should accommodate residents for the next 40 years and residents deserve an up-to-date facility. Requests Council supports the move to the next stage of development.

Ms Brenda Pearson, Unit 4, 118 Broome Street – Item 10.3.7 – Library – Community Consultation

Long term resident of Cottesloe and uses the library regularly. Commends Council for its support for a new modern library. Requests Council follows the lead of Mosman Park and Peppermint Grove and progress to the next stage. A new library provides for an appropriate centre for a wide range of activities in a central location for three districts. Council is asked to secure this deal.

Mayor Ron Norris, Town of Mosman Park – Item 10.3.7 – Library – Community Consultation

The dispute between the bowling club and Peppermint Grove Council is firstly that the bowling club would like the lease reinstated and secondly that of any financial complications. The northern bowling green has been sold by Council and the infrastructure has been passed to other sporting clubs. The club will therefore not be successful in reinstating the bowling club. The only remaining issue is financial and affects Peppermint Grove only. Advice received from the lawyers is that the action does not present a threat to the library project.

The library project has extremely strong support and is very positive and the disputes will be resolved and the property will become available. It is now time to move onto the next stage as the public consultation has been completed and was successful with overwhelming support. Cost of construction is ever-increasing and need to progress to the next stage quickly.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS**10.1 MANAGER DEVELOPMENT SERVICES****10.1.1 FORESHORE VISION WORKING GROUP – PROPOSED ENQUIRY-BY-DESIGN CONCEPT PLAN FORMULATION – OUTLINE OF METHOD**

File No:	SUB/346
Author:	Mr Andrew Jackson/Ms Delia Neglie
Author Disclosure of Interest:	Nil
Report Date:	15 May 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

- Council and the community greatly value the foreshore as vital to the identity and amenity of Cottesloe, with a range of measures contributing to its use, development and management.
- Council has recognised the need for a coordinated and consultative approach for foreshore planning to formulate a community-based vision for the future of the foreshore area.
- A Foreshore Working Group has been established to oversee this task.
- At its meeting in March the Working Group requested a report regarding the Enquiry by Design Workshop process and how it can assist with the formulation of a design concept for the foreshore.
- It is concluded that an Enquiry by Design process is the most appropriate forum available in order to progress the Foreshore Vision and it is recommended that this be pursued. This will initially require liaison with the Department of Planning and Infrastructure regarding their possible collaboration and approaching potential expert consultants to ascertain their availability and interest in conducting a workshop. A subsequent further report will be required to detail preparations and to enable ratification of a specific workshop proposal.

STATUTORY ENVIRONMENT

- Ongoing development proposals affecting the foreshore and beachfront areas and the Scheme Review have highlighted planning issues in this locality, together with Council's responsibilities for infrastructure works and maintenance, coastal management, public facilities and car parking.
- A foreshore vision concept plan will help to guide detailed planning and development considerations through the formal implementation processes.

POLICY IMPLICATIONS

- A range of Council policies exist relative to the foreshore and beachfront areas, which have a bearing on a vision concept plan and will be influenced by such a plan.
- Additional specific policy or policies may be generated as a result of the concept plan to enable its implementation.

STRATEGIC IMPLICATIONS

- Council is committed to ensuring functional, safe and attractive foreshore and beachfront areas, as reflected in its strategic/future plans, town planning scheme/review and various policies.
- An informally-prepared vision for the foreshore has stimulated Council to pursue preparation of a concept plan via a more structured process.

FINANCIAL IMPLICATIONS

- Realisation of a foreshore vision is a multi-faceted task with extensive and continual financial implications.
- An Enquiry by Design activity towards the concept plan, involving experts/consultants and the community, will be a cost to Council – in the order of \$20,000 or more.

BACKGROUND

- Council was presented in late 2005, with a privately-produced master plan of a vision for the possible future development of the Cottesloe foreshore.
- Council subsequently agreed to disseminate the vision with a view to gauging the level of community support. This was facilitated by the Scheme Review process and the vision was advertised for the duration of January 2006. A total of 102 submissions were received. Submissions provided positive and negative general comments in almost equal number.
- At its 22 May 2006 meeting Council considered the submissions and resolved that a report be prepared *recommending how Council might wish to utilise the vision as part of its planning for the area, involving the community and other stakeholders in exploring the merits of the various proposals, their feasibility and realisation, including how preferred opportunities and priorities may be actioned.*
- At its meeting on 23 October 2006 Council resolved:
 - (1) *That Council establish a working group to prepare a concept plan for the coordination of proposals for the foreshore and beachfront areas; the group comprising:*
 - *Mayor*
 - *Chair Strategic Planning Committee*
 - *Chair Works & Corporate Services Committee*
 - *Cr J Dawkins*
 - *Chief Executive Officer*
 - *Manager Development Services*
 - *Manager Engineering Services*
 - (2) *The group to co-opt the involvement of other staff or councillors, Design Advisory Panel members or other suitably qualified experts and consult with other agencies, the community, owners/occupiers or consultants as need be.*

Note: The concept plan is to focus on the central and north Cottesloe areas initially and may be expanded to address the south Cottesloe area. The concept plan is to be an ongoing working document and is to have regard to

the Strategic Plan, Foreshore Vision master plan, the Scheme Review and associated studies, Leighton Oceanside Parklands Masterplan, regional and local policies, coastal conservation plans, land usage in the coastal reserve, private development proposals, Council works and any other relevant matter. The concept plan initially is to include (but is not limited to) the following:

- *Groyne reconstruction*
- *Beach pool*
- *Surf clubs*
- *Restaurants/cafes*
- *Change-rooms/toilets*
- *All forms of beach access, including disabled*
- *Coastal conservation*
- *Grassed areas, playgrounds, exercise areas, sculptures*
- *John Black Dune Park and Grant Marine Park*
- *Nos 1 and 2 car parks*
- *Forrest Street car parking*
- *Marine Parade car parking*
- *Parking for coaches and weddings*
- *Traffic calming and boulevard/promenade treatments for Marine Parade*
- *Landscaping, fencing, signage and public domain furniture*
- *Beachfront development*

The concept plan is to coordinate and integrate the various proposals and to assist in the setting of planning priorities and works programs. The concept plan is to be periodically reported on via the abovementioned committees to Council for information, direction and adoption of aspects to be actioned.

- The Foreshore Working Group met on 14 March 2007. Agreement was reached for officers to present a report to the Working Group regarding initiating an Enquiry by Design Workshop and subsequently presenting to full Council for ratification.
- The Enquiry-by-Design Workshop process is not a community engagement exercise per se. It would involve a range of participants with specific skills and local knowledge and would comprise urban planners / designers, government agencies, landowners, community members and elected members.
- Typically 50 to 100 participants are involved who are required to be specifically invited. A prior wider invitation process may be required to achieve the desired range of community and landowner participants. The workshops are not typically open, public meetings.
- Generally, the workshops are divided into two groups of participants:
 - A “Technical Group” attends full time, and comprises professional urban designers, planners and practitioners with different technical skills and local knowledge who work in teams to investigate all relevant issues. The aim is to arrange multi-disciplinary design teams of 4-5 people with a range and balance of skills and backgrounds.
 - A “Consultation Group”, comprises a wide range of stakeholders, including community members. They attend specific introductory and design review sessions to provide input and feedback to work in progress which allows the Technical Group to reiterate and refine ideas.

- The workshop is an interactive forum to discuss and debate ideas. This increases the awareness and understanding of the issues and potential solutions by all parties and generates a sense of ownership of the outcomes. The aim is to draw possible urban design and planning solutions to specific, place-based issues. A concept plan is usually the product. The workshop and its results are non-binding which allows participants to think creatively and to provide the flexibility to consider and debate a wide range of options.
- The workshop consists of a series of briefing, consultation and design-review sessions conducted over a number of consecutive days, usually 2-3 days.

STAFF COMMENT

- The Vision master plan and community feedback constitute very useful information as a basis for considering how the foreshore could develop. It may be used as a starting point for a Council-endorsed exercise to, in consultation with all stakeholders, formulate any additional proposals and programs to manage and improve the Cottesloe coastal area.
- The Enquiry by Design process allows all stakeholders to be gathered including nominated community members. Whilst it is not a broad community engagement process, community representation at the workshop can be selected by various means that ensure that broad community involvement is maintained. Expressions of interest may be sought from either the wider community or from those who have already made submissions; alternatively, a general public forum could be held from which a core group is selected. Interested community members will need to commit a considerable amount of time and this in itself would narrow the field.
- The Department of Planning and Infrastructure (DPI) has collaborated with local governments to conduct Enquiry by Design Workshops. Examples include Bassendean Transport Oriented Development, Kalgoorlie urban structure and neighbourhood design, Mirrabooka regional centre, Kelmscott Town Centre and Armadale Town Centre.
- DPI officers have indicated informally that collaboration on a proposed foreshore workshop may be possible.
- Specialised facilitators are often called in to organize and run Enquiry by Design Workshops. A number of experienced facilitators could be approached regarding availability and interest.
- The level of detail able to result from a workshop would vary depending on the size of the project area. It may be necessary to hold more than one workshop with each considering a different area of the foreshore, in order to produce more detailed results.
- Such an Enquiry by Design Workshop process is outlined as follows:

Outline of enquiry by design event

Purpose

- To produce an indicative concept plan for the Cottesloe Foreshore as a vision for its recreational use, development and management.

Objectives

- To address local and regional considerations.
- To involve relevant experts and stakeholders.

<ul style="list-style-type: none">○ To take into account related beachfront planning.○ To assist budget and works programming.
<u>Participants</u> <ul style="list-style-type: none">○ Urban designers / consultants (NB Design Advisory Panel).○ Experts.○ Government agencies.○ Landowners○ Community members.○ Elected members.○ Officers.○ Facilitators.
<u>Date, duration and venue</u> <ul style="list-style-type: none">○ Minimum two-months lead time required.○ Spring 2007 would be feasible.○ Workshop would be of 2-3 days duration.○ Local venue ideal.
<u>Resources required</u> <ul style="list-style-type: none">○ Facilitator/s – consultants & officers○ Venue – Lesser Hall, Jarrah & Blue Rooms, Cottesloe Surf Club.○ Catering.○ Materials – mapping.
<u>Planning the event</u> <ul style="list-style-type: none">○ Minimum two months lead time required.○ FSWG and officers initially.○ External professionals engaged.○ Events management involved,
<u>Implementing the event plan</u> <ul style="list-style-type: none">○ Consultants sessions.○ Elected Members briefing.○ Facilitators briefing.○ Organising / practical arrangements.○ Advertising / Promotion.○ Info Pack.○ Conducting.
<u>Recording the results</u> <ul style="list-style-type: none">○ The event.○ The products.
<u>Using the results</u> <ul style="list-style-type: none">○ A project team to be appointed to develop a draft master plan.

CONCLUSION

An Enquiry by Design process is considered the most appropriate forum available in order to progress the Foreshore Vision. The Vision is not an end-state plan or even the ideal. It serves to show the nature and scale of changes that could be contemplated and provides Council with a lead in developing a workable, consultative concept plan to improve the Cottesloe coastal area. The process however requires considerable organisation and the workshop itself requires expert facilitation. It is therefore recommended that these matters be investigated further and a report be presented to Council with a detailed proposal for their ratification.

VOTING

Simple Majority

10.1.1 OFFICER & WORKING GROUP RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Dawkins

That Council:

- 1. Agree to an Enquiry by Design Workshop process for the further preparation of a Foreshore (public domain) Concept Plan for Cottesloe.**
- 2. Liaise with the Department of Planning and Infrastructure regarding collaborating on the workshop in terms of planning, organising and conducting the event, including expertise and possible funding.**
- 3. Approach potential experts, consultants and facilitators to ascertain their availability and interest.**
- 4. Request a further report on the above details for ratification of a specific workshop proposal.**

Carried 11/0

10.1.2 463 STIRLING HIGHWAY – APPEAL – OBJECTIONS FROM COMMUNITY

File No:	Sub/540
Author:	Mr Andrew Jackson
Attachments:	Joint objection letter and list of objectors and some additional comments
Author Disclosure of Interest:	Nil
Report Date:	24 May 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

- An appeal is before the State Administrative Tribunal (SAT) following Council's refusal of a proposed consulting rooms (psychiatrist) at this property.
- As part of the appeal process further indication of community objections is being sought.
- Council is asked to endorse a letter and list of signatures from the community in this respect.
- As the appeal proceedings are essentially confidential and the matter remains to be determined, the joint letter and list of objectors are attached for Council and staff only, in order to not prejudice the preparation and lodgement of the Town's case.

BACKGROUND

- The SAT has instructed that the Town, in defending the appeal, should include the objections from the community.
- Accordingly, the Town has liaised with the original objectors, who have reiterated and reinforced their objections in a joint letter and accompanying list of objectors.
- The Town in its appeal documentation will submit this to the SAT as further evidence of the community concerns and associated planning issues.

CONSULTATION

- Officers have liaised with the original objectors by way of letters and meetings, who have undertaken to canvass the neighbourhood for signatories to a joint letter expressing the community concerns regarding the proposal.
- Through discussions members of the neighbourhood have become more informed of the matter and the number of persons wishing to register objection to the proposal has grown.

STAFF COMMENT

- The joint letter focuses on the planning issues associated with the proposal and the impacts on the amenity of the locality.
- The list of signatories includes those who objected originally as well as other owners/residents in the immediate vicinity who have learned and become concerned about the matter.
- In addition, some of the original objectors have individually communicated their ongoing objection to the proposal.

-
- All of this evidence will be provided to the SAT in the Town's submission on the appeal.

POLICY IMPLICATIONS

- Nil.

STRATEGIC IMPLICATIONS

- Defence of the appeal is important to the administration of TPS2 and Council's strategic land use outlook under proposed TPS3.

FINANCIAL IMPLICATIONS

- Nil.

VOTING

Simple Majority

10.1.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council acknowledge and support the additional joint letter of objection and associated list of signatories, and additional individual expressions of objections, further registering the concerns of the local community in relation to the proposal under appeal.

Carried 11/0

10.2 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 21 MAY 2007

Moved Cr Furlong, seconded Cr Strzina

That items 10.2.1, 10.2.6 and 10.2.7 be withdrawn from en-bloc voting.

Carried 11/0

The above items were dealt with first before the remaining items were dealt with en-bloc.

10.2.1 UNIT 1, NO. 3 (LOT 1) PRINCES STREET – TWO-STOREY GROUPED DWELLING

File No:	1/3 Princes Street
Author:	Mrs Lisa Engelbrecht
Attachments:	Location plan Correspondence from consultants (2) Plans
Author Disclosure of Interest:	Nil
Report Date:	20 April 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Princes Street (WA) Pty Ltd
Applicant:	Simon Rodrigues Architect
Date of Application:	11 October 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	Proposed Survey Strata Lot 334m² (1130 m² total lot area)
M.R.S. Reservation:	N/A

SUMMARY

It is proposed to carry out alterations and second storey additions to the existing single storey grouped dwelling, being Unit 1 at No. 3 Princes Street. Unit 1 is part of a three grouped dwellings development at this address and is located at the front of the property.

The units at No. 3 Princes Street are currently built strata titled, with the land surrounding the unit walls being common property. It is the intention of the owners of the three grouped dwellings to convert from built strata to survey strata title. Although the aspect of land titles is not part of this application, the proposal has been presented as if the survey strata has already taken place. As such, the application has been assessed accordingly and a condition recommended addressing this.

Given the assessment that has been undertaken, the comments from neighbours and the revisions to the proposal, the recommendation is to Approve the Application.

PROPOSAL

The current proposal incorporates retaining the existing undercroft floor level, extending the area of the undercroft and building two habitable levels above. The amount of demolition and new building proposed indicates that the proposal is for a new development, not additions.

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
Building height to flat roof	7.0m (RL 20.665)	7.593m to minor portion (RL 21.258) 6.479m to major portion (RL 20.144)
Retaining walls	1.8m	1.9m

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Resolution of Council – 28 October 2002	6.0m front setback	7.35m to main dwelling (in accordance with the Acceptable Development standards of the Residential Design Codes), 3.97m to the terrace

Town of Cottesloe Local Laws

Local Laws	Required	Provided
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Fencing local law	Open aspect fencing within front setback area	Solid fencing on north-west side of front boundary
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Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3.3 – Boundary Setbacks	West ground (whole) 3.9m	Nil to strata boundary, 2.0m to centre of common drive	Clause 3.3.1 P1
No. 3.3 – Boundary Setbacks	South ground (whole) 1.8m	Nil (3.44m section where adjoins wall of Unit 2 is compliant)	Clause 3.3.1 P1
No. 3.3 – Boundary Setbacks	East first (whole) 3.8m	1.6m	Clause 3.3.1 P1
No. 3.3 – Boundary Setbacks	West first (bed 1, lift, hall 4) 4.8m	1.5-3.5m to strata boundary, 3.5-5.5m to centre of common drive	Clause 3.3.1 P1
No. 3.3 – Boundary Setbacks	South first (whole) 2.3m	Nil	Clause 3.3.1 P1
No. 3.4 – Outdoor Living Areas	Behind front setback line 6.0m	Nil	Clause 3.4.2 P2
No. 3.6 – Excavation or Fill	0.5m maximum	1.9m maximum	Clause 3.6.1 P1
No. 3.8 – Privacy	Bedroom 3 first floor window to east 6.0m	1.5m	Clause 3.8.1 P1
No. 3.8 – Privacy	Terrace 2 ground floor to west 7.5m	4.0m including common drive	Clause 3.8.1 P1
No. 3.8 – Privacy	Balcony 1 first floor to east 7.5m	1.65m	Clause 3.8.1 P1
No. 3.8 – Privacy	Balcony 2 to west 7.5m	6.0m including common drive	Clause 3.8.1 P1
No. 3.9 – Design for Climate	Overshadowing of unit 2 to the south 35%	54%	Clause 3.9.1 P1

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION**REFERRAL****Internal**

- Building
- Engineering
- Design Advisory Panel

Design Advisory Panel

The DAP received a thorough presentation of the proposal and discussed it on 22 March 2007. While the panel could appreciate the design approach taken by the architect, it considered that the proposal represented noticeable bulk and scale relative to the adjacent dwellings, although acknowledging the constraints of the site and existing development. Overall, the Panel felt that an attempt should be made to contain the building envelope and soften the impact of the development to the street. In this way a contemporary design could be achieved whilst better respecting the surrounds. It is noted that the architect has since taken this advice on board and prepared significantly revised plans to reduce the height, sense of bulk and streetscape appearance of the proposal, which in turn has resulted in minimal remaining neighbour objections.

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 8 letters sent out. There were 7 submissions received, of which 6 were objections or expression of concern and 1 was supporting the proposal. Details of the submissions received are set out below:

- Concern regarding calculation of building height and lack of site details;
- Concern regarding loss of views due to building height;
- Full support to proposal;
- Concern regarding bulk and scale;
- Concern regarding reduced setback to front balconies;
- Misleading description of proposal (proposed new additions to existing residence). Queries the amount of the existing residence being retained;

- Excessive height and number of storeys;
- Excessive fill on site;
- Inadequate building setbacks;
- Excessive overshadowing;
- Privacy and overlooking.

The applicant responded by revising the proposal. Revisions to the plans included lowering the overall building height by 1.4m lodged on 03 March 2007. The revised plans were again advertised to the adjoining owners for comment and two further submissions were received (details as follows):

- Acknowledge significant improvement in height reduction, request further reduction of 0.294m to RL 19.85;
- Request roofscape is free of service elements (eg airconditioning units);
- Request adequate survey marks be placed on site;
- Request licenced surveyor assess construction of building to confirm it is built to approval.

BACKGROUND

The original planning approval and building licence for the existing triplex development (1977) at 3 Princes Street dealt with issues of building height. The issues related specifically to the heights of units 2 & 3, as they were proposed as two storey developments (unit 1 was not involved as it was single storey only). A number of neighbour objections were received on the proposal, on the basis that the development would obscure ocean views and reduce amenity. A Ministerial appeal resulted in the units being reduced in ridge height by up to 1.0m.

STAFF COMMENT

Built Strata to Survey Strata

Changes between built strata and survey strata are minimal in terms of the R Codes. The change will result in individual property being allocated to each unit from the area that is currently common. This is a land ownership/strata management aspect rather than a planning consideration.

The driveway will remain as common property to provide access to all units and as such, the units will still be defined as “grouped dwellings” under the Codes.

Front Setback

The applicant proposes a front boundary setback of 7.35m to the main part of the dwelling and 3.97m to the front terrace.

At its meeting of 28 October 2002, Council resolved:

- “(1) When assessing applications for Development Approval, Council will:*
- (a) Generally insist on:*
 - (i) A 6.0m setback for residential developments in the District, which does not include averaging.”*

Acceptable Development Standard 3.2.1 A1 of the Residential Design Codes, however, prescribes a minimum 4.0m front setback in an R30 coded area, essentially the “as of right” setback. There is also provision for averaging, to a minimum of 2.0m.

In addition, Acceptable Development Standard 3.2.2 A2 of the Residential Design Codes allows for a minor incursion such as a verandah to project into the front setback by up to one metre, provided that the projection does not exceed 20% of the frontage of the lot.

The applicant recognises that the Council resolution regarding street setback is not a Council policy or local law. The Acceptable Development provisions of the Codes allow a minimum setback of 2.0m and an average setback of 4.0m in the R30 zone, so the proposed development is compliant with those provisions.

The proposal has been designed similar to the Acceptable Development standards of the Codes in this respect, rather than Council's general 6.0m front setback preference. This is not considered to be unusual or unreasonable for this compact sized lot with a medium density code.

Council's 6.0m front setback preference is not a statutory Scheme requirement, therefore, there is discretion to relax this. Other reduced setbacks recently supported by Council were at Unit 1/23 Salvado Street, 12 Salvado Street and 14-18 Overton Gardens, all similar medium density coded lots.

Council does not have a policy to address reduced front setbacks in general, however, the following setback objectives of the Residential Design Codes may offer some guidance in this instance:

"To contribute towards attractive streetscapes and security for occupants and passers by, ensure adequate privacy and open space for occupants, and provide an attractive setting for buildings."

The proposed reduced front setback, therefore, complies with the setback objectives of the Codes. It is noted that the terrace and balcony are essentially open and lightweight structures, however it is also noted that the front setback of the adjoining residences is 7.5m or more.

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground West	Entire side	5.8m	15.5m	Yes	3.9m	Nil to strata boundary, 2.0m to centre of common driveway
Ground South	Entire side	4.8m	16.0m	No	1.8m	Nil (3.44m section where adjoins wall of unit 2 is compliant)
Upper East	Entire side	6.0m	14.0m	Yes	3.8m	1.6m

Upper West	Bed 1, lift, hall 4	8.5-10.0m	8.2m	Yes	4.8m	1.5-3.5m to strata boundary, 3.5-5.5m to centre of common driveway
Upper South	Entire side	6.0-7.5m	16.0m	No	2.3m	Nil

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required.

In relation to the upper west side setback, Performance Criteria Clause 3.3.1 of the RDC states the following:

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

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

The common driveway provides a physical distance between the proposed building and the adjoining property to the west, reducing the impact of building bulk. The impact of major openings is discussed further in the following section of the report. The orientation of the lots ensures that the neighbour's access to northern sunlight is not obscured.

The southern setback variations adjoin unit 2 of 3 Princes Street. The owner has supported the proposal, including the overshadowing produced by the setback variations. The southern walls do not contain any openings and no overlooking will be produced. A portion of the wall abuts the two storey boundary wall of unit 2.

A setback variation of 2.2m is proposed to the eastern first floor wall. The variation occurs mainly due to the presence of major openings to bedroom 3 and the balcony. The visual privacy implications are addressed in the following section of the report. Furthermore, the height of the neighbouring property reduces the impacts of building bulk and the orientation of the sites protects the affected property to the east from overshadowing.

Privacy

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

Room	Required	Provided
GF Terrace 2 to west	7.5m	4.0m (including

		common driveway)
FF Balcony 1 to east	7.5m	1.65m
FF Balcony 2 to west	7.5m	6.0m (including common driveway)
FF Bed 3 to east	6.0m	1.5m

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

- “P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:*
- The positioning of windows to habitable rooms on the development site and the adjoining property.*
 - The provision of effective screening.*
 - The lesser need to prevent overlooking of extensive back gardens, front gardens or*
 - Areas visible from the street.”*

Terrace 2 and balcony 2 look to the west across the common driveway of the subject site. Where they cross the boundary into 1B Princes Street, the area overlooked is a 3.1m wide driveway providing vehicle access to the rear of the site. The driveway is open to the street and is not a private outdoor area, so the impact of overlooking is considered minor.

Balcony 1 overlooks the adjoining property to the east. Again, the area impacted by the visual cone is a driveway for the unit development at 5 Princes Street. This area is open to the street and therefore is not private. Furthermore, by leaving the balcony open the structure is transparent and building bulk is less.

Bedroom 3 also overlooks the adjoining property to the east and mainly impacts on the driveway area. However, as opposed to the balcony which is located at the front of the site, the bedroom 3 window is located approximately 17.0m back from the front boundary. It is considered that obscure glazing or a highlight window will protect the privacy of the neighbour's and also the occupants of the subject development.

Height

Revisions to the original proposal have seen the building height lowered by 1.4m. The modification has improved the bulk and scale of the development. The lift run is still calculated as over the 7.0m flat roof height standard of the Codes by some 0.593m, however the majority of the roof is compliant.

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

Due to the existing building it is difficult to ascertain natural levels with the contours provided. The original site plan for the 1977 development shows contours across the site, with a crossfall of 4.0m from the SE corner of the parent site, to the NW corner

and the same for unit 1. Given the survey by Brown McAllister (dated 11/10/06), a level of RL 13.665 has been determined as the NGL at the centre of the site.

TPS2 contains 4 areas where discretion may be applied to building height variations:

- Number of storeys – including provision for undercrofts provided they do not rise above a certain level;
- Topography – where natural ground levels indicate a variation is warranted, provided that the amenity of neighbouring areas is not unreasonably diminished;
- Calculation of natural ground level – to be determined by Council, however the level of RL 13.665 is considered reasonable;
- Extension to existing buildings – not considered to be relevant as the floor level of the garage is the only portion of the original building being retained, so the proposal is effectively for a new development.

In considering the 0.59m height variation, the comments on the advertising of the revised plans aids in enabling Council to determine whether the “amenity of the neighbouring areas are unreasonably diminished”. The result of advertising was two further submissions, as detailed in a previous section.

The crossfall on the site is considered to be relevant, due to the size of the site and the existing building/driveway constraints. The proposal also incorporates the use of a flat roof in lieu of a pitched roof, which will have less impact on obscuring the ocean views of the neighbours to the east and north.

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

The lift overrun may be similar to a chimney and could be considered as such. It is calculated at 1.7m by 1.1m high and occupies 1.87m² on any directional plane (west, east, north or south). This may occupy a larger area than would be expected from a standard chimney. However, the lift overrun variation affects a concentrated area only and is balanced by the remainder of the roof height, which is located below the maximum requirement.

The applicant believes that the topographical features of the site are significant varied and warrant the exercise of discretion from the Scheme requirements for building height. It is also considered that the use of a flat roof rather than a pitched roof will protect the amenity and views of the neighbouring properties.

It is noted that the proposed floor to ceiling heights for all levels remain higher than the minimum. The applicant has stated this is to accommodate air-conditioning, however they could be reduced to make the building compliant.

Fill on Front Boundary

As the proposed site works do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required.

Performance Criteria Clause 3.6.1 and 3.6.2 of the RDC state the following:

- "P1 Development that retains the visual impression of the natural level of a site, as seen from the street, other public place or from an adjoining property.*
- P2 Retaining walls designed or set back to minimize the impact on adjoining property."*

The revised plans indicate the amount of fill proposed on the front boundary has been reduced from a maximum of 3.4m to 1.9m. Whilst this is an improvement, the addition of safety fencing for the proposed swimming pool increases the height of "fencing" to a maximum of 3.1m above the footpath level in the north-western corner of the site. The applicant has confirmed that the pool fencing will be of an "open nature".

Clause 5.1.4 of the Scheme relates to retaining, stating:

"The height of boundary retaining walls or retaining walls which in Council's opinion are near a common boundary with an adjoining lot, shall not exceed 1.8m above natural ground level as determined by Council."

Even if the retaining is reduced by 0.1m to comply with the Scheme, it is considered that there will be an unreasonable impact on the amenity of the locality and no relationship between private land and the public area.

Clause 3.6.1 A1.1 of the R Codes requires excavation or filling within the front setback area to be a maximum of 0.5m, to retain the visual impression of the natural level of the site. Given the topography of the site, Council may consider granting a variation under the Performance Criteria of the Codes, however the current proposal is considered excessive. It also does not comply with Council's open aspect Fencing Local Law.

The applicant has advised that the proposal encourages social engagement between private and public spaces by providing an active space at the front boundary. The use of fill seeks to define the private property and "provides a built edge to the street assisting in its definition". It also provides the area to be developed sensibly "such that open space areas external to the building can be effectively used" and provides passive surveillance opportunities.

It is suggested that the pool terrace be stepped down with the natural levels of the site, which will not interfere with the garage or driveway gradient.

Overshadowing

On a constrained site with north-south orientation, it is very difficult to propose a development that complies with the overshadowing provisions of the Codes. The R Codes require that overshadowing of an adjoining site does not exceed 35% for R30 zoned sites.

The R Codes performance criteria require the following issues to be considered – overshadowing of:

- Outdoor living areas;
- Major openings to habitable rooms;
- Solar heating devices;

- Balconies or verandahs.

The existing unit 1 overshadows approximately 108.35m² of the adjoining unit 2 site. The proposed development will increase the area of overshadowing by 65.71m², taking the amount of overshadowing to 54%.

The applicant has stated that Unit 2 still maintains access to early morning sunlight from the east and late afternoon sunlight from the west.

The owner of unit 2 has provided their written consent to the proposal, including the proposed overshadowing. The additional overshadowing has the potential to impact on habitable windows and balconies on the ground and first floors. The unit maintains an outdoor courtyard with full access to northern sunlight at the rear and does not appear to have a roof mounted solar heating device.

Outdoor Living Area

The R Codes require all dwellings with a density coding between R17.5 and R60 to have an outdoor living area for the amenity of residents. The area is subject to a number of requirements, including:

- Minimum area;
- Minimum dimension;
- Location;
- Coverage;
- Access.

The proposed dwelling does not comply with the locational requirements. The Codes require the courtyard area to be located behind the front setback line, to provide residents with privacy (as the front setback area is subject to open aspect fencing and is therefore not private). The proposed courtyard is located at the front of the property, within the front setback area.

The Performance Criteria of Clause 3.4.2 states:

P2 An outdoor area capable of use in conjunction with a habitable room of the dwelling, and if possible, open to winter sun.

The proposed outdoor living area is on the northern side of the property, with full access to northern sunlight. It contains access from a habitable room and complies with the R Code provisions relating to coverage. Furthermore, it is in excess of the minimum area required, providing a functional and usable area for residents.

CONCLUSION

The proposed development is recommended for approval, subject to conditions. There are areas where the proposal exceeds the requirements of the Scheme and R Codes, however in many instances, it is considered that the Performance Criteria are satisfied.

The building height of the revised proposal, having been lowered 1.4m from the original plans, is considered to be acceptable. Council is able to exercise its discretion to vary the height restriction based on topographical concerns and it is considered that the topography of this site is sufficiently varied. The lift overrun can be considered as a minor projection relative to the overall compliant roof.

The front setback and side boundary setbacks are generally in accordance with the R Codes. The use of balconies and terraces without screening makes a large proportion of the building open and transparent to retain the views of the neighbours through the site.

The major opening to bedroom 3 does not satisfy the Performance Criteria of the Codes. A condition has been placed on the recommendation requiring compliance with the Acceptable Development provisions.

The overshadowing of unit 2 has been reduced with the reduction in building height, however is still non-compliant. The orientation of the site makes it difficult to comply and the neighbour supports the proposal.

The use of the front setback area for an outdoor living area is supported, as it provides access to northern sunlight and promotes passive surveillance. The fill on the front boundary has been reduced in the revised plans, however it is still considered excessive. A condition has been placed on the approval to reduce the impact of fill on the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee queried and discussed the height situation regarding the design and agreed that the main wall height of the building could be reduced as suggested by 294mm to RL19.85, and requested a condition accordingly. The Manager Development Services noted that the architect and applicant were not present to comment on the matter and advised that officers would check the details in drafting the condition.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two-Storey Grouped Dwelling at Unit 1, No. 3 (Lot 1) Princes Street, Cottesloe, in accordance with the further revised plans submitted on 3 March 2007, subject to the following conditions:

All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.

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.

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.

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.

The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the Local Law.

The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.

Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

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

As the development proceeds, verification that the floor levels, wall heights and roof heights are being constructed in accordance with the approved plans shall be provided to the Town, by way of certification from a Licenced Land Surveyor, to the satisfaction of the Manager Development Services. For this purpose, prior to the commencement of site works, a Licenced Land Surveyor shall relocate the existing Temporary Bench Mark (TBM) to a safe permanent location and an additional TBM shall be safely positioned to enable compliance with this condition.

Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:

- (i) the eastern bedroom 3 window being modified to comply with the Residential Design Codes definition of a minor opening; and
- (ii) the retaining walls and fill to the front boundary being reduced to a maximum level of 1.0m above the footpath level, and full details of this redesign being provided.

Note: The applicant is advised to attend to any necessary adjustment of the survey strata plan in relation to this development approval and the issuing of a building licence.

- (2) Advise the submitters of this decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two-Storey Grouped Dwelling at Unit 1, No. 3 (Lot 1) Princes Street, Cottesloe, in accordance with the further revised plans submitted on 3 March 2007, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the Local Law.
 - (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (g) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (h) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (i) As the development proceeds, verification that the floor levels, wall heights and roof heights are being constructed in accordance with the approved plans shall be provided to the Town, by way of certification

from a Licenced Land Surveyor, to the satisfaction of the Manager Development Services. For this purpose, prior to the commencement of site works, a Licenced Land Surveyor shall relocate the existing Temporary Bench Mark (TBM) to a safe permanent location and an additional TBM shall be safely positioned to enable compliance with this condition.

- (j) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the maximum wall height of the major portion of the development being reduced from 6.479m (RL20.144) by 294mm to 6.185mm (RL19.85), plus the wall height of the minor portion of the development and the height of the lift shaft being correspondingly reduced;
 - (ii) the eastern bedroom 3 window being modified to comply with the Residential Design Codes definition of a minor opening; and
 - (iii) the retaining walls and fill to the front boundary being reduced to a maximum level of 1.0m above the footpath level, and full details of this redesign being provided.

Note: The applicant is advised to attend to any necessary adjustment of the survey strata plan in relation to this development approval and the issuing of a building licence.

- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Furlong

That condition (j)(i) be removed from the Committee Recommendation.

Carried 10/1

10.2.1 COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Furlong

That Council:

- (1) **GRANT its Approval to Commence Development for the Two-Storey Grouped Dwelling at Unit 1, No. 3 (Lot 1) Princes Street, Cottesloe, in accordance with the further revised plans submitted on 3 March 2007, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for**

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

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the Local Law.
- (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (g) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (h) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) As the development proceeds, verification that the floor levels, wall heights and roof heights are being constructed in accordance with the approved plans shall be provided to the Town, by way of certification from a Licenced Land Surveyor, to the satisfaction of the Manager Development Services. For this purpose, prior to the commencement of site works, a Licenced Land Surveyor shall relocate the existing Temporary Bench Mark (TBM) to a safe permanent location and an additional TBM shall be safely positioned to enable compliance with this condition.
- (j) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the eastern bedroom 3 window being modified to comply with the Residential Design Codes definition of a minor opening; and

-
- (ii) the retaining walls and fill to the front boundary being reduced to a maximum level of 1.0m above the footpath level, and full details of this redesign being provided.

Note: The applicant is advised to attend to any necessary adjustment of the survey strata plan in relation to this development approval and the issuing of a building licence.

- (2) Advise the submitters of this decision.

Carried 11/0

10.2.2 NO. 37 (LOT 101) PEARSE STREET – PROPOSED TWO-STOREY RESIDENCE – FURTHER REVISED PLANS FOLLOWING SECOND DEFERRAL*

File No:	PRO/3056
Author:	Mr Andrew Jackson / Ms Lisa Engelbrecht
Attachments:	Location plan Plan
Author Disclosure of Interest:	Nil
Report Date:	11 May 2007
Senior Officer:	Mr Stephen Tindale
Property Owner:	Mr David Rogers
Applicant:	Alana John Design
Date of Application:	28 September 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	344m²
M.R.S. Reservation:	N/A

SUMMARY

- This proposal has undergone considerable assessment over an extended period, including an initial deferral, Design Advisory Panel advice and liaison by officers with the designer, owner and neighbours.
- In considering earlier revised plans at its meeting on 25 March 2007 Council resolved as follows:
That Council again DEFER determination of the application, for further consideration of a redesign in consultation with officers and having regard to the relevant height requirements, aspects raised by neighbours and concerns identified by the Development Services Committee, for the submission of further revised plans.
- The result of this subsequent liaison is a further revised design which is assessed as worthy of approval and now has the support of the eastern neighbours who had previous concerns.

REVISED PROPOSAL

- The proposal is for a conventional two-storey dwelling on an elongated, narrow lot, which as observed presents constraints to any design.
- The latest revised plans retain the same basic layout but address the front of the dwelling in terms of the relationship to the eastern neighbouring dwelling under construction and to the streetscape.
- The modified design also responds to wall and roof heights to be more in keeping with the intent of the scheme and RD-Codes.

RECENT LIAISON

- The Manager Development Services has liaised specifically with the designer and owner to elaborate on the aspects identified in the assessment so far and to explore design solutions, in particular adequate compliance with development requirements and the concerns raised by the eastern neighbours.
- This has included feedback from a briefing session with Councillors on a draft residential height policy in relation to the height control provisions of proposed TPS3; which discussed the constraints to design where discretionary measures are not sufficiently flexible to recognise varied roof forms and associated wall heights.
- The detail of design modifications was discussed and a preferred roof form was selected.
- Upon receipt of the further revised plans the MDS met with the eastern neighbours to explain the process and modifications; and neighbours have confirmed that they raise no objection to these revised plans (with one proviso regarding the dividing fence, which can be covered by a condition of approval).
- In this respect, the plans indicate a 1.8m high masonry screen wall to the common side boundary forward of the proposed dwelling, however, discussions with the designer and neighbours have indicated that the fencing / screening treatment and landscaping here could be further refined to ensure an attractive interface between the two properties and to the street. This is a matter of detail that can be satisfactorily addressed by further liaison.

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 |

FURTHER ASSESSMENT

- The proposal retains the original layout and appearance except for the improvements to the front of the dwelling and the revised skillion roof form as shown on the amended plans.
- The overall design has been previously assessed and recommended by officers, as the earlier revisions had addressed other neighbours comments and general compliance / performance.

- Consequently only the latest modifications are now assessed, and they are compared to the previous plans to indicate the differences / improvements.

AREAS OF NON-COMPLIANCE

- The overall areas of non-compliance or performance assessment have been identified and discussed in previous reports to Council.
- The modifications shown in the revised plans received on 11 May 2007 show are presented below, and comparison with the previous plans are discussed in the Staff Comment section of this report.

Town of Cottesloe Town Planning Scheme No. 2 - Text

Clause	Required	Provided
5.1.1 Building Height	Maximum 6.0m wall height	6.14m on eastern side. 6.26m on western side. 8.032m to maximum point of skillion roof.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No.3 – Boundary Setbacks	1.8m setback east ground floor wall	1.0m	Clause 3.3.1 P1
No.3 – Boundary Setback	3.0m setback east first floor wall	1.0m	Clause 3.3.1 P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

- Eastern neighbours.

STAFF COMMENT

Variations

The following table provides a comparison between the current changes and previous revised plans (13 March 2007), together with comment on the impact of the changes.

<i>Aspect</i>	<i>Previous</i>	<i>Proposed</i>	<i>Change</i>
Wall height (6.0m required)	6.175m	6.14m on east 6.26m on west	Minor reduction of 0.035m. Minor increase of 0.085m. Negligible discernable change in scale or impact on neighbours.
Wall height (6.0m required)	7.8m	8.032m to skillion roof top point only.	Increase of 0.232m, however, the indented wall to the skillion roof is setback a further 0.65m to now be 1.8m from the eastern boundary. Less impact on eastern neighbour.
Setback to eastern ground floor wall (1.5m required)	0-1.0m	1.0m	Boundary wall length is reduced by 3.5m and ground-floor living room wall is now setback 1.0m (previously a nil-setback parapet wall). Less impact on eastern neighbour.
Setback to eastern first floor wall (3.0m required)	0-1.0m	1.0m	Upper-floor master bedroom now setback 1.0m (did have nil-setback parapet wall). Less impact on eastern neighbour.

Wall heights

As previously reported, the wall heights slightly above the 6m standard are caused by the site constraints in creating an undercroft; that is, essentially due to topography, which is a basis for discretion under the scheme. Undercrofts are a typical design approach in Cottesloe and in this case it avoids forcing a double garage to the street on such a narrow lot.

The degree of variation is minimal and would be barely noticeable, as well as not generating undue impacts. Given this, and the attempts by the designer to minimise the wall height variation, it is assessed that the proposed walls can be supported. It is also noted that no objection to them has been raised by neighbours.

Roof height

The true roof height easily complies with the scheme and as a skillion design actually limits the extent of building bulk or roof-scape occupying the skyline; that is, the majority of the roof profile falls in the lower half of the space that would be occupied by a conventional pitched roof to 8.5m high at its ridge. The combination of the greater setback of the eastern face to the skillion roof and the overhang of the skillion (which shades the skylight window and gives architectural shape), serves to ameliorate the impact of this roof form to the eastern side of the dwelling.

The workshop with Councillors demonstrated this situation and how a skillion roof design delivers the benefits as assessed, whereby to penalise such a roof in relation to its highest point may seem onerous. As mentioned, in this instance the roof is some half a metre lower than the permitted maximum in any case, and the design in itself does not give rise to particular impacts. Hence on this basis it is assessed that the revised plans are acceptable in terms of roof design and height.

Privacy

The previous plans and the revised plans indicate that some windows would have a DSM (obscure) film applied. In the assessment of the proposal it has been accepted that DSM film will prevent overlooking, so these windows have been assessed as minor openings. However, there is concern as to whether DSM film will provide a permanent solution to overlooking. A minor opening under the RD-Codes includes openings that *“are glazed in an obscure material”*. A condition requiring obscure glazing to these windows will provide certainty in this respect for such windows in the normal manner.

A screen has been provided to the eastern side of the first floor balcony at the front of the site. In the previous plans, the screen was identified as being 1.8m in height, which complies with (and exceeds) the RD-Code requirement for a privacy screen. In the current plans, the screen has been reduced to 1.55m in height, which does not provide sufficient privacy, and no explanation for this has been given. It is recommended that a condition of approval address the screen height, which is required to be 1.65m above the finished floor level and can be easily accommodated.

The narrow site in order to achieve setback compliance in terms of privacy has required most windows to be minor openings, using raised sill heights (ie highlight windows) or obscure glazing. This affects the amenity of the proposed dwelling regarding natural light and ventilation. However, a proposed window is located in the upper-level indented wall which meets the skillion roof pitch. This is a skylight window, with a sill height of 2.5m above the finished floor level and will have no impact on the neighbour's privacy. It will increase the amount of natural light available to the master bedroom, which is a habitable room, and will also articulate the eastern elevation of the dwelling.

CONCLUSION

- The revised design constitutes an acceptable proposal which has now overcome the remaining concerns of the eastern neighbours and at the same time offers an improved presentation to the street.
- The effective wall heights to the sides are very close to the scheme standard of 6m for two-storeys and the marginal increase causes no real impacts to neighbours.
- Significantly, the setting-back of the front of the dwelling from the eastern boundary, at both the ground and upper floor levels, creates a better separation distance between these adjacent dwellings and reduces the length of the side boundary parapet wall.
- This modification also gives a less bulky appearance to the street.

- The choice of a skillion roof form results in a maximum roof height of fractionally over 8m at the tip point only, which is almost half a metre lower than the scheme maximum of 8.5m on one side only and slopes down to a roof height just above the 6m wall height on the other side. The positive outcome is a lower-profile roof overall and a more contemporary, streamlined aesthetic for the dwelling.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee had no further queries or comment regarding this proposal.

10.2.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the Two storey residence at No. 37 (Lot 101) Pearse Street, Cottesloe, in accordance with the further revised plans submitted on 11 May 2007, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
 - (e) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (e) **The finish and colour of the boundary wall/s facing the neighbour/s being to the satisfaction of the Manager Development Services.**

- (f) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services, to construct a new crossover, where required, in accordance with the relevant local law.
 - (g) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees for development.
 - (h) Any fencing and gate/s proposed for the front setback area shall be in compliance with the Town's Fencing Local Law for open-aspect fencing and the subject of a separate application for planning approval together with detailed plans.
 - (i) The proposed dividing screen wall to the eastern boundary forward of the proposed dwelling is deleted from this approval to enable further discussion between the adjoining owners and the Town of Cottesloe to reach agreement on fencing and/or landscaping treatment in that location, to the satisfaction of the Manager Development Services and having regard to condition (i) above.
 - (j) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) The height of the screen to the eastern side of the balcony on the first floor shall be a minimum of 1.65m above the finished floor level; and
 - (ii) All windows marked on the planning approval plans as having "DSM film" shall instead have obscure glazing for permanency.
- (2) Advise the submitters of this decision.

Carried 11/0

10.2.3 NO. 26 (LOT 40) MARGARET STREET – SECOND-STOREY ADDITIONS TO A SINGLE-STOREY RESIDENCE*

File No:	1126
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant Submissions (2) Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	24 April 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Michael Masterman
Applicant:	Bernard Seeber Architects
Date of Application:	7 March 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	491m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for additions to a single storey residence. These additions are to extend the ground floor towards the rear and add a new second storey above. A new carport/garage is proposed with access off Ozone Parade.

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

PROPOSAL

On the ground floor the existing layout has been reconfigured and extended out at the rear. The built envelope has increased by an extension to the laundry/bathroom, a new store and bedroom. The shed is being removed and is replaced by a larger store room which is proposed to be attached to the main dwelling. A new bedroom is proposed to be free standing in the rear northeast corner of the lot next to the new open courtyard.

A new upper floor is also proposed. The rooms on this floor include a balcony, main bedroom, dressing, bathroom, WC and a library/study. A new carport is proposed at the rear with access off Ozone Parade. This carport is at the same level as the upper floor of the house, given the slope of the site.

A new 1800mm brick wall is also proposed on the northern boundary, this is partially within the front setback.

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****Local Law**

Local Law	Required	Provided
Fencing Local Law	Fencing can be solid to a maximum of 900mm and 50% open above within the front setback	1800mm solid brick wall on northern boundary within front setback area.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	1.0m setback north ground wall	Nil setback	Clause 3.3.2 – P2
Element 3 – Boundary Setbacks	1.5m setback south ground wall	Nil to 1.3m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.5m setback east ground wall	Nil setback	Clause 3.3.2 – P2
Element 3 – Boundary Setbacks	1.9m setback south upper wall	1.3m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.1m setback south upper wall	Nil setback	Clause 3.3.2 – P2
Element 3 – Boundary Setbacks	1.9m setback north upper wall	1m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.0m setback south wall	Nil setback	Clause 3.3.2 – P2

NOTE: HEIGHT IS FULLY COMPLIANT.**STRATEGIC IMPLICATIONS**

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A

ADVERTISING OF PROPOSAL

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

The advertising consisted of Letter to Adjoining Property Owners

Submissions

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

Chris Newall & Anna Roberts of 24 Margaret Street

- They designed their house to make good use of northern sun and to minimise overshadowing to the southern neighbour through excavation.
- They believe the proposal has not been considered with this in mind.
- Concerned that significant overshadow would fall on courtyard, two bedrooms on the ground floor, ground floor study, upstairs balcony, kitchen and dining areas, upstairs alfresco area, upper rear outdoor courtyard.
- This proposal has a ground floor significantly higher than their property.
- Believes that the second storey should be further setback from their boundary to reduce overshadowing or reduce heights.

Barrie & Alice Wells of 28 Margaret Street

- Concerned that the height of the house is not consistent with their house plans.
- The windows on the northern side of the second level of the house and upstairs balcony will overlook bedrooms and yard.
- Requests that the proposed boundary fence with No. 26 Margaret Street be addressed to independently resolve the positioning of it.
- Requests that Council require water-proofing of the bedroom wall on the boundary.
- Requests that air-conditioning units are not placed on the northern side of No. 26 Margaret Street.

BACKGROUND

A well established single storey beach house is found on this property. There have been no planning applications on this house since the original approval.

STAFF COMMENTBoundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
North Ground	Whole	2.2 – 2.7	5	No	1m	Nil
South Ground	Whole	2.5 – 3.0	25.5	Yes	1.5	Nil – 1.3
East Ground	Whole	0.5	12.5	No	1.5	Nil
North Upper	Whole	6.0	14.7	No	2.0	1.0
South Upper	Bed 1, Dressing, Stair	6.0	14.5	No	1.9	1.3
South Upper	Carport (garage)	4.5	6.5	No	1.1	Nil
East Upper	Carport (garage)	3.0	6.0	No	1.5	Nil

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

The RDC do also allow as per Clause 3.3.2 A2ii "In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;" However in this instance boundary walls are proposed on the northern, southern and eastern boundaries.

This proposal is to have a nil setback to the side boundary for the ground north wall for bedroom 4. This is usually required to be setback 1m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. It can be argued the wall does not have an adverse effect on the amenity of the adjoining property. This is because it is at much lower level than the neighbour's and the room will have a separate wall within the boundary wall which will reduce noise. The proposal also enhances the amenity of the development as it has a good outlook to the courtyard.

This proposal is to have a nil to 1.3m setback to the side boundary for the ground south wall extension. This is usually required to be setback 1.5m from the boundary. The wall setback partially meets the Performance Criteria of the RDC as it makes an effective use of space. It has a small adverse effect on the amenity of the adjoining property due to loss of sunlight into habitable spaces, however, ventilation is still available to this property and the neighbour. The wall will still provide adequate privacy to both properties as no major openings from habitable rooms are proposed.

The east ground wall on the upper floor proposes a nil setback where a 1.5m setback is usually required to a secondary street. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. The wall does not have an adverse effect on the amenity of the adjoining property because this wall faces a secondary street. The wall is almost entirely sunken below floor level and does not provide the opportunity for any overlooking.

The southern neighbour has objected to the setback and possible overshadowing from the upper southern wall. The wall does not meet the Acceptable Development provisions for setback; a 1.9m setback is required where 1.3m is given. The existing situation has a boundary wall ranging from 1.8 to 3.5m high above the proposed courtyard level to the southern neighbouring property, with the height of the ground floor wall of the existing residence at 26 Margaret Street being 5m above the courtyard at 24 Margaret Street.

The wall also does not meet most of the Performance Criteria of the Residential Design Codes as it does not ensure adequate direct sun and ventilation being available to adjoining properties and it does not assist with the protection of access to direct sun for adjoining properties. The setback variation also does not assist in ameliorating the impacts of building bulk on adjoining properties. The setback variation does meet the performance criterion for privacy as there are no major openings on this wall. However on balance, it is recommended that the setback be increased to 1.9m to allow more sun to penetrate into the neighbouring courtyard.

The north upper wall is proposed to be setback 1m where 2m is required to meet the Acceptable Development Provisions of the RDC. The setback provides for adequate ventilation to this building and the adjoining northern neighbour. The criterion regarding protection of sunlight for the adjoining property is not applicable as this wall is on the northern elevation. It could be argued that the setback does not meet the amelioration of the impact of bulk on adjoining properties being setback only 1m on the second storey, however it is assessed this variation be supported as it meets a majority of the performance criteria.

The garage setbacks from both the southern and eastern boundaries are also variations. It should be setback 1.1m from the southern and 1m from the eastern setback whereas they are proposed to have a nil setback to both sides. It meets the Performance Criteria as it makes an effective use of space as it allows cars to come off the secondary street being Ozone Parade and allows the front setback to take advantage of ocean views and the proposal does not impact on privacy. It is also assessed that the amenity of the neighbouring property will not be diminished with the proposed garage abutting it.

Privacy

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

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

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

Room	Required	Provided
Bedroom 1	4.5m	2.1m
Balcony	6m	1.5m

The proposal asks for a variation to bedroom 1 cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. This is because the window is facing westward to capture ocean views and this variation occurs on a 45 degree angle toward the southern neighbouring property. Furthermore, the window does not overlook any major openings on the neighbouring property.

The proposal asks for a variation to the balcony on the upper floor's cone of vision setbacks. The variation only concerns the westward facing windows as the revised plans submitted show screens to 1650mm on the northern elevation. This should meet the neighbour's request in their objection. Overlooking is generally restricted to the front setback area of the adjoining property. Furthermore, an existing 1.8m high boundary fence and as well as a proposed boundary fence assists to prevent overlooking to neighbouring property.

Overshadowing

The southern neighbours have concerns about the reduction of sunlight penetrating into the courtyards and northern rooms of their property. At present the proposal overshadows 28% of the neighbouring property. This is assessed as satisfactory on performance and it is emphasised the report recommends a greater upper-floor setback from the main dwelling to the southern boundary, which will make the proposal meet the maximum 25% standard and allow more light to penetrate the courtyard and adjacent rooms of the neighbouring property.

Fencing

The application also proposes side boundary fencing on the northern boundary. The neighbour has asked that the fence be not part of the application and subject to neighbour consultation.

Side boundary fences are generally not subject to any approvals and it is preferred that the fence be agreed between neighbours. However part of this fence is proposed within the front setback which is solid height to 1800mm above ground level. It is recommended that this fence be deleted from this planning approval.

Composite Street Elevation

A neighbour has expressed concern that the composite street elevation has not been drawn correctly. The application came with a survey and this is a requirement of the application checklist. This comment is acknowledged, and it is observed that this application's survey and the one which came with the existing northern neighbouring property have used different datum points, however, it is considered that a satisfactory impression of the streetscape has been provided.

Water proofing of bedroom wall

A neighbour has expressed concern regarding the requirement for waterproofing of the proposed bedroom wall against their southern boundary. This will be addressed as part of the building licence and construction process in the normal manner, whereby under the BCA proper containment of water or water-proofing is required occur to any building to protect any adjacent building.

Building Height

The application meets all wall and building height requirements of Town of Cottesloe Town Planning Scheme No. 2.

CONCLUSION

The application should be approved subject to conditions including the need for revised plans for the southern elevation upper storey wall to be setback 1.9m from the boundary. It is acknowledged light penetration to the southern neighbouring property will be reduced by allowing the second storey additions, however, requiring a variation to setback decreases the amount of overshadow whereby the acceptable development standard will be met.

The remaining setback variations and cone of vision variations meet the Performance Criteria of the RDC.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the shadow impact and whilst recognising the constraints affecting sites in this area considered that the development should be made to comply with the maximum 25% requirement for overshadowing by increasing the setback to the upper level.

10.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for the Development Application for Proposed Additions to Existing Residence at No. 26 (Lot 40) Margaret Street, Cottesloe, in accordance with the plans submitted on 7 March 2007 and the amended plans received on 19 April 2007, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) Any front boundary fencing to the site being of an “Open Aspect” design in accordance with Council’s local law and the subject of a separate application to Council.**
 - (f) The finish and colour of the boundary wall/s facing the neighbour/s be to the satisfaction of the Manager Development Services.**
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
 - (h) The existing redundant crossover in Margaret Street being removed and the verge, kerb and all surfaces made good at the applicant’s expense to the satisfaction of the Manager Engineering Services.**

- (i) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997
 - (k) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) The southern upper-floor wall being setback a minimum of 1.9m from the southern side boundary.
 - (ii) The proposed northern boundary fence being deleted as part of the development and the design and materials of this fencing being addressed between the neighbours in the normal manner.
- (2) Advise submitters of Council's decision.

Carried 11/0

10.2.4 NO. 5 (LOT 11) GRIVER STREET – SINGLE-STOREY ADDITIONS*

File No:	5 Griver Street
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant Plans Photos
Author Disclosure of Interest:	Nil
Report Date:	14 May 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Deborah Gilchrist
Applicant:	Dale Alcock Home Improvements
Date of Application:	14 May, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	490m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for single storey additions, with a small height increase and satisfactory setback variations.

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

PROPOSAL

The proposal is to extend the dwelling towards the rear of the property. A new ensuite and WIR to the existing Bedroom 1, WC, laundry, study, kitchen, meals, family room and deck are proposed.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

- National Trust

N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No. 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m building height, single storey	6.12m building height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	3.6m setback ground north wall	1m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	4.5m setback ground south wall	1-2.4m setback	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of Letters to Adjoining Property Owners

Submissions

There were 4 letters sent out. There was 1 submission received, which was an objection, however this consequently has been withdrawn by the neighbour:

BACKGROUND

A well established single storey residence is found on the property. A rear asbestos garage and an outdoor toilet will be removed as part of this application.

The current proposal has been significantly revised and a new builder, Dale Alcock Home Improvements has been appointed. These plans now step down the additions

in accordance with the natural ground levels and have increased the setbacks to the side boundaries.

STAFF COMMENT

Building Height

The building height does not meet Town Planning Scheme No. 2 for single storey dwellings. The proposal is for a 6.12m overall building height whereas 6m is the maximum permitted under the Scheme. The Scheme however allows variations as shown in Clause 5.1.1 below;

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

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

In this circumstance, the building height variation is recommended for support. The total height is not increasing from present. The application is to maintain the same roof height. It is simply extending the same roofline over the additions. It is not recommended the roof height be reduced and it should be noted this variation only occurs for a small section in the middle of the dwelling, the roof then slopes downwards at the rear addition.

It should be noted that there have been no objections to this single storey roof height variation and there is no direct impact or perceived loss of amenity to the neighbours. The variation is minor and is not a streetscape concern.

Boundary Setbacks

The following side boundary setbacks of the proposed new additions don't comply with the acceptable development standards of the RDC. They are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
South wall	All	3.5-4m	25m	Yes	4.5m	1-2.4m
North wall	All	3.5-4m	22m	Yes	3.6m	1m

3.3.1 – Buildings Set back from the Boundary

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

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

The boundary setback of the south ground floor wall ranges between 1m to 2.4m and the north ground floor wall has a setback of 1m. The Acceptable Development provisions of the RDC require setbacks of 4.5 metres and 3.6 metres for the south and north walls respectively. These setbacks are required because the wall height is

required to be measured to the highest point, which is 4m above ground level; and also, the length of the walls to be measured must include the existing wall and the new addition (that is, the total length of wall).

It is considered that these provisions are onerous as the wall height of both walls is an average of 3.5m at the boundary which would require setbacks of only 1.5 metres; thus the south wall would largely comply and the north wall would have a shortfall of 0.5 metres. These minor variations would be acceptable given that the walls are stepped down in accordance with the ground level of the site for the rear additions. Also it is considered that the Performance Criteria of the RDC are satisfied. The setbacks provide no privacy concerns as the rear of the property is stepped down. Sun and ventilation are provided and there is no loss of amenity to this property and the adjoining property

CONCLUSION

The height variation for the single storey additions simply continues the same roof line at the rear of the dwelling and is of little consequence. There are no negative amenity issues with the extension and there will be no impact on streetscape considerations. The side setback variations comply with the Performance Criteria of the RDC. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

10.2.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Development Application for Single-Storey Additions at No. 5 (Lot 11) Griver Street, Cottesloe, in accordance with the plans submitted on the 3rd May 2007, subject to the following conditions:

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

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

Carried 11/0

10.2.5 NO. 34 (LOT 20) LYONS STREET – TWO-STOREY RESIDENCE WITH UNDERCROFT & SWIMMING POOL

File No:	1147
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant Submissions (2) Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	14 May 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	W & R Muir
Applicant:	Private Horizons Planning Solutions
Date of Application:	14 May, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	685m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for a new two-storey residence with an undercroft garage as well as a swimming pool.

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

PROPOSAL

The existing residence will be demolished to make way for the proposed residence.

The basement level (undercroft) comprises of a two-car garage and a store room. This level is below ground level and cars will access it from a ramped driveway from the street.

On the ground floor an office, powder, study nook, kitchen, laundry, an open-plan kitchen/family/dining area and a WC are proposed. Externally a drying court, alfresco area, swimming pool and front porch are also proposed.

On the upper floor, four bedrooms, a balcony, WIR, WC, bathroom and ensuite rooms are proposed. Staircases will link the three levels.

The front verge tree is proposed to remain despite for a new crossover proposed adjacent to it.

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – Boundary Setbacks	1.5m setback	1m to 1.8m setback	3.3.1 – P1
No. 7 – Building Heights	7m wall height for houses with concealed roofs	7.04m wall height, house has a skillion roof in this section	3.7.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of Letter to Adjoining Property Owners.

Submissions

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

Stephen & Debra McKelvie of 36 Lyons Street

- Concerned that the verge tree will be removed.
- Object to the proposed balcony from the Master and Guest bedrooms due to overlooking concerns.
- Concerned what materials any awning/screen from the balcony will be made from.
- Concerned the north-facing window from bedroom 2 is drawn incorrectly.
- Concerned over size of the master bedroom window.
- Concerned with the amount of cut with the proposed ramped driveway to the basement and its impact on boundary fencing.

Joy Flower on behalf of Mabel Adams of 32 Lyons Street

- Concerned that the size of the stairwell window is too large.
- Asks that the stairwell window be of obscure-glazed.
- Would like to be advised when works will start at this property.

BACKGROUND

A well-established single-storey residence is found on the property. No substantial alterations and additions have been constructed in recent years. The lot is located at the end of a right-of-way and the site is considered to be almost flat.

STAFF COMMENT

Building Height

The wall heights do not conform to the TPS 2 requirement of a 6m wall height. The walls in this proposal are a combination of a traditional wall and pitched roof on the southern half of the development, with the northern half incorporating a skillion roof. Skillion roofs are not considered in TPS 2, so the RDC could be referred to. The RDC allow a 7m wall height for walls with concealed roofs. It is argued that a skillion roof is closer to a concealed roof than a traditional pitched roof, so this is a useful guide.

The proposal has a 7.04m wall and skillion roof height towards the northern boundary. The roof gently slopes down to the traditional pitched roof on the southern half of the development, which is higher than the skillion roof. The lowest part of the skillion roof is 6.5m in height, relatively close to the 6m wall height standard. The skillion roof can be seen as of less bulk than a pitched roof and therefore as less of an amenity issue and hence may be supported. It should be noted the northern

neighbour did not comment on the building height. This wall / roof situation is a design approach rather than being brought about by topography or some other basis for the specific exercise of discretion under the scheme, however, the form of the subject part of the dwelling is consistent with other similar dwellings approved taking into account the use of flat or skillion roofs and their interrelationship with wall heights. This particular proposal is comparatively low-key and deploys the skillions in a subtle manner which does not seek to significantly exceed the 7m wall height guide or maximum achievable roof height. It is considered difficult to see that this typical design treatment, which is becoming more common on both project homes and in architect-designed residences, should not be supported where it is compatible and avoids impacts.

The portion of the house having the traditional pitched roof has a wall height of 5.94m and roof height of 7.94m and this is compliant with Town Planning Scheme No.2 in both respects.

Overall, it can be seen that the height profile of the dwelling is significantly lower than the 8.5m maximum building height.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground South wall	All	3.2m	18m	no	1.5m	1-1.8m

3.3.1 – Buildings Set back from the Boundary

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

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

The south ground-floor wall has a boundary setback of 1m to 1.8m. It is considered that the proposed southern boundary setback variation satisfies the Performance Criteria of the RDC as it does not provide any privacy concerns as the floor is not raised above natural ground level. The proposal ensures sun and ventilation is provided to this property and the adjoining neighbour. The southern ground floor is stepped inwards at the centre and this reduces the perception of bulk.

Street Tree

It is likely that the street tree will need to be removed to allow for the ramped driveway and associated crossover for the below-ground garage, due to the close proximity of the driveway to the tree. The northern neighbour has expressed an interest that the tree should remain and the applicant proposes this tree shall remain.

It is assessed that the design and construction of the crossover should aim to retain the tree, however, at development stage should it be assessed by the Town that the street tree needs to be removed, it is recommended that a replacement tree be provided to the Town's specification and at the applicant's cost.

Privacy

The southern neighbouring property owner has expressed concern regarding the double-storey length windows from the stairwell. Stairwells are not considered habitable rooms in the RDC and are exempt from privacy requirements. Obscuring this window as requested by the neighbour is not compulsory. Nonetheless, it is recognised that large stairway windows do introduce a perceived loss of privacy, even though movement and any looking out is only transitory. Such windows are a novel feature at variance with traditional dwellings. This matter has arisen before in several proposals, especially in long houses on narrow lots or where the stairway is located down a lot rather than towards the front. In previous cases architects and designers when approached by offices have responded by providing at least partial obscuring or screening, and it is recommended that such a solution be sought in this instance.

The northern neighbouring property owner has expressed concern regarding overlooking from the first floor balcony from the Master and Guest Bedrooms. The proposed fixed opaque glass screening of the balcony is to a height of 1650mm above floor level and this meet the Acceptable Development provisions of the RDC. The portion of the balcony without this screening is setback more than 7.5m from the northern neighbouring property and also meets the Acceptable Development provisions of the RDC.

In regards to the north-facing window of Bedroom 2, the revised plans indicate this is a highlight window, which is also compliant all privacy requirements.

Earthworks

The proposed cut required to allow for the below-ground garage will require substantial earthworks. The northern neighbour has concerns regarding the possible removal of the boundary fence which is four years olds and is in good condition. The neighbour also has concerns regarding the lack of retaining walls which may be needed for the driveway.

In this regard Council has received numerous applications for such driveway ramps and many of these have been against a side boundary. A dilapidation report and other normal construction requirements would be involved in the building licence process to address these aspects. It is also indicated that all costs relating to any new northern boundary fencing (if required) will be borne by the applicant.

Reflectivity

The northern neighbour has concerns regarding possible reflection from the glass of the upper-storey balcony. The applicant is correct in saying any reflection from this glass would be no greater than a window in the same location. Council has no regulations regarding reflection from glass.

Streetscape

A modern two-storey residence can be found on the northern side of the property and a well-established single storey cottage is found on the southern neighbouring property. The Lyons Street streetscape appears to be evolving and this proposed residence should be a positive addition to it.

CONCLUSION

The application meets a majority of the planning requirements. In respect of overall height, the proposed skillion roof is less bulky than a traditional 6m wall and 8.5m pitched roof in terms of streetscape and is subsidiary to the main roof of the dwelling. The concerns over privacy can be appreciated, however, where setbacks comply with the Acceptable Development provisions of the RDC privacy is deemed to be satisfactory.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee agreed that stairways with extensive windows are a privacy concern and moved to recommend that condition (o) be amended to be more certain that the development will provide obscure glazing, screening or landscaping.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development to the Development Application for a Proposed Two-Storey Residence with Undercroft Garage and Swimming Pool at No. 34 (Lot 20) Lyons Street, Cottesloe, in accordance with the amended plans received on the 20 April 2007 and further amended elevation plans received on the 1 May 2007, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (c) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.

- (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Any front fencing to the site being of an “Open- Aspect” design in accordance with Council’s Fencing Local Law and the subject
- (g) The existing redundant crossover in Lyons Street being removed and the verge, kerb and all surfaces made good at the applicant’s expense, to the satisfaction of the Manager Engineering Services.
- (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (i) The detailed design of the driveway crossover submitted at building licence stage, and the intended construction methods, shall aim to retain the existing street tree, however, if the Town determines that the street tree cannot be retained a replacement street tree shall be provided at the expense of the applicant to the specification and satisfaction of the Town.
- (j) The spa/pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
- (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (m) Wastewater or backwash water shall not be disposed of into the Council’s street drainage system or the Water Corporation’s sewer.
- (n) If replacement fencing is required along the northern boundary to allow for the ramped driveway to the basement, this shall be at the expense of the applicant in consultation with the adjoining neighbour and to the satisfaction of the Manager Development Services.
- (o) The applicant liaising with the Town and the southern neighbour to demonstrate that privacy from the stairway to that property will not be an undue concern, and to consider the provision of obscure glazing, screening or landscaping to ameliorate the sense of loss of privacy, to

the satisfaction of the Manager Development Services, who shall mediate in the matter.

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

10.2.5 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development to the Development Application for a Proposed Two-Storey Residence with Undercroft Garage and Swimming Pool at No. 34 (Lot 20) Lyons Street, Cottesloe, in accordance with the amended plans received on the 20 April 2007 and further amended elevation plans received on the 1 May 2007, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (c) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) **Any front fencing to the site being of an "Open- Aspect" design in accordance with Council's Fencing Local Law and the subject**
 - (g) **The existing redundant crossover in Lyons Street being removed and the verge, kerb and all surfaces made good at the applicant's expense, to the satisfaction of the Manager Engineering Services.**
 - (h) **The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications,**

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

- (i) The detailed design of the driveway crossover submitted at building licence stage, and the intended construction methods, shall aim to retain the existing street tree, however, if the Town determines that the street tree cannot be retained a replacement street tree shall be provided at the expense of the applicant to the specification and satisfaction of the Town.
 - (j) The spa/pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
 - (n) If replacement fencing is required along the northern boundary to allow for the ramped driveway to the basement, this shall be at the expense of the applicant in consultation with the adjoining neighbour and to the satisfaction of the Manager Development Services.
 - (o) The applicant liaising with the Town and the southern neighbour to demonstrate that privacy from the stairway to that property will not be an undue concern, and to provide obscure glazing, screening or landscaping to ameliorate the sense of loss of privacy, to the satisfaction of the Manager Development Services, who shall mediate in the matter.
- (2) Advise submitters of Council's decision.

Carried 11/0

**10.2.6 RIGHT OF WAY NO. 13 – CONSIDERATION OF RETENTION OF TREE IN
RELATION TO UPGRADING OF RIGHT OF WAY**

File No:	Sub/253
Author:	Mr Andrew Jackson/ Ms Delia Neglie
Author Disclosure of Interest:	Nil
Attachment	Location Plan Description from ROW study Petition with photographs Correspondence from 300 Marmion Street
Report Date:	1 May 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

Council has approved the development of a two storey dwelling at 300 Marmion Street with sole vehicular access from the rear right of way subject to the right of way being paved and drained to the satisfaction of the Town.

A tree and vegetation exist on the eastern edge of the right of way abutting 42 Hawkstone Street. The owner of this property, Mr Ian Ogborne, requested that the tree be retained as part of the paving and draining works of the right of way. The CEO initially advised Mr Ogborne that the tree could be retained if he was to pay for kerbing around the tree. Following subsequent discussion with other adjoining neighbours who advised that the tree impeded access, the CEO advised Mr Ogborne to remove the tree within 14 days.

Mr Ogborne subsequently presented a petition to the April Council meeting requesting that the tree be retained and it was decided that the matter be referred to the Development Services Committee and Council for consideration.

It is concluded that given Council's right of way policy, minimum requirements for suitable vehicular access and manoeuvring and the possibility of long term issues such as damage to infrastructure and legal liability, Council require the tree and vegetation to be removed.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 2
Rights of Way Policy

POLICY IMPLICATIONS

Council's Rights of Way/Laneway Policy applies. Two objectives of this Policy are:

- 1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.*
- 2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.*

Relevant policy measures include:

Notwithstanding averaging requirements for developments under the residential codes for rear setbacks and fencing specifications in Council's fencing local laws, there shall be a minimum building setback for carports and garages, to allow a minimum turning circle of six (6) metres, measured from the far side laneway boundary to the closest part of the structure, for each car bay, carport and garage designed at 90° to the laneway or ROW.

STRATEGIC IMPLICATIONS

The Rights of Way network provides valuable access to residential and commercial properties and aesthetic improvements occur in street frontages when garages and carports are accessed from rights of way. The upgrading of rights of way makes them attractive and safe.

FINANCIAL IMPLICATIONS

- The upgrading of the right of way is at the cost of the adjoining development at 300 Marmion St.
- Council will be financially responsible for its maintenance.
- Any substantial tree located on the edge of any paving material may impact on maintenance requirements.
- Possible legal liability / insurance considerations.

BACKGROUND

- Development of a two storey house with vehicular access to an existing garage off the subject right of way was approved for 300 Marmion St in February 2005 subject to a number of conditions including:
"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."
- Approval for a new garage with access from the right of way was subsequently granted in August 2006. Its construction is now complete and the landowner is required to fulfil the above planning condition.
- The landowner of 42 Hawkstone St, Mr Ian Ogborne, expressed concern in February 2007, regarding the impact of the paving and draining to his property and damage to vegetation planted on the edge of the right of way abutting his property.
- The CEO agreed to the tree being retained subject to Mr Ogborne providing suitable kerbing and the removal of other vegetation to which Mr Ogborne agreed.
- However, following discussion with the landowners of two other properties that abut the laneway at 298 and 300 Marmion St, who objected to the tree and planting being retained, the CEO withdrew his consent and requested Mr Ogborne to remove the tree within 14 days. (The owner of 302 Marmion Street whose property also abuts the laneway, has indicated by email to Mr Ogborne, that he has no objection to the tree remaining).
- Mr Ogborne addressed Council at its meeting on 23 April 2007 asking for the tree to be saved and presented to Councillors, a petition signed by neighbours in support of its retention and photographs illustrating the issue. Council decided that the matter should be referred to the Development Services Committee.

STAFF COMMENT**Petition and Comments from 42 Hawkstone Street**

The petition submitted by Mr Ogborne was signed by people from 22 properties located further along Hawkstone St toward the east, in addition to Mr Ogborne himself.

The comments of the adjoining landowners and those who have rights of carriageway do however prevail in such a circumstance. It is of no doubt that the tree and planting contribute to the visual amenity of the right of way and the dwelling from Hawkstone Street, however the issue is regarding whether adequate access is maintained.

Mr Ogborne had advised that he had no objections to the development of the new house at 300 Marmion St which originally included retention of the existing garage. He however was not provided with the opportunity to comment on the development of the new garage and feels these issues could have been addressed at that time. Now that the garage has been built, he feels that the improvements to the laneway should be respected. He accepts that the planting may be obstructive given the width of the laneway but believes that the tree itself does not restrict access. He believes the tree to be a small to medium sized tree and it contributes to the amenity of the locality in addition to providing shade to a west facing window of his house. He believes that Council has permitted trees and planting in other laneways.

Comments from 298 and 300 Marmion Street,

The owner of 300 Marmion Street and prospective owner of 298 Marmion St, both object to the tree and planting being retained. In discussions with the CEO, Manager of Engineering Services and Planning Officer, they have been emphatic in their objections for the following reasons:

- Vehicles reversing from the garage at 300 Marmion St are forced to brush against the planting which has caused damage to the vehicles on an on-going basis.
- The tree provides an inadequate turning circle for the existing garage at 300 Marmion St and any future garage at 298 Marmion St.
- Reversing is difficult from 300 Marmion St and only one half of the garage is usable as there is inadequate reversing area from the other half due to the planting and tree.
- The tree will only increase in size and create damage to the sewer which exists in the laneway.
- The RD Codes require a 6 metre reversing area which should be met.
- The tree would limit access options for any future development of 298 Marmion Street.

The owners of No. 300 Marmion Street have reinforced these concerns in the attached correspondence.

Engineering Comment

- Council's policy requires the sealing with asphalt plus drainage soak pits, the portion of laneway abutting a new development that requires laneway access, plus its extension to the nearest sealed street or sealed portion of laneway. The full width of a laneway is usually paved.
- The development at 300 Marmion St is required to meet this policy.

- The laneway is owned by Council and must be kept open and maintained for the use of the general public and any service authority machines, particularly access by the Water Corporation to deep sewer mains located within many laneways, including the subject laneway.
- The tree and shrubs planted and maintained by the owner of 42 Hawkstone Street have been allowed to remain to date, as there had been no clash with neighbours, the general public or Council requirements. It was inevitable, however, that a time would come where local developments would require the laneway to be upgraded.
- The upgrading requirements will include proper drainage and the setting of levels which will ensure that drainage and footings of adjoining properties are unaffected.
- The tree is likely to increase in size over time. There are liability implications to Council as owner of the laneway, regarding any damage that a tree may cause to passing motorists or pedestrians and more particularly to adjacent fences and buildings.
- The growing roots are also likely to present a maintenance issue. There is inadequate space for a tree which, in the long term, is likely to cause damage to kerbing, the wall and asphalt.
- The tree is a maple species which has the potential to grow substantially.

Rights of Way Policy

As quoted under Policy Implications above, Council's Right of Way policy facilitates rights of way to be paved and drained on an incremental basis as properties are developed. Buildings need to be set back to achieve an ideal width of 6 metres to allow for an adequate turning circle. Should there be disagreement regarding paving, it is possible for landowners to agree not to pave and drain if 2/3 of abutting landowners agree.

Planning Comment

- The Right of Way is 5m wide and has been well used to date and is thus well maintained.
- The ideal width for laneways is 6 metres to allow easy access and manoeuvring. A carriageway of 4 metres is, however, functional and it is quite common for private access for example, to include a 4-5m carriageway and 0.5-1m landscape strip, provided adequate reversing areas are maintained.
- Trees do occur in other laneways and Council generally allows them to remain if adequate access is maintained and until a problem arises. For example, in an adjacent laneway a palm tree was allowed to remain, although the adjacent landowner was advised by Council that:
If the laneway is ever bitumen sealed, the palms get too large (regarding roots or branches) or complaints are received from users of the laneway, then the situation will have to be reconsidered.
- However, trees in lanes tend to be an accident of history and are essentially condoned rather than encouraged – the policy does not specifically provide for trees or other vegetation to be introduced into lanes.
- Whilst mature trees contribute to the amenity of neighbourhoods, this needs to be balanced against their impact, and thus at times the best solution is for removal. In this particular case, it is accepted that the tree contributes to the amenity of 42 Hawkstone St and the locality in general, however, the purpose of the laneway is

to provide access to all those that have rights to use it. In fact 42 Hawkstone St does not use the laneway for vehicular access (this is from the laneway off Marmion St). The owner of 300 Marmion St that does currently have access, believes that the tree restricts vehicular access.

- Other long term issues that may arise include:
 - Laneway paving being damaged over time which would present a maintenance issue;
 - A maple is likely to grow substantially over time and legal liability issues may arise due to damage to fencing and buildings at 42 Hawkstone St (Mr Ogborne has indicated however that he may be prepared to enter into a Deed regarding this and also if the tree was to affect his fence or buildings, he would consider removing the tree); and
 - Legal liability from any impact on passing motorists and pedestrians from, for example, falling branches.

CONCLUSION

- Council-owned lanes are a shared public asset, not private landscaping space.
- While lane beautification may have merit, especially where there is neighbourhood harmony, it is not specifically provided for in the current policy.
- Although the lane upgrading could be designed around this particular tree, it is apparent that there is the potential for longer-term problems.
- There is also the question of equitable application of the policy and opportunity for access with development over time.
- On this basis removal of the tree and vegetation emerges as the on-balance outcome.
- Notwithstanding, the alternative common-sense approach would be to mediate an engineering solution to upgrade the lane and keep the tree, together with a relatively simple / straightforward deed of agreement between the Town and Mr Ogborne covering liabilities – the arrangement need not be overcomplicated and Council would reserve the right to require removal of the tree.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (a) Advise Mr Ogborne of 42 Hawkstone Street that the tree and planting located within the right-of-way abutting the western boundary of his property is required to be removed by him within 14 days, and the lane made good to the satisfaction of the Manager Development Services, otherwise the Town will undertake these works at the cost of Mr Ogborne.
- (b) Advise the owners of Nos. 298, 300 and 302 Marmion Street accordingly.

AMENDMENT

Moved Mayor Morgan, seconded Cr Woodhill

That Council requires removal of the shrubbery but allow retention of the tree, subject to Mr Ogborne entering into a Deed of Agreement with the Town, at the cost of Mr Ogborne, covering liabilities and reserving the right for Council to require or undertake removal of the tree if considered necessary in future.

Carried 7/4

10.2.6 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Woodhill

That Council requires removal of the shrubbery but allow retention of the tree, subject to Mr Ogborne entering into a Deed of Agreement with the Town, at the cost of Mr Ogborne, covering liabilities and reserving the right for Council to require or undertake removal of the tree if considered necessary in future.

Carried 7/4

Cr Miller requested that the voting be recorded:

For: Mayor Morgan, Cr Woodhill, Cr Walsh, Cr Carmichael, Cr Utting, Cr Strzina,
Cr Cunningham

Against: Cr Miller, Dr Dawkins, Cr Furlong, Cr Jeanes

10.2.7 DRAFT TOWN PLANNING SCHEME NO. 3 – WAPC FEEDBACK ON SCHEME PROPOSALS & CONSENT TO ADVERTISE*

File No:	SUB/334
Author:	Mr Andrew Jackson / Ms Delia Neglie
Author Disclosure of Interest:	Nil
Attachments:	Various
Report Date:	Commenced 26 April 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

- Draft Town Planning Scheme No. 3 (TPS3) was lodged with the Western Australian Planning Commission (WAPC) in February 2006, followed by the supporting Local Planning Strategy (LPS) in April 2006.
- Since then Department of Planning and Infrastructure (DPI) staff have been assessing the proposed scheme, which has involved liaison with Town of Cottesloe staff, including the provision of additional information to the DPI to assist understanding of the scheme proposals and the local planning context.
- The Town has now received formal feedback on behalf of the WAPC, which in turn has been assessed for consideration by Council.
- The purpose of this report is to present the feedback from the WAPC and the assessment of it for a response by Council to the WAPC. It covers:
 - Background to WAPC consideration of scheme.
 - Each matter raised by the WAPC, together with the Town's assessment, related extracts of the LPS or other information (in an appendix to this report), and a recommended response to the WAPC.
 - The statutory process at this stage and the next steps to progress the scheme to the official advertising phase.
 - An overall recommendation for a reply to the WAPC and ongoing action on the new scheme.
- The aim is to establish a position from Council regarding the WAPC feedback and to reach agreement with the WAPC and Minister on the aspects identified, so that the scheme can be advertised for public comment (which is a common goal of the Town and the DPI).
- Following receipt of Council's response the DPI will report again to the WAPC for a recommendation to the Minister on the content of the scheme and LPS for a decision as to public advertising.

STATUTORY ENVIRONMENT

- The present step in the town planning scheme review process is to achieve approval to advertise, which is an important milestone in order to inform the community and gauge public reaction to the scheme proposals.
- Ideally discussion between Council and the WAPC / Minister would result in agreement to modifications to the draft Scheme prior to advertise
- When there are matters of disagreement between the Council and the WAPC / Minister it *may* be possible to negotiate that the Scheme be advertised with those matters clearly presented as options still under consideration – although that is by informal arrangement rather than expressly provided for.

- If so, Council would be required to commit to review these matters in light of public submissions (which it must consider in any case); and resolution through negotiation with the WAPC / Minister would then be pursued.
- Following advertising and the assessment of submissions a modified Scheme may be adopted by Council before again being referred to the WAPC, for further consideration / reporting and a decision by the Minister regarding final approval.
- In summary, the statutory process to advertise and finalise a scheme entails several steps / decisions and at each stage unless modifications can be settled between Council and the WAPC / Minister the process is likely to become drawn-out, hence additional liaison with the WAPC and Minister may be necessary.

POLICY IMPLICATIONS

Regional Planning Policy

- In relation to the Western Australian planning system, Section 77 of the Planning and Development Act 2005 (P&D Act) requires that: *every local government in preparing or amending a local planning scheme... is to have due regard to any State planning policy which affects its district...*
- It is emphasised that all local governments and town planning schemes are guided in this way, for an integrated planning approach.
- This reflects the framework for broad regional planning to be translated into detailed local planning and implemented through the statutory process, and in this respect the WAPC has advised that the draft Scheme does not adequately address the following regional policies.

State Planning Policy No. 3 – Urban Growth and Settlement (2005)

- This policy aims to facilitate sustainable patterns of urban growth and settlement by setting out the requirements of sustainable settlements and communities and broad policy for accommodating growth and change.
- It is to be taken into account in preparing local planning strategies and town planning schemes.

Draft State Planning Policy – Network City (2006)

- *Network City* is a draft community planning strategy for the Perth and Peel regions that outlines the direction on how the city develops and how it will be planned.
- It is based on integrated land use and transport reflected in a series of activity corridors and centres, for more sustainable urban growth and lifestyles.

Development Control Policy 1.6 – Planning to Support Transit Use and Transit Oriented Development (2006)

- This policy seeks to maximise the benefits to the community of an effective and well-used public transit system by promoting planning and development outcomes that will support and sustain public transport use.

Local Planning Policy

- Council currently operates a number of existing local planning policies and related policies, and the draft scheme provides for these policies to be carried over, augmented or added to consistent with the scheme requirements.
 - The modifications sought by the WAPC / Minister may cause revised or additional policies (such as design guidelines) to be prepared.
-

STRATEGIC IMPLICATIONS

- Council under its current Strategic Plan and also the proposed Future Plan is committed to completing the town planning scheme review.
- Council is also committed to a consultative approach and has undertaken considerable community engagement so far in formulating the draft scheme.
- Progress of the proposed scheme to the official public advertising stage is a key step, whereby a range of responses from owners, residents, businesses, organisations and other interested parties may be expected, which will further help shape the final scheme.
- Completion of the scheme will set the scene for land use planning and development control for the district over the next five to ten years, which will clarify these intentions and afford certainty regarding built form and amenity expectations.
- Over recent months Council has progressed several initiatives which are interrelated with the scheme and the future of the district, including the Foreshore Vision Working Group, a preferred alignment and design solution for Curtin Avenue, and prospective Enquiry by Design exercises to facilitate planning for the foreshore / beachfront and the Town Centre / transport corridor plus surplus government lands.
- At the same time *Network City* workshops by the DPI have disseminated the outlook of the WAPC regarding the role of local government towards delivering housing provision / diversity, employment opportunities and transport efficiencies in the context of sustainable metropolitan development.

FINANCIAL IMPLICATIONS

- The advancement of the scheme review is variable and may entail additional community consultation, the use of consultants, legal advice and other resources, with resultant budget implications.

BACKGROUND

- In August 2006 the WAPC considered a departmental report on draft TPS3 and made recommendations to the Minister for Planning and Infrastructure.
- The Minister expressed her support for the Commission's comments and advised the Council accordingly (attached letter dated 25 August 2006).
- In September 2006 a subsequent meeting between the Chairman of the WAPC and DPI staff with the Mayor of Cottesloe and Town staff was held to discuss the matter.
- The Chairman of the WAPC and DPI staff undertook to elaborate on the WAPC and Minister's views and some dialogue ensued to scope the matters to be considered.
- In April 2007 a meeting of DPI and Town staff was held to further discuss the aspects identified by the WAPC.
- By letter dated 10 April 2007 (attached) the DPI then summarised the WAPC's deliberations and requested that Council give formal consideration to them for a response to the WAPC, for a further report to the Minister on advertising consent for draft TPS3 and the LPS.

- In preparing this report to Council officers have further liaised with DPI officers to discuss the matters raised and the process involved.

OFFICER COMMENT

Overview of WAPC Feedback

- Draft TPS3 in its format and generic content closely adheres to the Model Scheme Text which it is required to follow, hence the basic structure and ingredients of the scheme are taken to be acceptable to the WAPC, however, there may be minor technical details or corrections required by the WAPC.
- These have previously been advised to officers and some of the changes have already been carried out to the draft documentation, and in recent discussion the DPI has indicated that there should be few, if any, additional minor modifications required.
- The matters of substance raised by the WAPC are set out in the attached letter dated 10 April 2007, which has been reported on in the press and which the DPI has indicated may be considered in the public arena.
- The thrust of the feedback from the WAPC is about coordinating regional and local planning objectives regarding a few key aspects:
 - Opportunities for increased residential densities.
 - The beachfront activity area, including its land use, residential densities and building heights.
 - Residential building heights generally.
 - Areas affected by the Metropolitan Region Scheme with potential for future development subject to more planning.
- This indicates that if agreement can be reached on these aspects then once any modifications are made to the proposals, the draft scheme and LPS can be advertised for community comment, which will then undergo consideration by Council, the DPI, WAPC and Minister for further evolution of the proposed scheme and LPS.
- The focus of changes would be found in an amended LPS and embodied in the Scheme Text provisions and Scheme Map zonings and residential densities.
- That is, with some additional information or justification and agreed changes, the scheme may be considered acceptable to commence the next phase.

Comment on Specific Aspects

- Each of the specific aspects raised by the DPI / WAPC is listed in the table below (in the order as contained in the DPI letter), together with an officer summary of the current TPS3 and LPS contents on the matter, followed by a recommended response from Council on the aspect.
- For convenience of presentation and appreciation, this table condenses the current TPS3 / LPS content however, the Appendix attachment to this report contains extensive extracts from the LPS, scheme and other relevant material which should be read to gain a fuller understanding of each matter. In addition, Councillors may refer to their copies of TPS3 (text and map) and the LPS as lodged.

Aspect	AREAS WITH POTENTIAL FOR HIGHER RESIDENTIAL DENSITIES
DPI/WAPC advice	<ul style="list-style-type: none"> It is considered there is greater potential for TPS3 to provide residential densities higher than R20 and R30 in a number of areas (eg by taking greater advantage of ROWs): <ul style="list-style-type: none"> (a) East of railway, north of Town Centre. (b) West of train stations. (c) Wearne Hostel, Deaf Institute and (d) Depot site, with suggested densities in the R40-R50 range, however, DPI would support determination of densities for these Special Development Zone sites through the structure planning process, so no density need be shown in TPS3 at this stage.
Current TPS3/LPS	<p>Officer Comment:</p> <ul style="list-style-type: none"> The LPS demonstrates that Cottesloe offers a diversity of housing and that while there is a high proportion of one or two-person households and an aging population, some 38% of existing stock is other than single housing. This is notably above the metropolitan average of approximately 19.7% and the recent DPI housing seminar revealed that the average net density for Cottesloe is just over the metropolitan median for local government areas. The seminar also indicated that metropolitan-wide, multi-unit housing is actually decreasing as a proportion of total housing, despite increased density developments; and in this respect it is noted that Cottesloe continues to plan for and approve medium density housing as well as to encourage the retention and enhancement of exiting flats / apartments, plus mixed-use residential / commercial developments. For example, under TPS3 opportunities for additional residential development providing a choice of housing types include: <ul style="list-style-type: none"> ○ Infill in R20, R25, R30, R35, R40 and R50 areas. ○ R50 and R60 areas along Stirling Highway and the beachfront. ○ R100 in the town centre and beachfront. ○ Mixed-use in the Town Centre, Local Centres and other such zones. ○ R40 at selected Special Development zones. ○ Future potential for the vacant crown land west of the Town Centre and railway station. There is scope for Council to reconsider previously discussed ideas for increased density (eg R50 area in Parry Street, R30 area extending to Jarrad Street, R30 area extending east of Bird Street and R30 in north Cottesloe around Elizabeth and Salisbury Streets); and to consider other possible options such as increased density west of

	<p>the railway south of Eric Street, split-density coding in relation to using rights-of-way, at the beachfront west of Broome Street and east of the Foreshore Centre zone, and between Eric and Forrest Streets with split-density codes to encourage amalgamation.</p> <ul style="list-style-type: none"> • The emerging prospect of a redevelopment project around the Town Centre station is a key to providing a substantial amount of medium density housing in a planned environment.
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council considers that Cottesloe performs comparatively well in terms of housing diversity and TPS3 builds on this foundation. • The overriding land use trend in the district is residential development as provided for by the scheme and facilitated by Council, which includes subdivision, infill housing, sale of Council sump sites for dwelling development, medium-density developments (eg over-55's housing and former National Measurement Institute land) and mixed-use developments (eg Eric Street local shopping centre apartments). This is a healthy trend in accordance with regional planning objectives for more inner-urban housing, reflecting the popularity of Cottesloe as a residential district and the demand for more housing as opportunities arise. • TPS3 therefore contains an overall increase in densities throughout the district, including at and behind the beachfront activity centre. • However, while Council can appreciate the philosophy for housing diversity generally, it cautions that increased residential density does not necessarily result in population increase and can erode the opportunity for families to locate in the inner suburbs. • Council has examined additional density increases and tested this with the community, but has concluded that there is insufficient support for changes to the draft scheme at this stage. • Council considers that the difficulty with blanket density coding is that it is a crude technique which alone does not guarantee redevelopment; and that land ownership, lifestyle aspirations, lifecycle stages and many other factors will constrain wholesale redevelopment. • Moreover, proper planning for density increases should include consideration of existing streetscape character, land reassembly, infrastructure, access, parking, movement networks, open space, urban design, development guidelines, and so on, all to ensure that the resultant built-form and amenity are of a high

	<p>standard.</p> <ul style="list-style-type: none"> • Notwithstanding, TPS3 contains several Special Development zones including provision for structure planning and increased densities to deliver additional and more diverse housing, subject to comprehensive planning considerations as outlined above. • Council agrees to determining appropriate densities for selected Special Development zone areas by the structure planning process as an alternative to indicating them on the scheme map. • Council is actively pursuing a solution to Curtin Avenue in order to free-up land west of the Town Centre for a transit-oriented development in relation to the main railway station, which although premature to reflect in the scheme in any detail at this stage, is the major opportunity to create a fully-planned new housing area integrated with the Town Centre to the east and residential area to the west and addressing transport networks.
Aspect	FORESHORE ACTIVITY AREAS & PROPOSED R100 DEVELOPMENT ON BEACHFRONT SITES (ie beachfront land use and residential density)
DPI/WAPC advice	<ul style="list-style-type: none"> • Council's objectives and policy statements for the area are noted as consistent with the combined local and regional significance of this activity area with a mixed-use character. • However, the proposed reduction in the extent of such zoning is questioned, if a range of uses and facilities is to be fostered. Council's intent to encourage a non-residential active street frontage is supported, and it is suggested this could included as a scheme control. Also, it is suggested that to encourage a greater number of smaller dwellings, including short-stay accommodation, the maximum floor area of residential units should be limited.
Current TPS3/LPS	<p>Officer Comment:</p> <ul style="list-style-type: none"> • The LPS recognises the regional role of the beachfront as a recreation / entertainment activity area serving the local and wider communities, noting that the area has a <i>distinctive ambience of an active beachfront with a human scale and range of recreational opportunities which is relaxed rather than overly-intensive</i>. • The LPS also recognises that <i>achieving appropriate uses, floor space, parking provision, built form and protection of the amenity of the public domain is therefore important to the economic and employment vitality of the beachfront</i>. • This context is carried into the scheme zoning strategy, objectives, provisions and development controls, which have been the subject of detailed examination and consideration by Council, with valuable community input.

	<ul style="list-style-type: none"> This framework is capable of some further refinement while preserving the intent for the area.
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> Council agrees to the suggestion of capping the floor area of dwellings in the beachfront activity zones to encourage smaller dwellings including for short-stay accommodation and will examine a suitable provision, and it is also pointed out that: <ul style="list-style-type: none"> The three-storey/12m height limit will in itself encourage smaller dwellings. Short-stay accommodation is not normally subject to density controls, however, that can be examined. While TPS3 reduces the area of the Foreshore Centre zone it also introduces the Restricted Foreshore Centre zone and has increased density to R60 for an extensive area behind the beachfront zones to reflect recent development and encourage further redevelopment for more dwellings in relation to the activity centre. Council agrees to the suggestion that residential land use be excluded from the ground floor level in the Foreshore Centre and Restricted Foreshore Centre zones and will examine a suitable provision. Council's Beachfront Site Investigations encourage commercial activities at ground floor level and suggest concessions for plot ratio and parking for commercial land use as incentives. Hence appropriate provisions can be devised for the scheme, possibly including a Special Control Area to overlay the beachfront zones to address land use, urban design, access and parking. This would most likely be a new clause 6.3 Special Control Area 2 - Beachfront.
Aspect	<i>BUILDING HEIGHTS - FORESHORE ACTIVITY AREAS (ie beachfront)</i>
DPI/WAPC advice	<ul style="list-style-type: none"> The WAPC's coastal planning policy (SPP2.6) is referred to as guiding the height of development to be up to five storeys generally and up to eight storeys in particular circumstances. While it is acknowledged that the policy also provides for local variations (ie lower limits) to be prescribed in schemes (as does TPS3), it is suggested that Council consider the five- storey limit as offering greater flexibility for the beachfront activity area (ie not the residential zones) in accordance with the policy.

<p>Current TPS3/LPS</p>	<p>Officer Comment:</p> <ul style="list-style-type: none"> • The three-storey/12m beachfront height limit in TPS3 is intended to encourage development which responds to the topography of the area so that the landscape character is reflected in built form and there is a sharing of views. • The resultant built environment would be consistent and compatible with the traditional urban landscape of Cottesloe, and not generate the more severe impacts of taller and larger buildings; ie, visual prominence, bulk and scale, overshadowing, overlooking, loss of views, wind velocity, intensity of activity, increased traffic and parking, dwarfing of streetscape, etc. • How development and built form treat the environment, topography, landscape and views are predominant influences on amenity. • Most of the feedback regarding beachfront matters from the community advertising of the draft scheme in December 2006 concerned the height restrictions along the foreshore and the majority of respondents who commented supported the proposed height limits. • However, drawing on earlier deliberations by Council the following alternatives could be considered to offer some limited flexibility in the height controls: <ul style="list-style-type: none"> ○ A 12m height limit without the three-storey restriction, thereby permitting up to four storeys, supported by appropriate design guidelines. ○ Corner statements of a restricted size may in keeping with the overall beachfront height pattern while creating some variety in built form (noting that corner sites impact on fewer abutting properties). ○ Setbacks and floor space limits for the upper portions of such buildings to restrict building bulk and maintain view corridors.
<p>Recommended response</p>	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • The Government has stated its goal to protect WA's coastal environments and therefore prepared the State Coastal Planning Policy. The Government has also carried out community engagement and acknowledged <i>that the majority of the community do not want the beachfront landscape overwhelmed by high rise buildings.</i> Hence an amendment to the Policy has provided that the height of coastal development be limited to up to five storeys maximum, with local councils able to set lower maximums in their town planning schemes; plus the ability under the policy for consideration of some higher buildings up to eight storeys maximum in suitable locations, but only with community support and subject to certain criteria.

	<ul style="list-style-type: none"> • SPP2.6 clearly sets out to limit building heights and prescribes lower-rise development of no more than five storeys as the predominant standard. The Policy then expressly provides that <i>Local planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality</i>, which situation is directly applicable to Cottesloe. The Policy goes on to allow consideration of up to eight- storey development, but only subject to specific guidance as the exception rather than the rule, and it is apparent from those guidelines that such higher development would become excluded from Cottesloe as inappropriate. • The TPS3 height limits for the beachfront are soundly-based in local area planning and in the sub-regional context and thereby should stand, rather than to rely on a broad-level policy.
Aspect	BUILDING HEIGHTS – RESIDENTIAL
DPI/WAPC advice	<ul style="list-style-type: none"> • Given the height controls in the Residential Design Codes, height provisions for residential areas would not normally be contemplated in new schemes. • DPI suggests a possible compromise of retaining the TPS3 proposed two-storey height limit for R20 density-coded areas but deleting it for higher density areas to allow greater flexibility in development – as applied in the City of Fremantle scheme, for example – whereby the RDC three-storey controls or other area-specific height controls added to the scheme would be relied upon.
Current TPS3/LPS	<p>Officer Comment:</p> <ul style="list-style-type: none"> • The LPS clearly sets out the rationale for the residential height limits that Cottesloe has applied successfully for many years, and this has been elaborated upon in correspondence and discussions with the DPI. • TPS3 continues this height control method through the various zone objectives, scheme provisions and development requirements. • This documentation reflects Council’s established position of well-managed residential height controls and the community support for this. • The DPI advice regarding residential heights is linked to its residential density advice, suggesting that areas over R20 density require greater flexibility in design than under TPS3. There is also the notion of uniform standards. • Although technically the differences between the height limit measurements of the RD-Codes and TPS3 may be considered relatively marginal, the performance criteria facility in the Codes can invoke excessive discretion and

	<p>departures from the preferred acceptable development standards.</p> <ul style="list-style-type: none"> • Furthermore, the Codes don't provide any plot ratio controls for grouped dwellings at or below R50 density; whereby in the absence of such controls height limits become an important tool in controlling the bulk of residential buildings and their impact on adjacent properties. • In addition, while the Codes provided for local planning policy to also guide residential height control, such policy does not have the force and effect of scheme provisions which offer greater certainty and consistency. • Nonetheless, possible alternatives for consideration of managing residential heights are: <ul style="list-style-type: none"> ○ Adopting only the RD-Codes Acceptable Development criteria for the height measurements and adding a scheme provision to exclude the Performance Criteria so that there is no discretion. ○ Creating a local planning policy to help regulate the height of residential development in addition to the RD-Codes.
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • TPS3 is in accordance with the RD-Codes in adopting two-storeys as the preferred norm for residential height, and the discretion contained in TPS3 for the determination of natural ground levels, undercrofts and third levels in a roof space reflects the performance-assessment dimension of the Codes, but with greater certainty and consistency. • Local planning policy lacks the force and effect of scheme provisions which are desirable for residential height control as a key factor influencing the character, built form and amenity of the district. • Reliance on the RD-Codes height limits and assessment methodology would undermine the equitable and cohesive built form that has been achieved by Councils residential height control framework.
Aspect	ADDITIONAL ITEMS: VACANT CROWN LAND - CURTIN AVENUE
DPI/WAPC advice	<ul style="list-style-type: none"> • The potential for future urbanisation of this area is recognised but is accepted as premature to be zoned in TPS3 ahead of resolution of the Curtin Avenue alignment and prerequisite amendment of the Metropolitan Region Scheme (MRS). • However, the LPS could expand on the opportunity for medium density residential development at this stage, pending comprehensive re-planning of the area and the associated statutory processes – there is no need to delay

	the scheme as there is nothing firm at this time and the normal planning processes will facilitate change when ready.
Current TPS3/LPS	<p>Officer Comment:</p> <ul style="list-style-type: none"> • The potential for this land is already clearly stated in the LPS, but in TPS3 Council made a conscious decision that the area be classified as Local Reserve for the time being (as under current TPS2) due to Curtin Avenue, the crown land ownership, MRS reservations and various other considerations all requiring further investigation and a managed planning process. • The Town Centre Study community workshop exercise was a related initiative. • It would be advantageous to expand on the matter in the LPS.
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council's Town Centre Study undertaken as part of the scheme review explored the potential of this area to be redeveloped in connection with the town centre, railway station and integration with the residential area to the west. • To that end Council has actively pursued a planning and design solution for Curtin Avenue with the DPI and Main Roads WA. • This background has led to a prospective Enquiry by Design exercise between Council and the DPI for more detailed planning of a Transit-Oriented Development as the next step towards realising the vision through the statutory processes, structure planning and urban design. • Council agrees that it would be beneficial for the LPS to expand on this progress and intent. • Rather than classifying the current vacant crown land as Local Reserve in TPS3, Council would support Special Development Zone and/or Special Control Area provisions to signal the general intent and anticipated processes to re-plan and redevelop the area, although it is noted that this would somewhat academic as the area would be reconfigured and rezoned and requires a great deal more detailed planning to determine the final extent, content and form of development.
Aspect	ADDITIONAL ITEMS: FORESHORE LAND RESERVED FOR PARKS & RECREATION IN THE MRS (ie Napier Street MRS Parks & Recreation Reserve)
DPI/WAPC advice	<ul style="list-style-type: none"> • The potential for some future development of the Napier Street car park in relation to the beachfront activity area, as identified by Council, is also recognised but again it is

	<p>accepted any change to TPS3 is premature ahead of amendment to the MRS.</p> <ul style="list-style-type: none"> • However, the LPS could also elaborate on this opportunity, again dependent upon more detailed planning and appropriate implementation – there is no need to delay the scheme as there is nothing firm at this time and the normal planning processes will facilitate change when ready.
Current TPS3/LPS	<p>Officer Comment:</p> <ul style="list-style-type: none"> • Council has seen the need to consider longer-term planning for this car park area, as flagged in its adopted Beachfront Development Objectives, beachfront parking and design guidelines studies, draft TPS3 beachfront planning and parking policies, the Foreshore Vision initiative and Future Plan preparation, and as generally mentioned in community consultation exercises for the area. • This is not, however, described directly in the LPS, which would be worthwhile. Some preliminary details about the area have been researched and communicated to the DPI, and it is agreed that while nothing can be shown in the scheme at this stage it is appropriate that the LPS can foreshadow ongoing review of the area. • The necessity for amendment of the MRS, which is a full public process, for any regionally-significant changes to this area, as well as other statutory processes, should ally any community concern in this regard.
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council agrees that it is premature for TPS3 to show any changes for this area due to the MRS Parks and Recreation reservation and the status of the land as an A-Class Reserve. • Council considers that it would be beneficial for the LPS to outline possible land uses and development envisaged for the area in keeping with the theme of an activity centre at the beachfront, all subject to the normal planning processes. • Council's Foreshore Vision initiative is presently exploring an Enquiry by Design exercise to further evolve a concept plan for the foreshore recreational area in relation to the beachfront activity node, which would include consideration of this car park and MRS-reserved land.

CONCLUSION

- Council has produced a draft scheme and local planning strategy involving considerable community consultation and sensitive to local planning matters, with extensive justification and information put forward to explain and illustrate the proposals.

- The scheme proposals are now at the juncture of interfacing with regional planning requirements, to address that layer of consideration to formulation of the final product, as required by the statutory framework.
- In perspective, the draft documentation so far has been found largely acceptable by the DPI and WAPC, with apparently relatively little technical refinement necessary and only a few key aspects to be reconciled – this is a positive reflection on the scheme proposals.
- The outstanding aspects are typically fundamental matters in the context of the determination of local character, built form and amenity, whereby measures such as residential density and the height of development are vital to successful outcomes.
- Beyond that, the regional level of consideration is seeking to manage the function of the district in its metropolitan setting, in terms of housing supply, employment / entertainment activity centres, transport networks and urban infrastructure.
- However, that tends to be a broad-brush and arbitrary approach, whereby there is only a general rationale from the WAPC and limited detail by the DPI upon which to base substantial departures at this stage.
- The decision before Council is what degree of modification it wishes to support for the purpose of public advertising of the proposals, or whether it believes that significant changes warrant more detailed review and consultation before proceeding.
- In conclusion, it is assessed that Council is able to agree to a number of modifications, those being minor technical changes, particular improved provisions and some greater flexibility in development controls, all of which are essentially practical operational aspects. The core planning measures of residential densities and of height controls for various parts of the district have been determined by considerable study, consultation and deliberation so far. On the one hand there is some previous information available to revisit if Council wishes, or Council may conclude that some matters would require further consideration in order to reach a decision.
- The thrust of the recommended responses to the WAPC is to illustrate Council's willingness to make desirable improvements to the proposed scheme, while at the same time promoting the important attributes that define the identity and character of Cottesloe for the community and visitors alike.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee resolved to address the following matters separately.

OFFICER RECOMMENDATION

That Council provides the following responses to the DPI/WAPC regarding their advice on proposed TPS3 and the LPS:

<i>Aspect</i>	<i>AREAS WITH POTENTIAL FOR HIGHER RESIDENTIAL DENSITIES</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council considers that Cottesloe performs comparatively well in terms of housing diversity and TPS3 builds on this foundation. • The overriding land use trend in the district is residential development as provided for by the scheme and facilitated by Council, which includes subdivision, infill housing, sale of Council sump sites for dwelling development, medium-density developments (eg over-55's housing and former National Measurement Institute land) and mixed-use developments (eg Eric Street local shopping centre apartments). This is a healthy trend in accordance with regional planning objectives for more inner-urban housing, reflecting the popularity of Cottesloe as a residential district and the demand for more housing as opportunities arise. • TPS3 therefore contains an overall increase in densities throughout the district, including at and behind the beachfront activity centre. • However, while Council can appreciate the philosophy for housing diversity generally, it cautions that increased residential density does not necessarily result in population increase and can erode the opportunity for families to locate in the inner suburbs. • Council has examined additional density increases and tested this with the community, but has concluded that there is insufficient support for changes to the draft scheme at this stage. • Council considers that the difficulty with blanket density coding is that it is a crude technique which alone does not guarantee redevelopment; and that land ownership, lifestyle aspirations, lifecycle stages and other factors will constrain wholesale redevelopment. • Moreover, ideally planning for density increases should include consideration of existing streetscape character, land reassembly, infrastructure, access, parking, movement networks, open space, urban design, development guidelines, and so on, all to ensure that the resultant built-form and amenity are of a high standard.

	<ul style="list-style-type: none"> • Notwithstanding, TPS3 contains several Special Development zones including provision for structure planning and increased densities to deliver additional and more diverse housing, subject to comprehensive planning considerations as outlined above. • Council agrees to determining appropriate densities for selected Special Development zone areas by the structure planning process as an alternative to indicating them on the scheme map. • Council is actively pursuing a solution to Curtin Avenue in order to free-up land west of the Town Centre for a transit-oriented development in relation to the main railway station, which although premature to reflect in the scheme in any detail at this stage, is the major opportunity to create a fully-planned new housing area integrated with the Town Centre to the east and residential area to the west and addressing transport networks.
<i>Aspect</i>	<i>FORESHORE ACTIVITY AREAS & PROPOSED R100 DEVELOPMENT ON BEACHFRONT SITES (ie beachfront land use and residential density)</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council agrees to the suggestion of capping the floor area of dwellings in the beachfront activity zones to encourage smaller dwellings including for short-stay accommodation and will examine a suitable provision, and it is also pointed out that: <ul style="list-style-type: none"> ○ The three-storey/12m height limit will in itself encourage smaller dwellings. ○ Short-stay accommodation is not normally subject to density controls, however, that can be examined. ○ While TPS3 reduces the area of the Foreshore Centre zone it also introduces the Restricted Foreshore Centre zone and has increased density to R60 for an extensive area behind the beachfront zones to reflect recent development and encourage further redevelopment for more dwellings in relation to the activity centre. • Council agrees to the suggestion that residential land use be excluded from the ground floor level in the Foreshore Centre and Restricted Foreshore Centre zones and will examine a suitable provision. Council's Beachfront Site Investigations encourage commercial activities at ground floor level and suggest concessions for plot ratio and parking for commercial land use as incentives. Hence appropriate provisions can be devised for the scheme, possibly including a Special Control Area to overlay the beachfront zones to address land use, urban design, access and parking. This would most likely be a new clause 6.3 Special Control Area 2 - Beachfront.

Aspect	<i>BUILDING HEIGHTS – FORESHORE ACTIVITY AREAS (ie beachfront)</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • The Government has stated its goal to protect WA's coastal environments and to that end prepared the State Coastal Planning Policy. The Government has also carried out community engagement and acknowledged <i>that the majority of the community do not want the beachfront landscape overwhelmed by high rise buildings</i>. Hence an amendment to the Policy has provided that the height of coastal development be limited to up to five storeys maximum, with local councils able to set lower maximums in their town planning schemes; and the ability to consider some higher buildings up to eight storeys maximum but only with community support and in suitable locations subject to certain criteria. • SPP2.6 clearly sets out to limit building heights and prescribes lower-rise development of no more than five storeys as the predominant standard. The Policy then expressly provides that <i>Local planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality</i>, which situation is directly applicable to Cottesloe. The Policy goes on to allow consideration of up to eight storey development, but only subject to specific guidance as the exception rather than the rule, and it is apparent from those guidelines that such higher development would become excluded from Cottesloe as inappropriate. • The TPS3 proposed height limits for the beachfront are soundly-based in local area planning and in the sub-regional context and thereby should stand, rather than to rely on a broad-level policy.
Aspect	<i>BUILDING HEIGHTS – RESIDENTIAL</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • TPS3 is in accordance with the RD-Codes in adopting two-storeys as the preferred norm for residential height, and the discretion contained in TPS3 for the determination of natural ground levels, undercrofts and third levels in a roof space reflects the performance-assessment dimension of the Codes, but with greater certainty and consistency. • Local planning policy lacks the force and effect of scheme provisions which are desirable for residential height control as a key factor influencing the character, built form and amenity of the district. • Reliance on the RD-Codes height limits and assessment methodology would undermine the equitable and cohesive built form that has been achieved by Councils residential height control framework.

<i>Aspect</i>	<i>ADDITIONAL ITEMS: VACANT CROWN LAND – CURTIN AVENUE</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council's Town Centre Study undertaken as part of the scheme review explored the potential of this area to be redeveloped in connection with the town centre, railway station and integration with the residential area to the west. • To that end Council has actively pursued a planning and design solution for Curtin Avenue with the DPI and Main Roads WA. • Furthermore, this background has led to a prospective Enquiry by Design exercise between Council and the DPI for more detailed planning of a Transit-Oriented Development (TOD) as the next step towards realising the vision through the statutory processes, structure planning and urban design. • Council agrees that it would be beneficial for the LPS to expand on this progress and intent. • Rather than classifying the current vacant crown land as Local Reserve in TPS3, Council would support Special Development Zone and/or Special Control Area provisions to signal the general intent and anticipated processes to re-plan and redevelop the area, although it is noted that this would be somewhat academic as the area would be reconfigured, rezoned and requires a great deal more detailed planning to determine the final extent, content and form of development.
<i>Aspect</i>	<i>ADDITIONAL ITEMS: FORESHORE LAND RESERVED FOR PARKS & RECREATION IN THE MRS (ie Napier Street MRS Parks & Recreation Reserve)</i>
Recommended response	<p>Council advises as follows:</p> <ul style="list-style-type: none"> • Council agrees that it is premature for TPS3 to show any changes for this area due to the MRS Parks and Recreation reservation and the status of the land as an A-Class Reserve. • Council considers that it would be beneficial for the LPS to outline possible land uses and development envisaged for the area in keeping with the theme of an activity centre at the beachfront, all subject to the normal planning processes. • Council's Foreshore Vision initiative is presently exploring an Enquiry by Design exercise to further evolve a concept plan for the foreshore recreational area in relation to the beachfront activity node, which would include consideration of this car park and MRS-reserved land.

COMMITTEE RECOMMENDATION

That Council provide the following responses to the DPI / WAPC regarding their advice on proposed TPS3 and the LPS:

Areas with Potential for Higher Residential Densities**COMMITTEE COMMENT**

Committee discussed this aspect at some length and concluded that in light of the DPI/WAPC's suggestions, the community should have a further opportunity to comment on the proposed density changes. The comments received would help inform Council's response to the DPI/WAPC proposals for the draft scheme.

COMMITTEE RECOMMENDATION

That Council staff prepare a report for Council on how best to undertake further community consultation on residential densities for TPS3 having regard to the advice of the DPI/WAPC.

AMENDMENT

Moved Mayor Morgan, seconded Cr Woodhill

That Council staff prepare a report for Council that evaluates the likely population increase in developing the vacant reserve land beside the railway station and the town centre as compared to changes in density coding proposed by the DPI/WAPC.

Carried 11/0

Moved Cr Walsh, seconded Mayor Morgan

That in light of our previous community consultation, Council staff ask the DPI/WAPC of the densities/areas they consider suitable for inclusion in TPS3 for advertising.

Lost 2/9

Moved Mayor Morgan, seconded Cr Miller

That Council delete from the substantive motion the Committee Recommendation requiring a report on residential densities for TPS3.

Carried 10/1

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Woodhill

That Council Staff prepare a report for Council that evaluates the likely population increase in developing the vacant reserve land beside the railway station and the town centre as compared to the changes in density coding proposed by DPI/WAPC.

Carried 11/0

Foreshore Activity Areas & Proposed R100 Development on Beachfront Sites**COMMITTEE COMMENT**

Committee discussed and amended the first dot-point in the recommendation, as it considered that capping the floor space of dwellings may not necessarily be the only suitable approach to facilitating a mixed-use area including short-stay accommodation, permanent residential and commercial / entertainment / recreational activities at the beachfront.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

***FORESHORE ACTIVITY AREAS &
PROPOSED R100 DEVELOPMENT ON BEACHFRONT SITES
(ie beachfront land use and residential density)***

Council advises as follows:

- Council agrees to further consider the capping of the floor area of dwellings, and other possible controls, in the beachfront activity zones, in order to encourage mixed-use development, including consideration of short-stay accommodation, and will examine a suitable provision, and it is also pointed out that:
 - The three-storey/12m height limit will in itself encourage smaller dwellings.
 - Short-stay accommodation is not normally subject to density controls, however, that can be examined.
 - While TPS3 reduces the area of the Foreshore Centre zone it also introduces the Restricted Foreshore Centre zone and has increased density to R60 for an extensive area behind the beachfront zones to reflect recent development and encourage further redevelopment for more dwellings in relation to the activity centre.
- Council agrees to the suggestion that residential land use be excluded from the ground floor level in the Foreshore Centre and Restricted Foreshore Centre zones and will examine a suitable provision. Council's Beachfront Site Investigations encourage commercial activities at ground floor level and suggest concessions for plot ratio and parking for commercial land use as incentives. Hence appropriate provisions can be devised for the scheme, possibly including a Special Control Area to overlay the beachfront zones to address land use, urban design, access and parking. This would most likely be a new clause 6.3 Special Control Area 2 - Beachfront.

Carried 11/0

Building Heights – Foreshore Activity Areas**COMMITTEE COMMENT**

The Committee amended the third dot-point in the recommendation to refer to previous community consultation which supported the retention of the 12m/three-storey height limits for the beachfront.

COMMITTEE RECOMMENDATION***BUILDING HEIGHTS – FORESHORE ACTIVITY AREAS
(ie beachfront)***

Council advises as follows:

- The Government has stated its goal to protect WA's coastal environments and to that end prepared the State Coastal Planning Policy. The Government has also carried out community engagement and acknowledged *that the majority of the community do not want the beachfront landscape overwhelmed by high rise buildings*. Hence an amendment to the Policy has provided that the height of coastal development be limited to up to five storeys maximum, with local councils able to set lower maximums in their town planning schemes; and the ability to consider some higher buildings up to eight storeys maximum but only with community support and in suitable locations subject to certain criteria.
- SPP2.6 clearly sets out to limit building heights and prescribes lower-rise development of no more than five storeys as the predominant standard. The Policy then expressly provides that *Local planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality*, which situation is directly applicable to Cottesloe. The Policy goes on to allow consideration of up to eight storey development, but only subject to specific guidance as the exception rather than the rule, and it is apparent from those guidelines that such higher development would become excluded from Cottesloe as inappropriate.
- The TPS3 proposed height limits for the beachfront are soundly-based in local area planning and community consultation in the sub-regional context and thereby should stand, rather than to rely on a broad-level policy.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That Council staff prepare a report for Council on conducting a postal poll of each Cottesloe elector as to the retention of the 12m central beachfront height limit proposed in TPS3 including a summary of the DPI/WAPC case against and the Council case in favour.

Carried 9/2

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That the administration provide an interim reply to the Department for Planning & Infrastructure, advising of community feedback to Council so far in relation to the beachfront height limits, and of Council's resolutions regarding the feedback received to date from the Department and the Minister for Planning & Infrastructure on draft Town Planning Scheme No. 3; including Council's intention to undertake additional local community consultation in respect of building heights at the central foreshore activity area, and including an indicative timeframe for this process, in order for Council to provide further informed responses on the matter.

Carried 9/2

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

- (a) That Council staff prepare a report for Council on conducting a postal poll of each Cottesloe elector as to the retention of the 12m central beachfront height limit proposed in TPS3 including a summary of the DPI/WAPC case against and the Council case in favour.
- (b) That the administration provide an interim reply to the Department for Planning & Infrastructure, advising of community feedback to Council so far in relation to the beachfront height limits, and of Council's resolutions regarding the feedback received to date from the Department and the Minister for Planning & Infrastructure on draft Town Planning Scheme No. 3; including Council's intention to undertake additional local community consultation in respect of building heights at the central foreshore activity area, and including an indicative timeframe for this process, in order for Council to provide further informed responses on the matter.

Carried 11/0

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTIONS

Moved Cr Furlong, seconded Cr Strzina

BUILDING HEIGHTS – RESIDENTIAL

Council advises as follows:

- TPS3 is in accordance with the RD-Codes in adopting two-storeys as the preferred norm for residential height, and the discretion contained in TPS3 for the determination of natural ground levels, undercrofts and third levels in a roof space reflects the performance-assessment dimension of the Codes, but with greater certainty and consistency.
- Local planning policy lacks the force and effect of scheme provisions which are desirable for residential height control as a key factor

influencing the character, built form and amenity of the district.

- Reliance on the RD-Codes height limits and assessment methodology would undermine the equitable and cohesive built form that has been achieved by Councils residential height control framework.

ADDITIONAL ITEMS: VACANT CROWN LAND - CURTIN AVENUE

Council advises as follows:

- Council's Town Centre Study undertaken as part of the scheme review explored the potential of this area to be redeveloped in connection with the town centre, railway station and integration with the residential area to the west.
- To that end Council has actively pursued a planning and design solution for Curtin Avenue with the DPI and Main Roads WA.
- Furthermore, this background has led to a prospective Enquiry by Design exercise between Council and the DPI for more detailed planning of a Transit-Oriented Development (TOD) as the next step towards realising the vision through the statutory processes, structure planning and urban design.
- Council agrees that it would be beneficial for the LPS to expand on this progress and intent.
- Rather than classifying the current vacant crown land as Local Reserve in TPS3, Council would support Special Development Zone and/or Special Control Area provisions to signal the general intent and anticipated processes to re-plan and redevelop the area, although it is noted that this would be somewhat academic as the area would be reconfigured, rezoned and requires a great deal more detailed planning to determine the final extent, content and form of development.

ADDITIONAL ITEMS: FORESHORE LAND RESERVED FOR PARKS & RECREATION IN THE MRS

(ie Napier Street MRS Parks & Recreation Reserve)

Council advises as follows:

- Council agrees that it is premature for TPS3 to show any changes for this area due to the MRS Parks and Recreation reservation and the status of the land as an A-Class Reserve.
- Council considers that it would be beneficial for the LPS to outline possible land uses and development envisaged for the area in keeping with the theme of an activity centre at the beachfront, all subject to the normal planning processes.
- Council's Foreshore Vision initiative is presently exploring an Enquiry by Design exercise to further evolve a concept plan for the foreshore recreational area in relation to the beachfront activity node, which would include consideration of this car park and MRS-reserved land.

Carried 11/0

10.3 WORKS AND CORPORATE SERVICES COMMITTEE

Moved Mayor Morgan, seconded Cr Strzina

That items 10.3.1, 10.3.4 - 10.3.9, 10.3.11 – 10.3.13 and 10.3.18 be withdraw from en-bloc voting.

Carried 11/0

The above items were dealt with first before the remaining items were dealt with en-bloc.

ADMINISTRATION**10.3.1 LIQUOR LICENSING APPLICATION BLUE WATERS**

File No:	110 Marine Parade
Author:	Ms Ruth Levett
Attachments:	Correspondence and plan
Author Disclosure of Interest:	Nil
Report Date:	15 May, 2007
Senior Department:	Mr Stephen Tindale

SUMMARY

The purpose of the report is to present the application from Blue Waters to sell and supply liquor without a meal to patrons seated in the alfresco area. It is recommended that this application not be supported and that staff prepare a policy outlining Council's position with regard to all alfresco areas.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In accordance with the recently introduced reforms to the *Liquor Licensing Act 1988*, an application has been submitted by Blue Waters to sell and supply alcohol without

a meal to patrons seated at tables within the restaurant. A separate application to sell and supply alcohol without a meal to patrons seated at tables in the alfresco dining area has also been submitted. A copy of the letter of application and plan of the alfresco area is attached.

CONSULTATION

Nil.

STAFF COMMENT

A restaurant must apply to the Department of Racing, Gaming & Liquor for an Extended Trading Permit (ETP). The applicant must demonstrate that the focus of the business remains on the sale and supply of food. The application is advertised in the community and may be approved for a maximum of five (5) years.

Restaurants with alfresco dining areas are required to apply separately to the relevant local government for permission to sell or supply alcohol in this area.

The application to sell and supply alcohol without a meal to patrons seated at tables within the restaurant will also be assessed for compliance with the Town of Cottesloe's Town Planning Scheme No. 2. The Department of Racing, Gaming & Liquor will be advised of the Town's position in relation to the application for an ETP.

Should an ETP be granted by the Department of Racing, Gaming & Liquor, the department will consider imposing a condition based on the decision of Council with regard to the alfresco area.

There are currently fourteen cafes and restaurants with alfresco licenses seating a total of 250 patrons within the Town of Cottesloe. Of these only six currently hold a restaurant liquor license and may apply for an ETP.

All cafes and restaurants with liquor licenses are currently required to serve alcohol with a meal with the exception of Indiana Tea House which has a restricted ETP where up to 20% of seated patrons may consume alcohol without a meal. To date all cafes and restaurants have been permitted to serve alcohol with a meal in the alfresco area. The main reason for this is that it is appropriate course of action with the responsible service of alcohol and to reduce confusion by staff and the public where only patrons inside a venue could have a glass of wine with their meal.

One could argue that even if all six restaurants applied for ETPs that the impact on the community would be minimal. Whilst the intent of this change to the liquor law is supported, the implications for Cottesloe beachfront are significantly different to most situations. For example, the Blue Waters is located adjacent to a very busy hotel where patrons queue to gain entry to the hotel on Sundays during the summer. The potential to sit in the alfresco dining area of Blue Waters and consume alcohol without a meal will be attractive to hotel patrons who would normally remain in a queue to purchase alcohol inside the hotel. If patrons are required to order a meal in the alfresco area of Blue Waters it is more likely that they will go to the hotel.

The service of alcohol with a meal in alfresco areas has been operating successfully, possibly so successfully that it has gone unnoticed. In the present circumstances

with the number of patrons permitted to consume alcohol without a meal in the three hotels, it is difficult to find cause to justify the consumption of alcohol without a meal in alfresco areas of restaurants. It is therefore recommended that Council does not support this proposal at this stage. Should the situation with the hotels change this position can be reviewed. Furthermore, to remove any ambiguity in relation to Council's view on this matter it is recommended that a policy outlining this position be prepared for consideration of Council.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee raised concerns regarding the current situation with the two beachfront hotels and the ongoing anti-social behaviour relating to the hotels and felt that this matter needs to be dealt with before encouraging more alcohol/drinking outlets in the area.

OFFICER RECOMMENDATION

That Council:

- (1) Not support the application by Blue Waters to sell and supply liquor without a meal to patrons seated in the alfresco area.
- (2) Request staff to prepare a policy on the consumption of alcohol in alfresco dining areas for the consideration of Council in June, 2007.

COMMITTEE RECOMMENDATION

That Council:

- (1) Not support the application by Blue Waters to sell and supply liquor without a meal to patrons seated in the restaurant and alfresco areas.
- (2) Request staff to prepare a policy on the consumption of alcohol in restaurant and alfresco dining areas for the consideration of Council in June, 2007.
- (3) Advise the Director of Liquor Licensing in writing that the sale and supply of liquor without a meal in beachfront restaurant and alfresco areas will be reconsidered by the Council as and when the matter of the number of patrons in the existing two beachfront hotels and the resulting community impact is satisfactorily addressed to reduce the burden of anti-social behaviour on the Cottesloe community.

AMENDMENT

Moved Cr Jeanes, seconded Cr Dawkins

Remove the word "Not" from condition (1) and delete condition (3).

- (1) Support the application by Blue Waters to sell and supply liquor without a meal to patrons seated in the restaurant and alfresco areas.

Carried 8/3

10.3.1 COUNCIL RESOLUTION

Moved Cr Jeanes, seconded Cr Dawkins

That Council:

- (1) Support the application by Blue Waters to sell and supply liquor without a meal to patrons seated in the restaurant and alfresco areas.**
- (2) Request staff to prepare a policy on the consumption of alcohol in restaurant and alfresco dining areas for the consideration of Council in June, 2007.**

Carried 10/1

10.3.2 DRAFT LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS 2007

File No:	X8.13
Attachments:	<u>Draft Regulations</u>
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	Nil
Report Date:	15 May, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to note the draft *Local Government (Rules of Conduct) Regulations 2007*.

STATUTORY ENVIRONMENT

The draft regulations have been made in anticipation of the *Local Government (Official Conduct) Bill 2005* being proclaimed as an Act of Parliament.

The Act (which is to be proclaimed shortly) will establish a state-wide standards panel to deal with minor complaints about breaches of a new code (rules) and give the State Administrative Tribunal powers to review the conduct of elected members where the Act or regulations have been breached.

Penalties for minor breaches will include public censure, public apology or an order to undertake training. The State Administrative Tribunal will have additional powers to suspend a member for up to six months or to disqualify a member from holding office in any local government for a period of up to five years.

POLICY IMPLICATIONS

Once gazetted, the regulations may demand a review of Council's *Code of Conduct*.

Any review is likely to be triggered by advice from the WA Local Government Association. The Town of Cottesloe's current *Code of Conduct* is based on a model provided by the WA Local Government Association.

STRATEGIC IMPLICATIONS

One of Council's strategic objectives is to ensure that 'All procedures and decisions comply with external and internal statutes.'

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Minister for Local Government has provided a copy of the draft regulations (see attached).

Complaints about regulations 3 to 11 will be considered by the new state-wide standards panel.

Regulation 2 deals with general principles of behaviour that council members should follow however the panel will not sit in judgement about matters such as care, honesty and integrity as they are based on subjective rather than objective principles.

Council has been asked to identify any further rules that would be appropriate for all local governments and to provide feedback on same by mid June 2007.

CONSULTATION

Nil.

STAFF COMMENT

It should be noted that the Minister is looking for feedback from Council on how the regulations can be added to rather than subtracted from or modified.

As the regulations represent a major change in the policing of 'good conduct' by elected members, it would seem appropriate to start off with less rather than more prescription.

In other words, the author of this report does not support the introduction of more rules given that we are moving into territory that is relatively unexplored and will no doubt be revisited as time passes.

VOTING

Simple Majority

10.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, Cr Strzina

That Council note the draft *Local Government (Rules of Conduct) Regulations 2007*.

Carried 11/0

10.3.3 PROCOTT INC - REQUEST FOR 2007/08 FUNDING

File No: X5.1
Attachments: [Progress Report and Budget](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to provide for a specified area rate that will raise a minimum of \$71,500 on behalf of ProCott Inc in Council's draft budget for 2007/08.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Based on no change to the rate in the dollar levied over the Central Business District for the 2006/07 financial year, the specified area rate agreement is likely to raise \$71,547 on behalf of ProCott Inc in 2007/08.

BACKGROUND

Under Part 3 of the Specified Area Rate Monies legal agreement, ProCott Inc is required to undertake a number of actions in order to obtain funding from the Council for the next financial year.

Specifically, on or before 15th April 2007, ProCott is to prepare and deliver to the Town a programme for the next financial year which:

- (a) is within the objects of ProCott;
- (b) proposes the provision of specific works, services or facilities within the meaning of section 6.37 of the Act;
- (c) will be or is likely to be of special benefit to the Central Business District; and
- (d) sets out the proposed expenditure with respect to each of the specific works, services and facilities referred to in the programme.

Provided the Council resolves to adopt a Specified Area Rate for the 2007/08 financial year and agrees to pay to ProCott the amount of money raised by the

Specified Area Rate, then once the Council has adopted a Specified Area Rate for 2007/08 the Council is obliged to consider the programme delivered to it under the legal agreement.

A copy of ProCott's program for 2007/08 is shown as an attachment. It has been combined with a comprehensive report on progress to date.

In considering the programme for any financial year, Council has agreed to be concerned only with matters of principle while noting that the expenditure of the ProCott in carrying out the programme may include a reasonable amount for incidental administrative expenses.

Subject to the adoption of a Specified Area Rate for 2007/08 and a decision to pay to the Association an amount of money raised by the Specified Area Rate, the amount raised in rates becomes payable in one lump sum to ProCott on 15 October 2007.

CONSULTATION

Nil.

STAFF COMMENT

The progress report and budget provided by ProCott is the most comprehensive one that the CEO has ever seen for a community based organisation in nearly 30 years of local government experience

It is commended to the Council.

VOTING

Simple Majority

10.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Make provision for a specified area rate to raise a minimum of \$71,500 on behalf of ProCott Inc in Council's draft budget for 2007/08.**
- (2) Consider ProCott's programme in greater detail once any specified area rate has been adopted by the Council.**
- (3) Thank ProCott Inc for its comprehensive submission and advise them of Council's actions in this matter.**

Carried 11/0

10.3.4 CIVIC CENTRE UPGRADE AND EXPANSION

File No: C4.6
Attachment(s): [Design Development Report](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to undertake community consultation on the proposed redevelopment of the Civic Centre by:

1. Inviting submissions with the placement of advertisements in the local newspaper.
2. Placing information on the web at www.cottesloe.wa.gov.au together with an invitation for submissions.
3. Placing an article in *Cottesloe Council News* about the proposed plans and informing and encouraging feedback.
4. Consulting with ratepayer groups such as SOS Cottesloe Inc.
5. Seeking registrations of interest from residents who would like to participate in focus groups of around 15-20 people led by a trained facilitator.
6. Undertaking personal briefings.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The facilitator's costs for two focus group meetings has been estimated at around \$2,000. A third focus group will increase the facilitator's costs by approximately \$500.

BACKGROUND

Following the completion of a schematic design for the proposed Civic Centre expansion and upgrade, Council passed the following resolution at its December 2006 meeting:

That Council:

- (1) *Confirm its support for the proposed schematic design from Philip Griffiths Architects, subject to input from the Design Advisory Panel as regards the proposed new administration entrance being more sympathetic to the aesthetics of the existing building.*

- (2) *Invite a fixed fee from Philip Griffiths Architects for design development, cost check and approvals for budget setting purposes,*
- (3) *Subject to downward revision of price and price acceptability, commission Philip Griffiths Architects to complete design development, cost check and approvals for budget setting purposes,*
- (4) *Confirm in-principle support for the sale of the Margaret Street drainage sump lot in order to fund the office extensions and refurbishment of existing administrative and civic areas in the 2007/08 financial year,*
- (5) *Advise Mustard Catering that the existing kitchen facilities and the Civic Centre building are unlikely to be available for functions from early 2008,*
- (6) *Advise Mustard Catering that any plans for the redevelopment of the Lesser Hall will need to be with the Town of Cottesloe within the first quarter of 2007 so that community consultation can take place.*
- (7) *Undertake community consultation prior to any budget-setting decision.*

In relation to parts 1, 2 and 3 of Council's December 2006 resolution, Philip Griffiths Architects have obtained input from the Design Advisory Panel, developed the design, undertaken cost checks and obtained the necessary approvals for the addition to the Civic Centre.

A copy of their report is attached.

Council's attention in particular is drawn to the following pages of the report:-

Pages 11 & 12:	User Needs and Space Analysis
Page 8:	The Developed Design
Page 9:	Design Development Changes (partly in response to suggestions from Council's Design Advisory Panel)
Pages 27 & 28:	Perspective Views
Page 29:	Costs

In relation to part 6 of Council's December 2006 resolution, Mustard Catering provided plans and preliminary cost estimates for the redevelopment of the Lesser Hall to the March 2007 meeting of Council. These plans were rejected by Council and Mustard Catering has been requested to revisit their plan with a view to keeping the Lesser Hall meeting space as is.

Mustard Catering have subsequently asked that as the landlord, the Town of Cottesloe meet the cost of preparing these plans (see separate MINUTES item).

A decision to proceed with community consultation and a decision on the level of community consultation to be undertaken is now required notwithstanding that the issue of accommodation for the private caterers (i.e. Mustard Catering) has yet to be resolved.

CONSULTATION

Nil.

STAFF COMMENT

By part 7 of Council's December 2006 resolution, community consultation is a necessary pre-requisite to any budget-setting decision. As the time for setting the 2007/08 budget is fast approaching, a recommendation is made to commence the community consultation process for the office accommodation as a matter of urgency.

Urgency

The urgency arises for a number of reasons.

1. Expanded office accommodation is a critical requirement given that we are experiencing significant difficulties in attracting and retaining experienced and qualified staff. We have to become an 'employer of choice' if we are to remain competitive and more importantly, continue to innovate. Decent office accommodation is critical to being an 'employer of choice'.
2. The office accommodation at Cottesloe currently ranks alongside Nedlands and East Fremantle as being the worst amongst all of the 30 metropolitan local governments. This does not sit well with the image that Cottesloe portrays to its own community and further abroad.
3. In terms of what is happening in the Western Suburbs, Mosman Park and Claremont have only just recently completed recent office expansions/renovations, Subiaco, Nedlands and Claremont are looking at further expansion and Peppermint Grove is looking at new and expanded premises. The added demands that are being placed on local governments are evidenced by the expansion of office accommodation in the Western Suburbs.
4. Current staff shortages mean that new projects cannot be undertaken unless sacrifices are made in other areas. It also means that existing staff are working under considerable pressure. When combined with poor office accommodation, we are facing a situation where we may well lose not only more staff but also the momentum that has been built up over the last five years as knowledge disappears from the organisation.

Deferring the matter of office accommodation another year until the 2008/09 budget is upon us is a possibility but definitely not recommended.

Mustard Catering's Plans

It is felt that it would also be unwise to couple any planned office expansion at the Cottesloe Civic Centre with whatever Mustard Catering intends doing. While Mustard Catering provides tangible benefits to the Town of Cottesloe, those benefits are not sufficient to outweigh the benefits provided to the Town by its primary resource – the staff of the Town of Cottesloe.

While there is some argument for putting a 'package deal' before the community in terms of combined plans for the accommodation of Mustard Catering and Council staff, Mustard Catering's operations are not critical to the future well-being of Cottesloe.

In other words they should not be afforded any sense of being a competing priority to the accommodation of Council staff.

Community Consultation

Under Council's *Community Consultation Policy* the proposed office extensions and redevelopment of the Civic Centre are considered to relate to an improvement or change in service that relates to the whole of the Town of Cottesloe.

The level of community consultation to be undertaken for a service improvement demands that at the **minimum**, consultation include;

- The invitation of submissions with the placement of advertisements in the local newspaper.
- Information being placed on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions.

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

- Place an article in *Cottesloe Council News* about the proposed plans with the article informing and encouraging feedback.
- Consult with ratepayer groups such as SOS Cottesloe Inc.
- Conduct focus groups of around 15-20 invited people, usually led by a trained facilitator.

Council **might** also want to:

- Issue media releases and conduct interviews with local journalists.
- Undertake personal briefings. These are held at the request of a member or members of the local community to discuss a particular issue with the CEO. They may include the Mayor and/or Councillors.

VOTING

Absolute Majority (unbudgeted expense for a trained facilitator)

10.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council undertake community consultation on the proposed redevelopment of the Civic Centre by:

- 1. Inviting submissions with the placement of advertisements in the local newspaper.**
- 2. Placing information on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions.**
- 3. Placing an article in Cottesloe Council News about the proposed plans and informing and encouraging feedback.**
- 4. Consulting with ratepayer groups such as SOS Cottesloe Inc.**
- 5. Seeking registrations of interest from residents who would like to participate in focus groups of around 15-20 people led by a trained facilitator.**

6. Undertaking personal briefings.

Carried 11/0

Mr Andrew Jackson left the meeting at 9.10pm.

10.3.5 COTTESLOE CIVIC CENTRE - MUSTARD CATERING & LESSER HALL

File No:	C4.6
Attachment(s):	<u>Lesser Hall Sketches</u> <u>Accommodation Study Estimate</u>
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	The author declares a financial interest in the matter.
Report Date:	16 May, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to meet the cost of preparing Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation and that Philip Griffiths Architects be engaged to undertake the work.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The cost of undertaking the required plans and estimates has been estimated at \$5,000.

BACKGROUND

Following the completion of a schematic design for the proposed Civic Centre office expansion and upgrade, Council passed the following resolution at its December 2006 meeting:

That Council:

- (1) Confirm its support for the proposed schematic design from Philip Griffiths Architects, subject to input from the Design Advisory Panel as regards the proposed new administration entrance being more sympathetic to the aesthetics of the existing building.*
- (2) Invite a fixed fee from Philip Griffiths Architects for design development, cost check and approvals for budget setting purposes,*
- (3) Subject to downward revision of price and price acceptability, commission Philip Griffiths Architects to complete design development, cost check and approvals for budget setting purposes,*
- (4) Confirm in-principle support for the sale of the Margaret Street drainage sump lot in order to fund the office extensions and refurbishment of existing administrative and civic areas in the 2007/08 financial year,*

- (5) *Advise Mustard Catering that the existing kitchen facilities and the Civic Centre building are unlikely to be available for functions from early 2008,*
- (6) *Advise Mustard Catering that any plans for the redevelopment of the Lesser Hall will need to be with the Town of Cottesloe within the first quarter of 2007 so that community consultation can take place.*
- (7) *Undertake community consultation prior to any budget-setting decision.*

In relation to parts 6 of Council's resolution, Mustard Catering provided plans and preliminary cost estimates for the redevelopment of the Lesser Hall to the March 2007 meeting of Council.

Concern was raised about the community losing the Lesser Hall as a meeting room and the likely rejection of the proposed plans by the community. Also an issue relating to the storage of chairs and tables for the War Memorial Town Hall needed to be resolved without using the Town Hall verandas.

As a result, Council decided that Mustard Catering should be requested to revisit their plan with a view to keeping the Lesser Hall meeting space as is.

Upon receiving the request, Mustard Catering made the suggestion that;

".. we discuss the proposals with your architects whom may be able to offer a more precise and consultative solution given their current intimate knowledge of the building and future plans. The real issue remains that if we can resolve the operational and functional issues then the current business can survive and develop. If the hospitality fundamentals are not able to be accommodated as a minimum then any catering organisation will find it difficult to service customers in a compliant manner at Cottesloe Civic Centre.

Our aim is to seek a solution that concurs with the Council's imperatives and also considers a modus operandi that supports a hospitality solution for the operations at Cottesloe Civic Centre. Therefore it would be advantageous that Philip Griffiths Architects was engaged at this stage to give thought to a planning solution taking into account Council's comments and preferred options and future plans given their considerable experience with the venue.

I would ask that the Town of Cottesloe engage Philip Griffiths Architects to allow Mustard Catering to seek advice on behalf of the Town of Cottesloe for the relocation of the catering facilities within the current redevelopment and report back to Council once our consultation is completed."

It was confirmed that Mustard Catering wanted the Town of Cottesloe to engage Philip Griffiths Architects to prepare revised plans and estimates for the Lesser Hall.

In the absence of a mandate from Council to expend funds on revised plans and estimates for the Lesser Hall, the CEO sought a quote from Philip Griffiths Architects with a view to putting the matter back to Council – which is the purpose of this report.

The quote received from the architects was as follows:

Stage 1 Visit and discussions

Philip Griffiths 3 hours @ \$185.00 =	\$555
Brandon Pratley 3 hours @ \$140 =	\$420
Susan Griffiths 3 hours @\$140 =	\$420
Total for the initial stage say =	\$1,395.00 +GST

Stage 2 Design and Estimate

Philip Griffiths Architects say	\$4,200
Griffiths Design Group say	\$4,000
PKW Estimate say	\$1,200
Allow say	\$9,400

Stage 1 was seen as critical to ascertaining whether a design solution for the Lesser Hall and Mustard Catering could be found. Mustard Catering agreed to meet the cost of Stage 1 with a view to keeping things moving. This stage is now substantially complete.

The present indications are that a design solution does exist. However (and of necessity) any redevelopment is likely to encroach on 25% to 30% of the Lesser Hall floor space currently used by the public on a regular basis (see attached sketches).

The question has now been asked as to whether the Town of Cottesloe will, or should, meet the cost of going to Stage 2 which has been revised downwards to approximately \$5,000 (see attachment).

In support of the Town of Cottesloe meeting the cost of Stage 2, Mustard Catering has advised that it;

“...has already come up with a preliminary solution that admittedly required more consideration given that Council had not at that stage confirmed if they wish for the catering service to remain within the venue and had not considered or identified what amenity was required to be retained for community use.

We are in a position that the changing environment at the Civic Centre is driven by Council's need to expand the office amenity and we respectfully request that due consideration should be given to the fact that if Council wish for a dedicated catering service to survive then a solution needs to be sought at the Town's expense.

Further if the Council do not wish for a dedicated catering service then any solution is not necessary and this process would be a waste of resources pursuing an outcome. The Town is the owner and the client and in every landlord situation the client drives the venue for the benefit of the future outcomes.

Therefore we would respectfully consider that ... the Town needs to firmly decide if they wish for the catering service to continue and not be divided in this application and plan accordingly.”

In March 2007 Council was advised that Mustard Catering's original plans and preliminary cost estimates for the Lesser Hall;

... were presented to Council's Public Events Committee on the 21st February, 2007 in the context of exploring what the options might be in terms of enhancing community use of the Civic Centre.

Mr Brian Leyden and Mr Greg Corne from Mustard Catering addressed the meeting on their intentions in relation to the operations of Mustard Catering at the Cottesloe Civic Centre and the potential for upgrading the Civic Centre Grounds.

In the absence of any relaxation by the Council of the number and type of events that could be held in the Civic Centre, they felt that their business would essentially remain the same.

Mustard Catering's immediate plans envisage a new kitchen, manager's office reception area and bridal suites in the Lesser Hall. The preliminary estimated cost of renovations to the hall is \$176,000.

A food regeneration area is also required adjacent to the War Memorial Town Hall and its preliminary estimated cost is \$160,000. The proposed location of the food regeneration area is in the room currently used as a chair and table store. Another space would have to be found at the same floor level for use as a chair and table store.

Mr Leyden indicated that a 10 year lease with options to renew was the general standard for operations like Mustard's and that a lease fee based on percentage of turnover was preferred to current arrangements which were based on a flat lease fee plus room hire charges.

He also indicated that Mustard Catering would have no objection to a commercial valuer examining their books of account and recommending a percentage figure of turnover for the lease. Mr Leyden advised that in the current economic environment, he did not believe that Mustard Catering could meet the full cost of redevelopment in the first instance.

There was some discussion on Mustard Catering's changing operations and willingness to take part in an 'expressions of interest' process.

After Mr Leyden and Mr Corne left the meeting it was agreed that the CEO should prepare 'expressions of interest' documentation for the committee's further consideration and community input.

CONSULTATION

Nil.

STAFF COMMENT

The conclusion to be drawn from the above is that Mustard Catering is averse to putting any more funding in to the development of plans for its operations at the Civic Centre because:-

- (a) Its lease with the Town of Cottesloe currently operates on a monthly tenancy. It has no guarantee that it will recover the cost of preparing revised plans through a renewed tenancy.
- (b) The plans may amount to nothing if the community and Council subsequently reject them.

- (c) The Council is sending mixed messages on whether a catering service is to remain at the Civic Centre into the foreseeable future.
- (d) As the landlord, the normal business expectation is that the Town of Cottesloe would meet the cost of redevelopment plans – not the lessee.
- (e) If however, the Town could give some commitment to a long-term lease with Mustard Catering, then they would be prepared to commit to planning and development costs subject to negotiation of the lease terms.

Mustard Catering's point of view is perfectly understandable and the Town of Cottesloe could well bear the direct cost of planning for the redevelopment of catering facilities at the Civic Centre.

Alternatively (and if one can draw a parallel with the redevelopment of the North Cott Café), an 'expressions of interest' process leading to the awarding of a tender for the redevelopment and provision of catering facilities at the Civic Centre is an approach (albeit a lengthy one) that is not unfamiliar to the Town of Cottesloe.

Or there may be some happy combination of the two approaches outlined above.

Regardless of whatever approach is taken, there is a risk (just as there is for the planned office extension) that the community may reject any catering operation at the Civic Centre. Such a rejection is likely if any redevelopment comes with a loss of amenity by the community in using the Civic Centre grounds and existing buildings.

Given that Council is keen to retain a catering operation onsite and assuming that the loss of up to 30% of floor space from the Lesser Hall is acceptable, it is the author's view that the Town of Cottesloe should meet the cost of preparing Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation.

This is likely to result in a far quicker determination as to whether there is any immediate future for a private caterer at the Cottesloe Civic Centre.

DECLARATION OF INTEREST

The author makes a declaration of financial interest in as much as he receives gifts of corporate hospitality, mainly tickets and refreshments for sporting events, from Mustard Catering. The value of the gifts ranges between \$200 and \$700 per year.

VOTING

Absolute Majority – unbudgeted expenditure.

COMMITTEE COMMENT

Committee recommended a contribution of up to \$5,000 towards the cost of preparation of Stage 2 plans. The plans are to include the use for Mustard Catering of up to 30% of the lesser hall and the remainder of the area to be used for community/civic uses with the retention of the southern access.

OFFICER RECOMMENDATION

That Council meet the cost of preparing Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation and that Philip Griffiths Architects be engaged to undertake the work.

10.3.5 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Meet the cost (to a maximum of \$5,000) of preparing Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation and that Philip Griffiths Architects be engaged to undertake the work.**
- (2) Instruct the architects that;-**
 - (a) No more than 30% of the area currently used for community/civic purposes within the open hall area is to be given over to the exclusive use of private caterers, and**
 - (b) The southern access is to be retained for community access to the hall.**

Carried 9/2

Cr Utting requested the voting be recorded:

For: Mayor Morgan, Cr Miller, Cr Woodhill, Cr Dawkins, Cr Walsh, Cr Furlong,
Cr Strzina Cr Cunningham and Cr Jeanes

Against: Cr Utting and Cr Carmichael

10.3.6 DELEGATED POWERS

File No: X4.11
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

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

STATUTORY ENVIRONMENT

Sections 5.42 and 5.43 of the *Local Government Act (1995)* provide as follows:-

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

** Absolute majority required.*

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. Limits on delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties:-

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

This is a standard agenda item which is presented to Council in May of each year.

It allows the CEO to make decisions under the authority of Council without having to constantly refer business of a routine nature to Council.

The CEO delegates some of the powers in turn to senior staff.

CONSULTATION

Nil.

STAFF COMMENT

As advised last year, the list of delegated powers was considerably reduced in May of 2002.

No customer service difficulties have arisen as a result of working with a reduced list.

VOTING

Absolute Majority

10.3.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council delegate the following powers and duties to the Chief Executive Officer effective to 30 May, 2008.

DELEGATED COUNCIL FUNCTIONS

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

Section	Local Government Act 1995
3.48	Recovery of costs associated with impounded goods
3.50	Closure of thoroughfares to certain vehicles
3.50A	Closure of thoroughfares for repairs or maintenance
3.57	Inviting tenders for goods and services under contract
5.2	Ensuring that an appropriate structure exists for administration
5.36	Employment of persons other than the Chief Executive Officer
6.12	Waive, grant concessions or write off individual debts to a maximum of \$100
6.14	Investing funds not required
6.49	Make agreements with persons regarding payment of rates
6.64	Action taken when rates are unpaid for at least 3 years
6.76(4,5,6)	Dealing with objections to rates records
9.10	Appointment of authorised persons
Section	Local Government (Miscellaneous Provisions) Act 1960
374.(1) (b)	Plans of buildings to be approved
401	Give notice of required alterations to buildings
Section	Dog Act 1976
9	Administer and enforce provisions of the Dog Act.
Law No.	Signs, Hoardings and Billposting Local Law
28	Revoke sign licences
33	Issue and revoke special permits for signs
36A	Remove and dispose of signs unlawfully displayed
Law No.	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
6.2	Approve or refuse an application for a permit to trade, conduct a stall or outdoor eating facility.
Regulation	Building Regulations 1989
20	Issue a certificate of classification
Regulation	Local Government (Financial Management) Regulations 1996
12(1)(a)	Power to make payments from the municipal and trust funds

Carried 11/0

10.3.7 LIBRARY – COMMUNITY CONSULTATION

File No:	SUB/168
Attachments:	<u>Project Steering Committee Minutes</u>
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Report Date:	2 May, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is to accept the results of community consultation process.

A further recommendation is made a to authorise the Library Project Steering Committee to progress to the detailed planning and design stage and to approve the inclusion of \$100,000 for consultancy fees for this stage in the Town of Cottesloe's 2007/2008 budget.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The proposed share of the funds for the Town of Cottesloe for consultants' fees for the next phase of the library project is estimated to be \$100,000. This may be adjusted subject to actual expenditure and any final agreement on cost-sharing.

BACKGROUND

The community consultation has been carried out and all elected members have received a copy of the summary on disk. The report shows strong community support within the Town of Cottesloe and amongst the three local governments for the proposed library project.

CONSULTATION

Nil

STAFF COMMENT

The Town of Mosman Park and Shire of Peppermint Grove have already accepted the results of the community consultation process prior to any formal recommendation coming from Library Project Steering Committee.

A number of important issues were discussed at the meeting of the Library Project Steering Committee held on 9/5/2007 (see attached minutes).

At the request of the Manager of Corporate Services, the steering committee formally accepted the community consultation report and the committee has now requested that the Town of Cottesloe accept the document in turn.

In addition, the member Councils have also been requested to confirm that funds will be made available for consultancy fees needed to complete the detailed planning and design stage.

Cr Utting raised concerns at the meeting relating to a legal action by the Cottesloe-Peppermint Grove Bowling Club against the Shire of Peppermint Grove. The CEO of the Shire of Peppermint Grove confirmed to the meeting that the Cottesloe-Peppermint Grove Bowling Club has now made a claim against the Shire on the grounds of wrongful termination of the lease and is seeking damages.

The Shire of Peppermint Grove is defending the action through its insurers.

Cr Cunningham requested that the Shire of Peppermint Grove provide documentation from the Shire's insurer and/or legal advisors clarifying the nature of the claim and any counter claims.

As the claim is of a financial nature it is not expected to impede the library project and the redevelopment of the site. An explanation of the process to finalise the configuration of the internal boundaries of the two reserves is also being sought together with a report on the action taken to date.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee raised concerns regarding the issue of land tenure and would like the Shire of Peppermint Grove to advise Council on any issues relating to this before Council will authorise the release of funds for consultancy fees. Also a meeting needs to be organised between the three local governments to agree cost-sharing arrangements before ratepayer funds are committed to the project.

OFFICER RECOMMENDATION

That Council:

- (1) Accept the results of the community consultation process.
- (2) Authorise the Library Project Steering Committee to progress to the detailed planning and design stage and to approve the inclusion of \$100,000 for consultancy fees for this stage in the Town of Cottesloe's 2007/2008 budget.
- (3) Approve the inclusion of \$100,000 funding for consultants fees for the library project in the budget for 2007/2008.

COMMITTEE RECOMMENDATION

That Council:

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

AMENDMENT

Moved Cr Utting, seconded Cr Walsh

Condition (2) (a) the words sufficient comfort be deleted and replaced with indemnity regarding.

Lost 3/8

AMENDMENT

Moved Mayor Morgan, seconded Cr Miller

Condition (2) (c) be added:

A preliminary report during the initial part of the planning and design stage be provided to Council on maximising the ESD initiatives in the design and the additional financial cost and environmental benefits of each such initiative.

Carried 10/1

10.3.7 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Furlong

- (1) Accept the results of the community consultation process.**
- (2) Authorise the Library Project Steering Committee to progress to the detailed planning and design stage subject to:**
 - (a) The Shire of Peppermint Grove providing the Town of Cottesloe with sufficient comfort that there are no outstanding issues relating to land for the proposed library site that may have an adverse financial impact on the Town of Cottesloe.**

- (b) Agreement being reached amongst the three local governments on cost sharing arrangements.
 - (c) A preliminary report during the initial part of the planning and design stage be provided to Council on maximising the ESD initiatives in the design and the additional financial cost and environmental benefits of each such initiative.
- (3) Consider the inclusion of \$100,000 funding for consultants fees for the library project in the budget for 2007/2008.

Carried 10/1

10.3.8 PARKING CONSULTANT REPORT

File No:	C15.9
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Report Date:	2 May, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to prepare a parking study brief for Council's consideration with a view to engaging Sinclair Knight and Merz to provide a parking strategy for the town centre.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

SKM have been asked to provide an initial quote on the provision of a comprehensive report on a parking strategy for the town centre so that Council can gain an idea of the costs involved. At the time of publication of this agenda, the quote had yet to be received.

BACKGROUND

In February and March 2005 a parking study was conducted for the Town of Cottesloe by SKM. Within the context of Town Planning Scheme No 3, the report examined the management of parking within the foreshore zone, the Eric Street shops and that part of the Swanbourne shops precinct within the Town of Cottesloe.

The report specifically excluded the town centre.

At last month's meeting it was resolved to request staff to provide a report, within three months, on the long term parking requirements and solutions for the town centre within the context of plans to spend approximately \$300,000 on the new meter-eye parking management system in the next financial year.

Staff believe that any analysis of long term parking requirements should not be undertaken in isolation from medium and short term parking requirements.

Unfortunately Council staff have neither the expertise or the time to prepare a comprehensive report on parking requirements and solutions for the town centre and the work will need to be contracted out if a meaningful report is to be brought back to Council.

CONSULTATION

Nil

STAFF COMMENT

It is understood that the town centre was excluded from the original SKM study because of its complexity and a perceived need to focus on the foreshore and smaller activity centres.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee would like to see the parking study finalised and for the study to provide direction to Council for the planned roll-out of the Meter-Eyes.

OFFICER RECOMMENDATION

That Council staff be requested to prepare a parking study brief for Council's consideration with a view to engaging Sinclair Knight and Merz to provide a parking strategy for the town centre.

10.3.8 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Dawkins

That Council staff be requested to prepare a parking study brief for Council's consideration with a view to engaging Sinclair Knight and Merz to provide a parking strategy for the town centre and direction for the planned installation of Meter-Eyes.

Carried 11/0

COUNCIL COMMENT

Council would like it noted in the brief that the intention is to find parking solutions rather than raise revenue.

10.3.9 STAFF GIFT POLICY

File No: C14.3
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 2 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to adopt a Staff Gift Policy.

STATUTORY ENVIRONMENT

Section 5.50 of the Local Government Act 1995 provides the following:-

5.50. Payments to employees in addition to contract or award

(1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —

(a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and

(b) the manner of assessment of the additional amount,

and cause local public notice to be given in relation to the policy.

(1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).

(2) A local government may make a payment —

(a) to an employee whose employment with the local government is finishing; and

(b) that is more than the additional amount set out in the policy prepared under subsection (1) and adopted by the local government,

but local public notice is to be given in relation to the payment made.

(3) The value of a payment or payments made to a person under this section is not to exceed such amount as is prescribed or provided for by regulations.

(4) In this section a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person.

Regulation 19A of the *Local Government Act (Administration) Regulations 1996* provides the following:-

19A. Payments to employee in addition to contract or award — s. 5.50(3)

(1) The value of a payment or payments made under section 5.50(1) and (2) to an employee whose employment with a local government finishes after 1 January 2010 is not to exceed in total —

(a) if the person accepts voluntary severance by resigning as an employee, the value of the person's final annual remuneration; or

(b) in all other cases, \$5 000.

(2) In this regulation —

“final annual remuneration” in respect of a person means the value of the annual remuneration paid, or payable, to the person by the local government which employed that person immediately before the person's employment with the local government finished.

POLICY IMPLICATIONS

There is no policy in place that governs the provision of gifts to staff.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If the policy is adopted, the cost to the Town of Cottesloe on an annual basis is estimated to be approximately \$2,000.

BACKGROUND

From time to time the CEO has provided additional Council funds towards the provision of farewell gifts for Council employees that are retiring or moving on to other employment.

Currently, there is no policy in place that governs the amount of Council funds that are applied to individual gifts. This is seen as an undesirable state of affairs in terms of accountability for Council funds and is at odds with the intent and requirements of the *Local Government Act 1995*.

A Staff Gift Policy will provide guidance, improved objectivity and transparency in the use of Council funds. It will also ensure compliance with the requirements of the *Local Government Act 1995*.

CONSULTATION

The policies of a number of other council's were obtained. This policy is based on that of the Town of East Fremantle.

STAFF COMMENT

There has been an informal process of seeking financial assistance from the CEO to contribute towards gifts for staff leaving the organisation. This is not ideal as there is no transparency or objectivity in the amount provided.

VOTING

Simple Majority

10.3.9 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Walsh

That the following Staff Gift Policy be referred through to Council for its consideration.

STAFF GIFT POLICY

**PAYMENTS TO EMPLOYEES WHOSE EMPLOYMENT WITH THE
TOWN OF COTTESLOE IS FINISHING AND WHICH IS IN ADDITION TO
CONTRACT OF EMPLOYMENT OR AWARD ENTITLEMENTS**

(1) BACKGROUND

The *Local Government Act 1995* requires the Town of Cottesloe to prepare a policy in relation to employees whose employment with the local government is finishing, setting out:-

- (a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
- (b) The manner of assessment of the additional amount,

This policy is intended to meet the requirements of the *Local Government Act 1995*.

It gives the Town of Cottesloe the option of rewarding staff with an appropriate gift with the value of the gift being determined mainly by length of service.

(2) AIM OF THIS POLICY

To provide guidelines for circumstances where the Town of Cottesloe may consider paying a member of staff over the agreed level, according to the relevant Award and Contract of Employment, or other contractual arrangement or document, current at the time that staff members' employment with the Town of Cottesloe is finishing.

Such reasons for termination of employment include retirement, cessation of contract, termination of contract and resignation on grounds of ill health, death, redundancy and severance.

(3) POLICY STATEMENT**POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO DISMISSAL**

No payment to be made.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORDINARY AND CUSTOMARY RETIREMENT OR RESIGNATIONStatement

Examples are voluntary retirement due to age or sickness or a voluntary resignation due to having secured other employment, personal or family reasons etc.

Such payments are to be referred to as “gratuities”.

Conditions

1. A gratuity may be made to any retiring employee at the discretion of the CEO upon the employee's resignation due to ill health (or to the employee's beneficiaries following the employee's death) or for any other circumstances leading to retirement, under the following conditions:
 - (1) Employees who have completed up to five years' service may receive a gift up to the value of \$250, on the basis of \$50 for each year of service.
 - (ii) Employees who have completed over five years service may receive a gift of an additional \$100 per year of service for each year of service over five years, up to a maximum of \$750.00 at the discretion of the CEO.
2. In assessing the amount to be paid for a gift, consideration will also be given to the level of performance exhibited by the employee, health circumstances and/or family hardship in cases of death or retirement on grounds of ill health.
3. The Council may, in special circumstances, determine that benefits additional to those described in this policy are to be paid to an employee, however, details of those additional benefits and/or payments shall be published in accordance with Section 5.50 of the *Local Government Act 1995*.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORGANISATIONAL REDUNDANCY/SEVERANCEStatement

This policy applies where the Town of Cottesloe has chosen to offer severance or redundancy payments in the context of an organisational restructure and in particular where the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour.

Such payments are to be referred to as “organisational redundancy or severance payments”.

It is understood at all times that any payment is not seen as a right, but either as a reward to those staff members who have demonstrated high levels of service and/or a reward to staff members who have positively and constructively assisted with any relevant organisational restructuring process.

Conditions

1. Subject to any regulation made under Section 5.50(3) of the *Local Government Act 1995*, any offer of additional payment will be limited to a maximum of an additional 100% based on the total severance pay entitlement, with each case to be considered on its individual merits
2. Such consideration will take into account the relevant objectives of any prevailing organisational restructure, the employee’s length of service, the level of performance exhibited by the employee and any current or likely family hardship caused by the termination.
3. In all other cases involving a payment over the value of \$2,000 the CEO must seek the express approval of Council prior to any payment being made.

Carried 6/5

ENGINEERING**10.3.10 CAIRNS INTERNATIONAL PUBLIC WORKS CONFERENCE & SYDNEY RAINWATER AND URBAN DESIGN CONFERENCE**

File No: X9.18
Attachment(s): [IPWEA Conference Program](#)
[Conference themes: Rainwater and Urban Design 2007](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 3 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Every two years, a major conference is arranged by the Institution of Engineers Australia and the Institute of Public Works Engineers Australia (IPWEA) on a large range of public works topics. It attracts public works and local government engineers from around Australia, South East Asia, New Zealand, Canada, USA and a variety of other countries. This year, the conference will be held in Cairns from 26th to the 30th August 2007.

In addition a combined Rainwater and Urban Design Conference will be held, from 21st to 23rd August, in Sydney. This conference combines the International Rainwater Catchment Systems Conference with the International Water Sensitive Urban Design Conference.

This report requests approval to attend both conferences by the Manager Engineering Services.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Council's *Conferences Policy* applies:

CONFERENCES**OBJECTIVE**

Provide guidelines for the approval of attendance of Members and Officers at Conferences/Seminars/Training.

PRINCIPLES

Council supports the attendance of Members and Officers at conferences/seminars/training when the benefits to the organisation from attendance can be clearly identified.

ISSUES

The extent to which Council supports and funds attendance at conferences is a contentious issue. The benefits of attendance are not always readily identifiable and consequently there can be problems convincing a sceptical

community that the expenditure is justified. For this reason, it is important that the benefits of attendance can be readily identified, especially when attendance involves interstate or overseas travel.

POLICY

Employees who wish to attend a conference/seminar/training shall complete a Request for Training application form and submit it to the Chief Executive Officer through their Supervisor.

The Chief Executive Officer is authorised to approve attendance by Officers at intrastate conferences, seminars and training that forms part of the normal training and professional development of those Officers.

The Chief Executive Officer is authorised to actively promote and approve the attendance of elected members at training courses provided under WALGA's Elected Members Development Program.

In determining attendance, the Chief Executive Officer shall take into account identified priorities and funding availability.

When funding for a conference/seminar/training is not provided in the budget, authorisation must be sought through the Corporate Services Committee.

Attendance at any interstate or international conference must be the subject of an application to be considered by the Chief Executive Officer and referred to the Works & Corporate Services Committee for recommendation to Council.

The following expenses for approved conferences/seminars/training will be met by Council:

- (a) Registration fees;
- (b) Return fares and other necessary transport expenses;
- (c) Reasonable accommodation and living expenses.

Where possible expenses are to be prepaid.

All expenditure is to be accounted for prior to reimbursement.

STRATEGIC IMPLICATIONS

The most applicable items in the Strategic Plan are:

Management/Staff Satisfaction: Staff enjoy working at the Town of Cottesloe in an environment where they can reach their full potential.

Management/Innovation and Improvement: We constantly seek new ways of delivering high quality services and seek ways to share resources with adjacent Councils.

FINANCIAL IMPLICATIONS

The estimate of conference attendance, accommodation, meals and travel for both conferences is \$6,000. The gap between the Sydney and Cairns conferences will be deducted from the Manager Engineering Services' annual leave entitlement.

The 2007/08 budget allowance is proposed to cover the cost, within the 'Conferences' allocation of public works overheads. Earlybird savings for both conferences can then be gained, by early bookings.

BACKGROUND

IPWEA is a national association of local government and public works professional and technical staff from around Australia. It is in partnership with the Institution of Engineers, Australia for professional training, including conferences. The Cairns conference is the fourteenth of its type and is the major national local government engineers event, occurring every two years and attracting a large variety of overseas representatives.

The program is attached. The main topics of presentation are:

- Skills shortage
- Environmental sustainability
- Asset management – various
- Water management
- Risk management
- Water use and reuse
- Storm water management
- Managing safer roads
- Emergency management
- Community engagement
- Water infrastructure
- Waste management/recycling
- HR management
- Revitalisation
- Bridges
- Road pavement management
- Business planning
- Contract management
- Benchmarking
- Road maintenance best practice.

A number of keynote speakers will also contribute to the program.

For the Sydney Rainwater and Urban Design Conference, there are a large range of topics, with the most applicable being:

- Water quality and human health aspects of rainwater catchment systems, with comparisons of stormwater, groundwater and wastewater sources
- Application of novel technologies
- Environmental impacts on receiving water quality
- Construction and maintenance issues of WSUD (Water Sensitive Urban Design) and rainwater harvesting approaches.

There are several 'streams' of papers being presented and the most applicable subjects would have to be chosen. Virtually all of the topics listed would apply to current aspects of engineering services in Cottesloe.

CONSULTATION

Nil.

STAFF COMMENT

One of the most important sources of current information and training for experienced local government engineers occurs in conferences and seminars, particularly if delivered by high quality, practicing experts working in the industry.

New ideas are picked up from these presentations, trends occurring throughout Australia become obvious and new products are presented or proved to be dubious or worthy of caution.

A report on the results and high points of the conference would be presented, if attended.

Mr Trigg left the meeting at 8.41 pm.

VOTING

Simple Majority

10.3.10 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council approve the attendance of the Manager Engineering Services at the Combined International Rainwater Catchment Systems/Water Sensitive Urban Design Conference in Sydney from 21 to 23 August and the 14th International Public Works Conference in Cairns from 26 to 3 August, 2007 and that a report on these conferences be presented after attendance.

Carried 11/0

10.3.11 REVIEW OF THE SEA VIEW GOLF CLUB MANAGEMENT PLAN

File No: SUB/235
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The first three-year *Sea View Golf Club Management Plan* was endorsed by Council in 2005.

The Manager of Engineering Services has reviewed the golf club's most recent annual report to Council on the operation of the *Sea View Golf Club Management Plan* and recommends that Council note the successful operation of the plan to date.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Under the terms of the lease agreement, the Sea View Golf Club is required to submit an annual report to Council on the operation of the *Sea View Golf Club Management Plan*.

The implementation of the *Sea View Golf Club Management Plan* commenced on 1st July 2005 with the first report by the club being provided to the Town of Cottesloe in September 2006.

Comments made regarding the objectives of the *Sea View Golf Club Management Plan* are as follows:

- Area Under Irrigation – No expansion has occurred in the total area reticulated.
- Ground Water Usage – This is monitored by the golf club and must be reported to the Department of Water for comparison with the approved ground water use volume. The club has been able to stay within the approved volume limits.

- Ground Water Salinity – Salinity levels have been consistently monitored by the club in the same way as the Town monitors its own bore water supplies. The typical seasonal trend was observed with the salinity readings i.e. the salt level recordings starting off at a low level at the commencement of the reticulation season with a general increase in salt content building up over the summer months and then falling away in winter as rain fall occurs and pumping is significantly reduced.
- Irrigation Times – Irrigation times are based on the need to complete the full cycle during night time to minimise loss to evaporation. No complaints were received in the period under review regarding unreasonable reticulation times.
- Abstraction Volumes and System Efficiency – The golf club has committed to replacing the total reticulation system at a high cost and intends seeking a DSR grant in 2007 for one third of this cost. Subject to the DSR grant (and compliance with Council's self-supporting loan policy) arrangements have been made for a Council contribution by way of an interest-free loan. The completion of this project will greatly improve water use efficiency and greatly reduce water loss due to reticulation failures and pipeline blow outs.

The new reticulation system will be designed to fit into the proposed ring main which connects all Town and golf club bores and allows water to be delivered anywhere on the ring from any bore.

- Tree and Shrub Inventory – The golf club has completed a full inventory of trees and shrubs on the golf course. There has been no change from the original list included in the *Sea View Golf Club Management Plan*.
- Vegetation Planting – Planting programs have been delayed until the new reticulation system has been completed.
- Wildlife – A rabbit eradication program has been commenced and has been very successful. The club is currently in discussions with CALM regarding corellas which invade and damage the greens.
- Fertilisers, Pesticides, Fungicides and Fuel – A complete fertiliser monitoring program is in place. No incidents have been recorded regarding the misuse or spillage of poisons or fuels.
- Recycling – The club has arranged for weekly collection of general and recycling bins.
- Safety – A Vehicle Incident Register is now in place, with no incidents being recorded in the year up to September 2006. From September 2006 to May 2007, five vehicles have been hit by balls, three in Marine Parade, one in Forrest St and one on the Club entry drive. Since the plan commenced no golf ball strikes have been recorded for people. Once the new reticulation is in approved, it is intended that the fairways will be realigned to improve the safety situation.

The protective fencing adjacent to the kindergarten fence to deflect golf balls from the kindergarten has been extended to maximise protection.

Safety instructions are now included in both the club's fixture books and the game score cards. A series of safety signs have been installed around the golf course perimeter.

The major safety issue is the permanent closure of a part of Jarrad St. This matter has been delayed by the WA Planning Commission's lack of support for the closure which is being pursued by Council staff. Regardless of the WAPC's view, it is intended that the closure will remain in place if not as a permanent closure then indefinitely on a temporary basis.

- Grounds Staff Health and Safety – No safety or significant accident incidents have occurred with grounds staff during the monitoring period.

CONSULTATION

Nil.

STAFF COMMENT

Since the *Sea View Golf Club Management Plan* commenced, Council staff and the golf club have cooperated in dealing with issues concerning both organisations on the leased land and land immediately adjacent to the leased land.

The most obvious impact has been the installation of two large concrete storage tanks on the land leased to the golf club to allow rationalisation of the Town's bore water reticulation system. Because of problems with sourcing contractors and materials, this project has dragged on much longer than expected but is now nearing completion.

The golf club has agreed to a change in the lease area (when required) to allow the Jarrad St road reserve to be included in the leased reserve land with a triangle of land adjacent to the kindergarten, on the north side of Jarrad St, to be removed from the lease agreement.

There are no known areas where any departure from the agreed on *Sea View Golf Club Management Plan* has occurred.

In 2008, a full study of the first three years of operation of the *Sea View Golf Club Management Plan* is to take place with the content to be revised as considered necessary and subject to Council's endorsement.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee felt that the Sea View Golf Club should prepare and implement a safety management plan to primarily address the safety hazards of mis-hit golf balls escaping from the boundaries of the golf club.

OFFICER RECOMMENDATION

That Council note the Manager of Engineering Services' report on the successful implementation of the Sea View Golf Club's Management Plan to date.

Mayor Morgan, Cr Furlong, Cr Strzina and Cr Walsh declared interests of impartiality as members of the Sea View Golf Club.

10.3.11 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Note the Manager of Engineering Services' report on the successful implementation of the Sea View Golf Club's Management Plan to date.**
- (2) Request the club to prepare a safety management plan and implementation timetable to primarily address the safety hazards of mis-hit golf balls escaping from the boundaries of the golf club.**

Carried 11/0

10.3.12 JARRAD STREET - TEMPORARY ROAD CLOSURE

File No: SUB/235
Attachments: Copy of letter to DPI: 3 Oct 2006
Copy of DPI/WAPC letter: 22 Dec 2006
Copy of letter to DPI: 16 Jan 2006
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting on 25th September, 2006 Council resolved to permanently close Jarrad Street from Marine Parade to Broome Street and have the land amalgamated into the adjacent 'A' Class reserve. Staff then proceeded to write letters and make arrangements for this closure to proceed.

On the 19 December, 2006 and many months after the comment period for the proposed closure had ended, a letter was received from the Western Australia Planning Commission (WAPC) advising that it was against the proposal due to philosophical planning reasons. At the same time and because of the WAPC's attitude, the Department of Planning and Infrastructure (DPI) backed out of their original support for the proposal.

In spite of staff attempts to have the WAPC reconsider their stance on this matter and in the face of a lack of a written response from the WAPC, the permanent closure of a portion of Jarrad Street is now stalled.

Time is now running out regarding the existing four-year temporary closure of Jarrad Street which was ordered by Council in July 2003 and expires on 28th July 2007.

An amendment in 2004 to the *Local Government Act 1995* now allows the Town of Cottesloe to order the partial closure of the road for any period of time rather than up to a previous four-year maximum.

In the absence of any movement by the WAPC in terms of its attitude to the permanent closure of Jarrad Street, it is recommended that a 21 year temporary closure be ordered.

STATUTORY ENVIRONMENT

Section 3.50 of the *Local Government Act 1995* empowers a local government to temporarily close a thoroughfare for any length of period, subject to a public notice inviting submissions and advice to Main Roads WA and other prescribed bodies.

3.50. Closing certain thoroughfares to vehicles

(1) A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

(1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

[(3) repealed]

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;

(b) give written notice to each person who —

(i) is prescribed for the purposes of this section; or

(ii) owns land that is prescribed for the purposes of this section;

and

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the *Main Roads Act 1930* a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

[(7) repealed]

(8) If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.

(9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.

[Section 3.50 amended by No. 1 of 1998 s. 11; No. 64 of 1998 s. 15; No. 49 of 2004 s. 26.]

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In 2006 all formal steps required of the Town of Cottesloe to have the majority of Jarrad Street from Marine Parade to Broome Street permanently closed were completed.

To recap, there was an overwhelming majority of support for the closure during the public consultation period. All affected service authorities were contacted and gave approval, apart from Western Power and Alinta. Both of these organisations have service lines on the proposed closed road reserve and required formal easements of access to ensure ongoing control of their services. This is not seen as a problem and can be accommodated.

During the consultation period, DPI indicated their general support for the permanent closure. After several meetings to finalise Council's decision on this closure, Council resolved at its September 2006 meeting to proceed with the closure. A letter was sent to Land Asset Management Services requesting that the closure proceed and giving details of the specific reasons, responses received and how the closed land was to be treated.

In late December, 2006 the WAPC provided a very late response to the original request for comment, which was to reject the proposal due to a variety of planning reasons.

A response on behalf of Council to the points raised by the WAPC was sent on the 16th January, 2007. Due to the lack of any form of answer, a further letter was sent on the 16th March 2007, proposing that a site meeting be held so that the WAPC could gain a better understanding of site conditions and the safety considerations. No response has been received to that letter.

With time running out on the existing four-year temporary closure period (which originally commenced on the 29th July, 2003) an alternative course of action is required by Council if it wishes to maintain the existing closure of a section of Jarrad Street through the Sea View Golf Club course.

CONSULTATION

The proposed permanent closure of the road was extensively advertised in 2006 and has been the subject of extensive public debate in prior years.

Notwithstanding this prior consultation, a fresh round of public consultation is formally required for the continuance of any temporary closure of Jarrad Street.

STAFF COMMENT

It is highly unlikely that the permanent closure of Jarrad Street will be approved by the end of July 2007.

Steps should therefore be taken to extend the four-year temporary closure currently in place.

VOTING

Simple Majority

Mayor Morgan, Cr Furlong and Cr Strzina declared interests of impartiality as members of the Sea View Golf Club.

10.3.12 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council:

- (1) In accordance with section 3.50(4) of the *Local Government Act 1995* as amended, give local public notice of its intention to order that the section of Jarrad Street between Marine Parade and the Sea View Golf Club entry be closed to the passage of vehicles at all times for reasons of public safety for a period of twenty one (21) years commencing on 29 July, 2007.
- (2) Give written notice of Council's intention to order the road closure to each person who -
 - (i) is prescribed for the purposes of section 3.50(4) of the *Local Government Act 1995*; or
 - (ii) owns land that is prescribed for the purposes of 3.50(4) of the *Local Government Act 1995*.
- (3) Allow a period of thirty five days for submissions to be made and consider any submissions made.
- (4) Inform the Sea View Golf Club of Council's actions and the reasons for this action.

Carried 11/0

10.3.13 CONSULTANT BRIEF - TRAFFIC MANAGEMENT STUDY

File No: SUB/222
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 May, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its February, 2007 meeting, Council resolved that a draft consultant brief for a traffic management study for the Town of Cottesloe be prepared, including an estimate of cost for this study, for Council consideration and potential inclusion in the 2007/08 budget

A recommendation is made to make an allocation of \$30,000 in the draft 2007/08 budget for a specialist consultant to develop a *Traffic Management Plan*.

STATUTORY ENVIRONMENT

The care, control and maintenance of public road reserves is vested in the Town of Cottesloe. These powers however, do not include the setting of speed zones. These are determined and signposted by Main Roads WA (MRWA). The Police are then expected to enforce speed zone limits. The construction of traffic control devices on public roads normally requires some form of control or advice signage. These signs must be approved and installed by MRWA which ensures that MRWA can monitor the use of such devices.

Where high speeds are recorded and practical methods exist to reduce such speeds back to legal limits, there is a general expectation that the relevant authorities will 'design' and retro-fit the appropriate speed inhibitors into the road layout.

POLICY IMPLICATIONS

Council's *Traffic Management Policy* applies.

STRATEGIC IMPLICATIONS

Governance – Long Term Vision: Decisions are made based on the best available advice in the long term interests of the community.

District Development – Environment: Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation.

District Development – Environment – Traffic Management and Safety: A system which promotes safety and the "Travel Smart" concept, incorporates widespread use of 50km/h speed limits and a community bus service, removes through freight traffic and resists any move to a four lane highway on Curtin Avenue.

FINANCIAL IMPLICATIONS

This study is estimated to cost approx. \$30,000, including the use of a facilitator at a public meeting to discuss the traffic problems in the Town of Cottesloe and possible solutions.

BACKGROUND

In February 2007 Council was advised of a list of eight streets and roads where the trigger points had been exceeded for engineering intervention under Council's *Traffic Management Policy* (particularly in relation to vehicle speeds).

In addition, there are a number of locations which regularly generate comments relating to

- dangerous intersections,
- 'rat runs' through normally quiet residential streets,
- improvements which could either improve safety for pedestrians or cyclists on the road network, and
- the removal of potential black spot locations for all road users.

The February 2007 report proposed the development of a traffic management scheme to include:

- Public participation to locate particular issues and to comment on options for solution.
- Consideration of the three previous traffic management studies (1989, 1994 and 2001) within the Town of Cottesloe.
- The provision of an extensive range of options for the solution of this speeding issue in residential streets, for the consideration and debate by residents, staff and Councillors.
- The consideration of all traffic speed and volume data collected for all roads and streets within the Town of Cottesloe.
- The production of *Traffic Management Plan*.

CONSULTATION

Nil at this stage.

STAFF COMMENT

The brief requirements of a professional consultant specialising in traffic management, for a whole-of Cottesloe Traffic Management Plan would be:

- The study of the last three Traffic Management Plan studies (1989, 1994 and 2001) to ensure that any unanswered or unresolved traffic problems covered in those plans are included for resolution in any new plan.
- Extensive advertising via newspapers, web page, public notice and direct contact to ensure the maximum coverage is achieved to generate comments, proposals and complaints for subjects to be addressed by the study.
- Details to be taken from all Council files of past and present issues communicated by ratepayers, residents and visitors on traffic management issues for inclusion in the study deliberations.
- All traffic count information, road safety audits and black spot crash statistics available from the Town of Cottesloe to be studied for details of locations requiring controls to be put in place.

- The creation of an extensive list of traffic management solutions and devices for consideration by all stakeholders when developing specific solutions to particular traffic management issues.
- Extensive on site and/or public meeting discussions with groups of residents and ratepayers concerning specific traffic management issues.
- A general public meeting using a professional meeting facilitator, to present and receive feedback on, a draft list of proposed traffic management solutions, prior to the plan being finalised.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee would like the consultants to also consider non-vehicular traffic problems in this plan.

OFFICER RECOMMENDATION

That Council make an allocation of \$30,000 in the draft 2007/08 budget for a specialist consultant to develop a *Traffic Management Plan*.

Cr Furlong left the room at 9.45 prior to voting on this item.

10.3.13 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Strzina, seconded Mayor Morgan

That Council make an allocation of \$30,000 in the draft 2007/08 budget for a specialist consultant to develop a *Traffic Management Plan* with the plan to also include the consideration of non-vehicular traffic issues.

Carried 8/2

Cr Furlong returned to the room at 9.50.

FINANCE**10.3.14 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 APRIL 2007**

File No: C7.4
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 April 2007
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 30 April 2007, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Operating Statement on page 17 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$1,105,371 as at 30 April 2007. Operating Revenue is ahead of budget by \$358,230 (4.03%). Operating Expenditure is \$747,141 (9.8%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 April 2007 is shown on page 41.

The main causes of the lower than anticipated expenditure are: COMMUNITY AMENITIES - lower than budgeted expenditure on contractors in the area of sanitation (\$65,740) and legal, consultant and contractor expenses for Town Planning be lower than forecast (\$156,786). This includes scheme review expenses. Most of the variance in Town Planning is dependent upon the outcome of the current Supreme Court appeal and the Scheme Review.

This month the operating revenue has been favourably impacted with the receipt of the proceeds from the sale of the sump at Lyons Street (\$331,964 higher than budget)

The Capital Works Program is listed on pages 23 to 25 and shows total expenditure of \$2,574,671. This includes \$171,853 of capital expenditure related to projects funded with grant money received in the last financial year. The other items of capital are budgeted with some timing differences causing the variance

VOTING

Simple Majority

10.3.14 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April 2007, as submitted to the 22 May, 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

10.3.15 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR PERIOD ENDING 30 APRIL 2007

File No: C12 & C13
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 April, 2007
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 30 April, 2007, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on page 49 of the Financial Statements shows that \$1,968,989.07 was invested as at 30 April, 2007

Reserve Funds make up \$716,558.75 of the total invested and are restricted funds. Approximately 45% of the funds are invested with the National Australia Bank, 22% with Home Building Society and 33% with BankWest.

The Schedule of Loans on page 50 shows a balance of \$308,709.87 as at 30 April, 2007. There is \$160,078.24 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

10.3.15 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 April, 2007, as submitted to the 22 May, 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

10.3.16 ACCOUNTS FOR THE PERIOD ENDING 30 APRIL, 2007

File No: C7.8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil.
Period Ending: 30 April, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 30 April, 2007, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The following significant payments are brought to your attention and are included in the list of accounts commencing on page 42 of the Financial Statements:

- \$52,154.06 to BCITF for payment of levies collected
- \$25,905.00 to GHC for data migration for Civica project
- \$13,766.22 to WA Local Govt Super Fund for staff deductions
- \$13,727.88 to WA Local Govt Super Fund for staff deductions
- \$21,230.00 to Civica for scheduled payment per contract
- \$26,030.171 to Town of Mosman Park for road construction costs et al
- \$38,125.25 to Trum P/L for waste collection
- \$23,811.76 to WMRC for disposal and tipping fees
- \$13,345.45 to WA Treasury for April payment
- \$10,430.85 to Surf Life Saving WA for lifeguard contract for March 2007
- \$14,300.00 to Civica for April payment and load of rates and property
- \$15,718.79 to Flexi Staff for temporary depot staff
- \$15,584.80 to Playground Solutions for new equipment

- \$88,611.60 to Shire of Peppermint Grove for quarterly library contribution
- \$16,770.01 to WMRC for disposal and tipping fees
- \$50,732.29 and \$48,868.35 for staff payroll

VOTING

Simple Majority

10.3.16 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 30 April, 2007, as submitted to the 22 May, 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

**10.3.17 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 30 APRIL, 2007**

File No:	C7.9
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Period Ending:	30 April, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 April, 2007, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 47 to 48 of the Financial Statements shows a balance of \$241,558.40 of which \$88,724.69 relates to the current month. The balance of aged debt greater than 30 days stood at \$152,833.71 of which \$112,439.80 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

The Property Debtors Report shows a balance of \$440,218.55. Of this amount \$158,207.19 and \$8,894.08 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset are \$273,117 in 2007 compared to \$367,377 last year.

VOTING

Simple Majority

10.3.17 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Carmichael, seconded Cr Utting

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 30 April, 2007; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 April, 2007.**

Carried 11/0

ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**10.3.18 TOWN CENTRE DEVELOPMENT AND ACTION PLAN - PROCOTT INC**

File No:	SUB/47
Attachments:	Report and Copies of Correspondence
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	Nil
Report Date:	16 May, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

Councillor Cunningham has put forward the following notice of motion.

That a report and recommendation be provided to the June round of meetings on the immediate commissioning of a suitably qualified planning group to move forward on an integrated plan to improve all aspects of the infrastructure of the town centre to be funded by the Town of Cottesloe.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Cr Cunningham has provided the following background:-

As demonstrated by the attached report of a meeting between the Chairperson of Procott and the Mayor, the members of Procott are concerned at the lack of action to improve the built environment in the town centre from things as simple as rubbish collection to infrastructure improvements.

CONSULTATION

Nil.

STAFF COMMENT

Also attached are copies of three letters from ProCott Inc which provide further background.

Two date back to late March 2007 and relate to the management and collection of rubbish in the town centre precinct and a proposed town centre plan.

The third was received on the 16th May 2007 and requests a detailed Town Centre Development Plan amongst other things.

The March correspondence has yet to be responded to while the May correspondence has only just recently arrived.

Cr Cunningham has confirmed that the intent of the motion is for the Town of Cottesloe to fund the engagement of a planning group in the first instance rather than necessarily fund the improvement of all aspects of the infrastructure of the town centre.

VOTING

Simple Majority

COUNCILLOR NOTICE OF MOTION

That Council request staff to prepare a report and recommendation to be provided to the June round of meetings on the immediate commissioning of a suitably qualified planning group to move forward on an integrated plan to improve all aspects of the infrastructure of the town centre to be funded by the Town of Cottesloe.

COMMITTEE RECOMMENDATION

That Council Request staff to prepare a report and recommendation to be provided to the June round of meetings on the immediate commissioning of a suitably qualified planning group to move forward on an integrated plan to improve all aspects of the infrastructure of the town centre to be funded by the Town of Cottesloe.

AMENDMENT

Moved Cr Carmichael, seconded Cr Utting

That the following words be added to the Committee Recommendation:

Ensure that all planned works and infrastructure to the town be designed to meet with the needs, of people with disabilities to the fullest extent possible.

Carried 11/0

10.3.18 COUNCIL RESOLUTION

Moved Cr Carmichael, seconded Cr Utting

That Council:

- (1) Request staff to prepare a report and recommendation to be provided to the June round of meetings on the immediate commissioning of a suitably qualified planning group to move forward on an integrated plan to improve all aspects of the infrastructure of the town centre to be funded by the Town of Cottesloe.**

- (2) Ensure that all planned works and infrastructure to the town be designed to meet with the needs, of people with disabilities to the fullest extent possible.**

Carried 11/0

10.4 COMMUNITY SAFETY & CRIME PREVENTION SERVICES COMMITTEE

A meeting of the Community Safety and Crime Prevention Committee was held on Friday 27 April, 2007 and the following recommendations from the meeting are put to Council.

10.4.1 ANTI-SOCIAL BEHAVIOUR & BEACHFRONT HOTELS**BACKGROUND**

Mr Patrick provided the committee meeting with a summary of the anti-social behaviour at the beachfront during the summer of 2006/2007. He attributed the improved status to the following:

- Higher police profile with 3 or 4 major operations so far this summer (including New Year's Eve). There is also an improved relationship between the Council (particularly the rangers) and the police.
- Improved preventative activities by the hotels. This includes: better liaison with hotel security staff; higher dress standards; and, changed entry conditions at the Cottesloe Beach Hotel.
- Carry-over effect from the \$500 fines publicised for New Year's Eve.
- General flow-on from the work being done by the Community Safety and Crime Prevention Committee.

Mr Ferridge tabled three documents summarising the complaints received during the summer. The documents summarised each of the three files kept during summer. They covered the Cottesloe Beach Hotel, the Ocean Beach Hotel and general complaints received.

It was agreed that the number and level of complaints received did not warrant further action with the Department of Liquor Licensing by way of a section complaint.

It was also agreed that a letter of thanks should be sent from the Mayor of Cottesloe to the Commissioner of Police commending the good work of the O.I.C. of Cottesloe Police Station.

There was a discussion on the outcomes of the Community Forum held in December 2006. It was agreed that the recommendations from the meeting be put to Council.

10.4.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Carmichael

That Council:

- **develop and implement a strategy to change liquor licensing laws so as to significantly reduce patron numbers at Cottesloe's two beachfront hotels and any other large hotels that are located outside of entertainment precincts and are not properly serviced by public transport,**
 - **develop a parking strategy to tackle the problem of anti-social behaviour on the beachfront, and**
-

- continue its co-operative approach with the hoteliers.

Carried 11/0

10.4.2 NEIGHBOURHOOD WATCH

BACKGROUND

At the committee meeting Mr Wilmot requested public acknowledgement of Neighbourhood Watch by Council. Mr Wilmot is a Cottesloe resident who is a coordinator for Neighbourhood Watch in his street in Cottesloe.

10.4.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Carmichael

That Council support Neighbourhood Watch by publicly acknowledging and endorsing their work and encouraging community participation.

Carried 11/0

15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING

17 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9.58pm.

CONFIRMED: MAYOR.....DATE:/...../.....