

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 NOVEMBER, 2005**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.00pm.

The order of business was changed to allow for the presentation of the Cottesloe foreshore vision to be made at this point in the meeting.

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

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 John Utting
Cr Jack Walsh
Cr Ian Woodhill

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Alan Lamb	Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Jodie Peers	Executive Assistant

Apologies

Nil

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Dawkins

The Minutes of the Ordinary Meeting of Council held on Monday, 24 October, 2005 be confirmed.

Carried 11/0

Moved Cr Carmichael, seconded Cr Strzina

The Minutes of the Special Meeting of Council held on Wednesday, 16 November, 2005 be confirmed.

Carried 11/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**7.1 Cottesloe Foreshore**

The Cottesloe foreshore vision presented to Council this evening is an ideal discussion draft, for the Council and community to build a positive vision for the foreshore. It is proposal to pass a resolution at this meeting to release the vision for public comment during the town planning scheme forums in December. The costings of the vision will be addressed in due course.

8 PUBLIC STATEMENT TIME

Mr A Wall, 283 Marmion Street - Item 11.1.2, Proposed Wall to Front and Side Streets

An application for a fence was presented to the Development Services Committee, however an important element of the proposal was missed and therefore it has been resubmitted including a memo to Council, dated 24 November. The house is built to the back of the block and has no privacy. The proposed fence creates a courtyard and will provide some privacy for an outdoor area. A major part of the fence is open and the area will be landscaped. Mr Wall asked Council to accept the amended notes and support the application.

Mr D MacLean, 326 Marmion Street - Item 11.1.3, Loft Extension and Cabana

Mr MacLean spoke in relation to his application to enlarge the existing loft and noted that he had received a positive response from the Development Services Committee. Mr MacLean thanked Council for their support of his application.

Ms E Blair, 48 Florence Street - Item 12.2.6, Rear Laneway Illegal Encroachment

Ms Blair stated that if the residents are allowed to pursue adverse possession and are successful access along the laneway would still be retained. If adverse possession is not successful it would provide considerable hardship to residents.

Mr G Dowling, 38 Florence Street - Item 12.2.6, Rear Laneway Illegal Encroachment

Mr Dowling spoke on behalf of the affected owners, many of which are here in support tonight. The owners have arranged their own survey and legal advice. Mr Dowling complimented Council staff for meeting with the residents and thanked Council for taking the attitude to resolve the matter at minimum cost. The encroachments do not impact on the use of the laneway, or on the services in the laneway. Adverse possession will not materially affect the value of the properties and will not enable any property owners to subdivide. The owners would appreciate a prompt resolution, particularly as one owner would like to market their property and cannot do this until the matter is resolved.

Mr G Porter, 110 Grant Street - Item 12.2.9, Rehabilitation of Peppermint Tree William Street

Mr Porter tabled some photos that he has taken of the trees, along with a report from the Tree City USA Bulletin. A substantial part of Cottesloe is green and the streetscapes have great appeal, providing both shade and habitat for birds. Mr Porter advised that acting on the advice of the Works & Corporate Services Committee he met with Mr Turner to discuss the matter. He noted the additional report provided by Mr Turner. Mr Porter recommended that the trees be pruned and cable braced, and that the word 'finial' be removed from the committee recommendation.

Ms M Taylor, 9 Andrews Place - Unsociable Behaviour Problems

Ms Taylor stated that she has been approached by two people in relation to the crowds of people that leave the hotels and continue drinking on residents verges, particularly in Napier Street and Warnham Street. She asked whether Council could arrange for the sprinklers to be on at this time to stop this behaviour.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Mr Paul Jones and Mr Andrew Forrest gave a presentation on their Cottesloe foreshore vision.

Mr Forrest stated that this is an independent vision, matching the natural seascape with the built environment. It will create one of the most beautiful built seaside suburbs in the world. Mr Forrest encouraged a totally united Council and community to present the vision to the government. Mr Forrest introduced Mr Paul Jones to make the presentation.

Mr Paul Jones spoke to the presentation.

The Mayor thanked Mr Forrest and Mr Jones for their expertise and the resources put into developing the vision, also for their interest in improving the community.

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 21 NOVEMBER 2005****11.1 PLANNING****11.1.1 NO 7 (LOT 1) GRANT STREET - TWO-STOREY RESIDENCE**

File No:	No 7 Grant Street
Author:	Lilia Palermo
Author Disclosure of Interest:	Nil
Attachments:	Location plan Correspondence from applicant (4) Submissions (2) Plans Photos Correspondence from Ken Adam
Report Date:	28 October, 2005
Senior Officer:	Andrew Jackson
Property Owner:	D & C Watson
Applicant:	Odden Rodrigues Architects
Date of Application:	28 October, 2005
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	368m²
M.R.S. Reservation:	N/A

SUMMARY

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

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1 (c);	Measurement of the parapet wall height from the NGL at the centre of the site being RL 10.3m + 7.0m = RL 17.3m	RL 17.67 – RL 17.97m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No.3 – Boundary Setbacks/Wall Name	Required Setback	Proposed Setbacks	Clauses of the RDC applicable
East Basement (whole)	1.0	Nil – 1.4	Clause 3.3.1 – P1
East Ground (whole)	1.5	Nil – 3.6	Clause 3.3.1 – P1
East Upper (whole)	2.2	Nil – 1.4	Clause 3.3.1 – P1
West Upper (whole)	5.5	Nil – 4.4	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

Nil

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 two submissions received, which were objections. Details of the submissions received are set out below:

No 11 Grant Street (Mr & Mrs MacDonald)

- *The main concern is the front setback of the home to 4.0 metres.*
- *Our home was completed 2 years ago and the then setback was 6.0 metres.*
- *Our next-door neighbours' setback was 8 metres so we built to 8.0 metres with an open verandah to the 6 metres.*
- *We will have a huge loss of sunlight in the afternoon and loss of views.*
- *Does the parapet (on the eastern boundary) comply with current regulations in length and height?*

9 A Grant Street (Mr Peter Rattigan)

- *The small windows in the south wall will diminish the privacy of our property and that of the proposed dwelling.*
- *There is almost 100% overshadowing of our only outdoor area at 12 noon middle of winter.*
- *The walls of the proposed building exceed the height allowable under the Scheme by approximately 1.2metres.*
- *The excessive height of the wall is the cause of overshadowing.*
- *The south wall and the east and west wall for approximately 1.5m from the south wall should be lowered by 1.2m.*

BACKGROUND

The subject property is zoned residential R30 and is located adjacent to Grant Marine Park to the west and the No 11 and 11A Grant Street to the east.

Council previously granted conditional approval for a two-storey with undercroft residence for the subject property in March 2004.

The current owner of the rear property was the applicant for the original development proposal on the front lot in 2004.

The subject property was subsequently subdivided into two survey-strata lots and the front lot was sold.

The original application was considered by Council on several occasions, the main issues with the application were building heights, front setback and side boundary setbacks. The proposed development was approved by Council subject to conditions

requiring reduction in wall and roof ridge height in order to comply with the TPS 2 height requirements and other standard development conditions.

Some of the issues such as rear setbacks and overshadowing of the property at the rear were not raised as major issues with the original application as both properties were owned by the same owner and were not subdivided.

STAFF COMMENT

Building Height

The proposed residence is of a parapet roof design. Council received an objection from the property owner at the rear stating that the proposed building is overheight and for that reason would cast an excessive shadow on the outdoor living area (front courtyard) of the rear property.

Clause 5.1.1 (c) of the TPS 2 states:

For the purpose of measuring 'storey' and hence 'building height', Council shall generally follow the following formula, except in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished.

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

Single Storey - Roof Height: 6.0 metres

*Two Storey - Wall Height: 6.0 metres
 - Roof Height: 8.5 metres*

*Subsequent Storeys - Wall Height: 6.0 metres plus; 3.0 metres per storey
 - Roof Height: 8.5 metres plus; 3.0 metres per storey*

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

For the purpose of calculating building height requirements under the above clause the level at the centre of the subject site was determined to be RL 10.3 m. The previous reports to Council and Council decisions in regard the original proposal on the subject land by the current owner of the rear survey-strata property were considered, as the issue of determination of the Natural Ground Level (NGL) at the centre of the site was discussed at the time in great detail.

At the time of the previous application Council agreed that for the purpose of the Clause 5.1.1(c) NGL at the centre of the whole unsubdivided lot could be used rather than the level at the centre of the defined site for the front house, as the lots were not subdivided at that time. As a result the level that was used for calculation of building height requirements was higher, as the levels of the land rise towards the rear.

Now the land have been subdivided into two separate survey-strata lots and each have its defined site boundaries. As a result Council is required to use the NGL at the

centre of the survey-strata lot of No 7 Grant Street for the purpose of the Clause 5.1.1(c).

The level at the centre of the defined site of the front lot was previously determined and considered by Council as being R 10.3m, at which time various methods were considered to determine that level such as averaging of four corners, averaging of centres of four side boundaries, 1930's water authority plans etc.

The author of the report considers that the previous determination by Council of the NGL at the centre of the front lot is correct and should be used for the purpose of building height calculation for the current development application.

The original proposal lodged by Odden Rodrigues Architects proposed the following building heights.

	Required	Proposed
Parapet height: NGL at the centre + 7.0m	RL 17.3m	Original Plans: RL 17.4m – RL 17.7m Modified Plans due to sewer level: RL 17.67m – 17.97m

Since then, the applicant lodged amended plans with the above building heights being increased, due to the sewer level location being higher than originally anticipated.

TPS 2 does not have specific requirements for wall heights in case of flat roof/parapet design dwellings. In cases when issues regarding residential development are not specifically covered in the scheme or Council's Policies then the application can be assessed in accordance with the RDC. In relation to height requirements for flat roof design residences the height provisions of the RDC would apply. RDC allow 1.0m for a parapet above the 6.0m wall height to a total of 7.0m for concealed roof designs.

The proposed height of the parapet is from RL 16.92 m to RL 17.97m (8.0m long section of wall on the eastern side boundary), which exceeds the 7.0m height requirement by 670mm.

Clause 5.1.1 (c) quoted above specifically states that Council can consider granting a variation to building height requirements *in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished.*

The higher level of the sewer inlet on the subject property, which dictates a certain finished ground level for the ground floor areas of the proposed residence, could be considered as being a particular case, which would warrant a variation to building height requirements under the Scheme. However the impact on the adjoining properties by the increased building height would have to be carefully considered.

The adjoining property owner to the rear raised overshadowing as a major concern. With the building being raised by a further 240mm overshadowing of the rear property would be 27% of the total site area, which is still in accordance with the deemed to comply provisions of the RDC under the Design Element 9 – Design For Climate.

However reduction in overall building height to comply with the Scheme requirements would marginally reduce the overshadowing of the property to the rear.

The owners of the adjoining property to the east expressed concern in relation to the proposed front setback of 4.0m and reduced setbacks to the eastern boundary, which would exacerbate the impact of building bulk on their property.

The proposed reduced setbacks on the ground and upper level to the eastern side boundary together with increased building heights could be considered as causing a negative impact on the adjoining property to the east.

If Council considers that a variation to the building heights should be granted due to the location of the sewer, it is recommended that the applicant still be requested to lower the height of the building on the eastern and southern side to comply with the scheme requirements.

The applicant could also consider a split level design for the proposed residence, which would take into consideration the location of bathrooms in relation to the sewer level and also compliance with the required building heights under the TPS 2. This however would require a substantial redesign of the proposal.

Side/Rear boundary Setbacks

The following boundary setbacks don't comply with the acceptable development standards of the RDC.

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
East Basement	whole	Nil	15.0	No	1.0	Nil – 1.4
East Ground	whole	2.8	19.0	No	1.5	Nil – 3.6
East Upper	whole	6.2 – 7.0	19.0	No	2.2	Nil – 1.4
West Upper	whole	7.1-7.4	19.0	Yes	5.5	Nil – 4.4

Clause 3.3.1 A1 (v) also states:

“The stated setback distances may be reduced by half the width of an adjoining right-of-way, pedestrian accessway or battleaxe access leg, to a maximum reduction of 2m.”

The eastern side boundary of the subject lot abuts a pedestrian access way for the rear lot No 9 Grant Street and therefore if the above clause of the R-Codes is applied the required setback for the ground floor could be reduced to 0.75m and for upper level to 1.45m.

It is proposed to have 8.0m long sections of the eastern wall on the ground floor and the upper level to have a nil setback to the boundary, which is not in compliance with the acceptable development standards of the RDC.

The above setback variations are required to be assessed under the relevant Performance Criteria of the RDC, which are:

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 in with protection of access to direct sun for adjoining properties;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.*

The section of the lift/staircase wall on the upper level does not comply with the required setback of 1.45m from the boundary. The height of this section of wall is 7.0 – 7.5m measured from the existing natural ground level at the boundary.

It is considered that the proposed reduced building setbacks from the eastern side boundary would not affect direct sun and ventilation available to the house at No 11 Grant Street, except for the bedroom window on the upper eastern wall. The proposed development would impact on the amount of afternoon sun and the views available through that window.

However if the applicant is requested to rectify the situation with the front setback (issue covered in the below section of this report) and lower the building height the views and sun light available from the bedroom window and the front balcony at No 11 Grant Street would be improved.

Front Setback

The proposed front setback of the new residence is 4.0m.

The subject property is zoned Residential R30. The proposal incorporates a proposed front setback of 4.0m to balcony with pillars being setback 5.0m.

A front setback of 4.0m is permitted for areas coded R30 under the acceptable development standard of the Design Element 2 – “Streetscape” of the RDC. The acceptable development standards also allow for averaging of the required setback.

At the October 2002 Council meeting Council made a resolution stating that

“When assessing applications for Development Approval, Council will:

(a) generally insist on:

- (i) A 6.0m setback for residential development in the District, which does not include averaging”*

The properties on the southern side of Grant Street within the street block between Marine Parade and Broome Street all have generous front setbacks 6.0m or greater

to the main part of the residences. Allowing the proposed front setback of 4.0m on No 7 Grant Street would have a negative impact on the existing streetscape and potentially would create a precedent for similar applications in the future.

TPS 2 under the Clause 5.1.2 contains general amenity provisions that Council is required to have regard to when considering development applications. One of those provisions is:

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

The adjoining property to the east No 11 Grant Street has a front setback of 8.0m to the house and 6.0m to the upper floor balcony.

There is also a major opening on the eastern wall on the upper floor, which a large bedroom window. Views from the front balcony and the upper bedroom window would be affected due to the proposed 4.0m front setback.

It is recommended that the applicant submit amended plans, which would comply with one of the following:

- Full compliance with the 6.0m minimum front setback or
- Any sections of building protruding into the 6.0m setback line being of an open aspect visually permeable design to ensure that the views enjoyed by the adjoining properties are preserved or
- The front section of the wall on the eastern side (wall in front of the entry on the lower level and in front of the void on the upper level) being relocated by 1.5m to the west in line with the eastern side of the upper balcony. That section of wall on the eastern side of the upper floor front balcony being changed to be an open design screen (possibly louvres), which would allow for westerly views from the balcony and the upper bedroom window of the adjoining property at No 11 Grant Street.

Design for Climate Requirements of the RDC

Council received an objection from the adjoining property owner to the rear No 9 Grant Street, which raised overshadowing of the front courtyard of his property as one of the main issues.

Acceptable Development Standards of the Design Element 9 – “Design for Climate Requirements” states the following:

Development that complies with the following is deemed to meet the relevant Performance Criteria:

A1 Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:

- *On adjoining properties coded R25 and lower – 25% of the site area;*

- On adjoining properties coded R 30 to R40 inclusive – 35% of the site area;
- On adjoining properties coded R-IC or higher than R40 – 50% of the site area.

Note: In that context “site area” refers to the surface of the adjoining lot without regard for any building on it but taking into account its natural ground levels.

In the absence of any Local Planning Policy the proposals have to be accessed under the requirements of the RDC.

The proposed residence on No 7 Grant Street would overshadow 27% of the total site area of the rear property, which is less than allowed under the above acceptable development standards and therefore the proposal is deemed to comply with the requirements of the Design Element 9 of the RDC.

Front fence

The applicant proposed a solid section of the front fence ranging in height from 1.4m to 1.8m. This is not in accordance with Council’s Fencing Local Law, which requires that fencing within a front setback is open aspect design.

There is already an existing solid fence along the eastern side boundary within the front setback on the adjoining property; therefore the proposed solid section of fence along the eastern boundary is not raised as an issue.

The applicant did not provide enough detail of the fence within the front setback along the western side boundary.

It is recommended that the applicant be requested to submit amended plans showing fencing within the front setback being modified to comply with the Fencing Local Law.

CONCLUSION

It is recommended that Council grant conditional approval to the proposed two-storey residence at No 7 Grant Street subject to the standard conditions and specific conditions requiring that revised plans be submitted addressing the following:

- The building height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;
- The front fencing being modified to comply with the fencing Local Law;
- The front setback being increased to 6.0m minimum or alternatively
- The design of the building being changed so that any sections of building protruding into the 6.0m setback line being of an open aspect, visually permeable design to ensure that the views enjoyed by the adjoining property is preserved; or
- The front section of the wall on the eastern side (wall in front of the entry on the lower level and in front of the void on the upper level) be relocated by 1.5m to the west in line with the eastern side of the upper balcony and that section of wall on the eastern side of the upper floor front balcony be changed to be an open design

screen (possibly louvres), which would allow for westerly views from the balcony and the upper bedroom window of the adjoining property at No 11 Grant Street.

VOTING

Simple Majority

COMMITTEE COMMENT

The following Officer memo was presented to Councillors:

Council received late correspondence from the private planning consultant on behalf of the adjoining property owner to the rear No 9 Grant Street. (Letter from Ken Adam & Associates was an attachment to Item 1.1 of the Development Services Committee agenda).

In summary the following issues regarding the proposed development were raised in the letter:

- 1. The adjoining neighbour to the rear objects to the proposed development as in his opinion it is excessively high and is too close to the common boundary;*
- 2. The NLG at the centre of the site for the purpose of clause 5.1.1 (c) of the TPS2 should be determined as RL 10.15m;*
- 3. Clause 5.1.1(c) sets the wall height limit at 6.0m therefore the proposed development is over height by 1.26m;*
- 4. RDC allow for additional 1.0m height for parapet, however TPS 2 has no such equivalent provision;*
- 5. The slope of the land is relatively even and doesn't warrant a variation to height requirements under TP2;*

All of the above issues raised in the late correspondence were covered in the report to the Development Services Committee. However some clarification may be beneficial.

Overshadowing of the rear property is raised as a major concern by the adjoining property owner. It must be pointed out that the proposal complies with the Acceptable Development Standards of the RDC Clause 3.9.1 (A1) which states:

"Development that complies with the following is deemed to meet the relevant Performance Criteria:

A1 Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:

- On adjoining properties coded R25 and lower – 25% of the site area.'*
- On adjoining properties coded R30 to R490 inclusive – 35% of the site area.*

The shadow cast on the adjoining property to the rear on winter solstice is 35%, which is less than 25% and therefore the proposed development is deemed to meet the Performance Criteria of Clause 3.9.1 in accordance with the clause of the RDC quoted above.

The author of the report disagrees with the statement that the NGL at the centre of the site should be determined as RL 10.15m for the purpose of Clause 5.1.1 (c) of the TPS2.

It should also be mentioned that the objector to the proposed development previously owned the subject land and applied for approval by Council of a two-storey residence on the subject land. At the time of that development application it was argued by the objector that the Council should grant variation to height limits for the proposed two storey residence. Overshadowing was not considered an issue at that time as the previous applicant owned the whole parcel of land and did not consider that overshadowing would impact on the rear dwelling.

Council previously granted approval for a two-storey residence on the front lot with conditions requiring the following height limits:

- Roof Ridge height AHD 26.81m*
- Parapet wall height AHD 25.31m;*
- Wall height AHD 24.84m.*

The difference in datum used for previous proposal and the current development application is 8.06m. So the previous approval was granted with the following heights (if converted to RL datum used for the current application):

- Roof Ridge height – RL 18.75m;*
- Parapet wall height – RL 17.25m;*
- Wall height – RL 16.78m*

Please refer to the following information attached:

- Council meeting minutes of 22 March 2004;*
- Streetscape Elevation showing the previously approved development on the subject land;*
- Copy of the letter from the Planning Consultant acting on behalf of the applicant discussing issues with the previous application on the subject land.*

Point 3 & 4 raised in the letter of objection in relation to height requirements under the Clause 5.1.1(c) of the TPS2 were covered in the report to Council. It should be mentioned that although the letter of objection argues that Council should not allow for 1.0m for parapet, the previous development (for which the objector was the applicant) also contained a parapet, which was allowed to be 7.0m in height measured from the NGL at the centre of the site.

In relation to point 5 the author of the report agrees that the slope of the land is not extremely difficult and therefore would not warrant a height variation and therefore a condition is recommended that the applicant lower the height of the building to comply with the 7.0m height limit for the parapet measured from the NGL at the centre of the site.

The applicant however presented a case to Council stating that there is a major impediment to comply with the height restrictions due to the sewer level existing on site.

Due to a number of design issues including height, front setback and nil setback to the east, Council requested that the matter be deferred and that planning staff liaise with the parties to address the matter.

OFFICER RECOMMENDATION

That Council:

- (1) Determine the natural ground level at the centre of the site to be RL10.3m for the purpose of the Clause 5.1.1 (c) of the Town Planning Scheme text.
- (2) GRANT its Approval to Commence Development for the Two-Storey Residence at No 7 (Lot 1) Grant Street, Cottesloe in accordance with the plans submitted on 15 November 2005, 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) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) the parapet wall heights of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text and being lowered to RL17.3m maximum;

- (ii) The front setback being increased to 6.0m minimum; or
- (iii) The design of the building being changed so that any sections of building protruding into the 6.0m setback line be of an open aspect, visually permeable design to ensure that the views enjoyed by the adjoining property are preserved; or
- (iv) The front section of the wall on the eastern side (wall in front of the entry on the lower level and in front of the void on the upper level) being relocated by 1.5m to the west in line with the eastern side of the upper balcony. That section of wall on the eastern side of the upper floor front balcony being changed to be an open design screen (possibly louvers), which would allow for westerly views from the balcony and the upper bedroom window of the adjoining property at No 11 Grant Street.
- (v) fencing along the front and western side boundaries within the front setback being of a 50% open aspect design in accordance with Council's Fencing Local law.

(3) Advise the submitters of this decision.

11.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That the item be deferred to the December round of meetings so that the parties can liaise with Council staff to address the issues associated with the application.

Carried 11/0

11.1.2 NO 283 (LOT 304) MARMION STREET – PROPOSED WALL TO FRONT AND SIDE STREETS

File No:	No 283 (Lot 304) Marmion Street
Author:	Mr James Atkinson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Correspondence from applicant (1) Photo Plans
Report Date:	28 October 2005
Senior Officer:	Mr Andrew Jackson
Density:	R20
Lot Area:	489m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a front wall. Given the following assessment it is recommended that the application be APPROVED subject to conditions.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2.
- Town of Cottesloe Fencing Local Law.

POLICY IMPLICATIONS

- N/A.

HERITAGE LISTING

- N/A

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE**

- Town of Cottesloe Fencing Local Law.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION**REFERRAL****Internal**

N/A.

External

N/A.

ADVERTISING OF PROPOSAL

The application was not required to be advertised.

STAFF COMMENT

Assessment of the proposed wall needs to be in accordance with Council's Fencing Local Law, which states (in summary):

'That the fence be of an open aspect design:

- Lower portion of infill panel may be solid to a height of 900mm;*
- The remainder of the infill panel above 900mm shall be 50% open aspect, with a minimum gap of 50mm between palings, to a maximum height of 1.8m;*
- Columns, piers and posts not to be higher than 2.1m, and not to exceed 600mm x 600mm in depth and breadth and shall not be closer than 1.8m from adjoining piers.'*

The proposed wall is of a solid masonry construction, rendered to match the existing house. There is one portion of 50% open-aspect fence abutting the driveway, however, in general, the proposed wall does comply with Council's Fencing Local Law. Notwithstanding this, the applicant provided justification for the walls (as attached) stating (in summary):

- The house is built at the back corner of the 489m² and currently has no private outdoor living areas. The option is to utilise the front of the house with access to Marmion and Florence Streets.*
- A solid front fence would afford this privacy by securing an area at the front of the dwelling for a private courtyard area.*

Council has the ability to grant variation to its Local Law in the event that it is deemed acceptable. Part 3 of the Law states:

'10. General Discretion of the Local Government

- (1) Notwithstanding clause 6, the local government may consent in exceptional circumstances, to the erection or repair of a fence which does not comply with the requirements of this local law.*
- (2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on:*
 - (a) the safe or convenient use of any land;*
 - (b) the safety or convenience of any person and;*
 - (c) the impact of the fence on the streetscape.'*

Marmion Street is a local road and has a number of previously constructed (pre Local Law) front screen walls in the vicinity, however, the immediate streetscape is of open style fencing. Further, Florence Street essentially has no fences at all in that area. A solid front wall at this location would not be in keeping with the local streetscape, while a solid side wall would also tend to compromise the corner aspect the dwelling as it relates to the streets.

It should be noted that the property slopes approximately 2.5m from south to north. The slope, coupled with the lack of rear outdoor area, has meant that the only outdoor living areas for the property are at the front of the residence on Marmion and Florence Streets. An open-aspect fence would provide little privacy to the residents, however, a solid wall would not satisfy the front fencing requirements of Council's Fencing Local Law.

The issue before Council is whether the Fencing Local Law can be varied to provide privacy without compromising streetscape design. Part 3 – 'General' of Council's Fencing Local Law states:

'Fences within front setback areas:

(3) Side boundary or secondary street boundary fences which fall within the front setback areas, must comply with the requirements of front setback fencing i.e. no greater than 900mm unless of an open- aspect design.'

If the above was adhered to, it would mean that the front (Marmion Street) and first 6.0m of Florence Street would be open aspect, while the remaining portion of Florence Street, being 16.0m, could be of a solid construction. A solid portion along Florence Street should afford the occupants privacy for outdoor living, while not negatively affecting the Marmion Street streetscape. It is stated in the explanatory text of the Residential Design Codes that *"high, solid walls on the front boundary are undesirable as they disrupt the streetscape, destroy the setting of the building, and compromise security."* Some form of vegetation screening inside the front fence could achieve reasonable privacy for the Marmion Street courtyard.

CONCLUSION

The proposed wall does not comply with Council's Fencing Local Law. The dwelling and attractive gardens present well to both streets, which would be impacted upon by a solid wall to the corner lot, inconsistent with the predominant streetscapes. The gardens and trees provide a degree of privacy already, and there is a return verandah which provides some outdoor space.

It is the recommendation of Planning Staff that the application be approved subject to amended plans being lodged showing the front fence being modified to reflect the requirements of the Local Law, in respect of 50% open aspect design.

VOTING

Simple Majority

COMMITTEE COMMENT

It was considered that the front fence should be 50% open aspect in accordance with the local law and only the side fence should be solid. Shrubs could be planted to give privacy.

COUNCIL COMMENT

Some Councillors believed that the plans required revision, however the Mayor stated that Council should show tolerance and leniency towards corner blocks.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Utting

That Council GRANT its Approval to Commence Development for the proposed front and side wall at No. 283 Marmion Street (Lot 304), Cottesloe in accordance with the plans submitted on 30 September 2005, subject to the following conditions:

- (1) Revised plans being submitted for approval by the Manager Development Services showing the front boundary fence modified to comply with the Fencing Local Law, in that it shall be of an open-aspect design for the top portion above 900mm and which shall have a minimum open aspect of 50%. This shall apply to the Marmion Street elevation of the fence, including the side return to the garage and the corner truncation. The fence to the Florence Street elevation and the western boundary return may be solid, however, the applicant is encouraged to consider an open-aspect design in the interest of the Florence Street streetscape.
- (2) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction Sites.

AMENDMENT

Moved Cr Strzina, seconded Cr Furlong

That Council GRANT its Approval to Commence Development for the proposed front and side wall at No. 283 Marmion Street (Lot 304), Cottesloe in accordance with the plans submitted on 30 September 2005, subject to all construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction Sites.

Carried 7/4

11.1.2 COUNCIL RESOLUTION

Moved Cr Strzina, seconded Cr Furlong

That Council GRANT its Approval to Commence Development for the proposed front and side wall at No. 283 Marmion Street (Lot 304), Cottesloe in accordance with the plans submitted on 24 November 2005, subject to all construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction Sites.

Carried 7/4

11.1.3 NO 326 (LOT 26) MARMION STREET - LOFT EXTENSION AND CABANA

File No: No 326 (Lot 26) Marmion Street
Author: Mr James Atkinson
Author Disclosure of Interest: Nil
Attachments: Location plan
Correspondence from applicant (1)
Plans
Report Date: 1 November, 2005
Senior Officer: Mr Andrew Jackson

Property Owner: DMB & JL Maclean
Applicant: AND Design
Date of Application: 22nd September 2005

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 684m²
M.R.S. Reservation: N/A

SUMMARY

Council is in receipt of an application for a loft and cabana. The proposed loft would contain a habitable room, being a study area.

Given the assessment that has been undertaken, the recommendation is to REFUSE the proposed loft extension, and APPROVE the proposed cabana with conditions.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

- N/A

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE****Town of Cottesloe Town Planning Scheme No 2 - Text**

Clause	Required	Provided
Clause 5.1.1 (a)	Two storeys	Two storeys with a loft
Clause 5.1.1 (b) (ii)	Third storey in the loft permitted if the development still appears as a two-storey building and is complying with the height requirements.	Loft is proposed. The development does not comply with the height requirements.

Clause 5.1.1 (c)	Wall height – 6.0m Roof Ridge height – 8.5m	Loft Wall height – 7.5m Loft Roof Ridge Height – 8.7m
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Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
N/A	N/A		N/A

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 Cottesbe Town Planning Scheme No 2. The advertising consisted of letters to adjoining property owners.

Submissions

There were 2 letters sent out. No submissions were received.

STAFF COMMENTLoft

The residence already has an attic area currently being used as a study/play area. The existing attic currently has low side walls (960mm) and a low raked ceiling reaching its apex at just under 1800mm (refer attached drawings). The subject of this application is to extend the ceiling height to allow a more useable room. The site has only one residential neighbour, to the south. On the northern boundary is a Kindergarten and the eastern side is a reserve for Public Recreation (Andrew's Place Park).

Clause 5.1.1 (b) of the TPS 2 states the following regarding loft areas:

- (ii) Residential Zone - The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space

of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity.

The Natural Ground Level (NGL) at the centre of the site was determined to be 9.8m AHD, which was used for the purpose of assessing compliance with wall and roof ridge height in accordance with the Clause 5.1.1 (c), which states:

For the purpose of measuring 'storey' and hence 'building height', Council shall generally follow the following formula, except in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished.

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

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

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

The height requirements under the Clause 5.1.1 (c) for the proposed loft extension are as follows:

	Required height under Clause 5.1.1 (c)	Proposed loft height levels
Wall height	$9.8 + 6.0 = 15.8$ AHD	17.3 AHD (7.5m)
Roof ridge height	$9.8 + 8.5 = 18.3$ AHD	18.5 AHD (8.7m)

The proposed loft is located mainly within the roof space with approximately 0.8m of loft wall being exposed and the new roof line being 1.0m above the existing roof height. It could therefore be argued that the proposed loft addition does not dramatically change the overall design of the residence as a two-storey building. Notwithstanding this, the addition of windows and an overall wall height of 7.5m means that the loft space does in fact protrude out of the existing roof space and appears as a third storey.

Despite the proposal not complying with Clause 5.1.1 (c), Council has discretion to approve a variation to the height limit if Council is of the opinion that a variation is warranted due to the nature of the topography of the site. Council also has to be

satisfied that allowing a height variation would not have a negative impact on the amenity of the locality.

The site is essentially flat, with maximum ground levels of 10.2m at the rear and minimum 9.48m at the front (Marmion Street). The loft extension is at the rear where the land is slightly higher. It is not considered that the topography of the site warrants a variation to building heights. Council may permit variations to height controls in the case of an extension to an existing building.

The applicant argued that a variation to height levels is appropriate in this case as the additions do not have any negative effects on streetscape or neighbouring properties (refer attached letter from applicant). Further, there were no objections to the proposal, so it can be concluded that in the opinion of the adjoining property owners the amenity of the properties directly adjacent to the site would not be negatively affected.

Due to its location at the rear of the property the proposed loft addition would not affect the streetscape amenity of Marmion Street. The addition would be visible from Andrew's Place Park at the rear, however, this would have little amenity impact. Notwithstanding, the proposal does not comply with Council's maximum wall and roof heights and does not retain the appearance of a two storey dwelling, albeit only from the rear and side elevations.

The issue before Council is whether the proposal can be approved from an amenity point of view, or whether the increased height and general appearance of the additions is too far removed from the requirements of the Town Planning Scheme.

It is the recommendation of Planning Staff that despite being essentially hidden from Marmion Street, the proposed loft does not retain the appearance of a two storey building. The proposal shows windows and walls for the loft extension and as such does not appear to be contained within the roof space. Further, the revised total wall height is 1.5m over Scheme requirements and the topography of the site does not warrant a variation to wall or roof heights. It is therefore recommended that the loft extension be refused.

Cabana

The proposed cabana complies with the requirements of Town Planning Scheme No. 2 Policy 004 regarding Outbuildings. Further, there were no objections from the adjoining neighbours and public open space and overshadowing issues comply. It is therefore recommended for approval.

CONCLUSION

It is recommended that the application for the loft extension be REFUSED for the following reasons:

- The loft extension does not retain the appearance of a two storey dwelling.
- The finished wall and roof heights do not comply with Council's requirements.
- The topography of the site does not warrant a variation to height controls.

The Cabana is recommended for APPROVAL as it complies with all relevant planning criteria.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) REFUSE its Approval to Commence Development for the loft extension at No 326 (Lot 26) Marmion Street, Cottesloe, in accordance with the plans submitted 22 September 2005 and additional plans received on the 7th October 2005 for the following reasons:
 - (a) The proposed development exceeds the maximum wall and roof ridge height permitted under Clause 5.1.1 (c) of Town Planning Scheme No. 2;
 - (b) The Council is of the opinion that the loft extension does not retain the appearance of a two storey dwelling; and
 - (c) The topography of the site does not warrant a variation to maximum wall and roof heights under the Town Planning Scheme.

AND:

- (2) GRANT its Approval to Commence Development for the cabana at No 326 (Lot 26) Marmion Street, Cottesloe, in accordance with the plans submitted on 22 September 2005 and additional plans received on the 7th October 2005, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The cabana is not to be used for lodging and/or sleeping purposes.
- (3) Advise the submitters of Council's decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the loft extension and cabana at No. 326 (Lot 26) Marmion Street, Cottesloe, in accordance with the plans submitted on 22 September 2005 and additional plans received on the 7 October 2005, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The cabana is not to be used for lodging and/or sleeping purposes.
- (2) Advise the submitters of Council's decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Utting

That the Officer Recommendation be adopted in lieu of the Committee Recommendation.

Lost 3/8

The vote was recorded:

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

11.1.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Jeanes

That Council:

- (1) **GRANT its Approval to Commence Development for the loft extension and cabana at No. 326 (Lot 26) Marmion Street, Cottesloe, in accordance with the plans submitted on 22 September 2005 and additional plans received on the 7 October 2005, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) **The cabana is not to be used for lodging and/or sleeping purposes.**
- (2) **Advise the submitters of Council's decision.**

Carried 9/2

The vote was recorded:

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

11.1.4 ROW 58 – REQUEST FOR CLOSURE AND PURCHASE

File No: ROW 58
Author: Lilia Palermo
Author Disclosure of Interest: Nil
Report Date: 28 October 2005
Senior Officer: Andrew Jackson

SUMMARY

Council received a letter from the Department for Planning and Infrastructure with an application attached from the owner of No 46 Pearse Street to purchase the section of ROW 58, which is located between Nos 46 and 48 Pearse Street.

The subject portion of ROW 58 is owned by the Crown. There is a 0.15 metre wide 'spite strip' reserve that runs on the western side of the ROW from Pearse Street through to Jarrad Street. The 'spite strip' reserve also exists over portions of Rosser Street and Webb Street and is owned by Town of Cottesloe.

Council considered a report on the same issue prepared by the Engineering Department at its meeting of 22 August 2005.

The Engineering Department report contained the following Officer Recommendation and Committee and Council resolution:

OFFICER RECOMMENDATION

That Council:

- (1) Refuse to proceed with the closure of the western portion of ROW No. 58 on the west side of Lot 79 Pearse Street, Cottesloe;*
- (2) Proceed to close the 15cm (0.15m) wide 'spite strip' across the widths of the road reserves of Webb Street and Rosser Street, with the closed area becoming part of the Crown land road reserves; and*
- (3) Inform the Department for Planning and Infrastructure and the original applicant (the owner of Lot 34 Pearse Street) of Council's decision in this matter.*

12.2.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

That Council refer the matter to the Development Services Committee for consideration and recommendation.

STATUTORY ENVIRONMENT

- Land Administration Act 1997.

POLICY IMPLICATIONS

- Right of Way & Lane Way Policy
- Residential Design Codes

STRATEGIC IMPLICATIONS

- Future subdivision potential of lots abutting ROW 58.
- Precedent for similar request to purchase portions of various ROWs in the municipality.

FINANCIAL IMPLICATIONS

Cost to Council to carry out the procedure for closure of the ROW/Spite Strip under the Land Administration Act, including:

- Officer time in preparing reports to Development Services Committee and Council and carrying out public consultation process.
- Cost to resurvey the subject land for submission of information to DPI and DOLI.

STAFF COMMENT

The issues with regard to ownership, legal access to the ROW, closure of ROW procedure and the financial implications to Council are not covered in this report, as they were previously extensively covered in the report prepared by the Engineering Manager.

This report concentrates on the potential future subdivision implications for properties abutting the subject ROW.

Due to the existence of the spite strip along the western boundary of the portion of ROW 58, the property at No 46 Pearse Street does not have legal access to the ROW.

The spite strip was originally created during the subdivision of the superblock and had a purpose at the time to preclude access to the ROW for the properties on the western side, which were not part of the subdivision. It is considered that the spite strip is no longer required for its original purpose to preclude access for some properties to use the ROW, as it is no longer in accordance with current Council policy or the requirements of the RDC relating to vehicle access and streetscape.

The only properties that don't have access to the portion of ROW 58 in question due to the existence of the spite strip are No 46 Pearse Street and No 9 Webb Street. These two properties don't use the ROW at this stage, but if the spite strip was removed could benefit from having vehicular access via the ROW, which would be in accordance with the RDC and Council's policy to encourage vehicular access from available ROWs rather than directly from the street.

Therefore, the recommendation from the Planning Department is that the spite strip be amalgamated into the ROW and the portions of the spite strip traversing Webb and Rosser Streets be removed.

However, the request from the owner of No 46 (Lot 34) Pearse Street is not to allow access to the ROW but for its closure and purchase, with the purpose of amalgamating the area of the ROW into Lot 34. This would preclude access to the ROW for the following properties:

- No 11 Webb Street
- No 48 Pearse Street
- No 9 Pearse Street (currently doesn't have legal access due to the spite strip).

Council would have to follow the process of public notification under Clause 52 of the Land Administration Act 1997 and seek submissions from the property owners abutting the ROW.

All the properties along the northern side of Pearse Street between the ROW and Broome Street are of a similar size (some 787m²) and are not subdivisible under the current R20 density coding.

If the subject ROW was amalgamated into Lot 34 (No 46) Pearse Street as requested by the property owner, the total land area would become more than 900m², which would make it suitable for the development of two grouped dwellings.

The properties on the northern side of Pearse Street between the ROW and Curtin Avenue are also zoned Residential R20 and have areas between 497m² and 542m². These properties are not subdivisible under the current R20 density and would not be subdivisible under the proposed R30 density under TPS3.

If the area of the ROW was added to that of No 48 Pearse Street it would make that lot subdivisible if the locality becomes coded R30 under TPS3.

No 11 Webb Street consists of a Lot 53 (691m²) and a historic part Lot 250 (257m²), the total area of the site being 948m². No 11 Webb Street is suitable for two single dwellings or two grouped dwellings under the current density of R20, and would potentially be subdivisible into three lots at R30 under TPS3.

No 11 Webb Street could benefit from having rear ROW vehicular access if the property is redeveloped in the future. However, the owner of No 46 Pearse Street stated that one of the reasons for their request to purchase the ROW is to preclude other properties from using it for vehicular access, as it is seen as undesirable by the owners of No 46 Pearse Street due to the potentially negative impact on the amenity of their property.

It should also be mentioned that No 9 Webb Street has a large site area of more than 1000 m² and is potentially subdivisible into two lots and could use the ROW for vehicular access if the spite strip was removed. However, No 9 Webb Street has a frontage of 20.3m, which is sufficient to accommodate direct vehicular access from Webb Street.

Taking into consideration all of the above the following conclusion is provided:

- The spite strip located at the western boundary of ROW 58 is no longer required for the original purpose of precluding access to the ROW for the properties located on the western side of the ROW, and is recommended to be amalgamated into the ROW if Council is prepared to authorise the relevant departments to spend resources on carrying out the necessary procedure.

- The spite strip sections existing across Webb and Rosser Street are recommended to be dedicated and amalgamated into the road reserves.
- Sale of ROW 58 and amalgamation into the land area of No 46 Pearse Street would make the property suitable for the development of two grouped dwellings, which is not considered desirable as it is not in keeping with the lot sizes on the northern side of Pearse Street between ROW 58 and Broome Street.
- Several properties could benefit from having vehicular access via ROW 58 in case of their redevelopment, which is in accordance with the purpose of the ROW and Council's policy and the RDC provisions. However, amenity of the properties abutting the eastern and western boundaries of the ROW could be negatively affected by noise from passing traffic if the ROW is used on a regular basis.
- Council could consider closing the ROW and agreeing to an equal share of the ROW being amalgamated into Nos 46 and 48 Pearse Street, if after carrying out the public notification process there is agreement from all the properties owners abutting ROW 58.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Jeanes declared a proximity interest as the spite strip was directly opposite a property that he owned and left the meeting at 7.51pm.

11.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) **Carry out a public consultation process in order to get comments from owners of the properties abutting the ROW regarding closure of the spite strip and the ROW and its potential sale;**
- (2) **The Planning Department then prepare a further report to the Development Services Committee and Council on the outcome of the public consultation process and provide a final recommendation;**
- (3) **Proceed to close the 15cm (0.15m) wide spite strip across the widths of the road reserves of Webb Street and Rosser Street, with the closed area becoming part of the Crown land road reserves; and**
- (4) **Inform the Department for Planning and Infrastructure and the original applicant (the owner of Lot 34 Pearse Street) of Council's decision in this matter.**

Carried 10/0

Cr Jeanes returned to the meeting at 7.52pm.

11.1.5 NO 1 (LOTS 32, 33, 39, 38, 1) ERIC STREET – APPLICATION TO SUBDIVIDE THE PROPERTY INTO 12 RESIDENTIAL GREEN-TITLE LOTS

File No:	No 1 Eric Street
Author:	Lilia Palermo/Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Correspondence from WAPC Proposed subdivision plan
Report Date:	2 November 2005
Senior Officer:	Andrew Jackson
Property Owner:	Various Companies - Director Mr S. Quinlivan
Applicant:	Brown McAllister
Date of Application:	2 November 2005
Zoning:	Special Development
Density:	R50
Lot Area:	2454m²
M.R.S. Reservation:	N/A

SUMMARY

The purpose of this report is to make a recommendation to the Western Australian Planning Commission on the subdivision proposal.

The proposal warrants consideration by Council. As the referral was received on 12 October 2005 there was not sufficient time for a report to the October round of meetings. The WAPC target date for a reply is 22 November, although an extension can be sought. Planning staff have advised the Department for Planning and Infrastructure that the matter will be considered by Council on 28 November and a reply sent shortly thereafter. The DPI has indicated that given the important site and sensitivity of the proposal in relation to beachfront planning, this extra time would be acceptable and in any case the WAPC would not be considering a report until December.

STRATEGIC IMPLICATIONS

The subdivision proposal has implications for the strategic outlook Council has to development of the beachfront locality.

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 |

CONSULTATION

Neighbour notification is not required for subdivision referrals from the Western Australian Planning Commission and Council policy or procedure do not provide for such. It is nonetheless noted that the proposed subdivision and subsequent development could have an impact on the surrounding residential properties in the locality, albeit small-lot residential development essentially compatible with the residential land use and development opposite.

However, Council is required to respond to the Commission within a certain time and there is a clear basis on which to formulate comments taking into account the interests of the nearby properties and broader community.

BACKGROUND

The zoning of Special Development was introduced by a scheme amendment in 1991. The intention of the zone is to provide for the improvement of land and development within the zone by encouraging the upgrading of existing premises as well as allowing redevelopment in an appropriate form, providing a wide range of land use opportunities. Formulation of a policy to guide and control development within the zone is provided for and was envisaged by Council at the time although none has been produced.

Earlier this year Council considered proposed Scheme Amendment No. 38 for the entire Ocean Beach Hotel site, which aimed to facilitate major redevelopment of the land. Council at its meeting on 29 March 2005 made the following decision:

“That the proposed amendment 38 to TPS2 as drafted by The Planning Group acting for the OBH owners be rejected, and that specific guidelines for this Development Zone be revisited once a vision for Marine Parade be elicited from residents as part of the TPS3 consultation process, and Council has received independent advice on site control options, in accordance with resolution 12.4.2 of 13 December 2004 and resolution 13.1.1 of 22 November 2004.”

The applicants subsequently consulted the Town regarding a possible all-residential development alternative, but did not proceed with that. It is noted that the Town would not favour such having regard to the strategic and town planning scheme contexts for the use and development of the site. In this connection the Minister for Planning and Infrastructure has expressed concern that purely residential use would not be the highest and best use for this important beachfront site and the WAPC has issued a Metropolitan Region Scheme Clause 32 Resolution to exercise control over such development applications. This perspective is also reflected broadly in the

various coastal planning initiatives being pursued by the State Government and planning authorities.

Since then the owners have not engaged with the Town on the future of the site and recently the owners have advertised for expressions of interest for the purchase of all or parts of the entire Ocean Beach Hotel site properties for use or redevelopment by any purchasers. The owners have not engaged with the Town regarding the subdivision proposal. The Town has obtained legal advice about the implications of sale of the property and the proposed subdivision in respect of the past development approvals to the site, including having regard to the provision of car parking pertaining to the various uses.

DISCUSSION

PROPOSAL

Council has received a referral from the Western Australian Planning Commission on a proposed subdivision of land located at the rear of the Ocean Beach Hotel and bounded by Eric Street to the north, Gadston Street to the east and Eileen Street to the south. The subject land is currently used as a carpark for the hotel.

The application contains no explanation or rationale, and no indication of the intended form of residential development of the small lots.

The area of the subject site is 2454m². It is proposed to create a total of 12 new lots, with the proposed lots on the corner of Eric Street and Gadston Street and Eileen Street and Gadston Street being 227m², and the rest of the proposed lots being 200m² each.

This represents a residential density of R50, which applies to the land.

Town Planning Scheme No. 2 (TPS2)

The subject site is zoned Special Development with a density coding of R50 under TPS2.

TPS2 Clause 3.4.9 states:

Special Development Zone

It is the intention of the Special Development Zone to provide for improvement of land and development within the zone by encouraging the upgrading of existing premises as well as allowing redevelopment in an appropriate form, providing a wide range of land use opportunities.

(a) Development Applications

In its consideration of applications to commence development the Council shall have regard to the principles established at paragraph (a) of Clause 3.4.5 as well as the provisions of this clause.

(b) Development Standards

- (i) No land shall be built upon so as to exceed a plot ratio of 1.0 or a site coverage of 0.5 provided that notwithstanding anything to the contrary in Schedule 2 - Interpretations, no space occupied solely by decked parking (with or without recreation, pedestrian or landscape space above) shall be included within the calculation of site coverage subject to Council being satisfied that the roof of the decked parking area could reasonably be considered as part of the site's open space having regard to its appearance and height above (or below) natural ground level.*
- (ii) Carparking spaces shall be provided in accordance with the requirements of Table 2 - Vehicle Parking Requirements except that in relation to public space within a hotel/tavern development, Council may reduce the requirement to one bay to 6m² of such public space. In respect of outdoor space used for the consumption of liquor and/or food Council may further reduce the parking ratio to one bay to 8m².*
- (iii) Unless guidelines are provided for the control of building height within an operative Town Planning Scheme Policy adopted by Council in accordance with Clause 7.7, no building within this Zone shall exceed the maximum building height provisions established at subparagraph (a) of paragraph (v) of sub-clause 3.4.5(b).*

(c) Arrangement of Uses Within the Zone

Notwithstanding the wide range of uses which may be approved within this zone, Council shall have regard to the impact any proposed use may have on surrounding areas, the likely traffic generated and general appearance of any development and may adopt a Town Planning Scheme Policy providing guidelines for the location of uses within the Zone.

(d) Modifications to Existing Hotel

Any application for approval to commence development involving modification of the existing hotel development shall include a Landscaping and Site Improvement plan to the satisfaction of Council showing how it is intended to upgrade the appearance of the existing development. Council may require the applicant to enter into such arrangements as are deemed necessary by the Council to ensure the implementation of Landscaping and Site Improvement plan. Council may adopt a Town Planning Scheme Policy providing guidelines for the preparation of a Landscaping and Site Improvement plan.

The above Clause 3.4.9 (a) states that in addition to those provisions in consideration of applications to commence development the Council shall have regard to the principles established at paragraph (a) of Clause 3.4.5, which are as follows:

a) Development Applications

In its consideration of applications to commence development the Council shall have regard to -

- *the preservation of the foreshore as a primary marine recreation and tourist attraction where land within the Zone is adjacent to the foreshore;*
- *the social consequences of the effect of the size of bars, the number of patrons, the type of entertainment, the hours of operation, the effect of car parking and other related matters on the adjacent area that is essentially of a quiet residential nature;*
- *the integration of parking areas and vehicular access thereto, with total land usage so as to secure the most convenient, safe and efficient use of land;*
- *the traffic impact of any development;*
- *the preservation of privacy, views and quiet in nearby residential developments and areas;*
- *the effect of shadow on the foreshore and neighbouring properties;*
- *the effect of a development to impede or accelerate air flows;*
- *the amenity provisions and policies contained in Part V - General Provisions - of this Scheme.*

Although the subdivision application is not a development application per se and does not contain details of future development on the proposed lots – other than a note on the subdivision form stating that the proposed subdivision is for residential development – Council could give consideration to the above development principles/standards under Clause 3.4.9 and Clause 3.4.5 (a) as a relevant strategic framework and provide its comment to the WAPC in this regard. For this consideration the development principles outlined in the TPS2 clauses above will be used as heads of consideration:

The preservation of the foreshore

The subject property is adjacent to the areas to the north and south zoned Foreshore Centre. The purpose of the Foreshore Centre Zone is the preservation of the foreshore as a primary marine recreation and tourist attraction.

The recreational and entertainment uses along the foreshore play a major role in creating a vibrant, active and diverse atmosphere that attracts visitors from the metropolitan area, interstate and overseas.

As the Ocean Beach Hotel is a popular, heavily-patronised venue, the proposed subdivision and redevelopment of portion of its car parking area would impact on the functioning of the hotel and associated uses.

the social consequences of the effect of the size of bars, the number of patrons, the type of entertainment, the hours of operation, the effect of car parking and other related matters on the adjacent area that is essentially of a quiet residential nature

The above consideration is not relevant in this case as the proposed subdivision is for residential development purposes.

the integration of parking areas and vehicular access thereto, with total land usage

Obviously the loss of car parking area would also impact on the layout and operation of that remaining.

the traffic impact of any development

Similarly, there would be impacts on traffic circulation and of displaced parking demand on the locality.

the preservation of privacy, views and quiet in nearby residential developments and areas

Future development on the proposed lots could potentially be three storey buildings, which could impact on the existing properties on the eastern side of Gadston Street due to loss of ocean views, increase in traffic movement and amenity generally.

Further, a shortage of parking for the hotel site uses may result in patrons parking along nearby streets, which would affect the amenity of the surrounding residential locality.

the effect of shadow on the foreshore and neighbouring properties

This would not be a concern due to the distance from the foreshore and the width of Gadston Street.

Residential development on the proposed lots would have to be designed with careful consideration given to Design for Climate requirements of the RDC, as the lots are east-west orientated and small in size, whereby with the height of buildings at up to 3storeys overshadowing on the winter solstice day falling north-south could be an impact.

the amenity provisions and policies contained in Part V - General Provisions - of this Scheme

In addition to the above aspects, Clause 5.1.2 – General of TPS2 contains the following amenity provisions that Council is required to have regard to when considering applications for development:

- (a) *the need for limitation of height or location of buildings to preserve or enhance views*

Residential development on the proposed 12 lots could have impact on the amenity of the properties along the eastern side of Gadston Street due to potential loss of views. In a coastal suburb like Cottesloe views are a major consideration for residential property purchasers.

- (b) *the need for preservation of existing trees or areas or buildings of architectural or historical interest*

There are mature existing trees on the western side of the Gadston Street verge, which should be protected during any subdivision or development works. Careful consideration should be given to the location of any future crossovers.

- (c) *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally*

This would need to be addressed at the development application stage.

- (d) *the dispersal of building bulk into two or more separate buildings on a lot in order to minimise the effect of building bulk*

This would be an important consideration at the development assessment stage.

- (e) *an increase in building setbacks where the adjoining land is controlled under a lower density Residential Code in order to ensure adequate protection for adjoining residents*

The properties to the east are of a lower density R30 code and the majority of residences along the eastern side of Gadston Street have setbacks greater than 4m. Under the R50 density applicable to the subdivision site, the front setbacks could be 4m, with averaging, which could impact on the existing streetscape of Gadston Street.

- (f) *the location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine or privacy or to avoid visual monotony in the street scene as a whole*

Solar design considerations have already been mentioned. Regarding streetscape, the row of small lots are likely to create a uniformity of small-lot dwellings would present a certain monotony to the street.

- (g) *the maintenance of fresh air in the locality through the control of building bulk and the control of odours, gaseous and particulate emissions*

Closer subdivision patterns and small lot development with wall-to-wall housing could give rise to impacts in these respects.

- (h) *the effect of a development to impede or accelerate air flows*

Similarly this aspect could also be affected by such a pattern of development.

- (i) *in respect of privacy, the impact of verandahs, balconies and of large viewing windows above ground floor level*

While residences opposite on Gadsdon St are separated by the street, those adjacent to the subject site on Eileen Street could be affected in this regard, hence careful consideration should be given to privacy issues during the development assessment stage.

- (j) *in respect of overshadowing, the impact on the utilisation of solar energy by neighbouring properties*

This has been referred to above.

- (k) *the impact on the general quiet of the locality, including the times of activity, traffic generation, access and parking, and air conditioning, plant rooms and machinery, in relation to neighbouring properties. In order to preserve the quiet of residential areas, Council may impose conditions on development approvals restricting the hours of work on a development site*

Traffic on Gadston Street would increase with 12 new dwellings and there would be up to 12 additional crossovers in comparison with one existing at this stage.

- (l) *the Council may refuse approval to any non-residential development if more than 50% of an adjoining lot would as a result of that development be in shadow at noon on the 21st June*

Not relevant in this case as the proposed subdivision is for residential purposes.

Legal Advice

Given concerns about the planning history and future of the Ocean Beach Hotel site, and the implications of disposal of all or part of the site, the Town has had a detailed review of past planning applications and approvals undertaken, with a particular focus on the allocation of car parking and the requirements for it to be retained in relation to ongoing uses. This legal advice has found as follows:

- The TPS2 provisions set out a strategy to manage the planning and development of the site.
- While this does not directly control or preclude subdivision, subdivision would have a bearing on the land use and development provisions and potential.
- Land the subject of the subdivision application is actually required for car parking areas in fulfilment of previous development approvals, and while subdivision of itself would not stand in the way of ongoing car parking, obviously any alternative usage or development proposed would be contrary to the planning approvals.
- Further, sale and redevelopment of the proposed lots would reduce the availability of land for redevelopment overall, including the capacity to provide on-site car parking to service it.
- For these reasons the Town should oppose the subdivision application.

The Town has since provided this legal advice to the owners, as well as to a party considering making an expression of interest, but has not had any reply from the owners.

Vehicular Access and Street Trees

It can be assumed from the proposed subdivision plan that vehicular access to the lots for Lot B to Lot K would be from Gadston Street, and access to the corner lots

Lot A and Lot L could be also from Gadston Street or from Eric Street (Lot A) or Eileen Street (Lot L).

As can be seen on the subdivision plan, the existing ground levels on the Gadston Street verge are considerably higher than the levels towards the centre of each of the proposed lots. This could create difficulty in achieving suitable crossover/driveway gradients for the future residences. Modifications and changing of levels on the verge would generally not be supported.

There are existing mature street trees located on the Gadston Street verge. Removal of the street trees for future development would not be supported. Advice received from Council's Engineering Department is that the applicant would have to ensure that the existing trees are not damaged during subdivision works. The street trees could pose a difficulty in determining locations for future crossovers.

Currently there is only one crossover on the western side of Gadston Street between Eric and Eileen Streets. If the subject land is subdivided as proposed, there would be potentially 12 crossovers along this portion of Gadston Street and traffic movement would be increased.

Residential Design Codes

The subject land has a density coding of R50. It is stated in the subdivision application that the proposal is for residential purposes.

The following site area requirements are specified in Table 1 – General Site Area Requirements of the RDC:

R50	Single House or Grouped Dwelling	Minimum 160m ² Average 180m ²
	Multiple Dwelling	200m ²

The proposed lot sizes comply with the site area requirements of the RDC for R50 density.

Comments on other RDC requirements for residential development cannot be provided as there are no future development details at this stage.

CONCLUSION

The subdivision proposal comprises part of a prominent site falling within the important beachfront locality, where the outlook is to encourage well-planned, more intensive mixed land use and development.

The Scheme, supporting strategic documents and complimentary State-level planning measures are consistent with this objective, whereby uncoordinated or ad hoc proposals fall short of achieving the vision.

The subdivision application appears to be divorced from this strategic direction and no supporting rationale, explanation or material has been submitted. It raises a

number of concerns when considered having regard to the scheme provisions guiding the use and development of the land.

Significantly, the subdivision runs contrary to previous planning approvals for existing land use and development, whereby the provision of car parking in fulfilment of conditions of approval would be compromised.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Furlong declared a proximity interest due to his residence, at 134 Marine Parade, being opposite No. 1 Eric Street and left the meeting at 7.52pm.

OFFICER & COMMITTEE RECOMMENDATION

That Council advise the Western Australian Planning Commission that it objects to the proposed subdivision at No. 1 (Lots 32, 33, 39, 38 and 1) Eric Street, Cottesloe (WAPC Ref No: 129533), for the following reasons:

- (1) The proposal is contrary to the orderly and proper planning and the protection of the amenity of the locality.
- (2) The proposal does not respect the strategic planning direction and statutory planning provisions relating to the land and locality for the use and development of the overall Ocean Beach Hotel site.
- (3) The application contains no explanation, rationale, justification or supporting material to give substance to the proposal indicated on the plan.
- (4) The proposed small-lot subdivision lacks supporting information demonstrating how the lots would be developed, to demonstrate compatibility with the remainder of the overall site and the locality, contrary to WAPC subdivision policy and the principles of the Residential Design Codes, and whereby site development and design guidelines would be desirable.
- (5) The characteristics of the land proposed for subdivision are not conducive to residential development without significant earthworks and verge treatments.
- (6) The proposal is prejudicial to the comprehensive, coordinated and integrated planning and development of the overall site, whereby subdivision or amalgamation would occur to implement approved development proposals rather than pre-empt such.
- (7) Single residential development on the proposed lots is likely to be incompatible with the land use and development of the remainder of the overall site.
- (8) The land the subject of the subdivision proposal is presently required for car parking areas pursuant to previous planning approvals for the existing use and development of the overall site.

- (9) Subdivision and sale of the lots would reduce the land available for overall redevelopment and for provision of the associated car parking required.

AMENDMENT

Moved Cr Walsh, seconded Cr Utting

That Council is prepared to support the development so long as the Ocean Beach Hotel provides alternative carparking, as per the original development approvals, or if not that it removes from the hotel those buildings/uses that are the subject of the development approval that require carparking provided by this land.

Lost 2/8

11.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council advise the Western Australian Planning Commission that it objects to the proposed subdivision at No. 1 (Lots 32, 33, 39, 38 and 1) Eric Street, Cottesloe (WAPC Ref No: 129533), for the following reasons:

- (1) The proposal is contrary to the orderly and proper planning and the protection of the amenity of the locality.**
- (2) The proposal does not respect the strategic planning direction and statutory planning provisions relating to the land and locality for the use and development of the overall Ocean Beach Hotel site.**
- (3) The application contains no explanation, rationale, justification or supporting material to give substance to the proposal indicated on the plan.**
- (4) The proposed small-lot subdivision lacks supporting information demonstrating how the lots would be developed, to demonstrate compatibility with the remainder of the overall site and the locality, contrary to WAPC subdivision policy and the principles of the Residential Design Codes, and whereby site development and design guidelines would be desirable.**
- (5) The characteristics of the land proposed for subdivision are not conducive to residential development without significant earthworks and verge treatments.**
- (6) The proposal is prejudicial to the comprehensive, coordinated and integrated planning and development of the overall site, whereby subdivision or amalgamation would occur to implement approved development proposals rather than pre-empt such.**
- (7) Single residential development on the proposed lots is likely to be incompatible with the land use and development of the remainder of the overall site.**

- (8) The land the subject of the subdivision proposal is presently required for car parking areas pursuant to previous planning approvals for the existing use and development of the overall site.
- (9) Subdivision and sale of the lots would reduce the land available for overall redevelopment and for provision of the associated car parking required.

Carried 10/0

Cr Furlong returned to the meeting at 8.04pm.

11.1.6 LOCAL GOVERNMENT HERITAGE WORKING PARTY

File No:	D3.3
Author:	Ms Delia Neglie
Author Disclosure of Interest:	Nil
Attachment:	Local government Heritage Working Party Findings – Common Standards & Discussion Papers
Report Date:	11 November 2005
Senior Officer:	Mr Andrew Jackson

SUMMARY

Council at its meeting on 24 October 2005 resolved to:

- (1) Refer this item back to the Development Services Committee and be represented to Council in the November round of meetings; and*
- (2) Request an extension of time to provide comment on the findings of the Local Government Heritage Working Party.*

Council considered that heritage is a contentious issue in Cottesloe and not enough time had been allowed for Councillors to fully consider this matter.

The following report was submitted to Council on 24 October 2005:

SUMMARY

A recommendation is made to endorse the Local Government Heritage Working Party's findings regarding a local heritage protection system for WA and that the Western Australian Local Government Association (WALGA) be advised accordingly.

BACKGROUND

The Heritage of Western Australian Act has been considered in need of review for some time but various Heritage Bills have not progressed in recent years. There is an industry view that neither of the Heritage of Western Australian Act or the Town Planning and Development Act provides a conclusive heritage system for WA. As a result, there is limited detailed guidance on the practical application heritage planning controls for Western Australian local governments.

The Local Government Heritage Working Party with representatives from the WALGA, local government, the Heritage Minister, REIWA and DPI was thus established in 2002 to discuss a range of issues involving heritage. A first-stage discussion document outlining why the heritage management system in WA requires reform was released in 2003. The working party reconvened in 2004 and has produced the second stage of its work. WALGA is seeking comments from local governments on these findings by the 24th October, 2005.

CONSULTATION

In addition to the WESROC Executive some discussion has occurred with WESROC planning / heritage officers. This has indicated a general consensus in support of the findings in terms of overall direction, although it has also been noted that details will need to be addressed in the implementation.

The proposals are not yet in the public arena.

STAFF COMMENT

The findings recommend a package of measures as the basis for improvements to the local heritage protection system in WA. These are summarised here descriptively, but not evaluated or critiqued, as they represent the shared view of local government:

- **Basic principles for Local Heritage Surveys (Municipal Inventories)** – guidelines for preparing surveys proposed to be included in an updated Local Government Heritage Manual.
- **Assessment Criteria** – a framework for standard criteria in assessing heritage significance is proposed to be included in an updated Local Government Heritage Manual.
- **State Planning Policy for Heritage** – a draft Statement of Planning Policy is proposed (under Section 5AA of the Town Planning and Development Act) to provide a policy base for local governments regarding heritage lists, heritage and urban character areas, considerations for development assessment and control, town planning schemes and local planning strategies.
- **Amendments to Model Scheme Text Provisions** – minor amendments are proposed for clarification of heritage lists and requirements for planning approval.
- **Local Planning Policy** – guidance notes for the preparation of policies are proposed to be included in an updated Local Government Heritage Manual or the Department of Planning and Infrastructure's Planning Schemes Manual.
- **Heritage Incentives** – proposes the need for incentives to achieve heritage outcomes on the premise that an effective heritage system is founded on a balance of 'sticks and carrots'. Suggested forms of incentives are: funding, grants, loans, rate concessions, planning incentives, revaluations and discounted purchasing.
- **Education** – strategies are proposed for educating users of the heritage system, i.e. local government staff and councillors, the public and professions.
- **Insurance** – explores strategies for dealing with difficulties in providing insurance for heritage-listed properties and proposes that the Heritage Council seek expressions of interest from insurance brokers prepared to provide insurance cover.
- **Accreditation of Heritage Consultants** – it is proposed that the Heritage Council continue to manage a Directory of Heritage Consultants.
- **Research on Property Value Impacts** – proposes to encourage support for research into the perceived negative impacts of heritage protection on property values.

WALGA has asked all local governments to comment on the findings by way of a pro-forma that seeks agreement or disagreement on each of the recommendations. A coordinated response will be forwarded by WALGA to the Minister for Heritage and Planning.

Responses are due by end October 2005.

There is general agreement to the principles and proposals of the working party.

The proposals are in line with the manner in which Council has approached the preparation of a heritage list derived from Categories 1 & 2 and of its Municipal Inventory.

If implemented, the findings will provide Council with greater guidance in preparing its Local Planning Strategy, Local Planning Policy on Heritage and draft Town Planning Scheme No. 3.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The Town of Cottesloe strategic plan has a heritage objective which seeks the preservation of nominated properties on the Municipal Inventory, verges, trees and the foreshore and dune systems."

FINANCIAL IMPLICATIONS

Nil.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council endorse the Local Government Heritage Working Party findings and the Western Australian Local Government Association be advised accordingly.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council endorse the Local Government Heritage Working Party findings and the Western Australian Local Government Association be advised accordingly.

11.1.6 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council endorse in principle the Local Government Heritage Working Party findings and the Western Australian Local Government Association be advised accordingly.

Carried 11/0

11.2 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**11.2.1 AMENDMENT 40 TO TPS2 – REZONING OF NO. 14 EDWARD STREET FROM PUBLIC ASSEMBLY TO RESIDENTIAL R20**

The following memo was presented to Council:

Council previously considered and gave final approval to Amendment No 40 – Rezoning of No 14 (Lots 50 & 51) Edward Street and expressed its support for subsequent resubdivision of the subject land into three lots maximum subject to retention and restoration of the existing church building.

Amendment 40 is currently with WAPC. Council received correspondence from WAPC stating that the amendment mechanism (use of Schedule 5) is inappropriate and there would be a problem with gaining WAPC approval for the subsequent subdivision of the subject land into three green – titled lots, as the proposed lots would not strictly comply with the site areas requirements of the Residential Design Codes for R20 density.

It was originally suggested by the WAPC that the land be rezoned to Residential R25 rather than R20 as this would make the proposed lot sizes comply with the site area requirements of the RDC.

Rezoning to Residential R25 would however allow for potential subdivision of the subject land into four lots, which is not in line with Council's original support for three lots only. As local government is not a final decision maker for subdivisions, Council would have no control to preclude resubdivision of the subject land into four lots once it is given R25 density coding.

The alternative suggestion from the WAPC was to leave the two lots fronting Edward Street zoned Residential R20 and give the rear lot with frontage to Congdon Street a density coding of R25. This would make all the lots comply with the site area requirements of the RDC, however would also create an anomaly of having one lot at R25 density in the R20 area.

Manager of Development Services and Council's Planning officer had a meeting with the representatives from the WAPC and the applicants last week where potential solutions were discussed. It was suggested to WAPC that they could use their discretion and approve the proposed amendment and subsequent subdivision as they currently stand. Representatives from WAPC however advised that that would be problematic and that they could only support variations to lots sizes only if a building of state heritage significance was involved.

Council's Planning Officer also suggested to WAPC and the applicant that the Commission could also use the Clause 3.1.3 (v) of the RDC if the

proposed subdivision if amended from three green-title lots to three survey strata lots. Clause 3.1.3 (v) states:

“In case of Grouped Dwellings in areas Coded R20 at the time of the gazettal of the Residential Design Codes the average site area shall be 450m².”

Although the subject lots 50 & 51 Edward Street were not zoned Residential R20 at the time of the gazettal of the RDC, all the local area surrounding the subject land was and still is zoned Residential R20. The sole reason the subject property was not coded R20 is because there was a church situated on the subject land, which was previously used for the purpose of public assembly.

If the WAPC could apply the above Clause the land could retain the proposed density of R20 and the total site area of the subject land if subdivided into three survey-strata lots would comply with the average site area of 450m².

There was no definite answer received from WAPC at this stage in regard to them being able to use Clause 3.1.3 (v) and it was previously advised that it is unlikely that the subdivision would be approved using this clause under delegated authority and it would have to be considered by the Commission at one of its meetings.

The purpose of this Memo is for Council to consider all of the above alternatives and decide which propositions would be supported by Council. From the applicant's perspective this is a matter of urgency as the conditional offer for purchase of the property is nearing its final date.

Dependent on which of the alternatives Council would support the text of the amendment would need to have some changes to reflect an alternative solution.

11.2.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Carmichael

That the request to alter the amendment merits support and that a report on a proposed TPS 2 Amendment No. 40 be presented to full Council including that the text of the Amendment be altered to reflect the change in density coding of the rear Lot to R25.

Carried 11/0

**11.2.2 AMENDMENT 40 TO TPS2 – REZONING OF NO. 14 (LOTS 50 & 51)
EDWARD STREET FROM PLACE OF PUBLIC ASSEMBLY TO
RESIDENTIAL R20 & R25**

File No: D 2.4.40
Author: Ms Lilia Palermo
Author Disclosure of Interest: Nil
Report Date: 22 November 2005
Senior Officer: Mr Andrew Jackson

SUMMARY

The purpose of this report is for Council to consider minor modifications to Amendment 40, which are required to ensure that the intended subdivision of the subject land can be approved by the WAPC.

The need to refine the details of the amendment documentation has arisen from discussions with the applicants and Department of Planning and Infrastructure. While all parties support the principle of the amendment to ensure a heritage gain, the precise mechanism to be utilised in the scheme is suggested to be modified.

STATUTORY ENVIRONMENT

Town Planning & Development Act 1928
Town of Cottesloe Town Planning Scheme No. 2

POLICY IMPLICATIONS

N/A

STRATEGIC IMPLICATIONS

Draft Town Planning Scheme No. 3

FINANCIAL IMPLICATIONS

N/A

BACKGROUND

Council previously considered and adopted for final approval Amendment No. 40 – Rezoning of No. 14 (Lots 50 & 51) Edward Street, and expressed its support for subsequent resubdivision of the subject land into three lots maximum, on the basis of retention and restoration of the existing church building.

Amendment 40 is currently with the WAPC for final approval. Council received correspondence from the WAPC stating that the amendment mechanism (use of Schedule 5) is considered technically inappropriate and there would be difficulty in gaining WAPC approval for the subsequent subdivision of the subject land into three green-titled lots, as the proposed lots would not strictly comply with the site areas requirements of the Residential Design Codes for R20 density.

Certain modifications to the Amendment were suggested by the WAPC to enable it to grant approval to the proposed three lot subdivision of the subject land.

STAFF COMMENT

It was originally suggested by the WAPC that the whole parcel of the subject land be rezoned to Residential R25 rather than R20, as this would make the proposed lot sizes comply with the site area requirements of the RDC.

Rezoning to Residential R25 would, however, allow for potential subdivision of the subject land into four lots, which is not in line with Council's original support for three lots only. As the local government is not the final decision maker for subdivisions, Council could not preclude subdivision of the subject land into four lots once it is given an R25 density coding.

The Manager of Development Services and Council's Planning Officer had a meeting with the representatives from the WAPC and the applicants to discuss the proposed changes to Amendment 40.

It was suggested to the WAPC that they could use their discretion to approve the proposed amendment and subsequent subdivision as the documents currently stand. Representatives for the WAPC advised that such would be problematic and that the WAPC could support variations to lots sizes only if a building of state heritage significance was involved.

The alternative suggestion from the WAPC was to leave the two lots fronting Edward Street zoned Residential R20 and give the rear lot with frontage to Congdon Street a density coding of R25. This would make all the lots comply with the site area requirements of the RDC.

It is considered that the above alternative solution is acceptable and is recommended to be approved by Council. It would ensure that the proposed subdivision of the subject land into three residential lots, which was originally given preliminary support by Council, is achievable and can be approved by the WAPC.

As a result the subject land would be assigned R20 and R25 density coding as follows:

R20 density coding is assigned to the 1012m² area of land bounded by the Edward Street boundaries of the existing Lot 50 & Lot 51, the western boundary of Lot 51 and the eastern boundary of Lot 50. The fourth boundary for the R20 density coding shall be positioned at a distance of 33.52m from the front (Edward Street) boundary and parallel to it (proposed Lots 1 & 2 on the subdivision concept plan).

R25 density coding is assigned to the balance of the subject land (proposed Lot 3 on the subdivision concept plan).

Application of a one-lot density coding for reason of heritage gain and subdivision control is considered an acceptable technique in the particular circumstances, which will satisfy the operation of the RDC as a guide to the WAPC subdivision approval. It will also reflect the broader objective of ensuring housing diversity. The officer for the WAPC has indicated that on this basis the amendment is anticipated to proceed to final approval under delegation and to receive endorsement by the Minister.

Some changes would be required to the Scheme Amendment Report (New Scheme Amendment Report with minor changes is attached).

The associated recommended minor changes to the wording of Amendment 40 and the Schedule 5 entry relating to the subject land are outlined in the Officer's Recommendation below.

VOTING

Simple Majority

11.2.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) **Supports minor modification of the wording of the Amendment 40 Amendment Report (as described in the above report to Council) and supports in principle the proposed future subdivision concept plan and recommends to the Honourable Minister for Planning and Infrastructure that the Town of Cottesloe Town Planning Scheme No. 2 be amended as follows:**
- (a) **Rezoning No. 14 (Lots 50 and 51) Edward Street, Cottesloe, from Place of Public Assembly to Residential with a density coding of R20 and R25 in accordance with the Scheme Amendment Map; and**
- (b) **Adding the following particulars relating to the site into Schedule 5 of the Scheme text:**

	COLUMN 1 PARTICULARS OF LAND	COLUMN 2 EXEMPTIONS/CONCESSIONS THAT MAY BE GRANTED BY THE COUNCIL
3	No. 14 (Lots 50 and 51) Edward Street, Cottesloe	Council will support subdivision of the property into three lots subject to: I. Subdivision of the land being consistent with the concept plan approved 'in principle' by the Council at its November 2005 meeting; and II. Retention and restoration of the main church building and that building being used for purposes consistent with the Residential Zone.

- (2) Authorise the Mayor and Chief Executive Officer to sign the modified amendment documents and affix the Town's seal thereto.**
- (3) Forward the final copy of the amendment documents with minor modifications, together with a copy of Council's resolution, to the Western Australian Planning Commission for presentation to the Minister for Planning and Infrastructure for final approval of the amendment.**

Carried 11/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 22 NOVEMBER 2005

Moved Mayor Morgan, seconded Cr Strzina

That items 12.1.1, - 12.1.4, 12.2.1, 12.2.2, 12.2.5, 12.2.7, 12.2.8, 12.5.1 be withdrawn from en-bloc voting.

Carried 11/0

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

12.1 ADMINISTRATION**12.1.1 STRUCTURAL REFORM - LOCAL GOVERNMENT ADVISORY BOARD**

File No:	X11.16
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	Nil
Report Date:	15 November, 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

The Local Government Advisory Board seeks Councils views on structural reform.

The following draft response is written in defence of smaller units of local government in the metropolitan area which are under scrutiny by the Local Government Advisory Board (LGAB).

STATUTORY ENVIRONMENT

The Local Government Advisory Board is constituted under the following provisions of the *Local Government Act 1995*.

2.44. Establishment of Advisory Board

(1) There is established a body to be known as the Local Government Advisory Board.

(2) Schedule 2.5 (which contains provisions about the Local Government Advisory Board) has effect.

2.45. Functions of Advisory Board

(1) The functions of the Advisory Board include -

(a) considering and, if required by this Act, inquiring into any proposal made to it under this Act that an order be made to do any or all of the matters in section 2.1, 2.2, 2.3, 2.18(1) or 2.18(3);

(b) making recommendations to the Minister on those proposals;

(c) carrying out any other inquiries the Minister may direct; and

(d) considering whether as a consequence of any recommendation the Board proposes to make to the Minister, the making of an order to do any or any other of the matters in section 2.1, 2.2, 2.3, 2.18(1) or 2.18(3) in respect of a relevant district is or may be necessary.

(2) In subsection (1)(d) -

*“**relevant district**” means a district to which the proposed recommendation relates or an adjoining district.*

(3) If the Advisory Board considers that the making of an order referred to in subsection (1)(d) is or may be necessary, the Board is to consider or inquire into the making of any such order as if it had received a proposal that such an order be made.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

On Tuesday 4 October 2005, the Minister for Local Government and Regional Development, the Hon. John Bowler MLA, announced that the Local Government Advisory Board would carry out an investigation of structural and electoral reform issues in local government.

The LGAB has provided an issues paper in order to assist with ascertaining Council's views on structural reform issues. Council's response is required by 23rd December 2005.

The matter of electoral reform is dealt with in the next agenda item.

CONSULTATION

Nil.

COMMENT

The Minister for Local Government and Regional Development requires the Board's report to address the following issues (*italicised dot points*) and provide recommendations:

1.1 THE NEED FOR STRUCTURAL REFORM

- *The objectives and need for structural reform and an assessment of how structural reform can enhance the future economic, environmental and social sustainability of Western Australian communities.*

LGAB Comment: Do we have a system of local government across the state suited to the demands and challenges of the 21st century?

Local government affects many areas of public life. The 142 councils in the State have over 1300 elected members, employ more than 12,500 people and spend nearly \$2 billion in delivering services to the community. Local government is, or at least should be, important to people.

Many local governments were first established in the horse and buggy days of the late 19th and early 20th century, and their boundaries have changed very little despite wide ranging economic, social and technological changes. There is a need to review the structure, to ensure the system is robust and sustainable, and can meet the challenges of the future. A key question the community needs to be asking is where does it want local government to be in 20 years.

There are intensifying financial pressures, as many councils struggle with the combination of increased functions and community expectations, as well as deteriorating assets and restricted revenue bases. Local governments have limited capacity to fund asset maintenance and replacement, and can spend less than required on road maintenance and other community infrastructure. There are significant gaps in the services and infrastructure that are required and demanded by the community and what can be provided at the local level. There is often a focus by councils on day-to-day service and operational issues at the expense of strategic visions. Many councils have problems getting elected members: in 2005, 42% (301) of local government vacancies only had one candidate, while a further 10 had no candidates at all.

Due to the current structure, local governments are not always best placed to respond to issues that extend beyond their boundaries, and overlap with other local governments and levels of government, for example some environmental issues and provision of services to indigenous people. Consequently they can miss out on attracting funding from other governments, such as Commonwealth natural resource management funding. There may be scope for more 'joined-up' whole of government approaches with stronger linkages between government activities, such as in health and education.

The sustainability of local government is a paramount concern. The 2003 State Sustainability Strategy defines it as: "meeting the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity". In the local government context, this could be interpreted to mean a system of local government that is economically viable and strategically managed for future generations, a system that improves social inclusiveness and strengthens community capacity, and a system that is better equipped to improve environmental quality through high standards of environmental management. Social advancement, for example, could include a more coordinated and strategic servicing of indigenous communities.

Local government's role has long gone beyond the traditional 'roads, rates and rubbish', and routinely includes providing services such as libraries and swimming pools, as well as regulatory and development activities such as animal control and

planning. Some councils have branched out to new areas of involvement, including security patrols and an extensive range of community support programmes. What might local governments logically do in the future?

The role of local government is an important consideration, for there is an adage that 'form follows function', and the future form that local government will take should reflect its desired role. There is also scope for local government units to relate more to natural environmental boundaries, such as catchment areas, and contemporary communities of interest based on modern forms of transport.

Some benefits expected to be generated by structural reform would include:

- Cost savings through reduced duplication
- Service improvements through better resourced and organised services
- Improved organisational cultures through resourcing of a more professional organisation
- Better planning and environmental management through more specialised staff being available and coordination of community services
- Increased political influence through having an enhanced local voice.

Some questions:

1. *Where should local government be aiming to be in 20 or 50 years time?*
2. *Is there a need for structural reform of local government in WA?*
3. *Is the current structure appropriate for economic, environment and social sustainability?*
4. *What should the objective of structural reform be?*
5. *Should enhancing the economic, environment and social sustainability of communities be the objective? How might this be achieved?*
6. *Should there be a greater connectedness between the structure of local government and the structures for delivering other government services?*

Staff Response:

1. Where should local government be aiming to be in 20 or 50 years time?

This is a difficult question to answer as it assumes the values of today will hold good for the next 20 or 50 years.

The 1996 *Report of the Local Government Structural Reform Advisory Committee* was prepared in a time where micro-economic reform dominated the agenda and the emphasis was placed on the individual local government being "... a competitive and productive organisation that meets the needs and the desires of the community."

Nearly ten years on, the emphasis has shifted to "...how structural reform can enhance the future economic, environmental and social sustainability of Western Australian communities."

The change in language and meaning in the intervening period is significant.

However the question being asked assumes that today's values – which are strongly oriented towards the principle of “sustainability” – will hold good for the next 20 or 50 years.

As can be seen by the above illustration, experience tells us that this is unlikely to be the case and that in 10 years time any examination of the need for structural reform will be couched in a different language.

However let's accept that for the time being the principles of “sustainability” should lead the agenda.

The State Government has defined sustainability as “meeting the needs of current and future generations through simultaneous environmental, social and economic improvement”. The State Government also “...accepts that there are tensions between economic, environmental and social goals”. The State Sustainability Strategy “...seeks to resolve these tensions through finding mutual benefit”.

Within this value-laden context, one can argue that local governments should be acting in ways that meet the needs of current and future generations through simultaneous environmental, social and economic improvement so that in 20 to 50 years time we can commend ourselves on a job well done. However the reality is that no-one compares the performance of an individual local government against what was happening 20 to 50 years ago. The time frame is likely to be much smaller. In terms of public governance, performance is usually measured against the performance of the previous government or an elected council.

The question of where should local government aim to be in 20 or 50 years time is therefore of little practical relevance given the constancy of change.

Nonetheless one could hope that from an environmental, social and economic point of view, improvements have been made.

Whether these improvements could be directly linked to the structural reform of local government would be a moot point given that most organisations are striving for continuous improvement in any event.

2. Is there a need for structural reform of local government in WA?

Intensifying financial pressures, gaps in service provision and infrastructure and a focus on day-to-day operational issues might suggest that the structural reform of local government is essential.

However greater recognition should be given to the pressures placed on local government by higher levels of local government.

Ever since the years of the Whitlam government, local governments have become increasingly dependent on funds from other levels of government. This is neither a bad nor a good thing but rather, a reality. The fact that local governments expend more than they raise in direct taxes (otherwise known as vertical fiscal imbalance) is now well established and accepted. If that were not the case, then there would be little point in the continued existence of the State local government grants commissions.

Local governments no longer derive income from vehicle licenses for expenditure on roads. Instead they have become mendicants of higher levels

of government for funding to cover a range of works and human services that go far beyond the role of the original roads boards.

In the absence of continuous improvement it is therefore no surprise that when funds are not forthcoming from other levels of government, property rates inevitably increase in order to cover operational expenses that have become entrenched. The alternative is to cut back on works and services and, to a lesser degree this is practised by many local governments.

Unfortunately cut backs in works may lead to an erosion of the asset base of local governments. This issue, amongst all others, lies at the heart of the structural reform problem and should be recognised as such by the LGAB.

Unfortunately the limited time available to the LGAB means that it will not be able to adequately address this issue in reporting to the Minister.

On its own, structural reform is incapable of solving basic economic problems that now reportedly confront many local governments. In other words it is not the lack of structural reform that is putting added pressure on local governments.

Local governments are simply lower down the food chain and are suffering because of it as State and federal governments tighten the purse strings.

A multi-pronged approach is therefore required to redress the situation.

For a start, a real sense of proportion needs to be brought to the impact of rate increases on individual households. Increases in rates should not be disdained to the extent that they are. Many local governments are capable of sustaining higher increases in rates without causing personal hardship.

If local government property rates are causing personal hardship, and if State and federal governments have any sort of regard for the continuation of local government works and services, then it is beholden on other levels of government to increase the level of funding to local government in the absence of alternative sources of funding for local government.

In the absence of increased rates and increased levels of funding from other levels of government, structural reform may offer some economic gains to local governments but there is little evidence (read none) to suggest that such gains will be significant.

3. Is the current structure appropriate for economic, environment and social sustainability?

Unfortunately this question invites a yes/no response without recognising that there are tensions between economic, environmental and social goals. Further it should be realised that there are often trade-offs between these goals and that they are difficult to measure.

For the Town of Cottesloe, social and environmental goals are of high order importance. While economic goals are important, they do not figure as prominently as they do in other local government areas.

Fortuitously, Cottesloe's current structure is well suited to the attainment of social and environmental goals. Whether such a structure is suitable for other

local governments is only a question that they can answer depending on their priorities.

At face value, it would appear that many local governments are struggling with economic sustainability and of necessity, must relegate environmental and social goals to a lower level.

4. What should the objective of structural reform be?

For those local governments that are economically less sustainable, structural reform should be geared towards protecting the asset base of those local governments. Unless this is addressed, social and environmental goals will fall by the wayside in any battle for survival.

This is a particularly difficult task for the LGAB because structural reform, on its own, represents a band aid approach to deeper systemic problems.

5. Should enhancing the economic, environment and social sustainability of communities be the objective? How might this be achieved?

Under the current mindset, enhancing the economic, environment and social sustainability of communities is a legitimate objective.

In terms of **economic** goals, the Town of Cottesloe has placed a strong emphasis on the adoption and implementation of long-term asset management plans. It appears that the same cannot be said of many other local governments.

The August 2005 report of the South Australian *Financial Sustainability Review Board* indicates that size in itself does not ensure astute financial management. Some of the key points of the report are that:

- 26 of South Australia's 68 councils are financially unsustainable
- These councils include both larger and smaller ones and that further amalgamations are not a panacea
- A widespread need exists to increase expertise and understanding regarding financial governance among elected members as well as at the officer level.

In Western Australia, the need to financially plan for the long term has been given legislative force through State government intervention in local government affairs. Requirements for financial management audits, principal activity plans and, more recently, audit committees and plans for the future are indicative of a State Government approach that assumes that prescription will solve systemic problems.

This interventionist approach has severe limitations. The intended outcomes of financial management audits and principal activity plans have been spectacularly insignificant. Their failure, in part, explains the recent shift to audit committees and plans for the future. Whether these new interventions will achieve better outcomes is highly debatable given past experience.

The point to be taken on board by the LGAB is that an interventionist approach to the financial affairs of local government may amount to little more than window dressing if past experience is any guide.

The Town of Cottesloe therefore believes that in the first instance change should be driven from within rather than imposed from above. Systemic problems are never solved by introducing a new set of rules and regulations.

In terms of **environmental** goals, the issues paper suggests that “a system that is better equipped to improve environmental quality through high standards of environmental management” is desirable. No doubt many local governments will point to various regional waste management systems as examples of how well they are doing in terms of environmental management.

However environmental sustainability is much more than simply managing immediate environmental issues. Those local governments that subscribe to the International Council for Local Government Initiatives (ICLEI) will know that environmental sustainability initiatives are targeted at changing not only local government environmental behaviours but also local community behaviours. It is premised on the notion of “think global, act local”.

It recognises that at State and Federal government levels, fundamental change is difficult and subject to fierce opposition by vested interest groups. The recent debate over rainwater tanks for new residences is good example of an environmental ‘solution’ to dwindling water resources being found through government regulation without significant community engagement.

This top down approach, while encouraging environmental sustainability, does not fundamentally alter community behaviour in the absence of strong marketing campaigns or financial incentives. Smaller units of government are able to exercise much more leverage in this regard without heavy marketing and financial expense. Through personal contact (e.g. the Cottesloe Coastcare volunteer group, [Earth Carers volunteer group](#), the CottCat transport service to the beach, water saving initiatives and pollution abatement practices) the Town of Cottesloe is changing community behaviour without high overhead costs.

The LGAB should therefore consider whether the size of local governments affects their capacity to alter community behaviour in terms of environmental sustainability. One suspects that the capacity of larger local governments is limited in this regard because of the incapacity of specialist staff to spread themselves widely.

In terms of **social** goals, the issues paper suggests that “a system that improves social inclusiveness and strengthens community capacity” is desirable.

The 1996 *Report of the Local Government Structural Reform Advisory Committee* spoke of the failings of larger local governments in this regard. It identified an absence of local democracy in larger local governments by way of relatively small voter turnouts and less accountability. Again the response of State Government to overcome these perceived deficiencies has been to legislate and regulate!

Postal voting is now the norm for larger local governments and accountability and reporting requirements have increased dramatically for all. The Town of Cottesloe would argue that smaller local governments make for increased social inclusiveness and stronger community capacity. As an example, for many years Cottesloe has actively supported a local volunteer Coastcare

group while to the north larger metropolitan local governments have struggled with the formation of such groups.

If only by the findings of the 1996 report, the LGAB must find that smaller units of local government make for increased social inclusiveness and stronger community capacity.

Again there are tensions between the attainment of economic, environmental and social goals.

Advocates of larger units of local government will argue that the economic benefits of amalgamation far outweigh the environmental and social benefits of smaller units of local government. However there is very little evidence to support this proposition.

The LGAB points out that it is bound to take into account a list of prescribed factors when considering structural reform namely:

- Community of interest
- Physical and topographic features
- Demographic trends
- Economic factors
- The history of the area
- Transport and communication
- Matters affecting the viability of local governments
- The effective delivery of local government services

The Minister for Local Government has qualified this by now requiring the LGAB to report on how structural reform can enhance the future economic, environmental and social sustainability of Western Australian communities.

The Town of Cottesloe therefore believes that the LGAB must enquire into the inter relatedness of economic, environmental and social sustainability goals and the trade offs that must inevitably occur when one particular goal is traded off for another.

Historically, economic efficiency and effectiveness has tended to drive the structural reform agenda however a comprehensive reckoning of the relative value of economic, environmental and social sustainability goals is now required.

6. Should there be a greater connectedness between the structure of local government and the structures for delivering other government services?

This is obviously a rhetorical question intended to shore up the expressed benefits of structural reform, namely;

- Cost savings through reduced duplication
- Service improvements through better resourced and organised services
- Improved organisational cultures through resourcing of a more professional organisation

- Better planning and environmental management through more specialised staff being available and coordination of community services
- Increased political influence through having an enhanced local voice.

The argument is that through structural reform processes (such as amalgamation) the form of each local government can be enhanced so that a broader range of works and services can be delivered.

The assumption here is that more and a broader range of works and services is not only a desirable end goal but also one that is sustainable.

However a degree of circumspection is required. Historically, council rates paid for the provision and maintenance of roads. Councils were not Commonwealth and State government grant dependent. They were able to fund from their own resources that which they sought to do. Before there is any headlong rush for expanded services, councils must be held to account in terms of protecting their existing asset bases.

There is absolutely no guarantee that any council (regardless of size) will be able to continue expanding service delivery given the size of the vertical fiscal imbalance that exists. In fact, what little evidence there is suggests that councils the like Swan, Joondalup and Busselton are facing huge problems in terms of renewing their asset base. Assuming the renewal of core infrastructure is the number one priority in terms of financial sustainability, then in the absence of increased Commonwealth and State government funding, services will ultimately have to be cut or rates increased significantly in these local governments.

These are systemic problems and no amount of tinkering with structural reform will address the fundamental problems faced by local governments such as Swan, Joondalup and Busselton. In this context, the enquiry into structural reform is akin to Nero playing his fiddle, while Rome burns.

1.2 SOME POSSIBLE APPROACHES

- *Identification of approaches that can be adopted by councils in achieving structural reform, ranging from local government amalgamation through to resource sharing.*

LGAB Comment: The diversity of the state virtually ensures that no single reform model will be applicable to all communities; there is no 'one size fits all' solution. A range of models will need to be considered. These include but are not limited to the following, some of which are already being applied in local government across WA:

- Amalgamation of small local governments into larger local governments and/or other boundary rationalisation to address anomalies in community boundaries.
- Resource sharing, where councils cooperate in utilisation of staff and plant.
- Regional Councils (incorporated under the Local Government Act) to perform functions and deliver regional services for greater efficiency and effectiveness.
- Regional organisations of councils to address issues that benefit from a common or joint regional approach.

- Other cooperative arrangements, involving joint boards, agency arrangements, and alliances. For example, some councils are exploring the potential for a shared service agreement for 'backend' processing. This would use technology in a centrally located hub to provide finance, human resources and other corporate service functions to participating councils. This is similar to the Comparative Advantage service delivery model being developed by the Wheatbelt Development Commission.
- Building capacity within existing organisations.

Some models may be applicable to the metropolitan area, some to the wheatbelt or south west, and others elsewhere around the state. A council may find a mix of approaches will work best for a range of services.

Past experience has shown that while cooperative arrangements can often work well, sometimes participants may refuse to cooperate in a meaningful way and the cooperation falters. Many of the above models depend on goodwill and spirit of cooperation among council leaders, and this can be a limitation on how effective they can be as models of reform for the short or longer term.

Some questions:

7. *Is there a need for larger, stronger local government entities? With bigger populations and larger budgets to deliver more and better services?*
8. *Should the role of regional councils be increased?*
9. *Is resource sharing of senior staff, such as Chief Executive Officers, feasible and desirable?*
10. *How formal and contractual do cooperative arrangements need to be?*
11. *Are there any other approaches to structural reform that should be considered?*

Staff Response:

- 7. Is there a need for larger, stronger local government entities? With bigger populations and larger budgets to deliver more and better services?**

It is disappointing that the phrasing of this question suggests that larger, stronger local government entities means more and better services when there is absolutely no evidence to suggest that such is this case.

Within the last year there has been widespread industry recognition that bigger is not necessarily better. In fact it can simply mean fatter executive salaries with increased levels of bureaucracy and increased isolation from constituent demands.

In matters of town planning, the elected members of the Town of Cottesloe have a far greater degree of involvement in the exercise of discretion and inevitably they make better decisions because they know and respond to the concerns of the community.

In larger local governments, the exercise of discretion is often delegated to staff in order to deal with the sheer volume of work. These staff can defend

their decisions based on immutable “policy” and without losing any sleep but are the decisions they make necessarily better?

The Town of Cottesloe is a residential suburb whose needs and demands have been well established for more than 100 years. Advocates of larger local governments will often argue that larger local governments can bring specialised staff resources to bear and that places such as Cottesloe will be better off. However there is no community clamour for a recreation officer or [private](#) security patrols or the like. Suggestions that this is because the community doesn't know any better smacks of the paternalism that larger bureaucracies thrive upon.

In a sense, the lack of staff diversity means that smaller local governments such as Cottesloe have a stronger focus on the provision of core services rather than needless political fripperies. Keen and lean, by any reckoning, is better than laconic and fat.

In any event, the research from South Australia confirms that small local governments can be very good at what they do and that amalgamation is no panacea to poor financial management.

8. Should the role of regional councils be increased?

The Town of Cottesloe is a member of the Western Suburbs Regional Organisation of Councils together with the Shire of Peppermint Grove, Towns of Mosman Park and Claremont, and Cities of Nedlands and Subiaco.

This organisation has been in place for a number of years and a report on the initiatives that it has undertaken is enclosed for your information.

Rather obviously the role of regional councils can only be increased where the constituent members are amenable and a spirit of cooperation and goodwill prevails. It would therefore seem imprudent to mandate any increase in the role of regional councils if there is begrudging participation by constituent Councils.

9. Is resource sharing of senior staff, such as Chief Executive Officers, feasible and desirable?

[Yes, all local governments should be encouraged to adopt a spirit of cooperation and goodwill with other local governments to ensure that they identify and pursue all available opportunities capable of being generated by cooperative arrangements.](#)

[Any differences between local governments and similarities in terms of demographics, geography, economic base and history should be reconciled.](#)

10. How formal and contractual do cooperative arrangements need to be?

This only ever becomes an issue when relationships breakdown amongst local governments. The question that should be asked in the first instance is if cooperative arrangements were to break down would there be any great loss to any of the participating local government for want of a formal contract.

11. Are there any other approaches to structural reform that should be considered?

None that have not already previously identified by previous inquiries into structural reform.

1.3 CONSTRAINTS TO REFORM

- *Identification of impediments to structural reform including but not limited to legislation impediments and options to overcome these impediments, which should include but not be limited to legislative changes and provision of financial and non-financial support by the State Government.*

LGAB Comment: There has been mixed progress in structural reform in local government in recent decades. There has been very limited local government boundary changes in WA in the last 20 or 30 years. Notable changes include the split of the City of Perth in 1994 and the amalgamation of the Town and Shire of Albany in 1998. Other forms of structural reform, such as regional arrangements and resource sharing, have grown in significance.

It could be said that WA does not have the best possible local government structure to cope with the demands and challenges of the 21st century. There is a range of impediments to structural reform occurring more broadly. These include political, economic and organisational impediments.

Traditionally State Governments have been unwilling to force structural changes on local government. The vested interests of some stakeholders have resulted in opposition to change. Opponents cite reasons such as loss of identity and autonomy, loss of grant income, loss of jobs (both to the community and in a personal sense), and the negative impact on the smaller country towns. Some of these reasons might be addressed through more responsive forms of structural reform.

The *Local Government Act 1995* (Schedule 2.1) specifies the process by which boundary changes can occur. This includes a list of prescribed factors to which the Advisory Board is to have regard:

- Community of interest
- Physical and topographic features
- Demographic trends
- Economic factors
- The history of the area
- Transport and communication
- Matters affecting the viability of local governments
- The effective delivery of local government services

While there is a requirement for these issues to be considered, the poll provision in the Act effectively enables a relatively small number of electors in one affected local government to defeat a broad proposal that could involve a number of districts with tens of thousands of residents. Historically, this provision has impeded boundary changes, and could be argued to be not in the interests of the wider community.

Some questions:

12. *Is the approach of 'no forced amalgamations' an impediment to structural reform?*
13. *Should the legislation be changed to make boundary changes easier, particularly when a majority of affected electors support a proposal?*
14. *Are financial incentives for local government structural reform required, what form should they take and what would be the benefit of providing these?*

Staff Response:**12. Is the approach of 'no forced amalgamations' an impediment to structural reform?**

It would seem that those local governments who have a broader rate base, tend to be more financially sustainable than those local governments that rely heavily on residential rates.

In the current climate it would be an act of lunacy to remove the "no forced amalgamations" provisions of the Local Government Act. Several local government leaders have already expressed a desire to takeover neighbouring residential suburbs without fully realising the financial disadvantages of such a move.

While uniting East with West Germany may have seemed like a good idea at the time, there is little doubt that poorer cousins who are invited into the family tend to demand equal treatment with their richer cousins.

This can be a rude awakening for all concerned.

The August 2005 report of the South Australian *Financial Sustainability Review Board* indicates that size in itself does not ensure financial sustainability. To recap, some of the key points of the report are that:

- 26 of South Australia's 68 councils are financially unsustainable
- These councils include both larger and smaller ones and that further amalgamations are not a panacea
- A widespread need exists to increase expertise and understanding regarding financial governance among elected members as well as at the officer level.

Before any consideration is given to removing the legislative constraints of "no forced amalgamations", greater consideration must be given to the broader issue of economic sustainability.

As previously stated, there are tensions between economic, social and environmental goals and trade offs between the three goals are sometimes inevitable. Combining an economically poor local government with a poorer local government would be morally reprehensible and doubly so if it comes at the expense of sustainable environmental and social goals.

The LGAB must make the Minister aware of this potential issue and highlight the potentially disastrous consequences.

13. **Should the legislation be changed to make boundary changes easier, particularly when a majority of affected electors support a proposal?**

This does not appear to be an issue of any great importance at the present time.

14. **Are financial incentives for local government structural reform required, what form should they take and what would be the benefit of providing these?**

This question is probably best answered by saying that there should be no financial **disadvantage** with structural reform.

Financial incentives may be of some use in tipping the balance where an amalgamation issue is finely divided within the community but the real issue will always remain ongoing financial sustainability. At times, the clamour for on-the-spot cash incentives from higher levels of government seems to be more about satisfying political needs rather than meeting genuine financial needs.

1.4 AMALGAMATION OF LOCAL GOVERNMENTS

- *The identification of local governments where amalgamations may be the most effective and efficient method of achieving future economic, environmental and social sustainability.*

LGAB Comment: The Board is charged with identifying specific local governments where amalgamation may be the most appropriate way forward. While the Board will investigate these during the review, comments are invited from respondents. Amalgamation may be the solution for some of the small local governments, which have populations of say a 1000 or less, or revenues less than \$2 or \$3 million. Smaller local governments may be strong in social capital but lack the financial capital to be sustainable.

But it is not just about size. There may be other parts of the state, such as in parts of metropolitan Perth or around some of the regional centres, where the number of local government entities is not conducive to the efficient governance and sustainable development of the greater region. The Board will have to consider whether this level of duplication is sustainable.

SOME QUESTIONS:

15. *Which specific local governments should be considering amalgamations?*
16. *Why these local governments?*
17. *Are there specific local governments for which amalgamation is just not an appropriate option? Why?*

Staff Response:**15. Which specific local governments should be considering amalgamations?**

The phrasing of this question and question 16 is a very disappointing and un-Australian. It sets one local government against another and overly simplifies what is a complex issue.

It assumes that all local governments are fully across the circumstances of their peers. This is plainly not the case given that financial sustainability is poorly understood and scarcely touched upon in the issues paper. Inviting the assignment of arbitrary numbers does little to advance the collective intelligence of the LGAB and indeed, invites ridicule.

The narrative accompanying this section of the discussion paper trivialises the importance of sustainable social goals and completely ignores the importance of sustainable environmental goals.

The assertion that “There may be other parts of the state, such as in parts of metropolitan Perth or around some of the regional centres, where the number of local government entities is not conducive to the efficient governance and sustainable development of the greater region” is entirely misleading.

The dominant issue in these areas is all about community of interest and how it is best served – not financial sustainability or economic development.

16. Why these local governments?

See response at Q.15

17. Are there specific local governments for which amalgamation is just not an appropriate option? Why?

The Town of Cottesloe must decline any response to this question in the absence of any comprehensive analysis of the social, economic and environmental circumstances of each local government.

1.5 OTHER FORMS OF STRUCTURAL REFORM FOR LOCAL GOVERNMENTS

- *The identification of local governments where the issues of future economic, social and environmental sustainability are more appropriately addressed by approaches other than amalgamations. In particular, the issue of future sustainability of rural and remote communities should be recognised, as well as the increased costs of governance and coordination of services.*

LGAB Comment: Amalgamation is not a universal panacea to the challenges of local government. In the pastoral and mining areas of the state the tyranny of distance may preclude such a solution. Elsewhere, there may be strong community of interest reasons for not pursuing amalgamations. The Board will have to consider how some of the alternatives to amalgamations, such as resource sharing and regional arrangements, might be applied in all regions of the State.

Some questions:

18. *Which specific local governments would benefit from some form of structural reform other than amalgamations?*
19. *Why these local governments?*
20. *What would be the benefits?*

Staff Response:**18. Which specific local governments would benefit from some form of structural reform other than amalgamations?**

The phrasing of this question and question 19 is a very disappointing and un-Australian. It sets one local government against another and assumes that most local governments have not already embarked on some form of structural reform.

It also assumes that there is room for an interventionist approach by State Government i.e. *The Board will have to consider how some of the alternatives to amalgamations, such as resource sharing and regional arrangements, might be applied in all regions of the State.*

The need for intervention has not been demonstrated and as experience shows, regulation or prescription to enforce certain behaviour has had limited success in Western Australian local governments.

19. Why these local governments?

See response at Q.18

20. What would be the benefits?

What would be the costs?

1.6 PROCEDURES AND PROCESSES

- *The procedures and processes (legislative or otherwise) which need to be adopted to facilitate the implementation of the above changes.*

LGAB Comment: Some of the initiatives to facilitate implementation that the Board might consider and recommend on include

- Provision of financial incentives for reform
- The legislative process for creating new units of local government
- Legislative changes to local government boundaries
- Financial modelling of new units of local government
- Transitional arrangements for new units of local government, including appointment of Commissioners, election of councillors, appointment of senior staff, time frames and target dates
- The frequency of review of boundaries and the progress of structural reform.

SOME QUESTIONS:

21. *Are the current procedures and process, as provided for in the Local Government Act 1995, sufficient for the implementation of structural reform?*
22. *What further or alternative processes and procedures are needed?*

Staff Response:**21. Are the current procedures and process, as provided for in the Local Government Act 1995, sufficient for the implementation of structural reform?**

There is nothing in the Local Government Act which prevents structural reform and in only one instance is structural reform constrained - namely the "no forced amalgamations" provision.

The need for additional legislative prescription to force structural reform has been far from demonstrated and until a coherent argument is put together, cannot be recommended by the LGAB to the Minister.

22. What further or alternative processes and procedures are needed?

Nil.

1.7 OTHER ISSUES

- *Any other issues that the Board may consider are relevant to structural reform, ranging from amalgamations through to resource sharing.*

LGAB Comment: As the review progresses the Board is likely to consider a range of other relevant issues which arise which are not specifically mentioned in the terms of reference. This would include other issues identified by review participants. Participants are free to raise such issues and bring them to the Board's attention.

Staff Response:

The Town of Cottesloe is deeply concerned that the LGAB has been asked to report to the Minister within such a tight time frame. It is obviously inadequately resourced as evidenced by the issues paper which demonstrates a limited knowledge of the principles of economic, environmental and social sustainability and in particular, fails to come to grips with the issue of financial sustainability in any meaningful way.

Consultation is meant to lead to better decision making and in this instance it is regrettable that a more comprehensive consultation process was not undertaken.

The Town of Cottesloe is naturally concerned that any debate based on such a poor foundation will quickly degenerate to its basest level where expediency rather than the application of logic will ultimately prevail.

The demise of the Western Suburbs and "doughnut" local governments make for easy targets in this regard.

Given the recent experience of other Australian states with regard to structural reform, there is a real opportunity here for the LGAB to innovate using the intellectual capital acquired in other Australian states.

The LGAB must advise the Minister that it requires more time and more resources to do the issue justice. It must point out that a collaborative approach is far preferred to a cursory independent examination which may lead to more harm being done than good.

VOTING

Simple Majority

COUNCIL COMMENT

The CEO was asked to incorporate additional comments into the submission in relation to:

- The social benefits of smaller local governments as advanced by Professor Robert Putman.
- Boundary realignments based on community of interest principles.

12.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Carmichael

That Council relay the comments of the CEO on structural reform, as amended by Council, to the Western Australian Local Government Association and the Local Government Advisory Board.

Carried 10/1

12.1.2 ELECTORAL REFORM – LOCAL GOVERNMENT ADVISORY BOARD & WA LOCAL GOVERNMENT ASSOCIATION

File No: X11.16
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 8 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The Western Australian Local Government Association (WALGA) and the Local Government Advisory Board (LGAB) seek Council's views on electoral reform.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

On Tuesday 4 October, 2005, the Minister for Local Government and Regional Development, the Hon. John Bowler MLA, announced that the Local Government Advisory Board would carry out an investigation of structural and electoral reform issues in local government.

The purpose of the LGAB issues paper and the WALGA survey is to assist in ascertaining Council's views the electoral reform issues. Council's response is required by 23 December, 2005 and 30 November, 2005 respectively.

CONSULTATION

Nil.

COMMENT

While the electoral provisions of the *Local Government Act* largely date to 1995 (and from previous versions of the Act), there are a number of areas that warrant consideration, particularly in the context of declining voter turnout and an increase in the number of uncontested and unfilled positions on councils throughout the State.

The Board has been asked to report and provide recommendations on:

Eligibility to vote

- *Recommendations should address whether non-residents should be able to vote, or whether eligibility should be restricted to those on the State Electoral roll, and whether people based on the number of properties they own be entitled to more than one vote per ward.*

Who should be eligible to vote in Local Government elections?

LGAB Comment: The local government electoral roll arrangements are different to State and Commonwealth elections. Currently, as well as the universal franchise for all enrolled adult residents in an area (consistent with the State and Commonwealth), local government must maintain a separate roll for non resident owners and occupiers. Property owners also get additional votes for each additional property they own in a local government area. Non-resident occupiers, where they live outside the council electorate, also have a right to vote, providing they meet the enrolment requirements. These arrangements do not exist for State and Commonwealth elections.

WALGA Comment: Historically, the property tax nature of local government rates entitled property owners to vote in the election of those individuals that would determine the taxes that they would pay. In the modern context, local governments have become much more than providers of services to property, expanding into community and human service areas targeted at the general resident population. This reality helps underpin the concept of general adult franchise in local government elections.

Has the diversity of local government service provision and the bestowing of “general competence” powers on local governments made property ownership an obsolete pre-requisite for voting entitlement?

Some questions:

- 23. *Should eligibility be restricted to those on the State Electoral roll?*
- 24. *Should non-residents be able to vote, just because they own or occupy land or a business in the local government area?*
- 25. *Should people be entitled to more than one vote per ward, based on the number of properties they own?*

Staff Response:**23. Should eligibility be restricted to those on the State Electoral Roll?**

Yes. To be eligible for enrolment on the State Electoral Roll one must be:

- 17 years of age or older; and
- an Australian citizen; and
- have lived at the present address for at least the last month.

Currently those who are not on the current State Electoral Roll but would otherwise be eligible to participate in local government elections include interstate residents and foreigners.

Notwithstanding the application of the "No taxation without representation" argument, involvement and active participation in local government affairs should be based on Australian citizenship.

After all our State and Federal members of parliament are not elected by foreigners. Why then should foreigners be able to vote in local government elections?

24. Should non-residents be able to vote, just because they own or occupy land or a business in the local government area?

Yes. In the CEO's experience, very few non-residents exercise their right to vote in local government elections. No doubt there are reasons for this but one senses that because they are non-residents, they are geographically removed from local debate and therefore have no real interest in local political affairs.

However the rallying cry for advocates of American independence from Great Britain was "No taxation without representation" and it still has application today. Forcing non-residents to fund a government into which they have no input seems less than democratic.

Non-residents should therefore be able to vote in local government elections.

25. Should people be entitled to more than one vote per ward, based on the number of properties they own?

No. The administration of multiple voting entitlements is difficult as well as resource-consuming. The simpler and more transparent the system is, the less likely it is that the system will be abused for unfair electoral advantage.

Multiple voting in Mayor/President "at-large" elections also poses problems in terms of electoral equity and fairness.

Voting

- *Recommendations should consider the case for retaining the current system of voluntary voting.*

LGAB Comment: Currently the local government voluntary voting provision contrasts with the compulsory voting requirement at State and Commonwealth elections. Voting at local government elections is compulsory for residential voters in New South Wales, Victoria and Queensland. A range of arguments for the merits of voluntary or compulsory system could be presented, relating to legitimacy and accountability of local government, costs and so on.

WALGA Comment: Compulsory voting is a feature of the electoral process in State and Federal elections, and also in some interstate local government jurisdictions. Supporters argue that the current low level of voter participation serves to diminish local government as a legitimate sphere of government, whilst opponents argue that forcing people to vote is less democratic than encouraging people to voluntarily exercise their right to vote.

Some questions:

26. *Should voting remain voluntary? If yes, why?*

27. *Should voting at local government elections be compulsory? If yes, why?*

26. & 27. Should voting remain voluntary or should voting at local government elections be compulsory?

Staff Response:

Because of the differences in voting systems, State and Federal members of parliament will (at times and usually for the sake of political expediency), discount the views of elected Councils as somehow being of a lesser value than those of State and Federal governments who have been elected under a compulsory voting system.

However compulsory voting has its own failings and cannot be recommended as a system that promotes good local democracy.

- Compulsory voting forces people to cast their vote and therefore removes a freedom of choice –the very basis on which democracy is founded.
- It requires enforcement which simply adds another cost to the overall cost of governance.
- It is peculiar to national and state elections alone. In everything else, elections are non-compulsory.
- It forces the voter to make a choice between candidates that may be equally unattractive and/or whom they know little about.
- It takes the onus off the candidate to encourage strong voter turnout and therefore acts to lessen voter awareness of the issues.
- In a party-political environment, it trivialises the debate and discourages any real discussion of a range of important issues.
- It legitimises the opinions of those who wouldn't ordinarily turn out because they don't care and at the expense of those who do care.

Cottesloe's relatively small electoral size also means that it is of little interest to the party-political machines. As a result, the composition of Cottesloe's elected members is eclectic and ensures healthy debate on a range of issues rather than dogmatic repetition of the party line on specific issues. It encourages engagement rather than disengagement.

In short, the social sustainability of Cottesloe is enhanced by non-compulsory voting.

Type of Election

- *Recommendations should address whether all local government elections should use the in-person or the postal method, or whether to allow each local government to choose the election method.*

LGAB Comment: Currently councils have an option to choose between in-person elections on the first Saturday in May, or a complete postal election. As a result, a number of councils are using either option. Experience to date has generally shown voter turnout to be higher in postal elections. While postal voting may have additional convenience, it can also result in additional costs for the local government.

WALGA Comment: Since the introduction of postal elections as an option for the conduct of Local Government elections, the Association has been in dispute with the State Government about the monopoly enjoyed by the Western Australian Electoral Commission over the conduct of postal elections.

Postal elections invariably result in much higher voter turnout figures than in person elections, leading to suggestions that all Local Government elections should be conducted by post.

Some questions:

28. Should all local government elections be conducted in the same manner, i.e. on the in-person basis, or should postal voting be universally used?

29. Should local governments continue to have choice between the two systems?

Staff Response:

28. & 29.

Should all local government elections be conducted in the same manner, i.e. on the in-person basis, or should postal voting be universally used?

Should local governments continue to have choice between the two systems?

This should continue to be a matter of choice for all local governments and depends on arguments based on financial and social sustainability grounds.

For some local governments, the cost of postal voting is significant and does little to influence voting outcomes. Any perceived benefit in terms of increased participation – particularly where there are already relatively healthy turnouts with voting-in-person elections – is likely to be marginal. Financial sustainability considerations might see these local governments preferring in-person elections.

In other local governments, postal voting may encourage a higher degree of community engagement in local government affairs. In such instances, the goal of social sustainability may be better served.

Voting System

- *Recommendations should address whether the current system of 'first past the post' voting should be maintained, or whether preferential or proportional representation should be introduced.*

LGAB Comment: The voting system for local government elections was changed from preferential voting to first past the post voting in the Local Government Act 1995. The other system that had been under consideration was proportional representation, which is used to elect Western Australia's Legislative Council. In the 'first past the post' system, the candidate with the most number of votes wins the election. This is in contrast with the preferential voting systems used in the State and Federal lower houses. Proportional representation systems are another alternative (there are a number of PR systems in place). These are used in Western Australia's Legislative Council and the Federal Senate, as well as for some local government elections in other states.

WALGA Comment: When the 1995 Local Government Act was introduced in Western Australia, the system of voting for local government elections was changed from "preferential" to "first past the post".

"Preferential" voting requires voters to place a number beside each candidates name on the ballot paper in order of preference for the respective candidates.

"First past the post" voting requires voters to place a tick next to their preferred candidate. In multi-vacancy elections additional ticks can be placed next to the names of other candidates up to the number of vacancies. In such elections, ballots with a single tick are still considered valid votes.

No information has been provided to date as to how proportional representation might be applied to local government elections in WA. Proportional representation is based on a quota system whereby candidates must achieve a certain quota or proportion of votes in order to gain election. It is the voting method used in South Australian local government elections and is generally acknowledged as enabling groups, political parties and individuals to be elected in proportion to the votes received. South Australia's quotas are determined by the following formula;

$$Q = \frac{\{\text{formal votes received}\}}{\{\text{No. of vacancies} + 1\}} + 1$$

Some questions:

30. *Should the current system of 'first past the post' voting be maintained?*
31. *Should a preferential voting system be introduced?*
32. *Should a proportional representation voting system be introduced?*

Staff Response:**30. Should the current system of 'first past the post' voting be maintained?**

Yes. The single tick system is a lot easier for election candidates and voters to understand. Numbering should only be considered as a serious alternative if it reduces the number of informal votes cast and the quantum number of informal votes cast is sufficiently material enough to warrant change.

One of the historic arguments for "first past the post" voting is that it encourages rather than dampens political debate. With vigorous debate, it was felt that change for the better was likely to occur more often than not.

When coupled with a four-year election cycle for 50% of elected members every two years (as opposed to a three-year election cycle for 1/3 of elected members every year) local government has become more, rather than less, dynamic.

Nonetheless, it should be recognised that local governments will always tend to be conservative. This is possibly because elected members do not have the luxury of applying themselves full time to local government issues - unlike their paid counterparts at State and Federal levels. Quite understandably, elected members therefore tend to take a cautious approach when change is being considered.

They are further hamstrung by a lack of access to research and policy formulation resources.

To the extent that "first past the post" voting acts as a counter balance to the inherent conservatism of local government, it should be retained.

31. Should a preferential voting system be introduced?

No. "Preferential" voting tends to ensure that the least disliked candidate gets elected. As a result, those candidates who are able to structure an inoffensive or more conservative election campaign (even to the point of focussing on the trivial rather than important issues) tended to be elected first.

32. Should a proportional representation voting system be introduced?

No. In the absence of any explanation as to why groups, political parties and individuals should be elected in proportion to the votes received, proportional voting would seem to be condemning Western Australian local governments to fates similar to those of Italian and New Zealand parliaments where allegiances chop and change at the drop of a hat and dysfunctional governments are formed.

Proportional representation may have a place in bicameral legislatures (upper and lower house governments) but not at local government levels where there is only one legislature.

Election of Mayor or President

- *Recommendations should address whether the current discretionary system of election of the Mayor or President should remain, or whether one uniform system be adopted.*

LGAB Comment: There are currently in use two different systems for the election of Mayors and Presidents. The Act has recently been amended so that if a council wishes to change the method of electing the Mayor or President from a vote of electors to a vote of councillors, it will be required to consult with electors and carry out a binding referendum on the matter. There have been concerns with the relationship between a directly elected Mayor/President and the remaining members of council. There have been a number of councils where relationships have broken down which has then affected the functioning of the council to varying degrees. There are a number of advantages and disadvantages associated with either method.

WALGA Comment: At present, Mayors / Presidents can be elected by one of two systems – either by and from within the number of Councillors on the Council or at large by the voters. Currently, there are 25 Mayors / Presidents elected at large, with the balance being elected from within the Council.

An extensive array of arguments for and against both systems can be mounted. The primary argument in favour of Mayors / Presidents being elected by the Council is that such Mayors / Presidents are more likely to enjoy the support of their Council and are therefore better able to provide leadership. An equally compelling argument in favour of Mayors / Presidents being elected at large is that such Mayors / Presidents are not dependant on factional support within their Council to maintain their position, and are therefore better able execute their roles as independent leaders and chairpersons.

Some questions:

- 33. *Should there be one system for electing the Mayor or President, or should the current system remain?*
- 34. *What steps could be taken to minimise the potential conflict that sometimes arises between popularly elected Mayors/Presidents and fellow councillors?*

Staff Response:

- 33. Should there be one system for electing the Mayor or President, or should the current system remain?**

The current system should remain as it provides Council and the community with an element of choice. As advised by WALGA, an extensive array of arguments for and against both systems can be mounted. These arguments can be used equally persuasively where a Mayor/President is seen to be the

“stooge” of an elected majority on the Council or a Mayor/President is seen to be “hostile” to the Council majority.

In both situations an element of choice will always allow a Council or a community the option of righting things as it sees fit.

34. What steps could be taken to minimise the potential conflict that sometimes arises between popularly elected Mayors/Presidents and fellow councillors?

It is understood that there are but 25 popularly elected Mayors/Presidents and that not all are elected at the same four year interval.

That being the case, an argument can be made for compulsory leadership training so that if a mayor chooses to engage in prolonged conflict with the Council, then it at least is done so in the full knowledge of the potential harm that an adversarial approach can have within the community.

On occasion, it would seem that having adopted an adversarial approach in the first instance, some mayors find it very difficult to move to a collaborative style of leadership.

Compulsory training is also likely to be advantageous in terms of networking amongst mayors who ordinarily fulfil the duties of their position in relative isolation.

Frequency of Ordinary Elections

- *Recommendations should address whether the current four-year term is appropriate and, if not, what changes should be made, or whether an all-in/all-out system should be adopted.*

LGAB Comment: Currently local government elections are held every two years, with approximately half of the council retiring at each election. This system is thought to provide some degree of stability and maintain a level of experience on councils.

WALGA Comment: Elections are currently held every two years (biennially), with elected members given four year terms. This means that no more than half of the Council is up for re-election at any single election (extra-ordinary vacancies excluded). The argument in favour of this system is that it ensures the retention of some experience on the Council and possibly adds continuity to the Council’s policy direction. On the other hand, placing the entire Council before the electorate at a single election holds the whole Council directly accountable to the voters for its collective performance. It also offers the chance of a completely new direction in policy if the electorate so chooses.

Four year terms are claimed by some to be a disincentive to potential candidates because the commitment is too long, whilst others claim it provides the opportunity to achieve better outcomes through stability and familiarity.

SOME QUESTIONS:

- 35. Should the term for elected members be retained at four years?*
- 36. Should all of the terms of elected members commence and end at the same time, i.e. an all-in/all-out system?*

Staff Response:**35. Should the term for elected members be retained at four years?**

Yes but only if a four-year election cycle for 50% of elected members every two years (as opposed to a three-year election cycle for 1/3 of elected members every year) means that local government is more, rather than less, dynamic.

Personal observation suggests that there is a greater degree of responsiveness (as opposed to inertia) under the current system.

36. Should all of the terms of elected members commence and end at the same time, i.e. an all-in/all-out system?

No. As previously discussed, local governments tend to be conservative.

Elected members do not have the luxury of applying themselves full time to local government issues - unlike their paid counterparts at State and Federal levels. As a consequence elected members tend to take a cautious approach when change is being considered.

They are further hamstrung by a lack of access to research and policy formulation resources.

This lack of capacity (time) and resources (research and policy development) means that quite a few election campaigns are hinged on a single issue rather than a platform of well thought out and fully articulated policies.

It would therefore seem grossly unfair to dump an entire Council based on a single issue.

Furthermore wholesale sackings are likely to be prejudicial to the continuity of good government. Senior staff may well find themselves out of favour with a new Council because of previous associations with former elected members.

Unless there is a significant ramping up of the time and resources available for elected members, staggered terms are preferred as a means of ensuring the continuity of good government.

Conduct of elections

- *Recommendations should address whether the current methods of conducting elections should be changed.*

LGAB Comment: Currently a local government may conduct its own voting in person elections with the Chief Executive Officer as Returning Officer. There may be scope for Returning Officers to be independent of the local government for which they are conducting the election to help avoid inappropriate influence. Currently a local government may appoint another person as Returning Officer, subject to the approval of the Electoral Commissioner.

WALGA Comment: Nil

Some questions:

37. *Should council Chief Executive Officers still be empowered to conduct elections?*
38. *Should Chief Executive Officers be empowered to conduct elections for other local governments?*
39. *Should the Electoral Commissioner conduct all elections?*
40. *Should other bodies and private businesses be empowered to conduct elections?*

Staff Response:

- 37. Should council Chief Executive Officers still be empowered to conduct elections?**

No. Regrettably some defeated election candidates will see the CEO (when acting in the role of Returning Officer) as part of an establishment or a conspiracy to keep them out of office.

For those candidates that are elected, there may be some lingering suspicion that the way certain matters were handled by the CEO (in terms of, say, election profiles or informal votes) was also part of an establishment or a failed conspiracy to keep them out of office.

These suspicions do not encourage a relationship of mutual trust between the CEO, community and elected members at the outset.

- 38. Should Chief Executive Officers be empowered to conduct elections for other local governments?**

No. The amount of remuneration is currently insufficient.

- 39. Should the Electoral Commissioner conduct all elections?**

Yes, but only if there is a move towards compulsory voting.

40. Should other bodies and private businesses be empowered to conduct elections?

Not unless a greater degree of professionalism is introduced for the same or less cost to the Council.

VOTING

Simple Majority

COUNCIL COMMENT

The CEO was asked to amend the response to question 39 in line with Council's support for voluntary voting.

AMENDMENT

Moved Cr Utting

That a discussion paper be produced for the purpose of community consultation and that a special meeting of electors be held.

Lost due to the lack of a seconder

AMENDMENT

Moved Cr Morgan, seconded Cr Strzina

That Council express its dissatisfaction at the lack of reasonable opportunity to properly consult with community on the matter.

Carried 6/5

12.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Relay the comments of the CEO on electoral reform, as amended by Council, to the Western Australian Local Government Association and the Local Government Advisory Board; and**
- (2) Express its dissatisfaction at the lack of reasonable opportunity to properly consult with community on the matter.**

Carried 10/1

12.1.3 BARCHETTA - VARIATION TO LEASE AGREEMENT

File No: 149 Marine Parade
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 9 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to execute a deed of variation to the lease agreement between the Town of Cottesloe and Beachfront Enterprises Pty Ltd.

The variation defines the average minimum opening hours of the kiosk during the beach going season.

The variation also permits the sale of alcohol from the premises while allowing patrons to continue to bring liquor purchased from elsewhere for consumption with a meal.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its August 2005 meeting Council resolved:

That:

- (1) Council maintain the current rental arrangements for the Barchetta until such time as they are due for review in July, 2007 under the terms of the lease agreement; and*
- (2) Administration prepare for Council's further consideration a deed of agreement:*
 - (a) which permits rather than prohibits the sale of alcoholic beverages or refreshments on or from the premises;*
 - (b) guarantees BYO alcohol; and*
 - (c) sets out minimum opening hours of the take-away kiosk.*

A deed of agreement has been prepared by McLeods Barristers and Solicitors and a copy is attached for Council's further consideration.

CONSULTATION

Mr Kim Gamble of Beachfront Enterprises Pty Ltd has indicated his support for the proposed deed of variation to the lease.

STAFF COMMENT

The proposed deed of variation to the lease appears to be quite straight forward and requires little comment.

VOTING

Simple Majority

COMMITTEE COMMENT

The committee raised concerns over:

- the lack of opening hours of the beach kiosk,
- the bin problem, and
- the erosion of the bank on the southern side of the café.

The Environmental Health Officer advised Council that an architect is currently designing a bin structure to house the café's bins. It will be an insignificant structure that will fit alongside the building. The committee reiterated Council's preference for bins not to be kept outside the premises in a visible area.

The CEO requested guidance on the proposed opening hours for the kiosk. It was agreed that they should be trebled.

OFFICER RECOMMENDATION

That Council agree to the execution of the proposed deed of variation to the lease agreement between the Town of Cottesloe and Beachfront Enterprises Pty Ltd relating to minimum kiosk opening hours and the sale of alcohol.

12.1.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Morgan, seconded Cr Dawkins

That Council defer the item in order to:

- (1) Renegotiate the opening hours for the kiosk;**
- (2) Resolve the bin storage issue; and**
- (3) Put in place a strategy to stop the erosion of the sand dune on the southern side of the building.**

Carried 10/1

12.1.4 CIVIC CENTRE HIRE FEE DONATION - MUSTARD CATERING

File No: C7.7 and C4.6
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 15 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council Mustard Catering's request for the venue hire fee for its staff Christmas party to be waived with the recommendation that it not be agreed to.

STATUTORY ENVIRONMENT

Section 6.12 applies and provides as follows:

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may ?
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

Council has delegated to the CEO, as part of the annual delegations, authority to waive, grant concessions or write off individual debts to a maximum of \$100 (Section 6.12 of the *Local Government Act*) however the amount of money in this case is \$300.

POLICY IMPLICATIONS

Council's Civic Centre Hall Bookings Policy applies. This policy provides, among other things the following:

- (c) *Waiving of fees shall be at the discretion of Council, except that the Chief Executive Officer is authorised to waive single bookings not exceeding \$100 which meet the guidelines in this policy as follows:*
 - *Fees will only be waived for organisations that are incorporated and have a bona fide community role with a clear benefit to the Cottesloe district.*
-

- *Fees for the lesser hall will only be waived once per calendar month for any organisation.*
- *Fees for the War Memorial Town Hall shall only be waived once per year for any organisation.*

The following events and organisations are exempt from all fees:

- *Music for Pleasure Concerts*
- *The Returned Services League.*

The following organisations are exempt from all Lesser Hall fees:

- *Cottesloe Neighbourhood Watch*
- *SOS Cottesloe Inc.*
- *South Cottesloe Coast Care Association*
- *Cottesloe Marine Protection Group*
- *Over 50s fitness classes*
- *Committees, sub-committees, or other groups specifically authorised by Council to conduct meetings that in turn report to Council.*

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Cottesloe Civic Centre's Sunken Lawn area has been booked and the adopted hire fee is \$300. The effect of waving the fee would be a reduction in Civic Centre Hire fee income of \$300.

BACKGROUND

Mustard Catering has booked the Sunken Lawn area for its annual staff Christmas party and has emailed a request for Council to waive the venue hire fee for this occasion.

Council sets its fees and charges annually as part of the Budget process and the listed fee for this hiring is \$300.

CONSULTATION

Nil other than with the applicant's representative.

STAFF COMMENT

The request is before Council and has not been dealt with by the CEO because the amount of the fee waver requested exceeds the limit set by Council's policy and by its delegations. Council's policy on Civic Centre bookings provides criteria to guide the CEO in assessing requests for hire fees to be waved and these include the requirement for the applicant to have *a bona fide community role with a clear benefit to the Cottesloe district*. It is suggested that this is aimed at not for profit organisations and the like and so would exclude Mustard Catering.

Based on Council's policy it is recommended that the application be refused.

VOTING

Simple majority

**12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL
RESOLUTION**

Moved Cr Morgan, seconded Cr Strzina

That Council refuse Mustard Catering's request to wave the hire fee for a function being held 29 November, 2005 at the Cottesloe Civic Centre Sunken Lawn.

Carried 7/4

12.1.5 COUNCIL MEETING DATES FOR 2006

File No: X4.3
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 8 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A resolution setting out the ordinary Council meeting dates for 2006 is required.

STATUTORY ENVIRONMENT

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

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

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Observe a recess in January 2006, with no ordinary meeting of Council to be held;**
- (2) Advertise the ordinary Council meeting dates for 2006 as the fourth Monday in the month commencing at 7.00 pm with the exception of December when the meeting is to be advanced to 18th December;**
- (3) Advertise the Development Services Committee meeting dates for 2006 as the third Monday in the month commencing at 6.00 pm with the exception of December when the meeting is to be advanced to 11th December;**
- (4) Advertise the Works & Corporate Services Committee meeting dates for 2006 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm; and**
- (5) Advertise the Strategic Planning Committee meeting dates for 2006 as being held on the fifth Monday in the month commencing at 7.00 pm.**

Carried 11/0

12.1.6 AUDIT COMMITTEE - MEMBERSHIP

File No: C7.2
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 15 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of the report is to bring back before Council the results of the call for expressions of interest from residents for a position on the Audit Committee.

STATUTORY ENVIRONMENT

Part 7 of the Local Government Act deals with Audits and Division 1A deals with Audit Committees:

7.1A. Audit committee

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.*
- (2) The members of the audit committee of a local government are to be appointed* by the local government and at least 3 of the members, and the majority of the members, are to be council members.*

** Absolute majority required.*

- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.*
- (4) An employee is not to be a member of an audit committee.*

7.1B. Delegation of some powers and duties to audit committees

- (1) Despite section 5.16, the only powers and duties that a local government may delegate* to its audit committee are any of its powers and duties under this Part other than this power of delegation.*

** Absolute majority required.*

- (2) A delegation to an audit committee is not subject to section 5.17.*

7.1C. Decisions of audit committees

Despite section 5.20, a decision of an audit committee is to be made by a simple majority.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

At the Audit Committee meeting held on 18 October, 2005 Cr Carmichael reported that a CPA Publication recommended, among other things, that Local Government Audit Committees include persons who are external to Council.

The matter was discussed and it was noted that the Department of Local Government and Regional Development Operational Guidelines on Audit Committees provided that if a local government wished to appoint one or more persons other than elected members to the committee, it should ensure they have the requisite knowledge and skills to provide benefit to the committee.

The Committee recommended to Council that it call for expressions of interest from residents and Council passed the following resolution at its 24 October, 2005 meeting:

That Council call for expressions of interest from residents who have relevant knowledge and skills to sit on Council's Audit Committee.

In accordance with the foregoing resolution a notice was placed in the Post Newspaper on 5 November, 2005 and on the Town's notice boards. No expressions of interest were received at the close of nominations, 4pm on 14 November.

CONSULTATION

Nil other than with the Audit Committee.

STAFF COMMENT

It is noted that legislation provides that Council may appoint external persons to its committee but is not compelled to. Department of Local Government and Regional Development Operational Guidelines on Audit Committees notes that Council may decide to appoint one or more persons who are external to Council to sit on its Audit Committee and states that if Council so chooses it should ensure that they have the requisite knowledge and skills to provide benefit to the committee. Given that there is no requirement for Council to appoint an external person, the lack of nominations and the fact that the Audit Committee is a recently included control, it is recommended that this matter be referred back to the Committee for review at a time that it deems necessary. That is, that there be no time set for when the Committee should come back so that it may assess the need or otherwise for additional members as it carries out its functions.

VOTING

Simple Majority

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council note that no nominations were received from residents to sit on the Audit Committee and refer the matter back to the Audit Committee for it to review at a time it deems necessary.

Carried 11/0

12.1.7 DISABILITY SERVICES ADVISORY COMMITTEE

File No: C6.1
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 15 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council Cr Carmichael's request that Hilary Rumley be included on the recently formed Disability Services Advisory Committee with the recommendation that this be agreed to.

STATUTORY ENVIRONMENT

The *Disability Services Act, 1993* provides for local governments to prepare and periodically review disability access and inclusion plans.

The *Local Government Act* provides for local governments to form committees as follows:

5.8. Establishment of committees

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

** Absolute majority required.*

5.9. Types of committees

(1) *In this section*

other person means a person who is not a council member or an employee.

(2) *A committee is to comprise*

- (a) *council members only;*
- (b) *council members and employees;*
- (c) *council members, employees and other persons;*
- (d) *council members and other persons;*
- (e) *employees and other persons; or*
- (f) *other persons only.*

5.10. Appointment of committee members

(1) *A committee is to have as its members*

- (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)) and*
- (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish*
 - (a) *to be a member of the committee or*
 - (b) *that a representative of the CEO be a member of the committee,**the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.*

5.11. Tenure of committee membership

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until*
 - (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be*
 - (b) *the person resigns from membership of the committee*
 - (c) *the committee is disbanded or*
 - (d) *the next ordinary elections day,**whichever happens first.*
- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until*
 - (a) *the term of the person's appointment as a committee member expires?*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant?*
 - (c) *the committee is disbanded? or*
 - (d) *the next ordinary elections day,**whichever happens first.*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The following sections of the Strategic Plan apply:

Management – Statutory Compliance: All procedures and decisions comply with external and internal statutes.

Asset Management – Disability Issues: Review disability access plans and ensure suitable accessibility to all major assets for people with disability.

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

At its July, 2005 meeting Council passed the following resolution:

That Council advertise for expressions of interest from residents who may wish to sit on a Disability Services Advisory Committee that Council may form to assist with the process of reviewing the Town of Cottesloe's Disability Services Plan.

An advertisement was placed in the Post Newspaper on 6 August, 2005 and on Council noticeboards calling for nominations and noting the closing date was 5 September, 2005. Two nominations were received at the close of nominations.

At its 27 September, 2005 meeting Council resolved as follows:

That Council

- (1) Form a Disability Services Advisory Committee and appoint Mrs Pamela Kennett, Ms Yvonne Page and Councillor Carmichael as its members; and*
- (2) The purpose of the Committee be to review the Town's disability services planning within the framework of the Disability Services Act and make recommendations to Council on matters that may be included in Council's disability access and inclusions plans.*

At the September Works and Corporate Services Committee meeting Cr Carmichael suggested that Hilary Rumley be included on the committee, noting that she was overseas and missed seeing the call for nominations. It was agreed that the matter be left till her return. Cr Carmichael has since approached Hilary and now wishes to formally put her name forward for inclusion on the Committee.

CONSULTATION

Nil other than with Cr Carmichael.

STAFF COMMENT

It is suggested that Hilary's inclusion on the Committee could only benefit its operation and the recommendations it makes to Council.

VOTING

Absolute majority

**12.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL
RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council appoint Hilary Rumley as a member of the Disability Services
Advisory Committee.**

Carried 11/0

12.1.8 NEW PUBLIC HEALTH ACT FOR WESTERN AUSTRALIA - A DISCUSSION PAPER

File No:	D10.2
Author:	Ms Ruth Levett
Author Disclosure of Interest:	Nil
Report Date:	14 November, 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the submission on the *New Public Health Act for Western Australia – A Discussion Paper*. It is recommended that Council supports the submission.

STATUTORY ENVIRONMENT

The *Health Act, 1911* provides the head of power to address public health issues.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The *New Public Health Act for Western Australia – A Discussion Paper* is seeking comment on the concepts and principles for a new Health Act for Western Australia. Input received will guide the drafting of the new Act.

The current *Health Act, 1911* is outdated and can no longer provide for responses to the new and emerging environmental health issues. These include new threats from public health emergencies, possible epidemics or bioterrorism.

The *Health Act, 1911* focuses on sanitation and disease provisions and is relatively narrow and inflexible, unlike newer models of health legislation that support and augment contemporary public health practice, both within Australia and many other parts of the world.

The discussion paper seeks answers to some 57 specific questions concerning administration; the roles of state and local government; the powers of executive and other officers; public health planning; and the protection of public health.

CONSULTATION

Nil.

STAFF COMMENT

The discussion paper sets out the framework for a new Health Act. It describes the history of the *Health Act, 1911* and how it operates with a view of health that is now regarded as very narrow and inflexible. By contrast, the World Health Organisation (WHO) offers a wide definition of health encompassing “physical, mental and social wellbeing” rather than focusing on the physical aspects of disease and infirmity. The challenge for public health legislation is to apply this broader definition within a coherent and workable legislative framework.

The discussion paper broadly suggests that new legislation in Western Australia could well adopt some key ideas that are current in public health thinking and practice in other states and territories of Australia, New Zealand and in other comparable jurisdictions.

Two key ideas are:

- recognition that a range of activities and decisions that impact on public health are often reflected in the decision making of other agencies applying legislation that is not regarded as public health legislation; and
- recognition that decision making under health legislation also needs to reflect the fact that the term “public health” is broad, adding to the biological aspect of public health questions of wellbeing and social issues that impact on health, while recognising that these “new” dimensions must fit within a workable model of public health regulation.

The paper identifies as its core principle, the need for change and chooses as its centrepiece a proposed statutory duty, incumbent on all persons, to conduct all of their activities in a way that does not cause risk to the health of others.

Key priorities are identified as:

- the protection of public health from adverse risks; and
- the laying of a foundation to address the major causes of population ill health today, namely lifestyle factors such as poor diets, unhealthy consumption patterns, smoking, preventable injuries and inadequate physical activity.

The new Health Act will reflect modern approaches by incorporating a set of objectives which would establish the extent and limits of public health responsibilities. The functions of the Executive Director, Public Health (EDPH) are canvassed with a view to strengthening the EDPH's role to conduct inquiries into the health impacts of activities. The role of local government and the relationship between the Health Department and local governments, and issues relating to the public health workforce, both long-standing issues for the administration of public health, are also raised for discussion.

The needs of various interest groups are recognised, including the needs of local government, the state government, public health professionals and the community.

It affirms that the current treatment burdens on the health system as a result of unhealthy lifestyle and consumption behaviours are simply not sustainable. The prevention of modern chronic lifestyle based causes of disease needs to be addressed if we are to sustain a healthy community, and that a new Health Act is one of many responses needed to achieve this outcome.

CONCLUSION

The discussion paper sets out the framework for new public health legislation in Western Australia. It covers a range of issues, some technical and some philosophical in nature. It offers a new approach that supports and augments contemporary public health.

The key change envisaged by the discussion paper is that a new Health Act should be driven by the philosophy of minimising the risk to public health. It proposes a statutory duty incumbent on all persons to take all reasonable and practical measures to eliminate risks to the health of others.

Another significant change is the proposal for the Act to bind the Crown. This has been a long-standing issue in Western Australia with the Crown being bound by only the food provisions of the Act.

The paper seeks to incorporate a set of objects which will establish the extent and limits of public health responsibilities. It offers a proactive solution to public health as opposed to the current reactive approach. It is proposed that the new Health Act will provide the ideas and philosophies under which public health is practiced and the specialist statutes operate.

Some of the perceived benefits of the new Health Act are:

- Western Australia's health care system will achieve a better balance between preventing illness and injury and taking action when people are sick.
- With deliberate actions to prevent illness and injuries, promote good health and give people access to appropriate care, better use can be made of available resources and costs can be contained.
- Rates for preventable illnesses and injuries should go down as a result of prevention strategies which will have positive cost implications for future generations.

VOTING

Simple Majority

COMMITTEE COMMENT

The Environmental Health Officer advised that public comments have been called on the discussion paper due to the significant change to the *Public Health Act*. The new Act is broader, has more flexibility and changes the way that local government considers environmental health. Council would adopt a health plan and proceed in accordance with that plan. There may be financial impacts to Council in relation to staff resourcing.

12.1.8 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Supports the attached submission on the New Public Health Act for Western Australia – A Discussion Paper; and**
- (2) That the submission be forwarded to the Department of Health and to WESROC.**

Carried 11/0

12.1.9 OUTDOOR CONCERTS AND LARGE PUBLIC EVENTS POLICY

File No: X4.11
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 14 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the public submissions received and to recommend amendments as a result of matters raised. It is recommended that the amended policy be adopted.

STATUTORY ENVIRONMENT

Parts of the following legislation must be considered for the management of outdoor concerts and large public events:

- Health Act 1911
- Health (Public Buildings) Regulations 1992
- Health (Food Hygiene) Regulations 1993
- Local Government Act 1995
- Litter Act 1979
- Building Code of Australia
- Town of Cottesloe Health Local Laws 1997
- Trading in Thoroughfares and Public Places Local Laws 2001
- Town of Cottesloe Local Laws relating to Parking Facilities
- Occupational Health Safety and Welfare Act and Regulations
- Metropolitan Water Supply, Sewerage and Drainage By-Laws
- Environmental Protection Act 1986
- Environmental Protection (Noise) Regulations 1997
- Liquor Licensing Act 1988
- Explosives and Dangerous Goods Act 1961
- Explosives Regulations 1963
- Security and Related Activities (Control) Act 1996
- Radiation Safety Act 1975

POLICY IMPLICATIONS

The policy will provide a means to apply a consistent and coordinated approach to applications for outdoor concerts and large public events and to provide a guide to promoters of events on legislative and other requirements. The policy will limit the number of events at one location to two per year and enable conditions and controls to be imposed on the promoter of an event.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Outdoor Concerts and Large Public Events Policy was considered at the September, 2005 meeting of Council and it was resolved:

That Council:

- (1) Supports the adoption of the policy for Outdoor Concerts and Large Public Events; and*
- (2) Proceeds to advertise the policy for public comment as outlined in the Town of Cottesloe's Community Consultation policy.*

The policy was advertised in the Cottesloe Civic Centre News page and on the website and two submissions have been received.

CONSULTATION

The Town of Cottesloe's *Community Consultation* policy requires that public consultation be undertaken prior to the adoption of any new policy. At the very minimum this requires:

- An advertisement in the *Post*.
- An advertisement on the Town of Cottesloe's website.
- A householder.
- Informing and inviting comment from SOS Cottesloe.

The policy was advertised in the *Post* and included in the Cottesloe Civic Centre News page in the *Post*. It was advertised on the website and comment was invited from SOS Cottesloe. The advertising in the *Post* and on the website was deemed sufficient to reach and obtain feedback from householders. Two submissions have been received.

STAFF COMMENT

As previously indicated, matters such as the preservation of community amenity and the expectations of the residential and business communities are matters that will be taken into account when considering event applications. It is important that any issues that reduce the impact on the community can be covered in the guidelines that accompany the policy.

The issues outlined in the submissions received are outlined as follows:

Submission 1: SOS COTTESLOE**Appropriate fees/bond related to "for profit" events**

"Fees should be appropriate to cover any additional administration costs for the Town of Cottesloe to coordinate with an events management company. Greater fees required of the promoter would also better reflect the true value of Cottesloe's world class location. Given the range in Table 6.0, the fee/bond determined in the range should be higher for larger "for profit" events requiring greater resources."

The comment refers to those event categories from Category 5 to Category 10. The following is the suggested schedule of fees and bonds with the schedule of event categories below:

Event Category	ORGANISER OR PROMOTER	FEE	BOND	DEED
1	Local Community	\$200	\$1,000	No
2	Local Community	\$500	\$1,000	No
3	Local Community	\$200	\$1,000	No
4	Local Community	\$3,000 - \$5,000	\$5,000	No
5	Other	\$500	\$1,000	No
6	Other	\$1,000	\$1,000	No
7	Other	\$3,000 - \$5,000	\$5,000	No
8	Other	\$5,000 - \$8,000	\$10,000	Yes
9	Other	\$8,000 - \$12,000	\$15,000	Yes
10	Other	>\$12,000	\$20,000	Yes

Category	Type	Entry Fee	Liquor Licence	No. of Patrons
1	Local Community	Yes	No	= 1000
2	Local Community	Yes	No	> 1000 ~ = 5000
3	Local Community	No	No	= 5000
4	Local Community	Yes/No	Yes/No	> 5000
5	Other	No	No	= 1000
6	Other	Yes	Yes/No	= 1000
7	Other	Yes	Yes/No	> 1000 ~ = 3000
8	Other	Yes	Yes/No	> 3000 ~ = 5000
9	Other	Yes	Yes/No	> 5000 ~ = 10000
10	Other	Yes	Yes/No	> 10000

It is recommended that fees and bonds in all categories be increased as suggested to better reflect Cottesloe's world class location and to cover the additional administration costs associated with such events. The following revised schedule is recommended:

Event Category	ORGANISER OR PROMOTER	FEE	BOND	DEED
1	Local Community	\$200	\$1,000	No
2	Local Community	\$500	\$1,000	No
3	Local Community	\$200	\$1,000	No
4	Local Community	\$3,000 - \$5,000	\$5,000	No
5	Other	\$1,000	\$2,000	No
6	Other	\$2,000	\$2,000	No
7	Other	\$3,000 - \$6,000	\$5,000	No
8	Other	\$6,000 - \$10,000	\$10,000	Yes
9	Other	\$10,000 - \$15,000	\$20,000	Yes

10	Other	= \$15,000	= \$25,000	Yes
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Transport provisions AFTER event

"In order to avoid antisocial behavior following the concert/public event, transportation should be ensured (e.g. free buses to Cottesloe train station)."

Item 7.4.2 of the guidelines states that

"The Promoter is to actively encourage the use of public transport and liaise with the Department of Transport in relation to the provision of additional public transport for the event."

It is recommended that an additional clause to require the provision of free public transport after an event to the train station be inserted as follows:

7.4.3 The promoter shall provide free buses from the venue to the Cottesloe train station commencing at the closure of the event until one hour after the closure of the event or until there are no further passengers.

Guidelines for serving and disposal of alcohol containers.

"To avoid broken glass on beach/surrounding area, guidelines should be included that define what kind of containers are being used and the manner in which they are disposed."

Although the issue of glass containers is covered in the Event Approval checklist to be completed by the promoter, it is recommended that this also be included in the guidelines. The following clauses are to be inserted in the section headed "8.3 Food and Drinks":

8.3.2 With the exception of bottles of wine and beer, no glass containers are permitted for the service of food or drinks;

8.3.3 Food and drinks are to be served in recyclable containers such as corn starch containers, plastic, aluminum and paper.

Item 8.6.2 *"Recyclable materials such as cardboard, paper, glass bottles, aluminium cans and plastics are to be collected separately and disposed of for reuse/recycling by an approved recycling contractor."* adequately covers the disposal of such containers.

Penalties

"If event organisers do not conform to the Town of Cottesloe guidelines, penalties should be imposed, ranging from a fine to cancellation of the event."

Clauses 6.9 and 6.10 below refer to the forfeiture of bonds and non-compliance with any laws. The additional safeguard of a deed for major events will contain provisions for non-compliance. It is recommended that cancellation of events is not considered as a penalty as, in the case of concerts, this is likely to result in crowd rage that can have serious consequences for patrons, staff and ultimately Council. It is recommended that the clauses in the document adequately address this issue.

- 6.9 *The whole or a portion of the bond will be forfeited where conditions of approval are not complied with or where damage to the Town's premises or property occurs. The apportionment of bond forfeiture will be determined by the CEO.*
- 6.10 *Where a condition of approval is not complied with and such non-compliance constitutes an offence under any law, the Town reserves the right to pursue legal action notwithstanding any forfeiture of the bond.*

References.

"The Town should require references for the events management company to ensure a history of compliance."

Although this is usually standard information that accompanies an application, it is recommended that an additional clause be inserted in the guidelines to require this detail. The suggested clause is:

- 5.2 *An event proposal is to be accompanied by at least two references for similar events preferably held by the promoter within the past 24 month period.*

Transportation plan.

"Those with disabilities should be accommodated for in the transport plan."

It is recommended that Clause 7.4.1 be amended by the inclusion of the words "and shall include provisions for the disabled" to read:

- 7.4.1 *A Parking and Transport Plan is to be submitted to the Town no later than 30 days prior to the event **and shall include provisions for the disabled**. The plan will be subject to the written approval of the CEO and shall comply with the Town's Local Laws relating to Parking and Parking Facilities. The Promoter is to liaise with the Town's Senior Ranger in relation to parking and transport matters.*

Access to the venue and toilet provision for the disabled is covered in the following clause:

- 8.7.1 *The Promoter will ensure adequate venue access and toilet facilities are available for disabled persons.*

Submission 2: Roger and Toni Weston

This submission refers more specifically to events at the Civic Centre and the New Years Eve concert.

Number of patrons

“Each year this event gets bigger, from 1500 in 2003, 2500 in 2004 and now 3000 in 2005. While there is no doubt that the grounds may accommodate this number of people the impact on local residents continues to escalate.”

It is correct that the number of patrons permitted at events in the Civic Centre grounds has increased over the past years. This has simply been a response to applications. However, the maximum number of patrons that will be permitted in the Civic Centre grounds has now been set at 3000 and this pattern will not continue. Also the proposed policy restricts the number of events to two at any venue within a 12 month period.

Conditions of approval

“No doubt this years promoters will promise to meet all kinds of conditions but with crowds of this size their guarantees must be realistically assessed.”

In accordance with the guidelines, conditions will be imposed on an application and the promoter is required to comply with these conditions. Failure to comply with conditions will be dealt with either at the time of the non-compliance where possible or, if after the event, the bond may be forfeited.

In past years there has been no policy or guidelines and officers have imposed conditions as seen relevant to the application. This policy will ensure there is a consistent approach to concerts and large events.

Appropriately timed advice to residents

“Last year residents were forewarned by a letter dated the 22nd December which arrived in our mailboxes on the morning of the event. When I hunted out the organiser he was apologetic for the delay but to no avail.”

In the case of a Regulation 18 non-complying event, the promoter is required to advise residents in the areas that are identified in the noise profile within a reasonable time of the event. The timeframe set is usually 7 to 10 days. Proof of delivery will be required this year as part of the standard condition of a Regulation event.

Noise levels

“When we discussed the proposed sound levels with the relevant officer he assured us that the sound levels of 70 to 72 decibels would be controlled because the speakers would be pointed towards the ground. Clearly someone forgot to advise the sound technicians as this was not the case on the night. Nor was that ever a realistic proposal given the size and bulk of the speakers.”

Noise levels are governed by the *Environmental Protection (Noise) Regulations 1997* and the following conditions contained in the guidelines reflect the requirements of the regulations:

- 8.13.1 *Where an event is likely to result in excessive noise an application must be made to the CEO of the Town to stage a Regulation 18 “approved non-complying event” under the provisions of the Environmental*

Protection (Noise) Regulations 1997. Such application shall be made no later than 60 days prior to the proposed event and shall be accompanied by the additional fee of \$500. The Town's approval of such events may be subject to approval from the Department of Environment (DoE).

8.13.2 *Where approval is given for a non-complying event under the above regulations, the Town will engage an acoustic consultant to prepare a **Noise Management Plan** that includes all relevant information as required by the PEHO and noise contour maps. The Promoter is required to pay all costs associated with the preparation of the plan and any proposed noise monitoring undertaken during the event.*

Clean up the morning after

"We would appreciate Council provide a work team to clean up De Bernales Walk on the morning after the event."

The following clause in the guidelines adequately addresses this particular issue:

8.6.1 *The Promoter is responsible for the collection, removal and disposal of litter from the venue, public areas and surrounding streets and the general clean up of the venue. Litter includes any item that is discarded during the course of the event and consists of general rubbish, recyclable materials, broken equipment and vegetation.*

All litter from within the venue and surrounding streets is to be collected and removed within 24 hours of the completion of the event or as otherwise agreed by the PEHO.

Alternative Accommodation

"Living adjacent to the Civic Centre we bear the full brunt of all the detrimental aspects of an event like this and we believe that it should be a condition of any agreement that affected residents be offered overnight accommodation at suitable venues or have a venue of their choice paid for by the promoters. Clearly this arrangement would need to be finalised within a specified time of any agreement being made to ensure that residents can make adequate arrangements."

The practice of providing alternative entertainment or accommodation arrangements has been largely discontinued in recent years due to the legislative controls now in place to manage events. With only two events permitted at any venue in a 12 month period, the impact on neighbouring residents has been significantly reduced.

With the introduction of noise profiling, it is likely that all residents within the areas identified in the profile would be included in an offer of alternative arrangements. This could be impractical and raise other issues such as home security and provision for pets. It is therefore recommended that such conditions not be imposed on an application but should a promoter wish to make such an offer that this is a private arrangement between the residents and the promoter.

VOTING

Simple Majority

COMMITTEE COMMENT

The Environmental Health Officer confirmed that under the *Environmental Protection Act, Noise Regulations* no more than 2 major concerts are permitted at any one venue within a 12 month period. A major concert is a *Regulation 18* event where normal noise levels will be exceeded. At *Regulation 18* events an acoustic consultant must be engaged to set and monitor the noise levels.

Clause 4(c) is to be amended by removing the words 'major public events'.

Amend the wording of 'major public events' to 'large public events' throughout the policy and guideline documents.

Cr Utting requested that the item be deferred until the December, 2005 round of meetings to allow for revision to make it suitable for residential areas.

OFFICER RECOMMENDATION

That Council:

Adopts the *Outdoor Concerts and Large Public Events Policy* and associated *Guide to Outdoor Concerts and Large Public Events* with the following amendments:

(1) FEES, BONDS AND DEEDS

Event Category	ORGANISER PROMOTER	OR	FEE	BOND	DEED
1	Local Community		\$200	\$1,000	No
2	Local Community		\$500	\$1,000	No
3	Local Community		\$200	\$1,000	No
4	Local Community		\$3,000 - \$5,000	\$5,000	No
5	Other		\$1,000	\$2,000	No
6	Other		\$2,000	\$2,000	No
7	Other		\$3,000 - \$6,000	\$5,000	No
8	Other		\$6,000 - \$10,000	\$10,000	Yes
9	Other		\$10,000 \$15,000	- \$20,000	Yes
10	Other		=\$15,000	=\$25,000	Yes

(2) Insert the following new clauses:

- 5.2 An event proposal is to be accompanied by at least two references for similar events preferably held by the promoter within the past 24 month period.

7.4.3 *The promoter shall provide free buses from the venue to the Cottesloe train station commencing at the closure of the event until one hour after the closure of the event or until there are no further passengers.*

8.3.2 *With the exception of bottles of wine and beer, no glass containers are permitted for the service of food or drinks;*

8.3.3 *Food and drinks are to be served in recyclable containers such as corn starch containers, plastic, aluminum and paper.*

(3) *Amend clause 7.4.1 to read:*

7.4.1 *A Parking and Transport Plan is to be submitted to the Town no later than 30 days prior to the event and shall include provisions for the disabled. The plan will be subject to the written approval of the CEO and shall comply with the Town's Local Laws relating to Parking and Parking Facilities. The Promoter is to liaise with the Town's Senior Ranger in relation to parking and transport matters.*

12.1.9 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council adopts the *Outdoor Concerts and Large Public Events Policy* and associated *Guide to Outdoor Concerts and Large Public Events* with the following amendments:

(1) FEES, BONDS AND DEEDS

Event Category	ORGANISER PROMOTER	OR	FEE	BOND	DEED
1	Local Community		\$200	\$1,000	No
2	Local Community		\$500	\$1,000	No
3	Local Community		\$200	\$1,000	No
4	Local Community		\$3,000 - \$5,000	\$5,000	No
5	Other		\$1,000	\$2,000	No
6	Other		\$2,000	\$2,000	No
7	Other		\$3,000 - \$6,000	\$5,000	No
8	Other		\$6,000 - \$10,000	\$10,000	Yes
9	Other		\$10,000 \$15,000	\$20,000	Yes
10	Other		=\$15,000	=\$25,000	Yes

(2) Insert the following new clauses:

5.2 *An event proposal is to be accompanied by at least two references for similar events preferably held by the promoter within the past 24 month period.*

7.4.3 *The promoter shall provide free buses from the venue to the Cottesloe train station commencing at the closure of the*

event until one hour after the closure of the event or until there are no further passengers.

8.3.2 *With the exception of bottles of wine and beer, no glass containers are permitted for the service of food or drinks;*

8.3.3 *Food and drinks are to be served in recyclable containers such as corn starch containers, plastic, aluminum and paper.*

(3) Amend clause 7.4.1 to read:

7.4.1 *A Parking and Transport Plan is to be submitted to the Town no later than 30 days prior to the event and shall include provisions for the disabled. The plan will be subject to the written approval of the CEO and shall comply with the Town's Local Laws relating to Parking and Parking Facilities. The Promoter is to liaise with the Town's Senior Ranger in relation to parking and transport matters.*

(4) Clause 4(c) to be amended by deleting the words 'major public events'.

(5) Substitute the words 'major public events' for 'large public events' throughout the policy and guideline documents.

Carried 11/0

12.1.10 OUTDOOR EATING AREA 29 NAPOLEON STREET, COTTESLOE

File No: 29 Napoleon St
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 16 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of the report is to consider the application from Lexi for Flowers to place two tables and four chairs on the footpath in Napoleon Street. It is recommended that the application be approved.

STATUTORY ENVIRONMENT

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law, Division 3 - Outdoor eating facilities on public places

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Licence Application Fee of \$100 plus annual fee of \$90.00 per square metre of approved floor area.

BACKGROUND

The application from Lexi for Flowers is to place two tables and four chairs (two chairs with each table) immediately adjacent to the shop's front window in Napoleon Street on either side of the entrance as per the attached plan.

Hours of operation are proposed to be Monday to Sunday from 7am to 5.30 pm.

CONSULTATION

Nil.

STAFF COMMENT

Lexi for Flowers is approved to operate as a florist and a Class 3 food premises. Class 3 permits minimal food preparation and heating of food but no cooking on the premises. The maximum number of patrons permitted to be seated in the premises is 20 patrons at one time. This restriction is based the provision of toilets. Any additional seating will require separate patron toilets to be installed in accordance with the Building Code of Australia.

A review of outdoor eating areas has recently been undertaken throughout Cottesloe and all areas have now been marked with stainless steel plaques to identify the

trading boundaries. Some rationalisation of areas was required to provide clear pedestrian walkways between the licensed areas and street furniture and parking bays.

Licences are renewed annually and standard conditions are imposed regarding the cleanliness and maintenance of outdoor eating areas.

The application by Lexi for Flowers will be consistent with those already approved along the south side of Napoleon St, with most now immediately adjacent to front boundaries. The area required will allow adequate pedestrian access.

It is therefore recommended that the application be approved subject to a survey of the area and installation of stainless steel plaques at the expense of the applicant.

VOTING

Simple Majority

12.1.10 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council support the application from Lexi for Flowers to place two tables and four chairs on the footpath adjacent to the shop window in Napoleon Street, subject to:

- (a) Undertaking a survey of the area and installation of stainless steel plaques at the expense of the applicant;**
- (b) Standard licence conditions for the cleanliness and maintenance of the area;**
- (c) The number of patrons seated inside and outside the premises not exceeding 20 at any time; and**
- (d) The hours of operation being from Monday to Sunday from 7.00 am to 5.30 pm.**

Carried 11/0

12.2 ENGINEERING

12.2.1 SALE OF 103 ERIC STREET, COTTESLOE

File No:	C 7. 6
Author:	Mr Geoff Trigg
Author Disclosure of Interest:	Nil
Report Date:	14 November, 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

At its meeting on 27 June, 2005 Council resolved to:

- (1) *Proceed with the inclusion of the sale of 103 Eric Street, Cottesloe during the 2005/06 financial year, with this expected income to be included in the budget document; and*
- (2) *Inform SOS Cottesloe (Inc) that the sale of 103 Eric Street, Cottesloe will be included in the 2005/06 budget document, with the proceeds being used for infrastructure type projects for the benefit of the total community.*

The installation of the Eric Street drainage pipeline is complete. No piped drainage water now enters the property. Arrangements are being made to complete the filling of the sump on this property, as recommended by real estate agents, to maximise the sale value of the property.

Council's 2005/2006 budget provides for the sale of this property and the expenditure of the income.

This report recommends that Council engage Albrecht Fear Real Estate Agents to conduct a sales process, based on a public auction, for the sale of Lot 14 (103 Eric Street, Cottesloe).

STATUTORY ENVIRONMENT

The *Local Government Act, 1995* Sections 3.58 and 3.59 apply. The proposal of sale by public auction meets the requirements of 3.58. The property sale is affected by Section 3.59 of the *Local Government Act, 1995* because the income for this sale may be in excess of 10% of the annual operating expenditure. This item requires the creation and advertising of a business plan for the sale/transaction.

The auction proposal involves extensive advertising and an advertising sign on site so that the general public are very informed and the auction process is totally transparent.

POLICY IMPLICATIONS

The *Sale of Property* policy applies.

STRATEGIC IMPLICATIONS

One of the objectives of Council's Strategic Plan is to "produce and implement a realistic five year plan for the maintenance of all major assets". Income from this land sale will allow Council to fund its long term major asset rehabilitation program, as well as permanently resolve a drainage issue in a heavily used street.

FINANCIAL IMPLICATIONS

Council has budgeted to receive \$600,000 from this sale. Real estate valuations varied from \$650,000 to \$825,000 for the property in April, 2005. Marketing costs are expected to be less than \$50,000, hence no tendering process is required to select a real estate agent for the sale process.

BACKGROUND

Council has committed to this property sale and has budgeted for a \$600,000 income. Originally, two real estate agencies were approached for valuations of the property, for budgeting purposes. At least two other companies made a general contact asking to be considered for the final task of running the sales process.

The two original companies providing the valuations were asked for a detailed proposal covering an auction process. These were received and are very similar in actions proposed and costs involved.

One of these companies in particular, has kept in regular contact, offering any help available.

CONSULTATION

Residents and owners in the street have been contacted for original comment on the pipeline installation, including the property sale. The only comments received was from SOS Cottesloe (Inc) and dealt with where the income should be spent, not if the sale should occur.

The auction process will be based on extensive advertising both in the West Australian newspaper, the local newspaper, pamphlets, the Council website and on site signage.

STAFF COMMENT

Section 3.59 of the *Local Government Act, 1995* requires a business plan to be drawn up, advertised and considered by Council for the land sale, because the income may exceed 10% of the annual operating expenditure, ie approximately \$720,000. This business plan can be written and advertised, with a meeting of Council prior to the proposed auction date.

With the limited time before Christmas to run a sales campaign and, generally mid December to the end of January being a slow time for interest demonstrated in land sales, it is proposed that an auction take place mid February, 2006, with Council then being presented with the result at its February, 2006 meeting. The sales campaign, including advertising would be over a four week period.

Albrecht Fear is the real estate company which has shown the most interest in this sale and has provided all information requested efficiently. It appears that similar cost schedules apply regardless of the company chosen.

VOTING

Absolute Majority – due to land transaction/budget impact.

12.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Request Albrecht Fear Real Estate Agents to undertake the sales process of Lot 14 (103) Eric Street, as a public auction, with a four week sales process, with a result to be available at the February, 2006 Council meeting; and**
- (2) Prepare a business plan covering this land transaction, with advertising to comply with Section 3.59 of the *Local Government Act, 1995*, and Council consideration of the results prior to any auction taking place.**

Carried by Absolute Majority 10/1

12.2.2 BLACKSPOT PROJECT 2005/06 - JARRAD STREET/BOATSHED PARKING AREA

File No: C 9.7
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The Blackspot treatment on Jarrad Street affecting the Boatshed parking area and the median strip of Jarrad Street was approved for funding in 2005/06.

In its February, 2005 meeting Council resolved:

To accept State and Federal Blackspot grants for the treatment of crash blackspots on Jarrad Street, the intersection of Railway Street and Eric Street and the intersection of Curtin Avenue and Marine Parade if and when the appropriate Ministers approve these grants and that these works be included in the draft 2005/06 budget program.

These works have a budgeted cost of \$46,500 funded \$2:\$1 Main Roads WA (MRWA):Council, with a proposed job start early in 2006.

This report recommends that the works proceed and that local affected residents be informed.

STATUTORY ENVIRONMENT

All sites from Council's Blackspot submissions have been on Council controlled roads. Council is therefore totally responsible for these roads and for their funding, unless Government grants can be found to reduce this cost.

MRWA is responsible for all crash data in the state and this data is used in submissions for Blackspot grants. MRWA must also approve intersection designs prior to construction or modification, particularly for legal signage and line marking to be installed.

POLICY IMPLICATIONS

There are no specific policies relating to Blackspots in the policy manual.

STRATEGIC IMPLICATIONS

There are no specific references in the Strategic Plan for this subject.

FINANCIAL IMPLICATIONS

This is a State Blackspot project, with MRWA providing \$31,020 and Council \$15,510.

Council has budgeted to receive \$31,020 and expend \$46,500 on the project.

BACKGROUND

The Jarrad Street proposal included a safety audit on the existing inlet/outlet for the Boatshed Market area and adjacent shops. The stated “nature of concern” was 29 crashes in five years, 19 of which were right turn related. Access is too close to Stirling Highway signalised junction and queuing blocks access/egress. Averaged over five years, the annual crash costs were \$114,000.

The proposed works are to:

1. create a ‘holding lane’, to contain vehicles on Jarrad Street heading west, needing to turn right into the Boatshed Parking area; and
2. the repositioning of the inlet/outlet of the Boatshed Parking area on Jarrad Street, to the west, plus closure of the existing inlet/outlet.

These measures are aimed at reducing the major cause of accidents (19 out of 29 in five years) ie right turning out of the parking area for vehicles heading west. The major problem is the close proximity of Stirling Highway and vehicles turning off the highway at speed colliding with vehicles exiting the parking area without a clear view of turning traffic.

CONSULTATION

Local residents are very aware of this proposal. No formal public consultation has taken place.

STAFF COMMENT

The proposed solution is aimed at the majority cause of accidents. The available funding is specific on this accepted installation.

The treatment will not totally solve the problem but it will provide a better chance for drivers turning from the carpark to the west having vision of vehicles coming from their left and taking appropriate action. It will also provide a better storage for vehicles coming from the highway waiting to turn into the carpark.

The existing median island will be removed and replaced with a wider island, better providing for pedestrians crossing at the Railway Street/Brixton Street end of Jarrad Street.

Two trees would have to be removed to allow the new entry/exit, however, the old entry/exit, when closed, will include new plantings of the same tree species.

VOTING

Simple Majority

COMMITTEE COMMENT

The Manager Engineering Services is to discuss with Main Rads WA the possibility of changing the operation of the traffic lights to allow for both lanes to turn right.

COUNCIL COMMENT

Cr Walsh noted concern over the suggestion to change the operation of the traffic lights to allow both lanes to turn right, as it will cause alternative traffic build up.

OFFICER RECOMMENDATION

That Council:

- (1) Accept in principle the Jarrad Street/Boatshed parking area Blackspot project, for installation in February/March, 2006;
- (2) Apply the community consultation policy to this matter, with a paper advertisement, web page inclusion, newsletter inclusion and letters to affected businesses and local residents; and
- (3) Reconsider this matter at the February, 2006 Council meeting.

12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) **Accept in principle the Jarrad Street/Boatshed parking area Blackspot project, for installation in March, 2006;**
- (2) **Apply the community consultation policy to this matter, with a paper advertisement, web page inclusion, newsletter inclusion and letters to affected businesses and local residents; and**
- (3) **Reconsider this matter at the February, 2006 Council meeting.**

Carried 11/0

12.2.3 MARINE PARADE - NAPIER STREET TO JARRAD STREET - RESURFACING

File No: E17.10.64
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its March, 2005 meeting, Council resolved to:

- (1) *Adopt the Five Year Major Road Rehabilitation and Improvement Program, with this program forming the basis of future annual Capital Works Programs; and*
- (2) *Include year one of the Major Road Rehabilitation and Improvement Program in the draft 2005/06 budget, subject to sufficient funding being available.*

Year one of the program comprised the resurfacing of Curtin Avenue; from Victoria Street to the southern boundary, Railway Street; from Grant Street to Parry Street and Marine Parade from Jarrad Street to Napier Street.

This is a large program, funded \$2:\$1 Main Roads WA to Council.

No funds are included in these works for realignments, footpath changes and major new designs. The resurfacing of Marine Parade is a rehabilitation/preventative maintenance project, with the funds being available for expenditure during the 2005/06 financial year.

This report recommends that Council proceed with the preventative maintenance asphalt resurfacing of Marine Parade, from Napier Street to Jarrad Street, in the 2005/06 financial year.

STATUTORY ENVIRONMENT

The only legal/statutory requirement applying is the requirement to expend Main Roads WA (MRWA) grant funds within the expenditure period and only on the approved works.

POLICY IMPLICATIONS

The applicable policy is *Long Term Engineering Programs* adopted by Council in May, 2004, which states:

OBJECTIVE

The provision of long term programs for the construction, upgrading and rehabilitation of all significant infrastructure within the Town of Cottesloe.

PRINCIPLE

Within the context of a ten year capital works program and a Principal Activities Plan, five year forward plans for urban roads, drainage, footpaths, parks and gardens, parking areas and other significant infrastructure areas are to be created and reviewed annually, with upgraded programs being available to the public.

This project is part of the adopted "Major Road Rehabilitation and Improvement Program".

STRATEGIC IMPLICATIONS

The strategic aims of community safety, preservation of built heritage and Asset Management Plans apply, as the preservation of the Town's assets is essential. The provision of well-maintained and designed roads recognises the need to provide a safer environment for the community.

FINANCIAL IMPLICATIONS

This project has an approved grant of \$93,333 with Council also supplying \$46,667.

The 2005/06 budget provides for the income of \$93,333 and the expenditure of \$140,000 for this work.

The grant funds have been approved on the basis of the very poor condition of the road surface asphalt, when compared to competing applications for funding.

BACKGROUND

Each year, submissions are presented to MRWA by local government authorities, for the next five year road funding priorities under either the 'Rehabilitation' heading or 'Improvement' heading, for Metropolitan Regional Road Grants. The first two years submissions are in detail and the remaining three years is in general.

For many years, the only applicable heading for Cottesloe has been for rehabilitation where worn out road surfacing is replaced with a new layer of asphalt designed to last another 15 to 20 years.

This includes the current rehabilitation proposal for Marine Parade.

Improvement works are rare within the western suburbs but one noteworthy project recently approved is the new subway under the railway line opposite Karakatta Cemetery in Nedlands.

These works were included in the budget and a 40% recoup/pre-payment has been received for each of the three projects approved, from MRWA.

As part of the general discussion resulting from the SKM Parking Study, it was agreed that the design for Marine Parade resurfacing should incorporate an alternative for a more pedestrian friendly environment between Napier Street and Forrest Street. This was to include the consideration of No. 1 carpark being reduced in parking bays and parking on the west side of Marine Parade being 'moved' into the main carpark, with a reduction in the through lanes to slow traffic down.

CONSULTATION

The resurfacing with new asphalt is not seen to require consultation.

STAFF COMMENT

Council has recently been presented with a vision for the public domain covering Marine Parade and the beachfront area. This vision which was presented by Andrew Forrest and Paul Jones is of a very high standard and has yet to be formally accepted by Council.

The resurfacing of Marine Parade is urgently needed as a preventative maintenance function, so that a full-depth (over 300mm) reconstruction is not eventually required. Pothole patching of this degenerating asphalt layer is becoming more difficult and the street now looks very poor, both aesthetically and structurally.

Within the allowed works under this grant approval, any failed or poor quality kerbing can be replaced, several new drainage soak pits installed and pedestrian crossings improved. The existing median islands are to be removed and replaced, to a width designed to meet Australian standards. The kerb height can be reduced, to improve pedestrian safety when stopping off the kerb, and red asphalt could be considered for parking bays and the median strip.

This work is equivalent to painting an old house while funds are generated to renovate and expand that house. If the necessary maintenance is not undertaken then the road will fail before work commences on any vision for the beachfront.

Therefore, it is recommended that this one-time only grant availability be taken up, for the required preventative maintenance/rehabilitation on one of Council's major routes.

In due course, when full Council and community commitment is achieved towards a new vision for a major Marine Parade/foreshore redevelopment and funding has been resolved, the proposed realignment of Marine Parade can be further considered.

VOTING

Simple Majority

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Undertake the preventative maintenance resurfacing of Marine Parade from Napier Street to Jarrad Street, using the budgeted \$140,000 allocation, during the 2005/06 financial year;**
- (2) Disseminate the vision for the beachfront (in conjunction with the informal consultation process for Town Planning Scheme No. 3) with a view to gauging the level of community support for the vision; and**

- (3) Extend its appreciation and thanks to Andrew Forrest, Paul Jones and others who have contributed to the vision and who have so obviously demonstrated a genuine interest in enhancing the development of Cottesloe.**

Carried 11/0

12.2.4 NAILSWORTH STREET TRAFFIC CONCERNS

File No: E17.10.68
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 2 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

Nailsworth Street is relatively narrow and has both a vertical and horizontal curve in its alignment. A letter has been received requesting that Council consider creating a one-way traffic movement in Nailsworth Street, heading up the hill or to the north, to reduce the concerns of speeding traffic eventually causing an accident.

This report recommends warning signage be installed in Nailsworth Street, but no action be taken to make the street a one-way direction for traffic.

STATUTORY ENVIRONMENT

The road reserve is vested in Council for care, control and maintenance. Any form of action to make the road one-way for traffic movement would require advertising, a letter drop, Council consideration of resident comments etc. Main Roads WA would have to approve the proposal, including installing the required line marking and signage. The Police Department would also be required to make formal comment on the proposal.

POLICY IMPLICATIONS

Council's *Traffic Management* policy applies.

STRATEGIC IMPLICATIONS

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 4 lane highway on Curtin Avenue.

FINANCIAL IMPLICATIONS

Road resurfacing, new kerbing and new footpath already included in 2005/06 budget. A survey and road design showing proposed linemarking and signage would be needed if the one-way concept proceeded, plus the cost of new lines and signs. Estimated extra cost would be \$5,000.

BACKGROUND

This street, between Napier Street and Clarendon Street, is relatively narrow, has a horizontal 'S' bend in its alignment plus a vertical crest at its northern end. Various development works on several blocks have made the last few years a period of ongoing parking problems due to trades vehicles, delivery of materials and earthmoving operations in the street.

Council has provided funds in the current financial year for resurfacing and rekerbing the street plus a new footpath, which will be installed on the 'high' or east side. The footpath installation will be difficult but necessary, because of the lack of any path in the street and the danger of pedestrians walking on the street.

CONSULTATION

No consultation has occurred regarding this request for a one-way solution to safety concerns.

STAFF COMMENT

The proposed footpath is not planned to cross the road. This street is one of a few in Cottesloe without a footpath. Many streets have paths on both sides. The only reason, it appears, that the street is without a path is because it is difficult to build. Allowance has been made in the budget for this difficult construction.

With regards to speeding traffic, a vehicle counter will be installed for seven days on Nailsworth Street to obtain vehicle volumes and speed. If the speed is a problem ie as per the policy intervention levels: the 85% speed being 5km/h over the regulation speed and/or 5% of the vehicles exceeding 10km/h above the regulation speed, then the matter would be revisited. The policy also requires, basically, for total resident support for a measure that affects the full length of the street.

It is proposed that warning signs regarding speed and the sharp bend be installed at each end of Napier Street. This measure, together with a footpath for the full length on the east side, should greatly improve safety in the street.

Without a history of accidents and ongoing complaints regarding speed and a dangerous road situation, with total support from residents it is difficult to mount an effective case for converting a street to one-way flow.

VOTING

Simple Majority

12.2.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Install warning signs on Nailsworth Street, to warn of the sharp bend and crest;**
- (2) Undertake a traffic count before and after the warning signs and footpath have been installed for volume and vehicle speeds on Nailsworth Street, with the results to be revisited by Council if they are above the policy intervention levels; and**
- (3) Inform the owner of No. 3 Nailsworth Street of these proposals and the intentions regarding street upgrading and footpath construction.**

Carried 11/0

12.2.5 RIGHTS OF WAY/LANEWAYS POLICY MODIFICATION

File No: E13. 1.14
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in September, 2005 Council resolved the following:

That Council advertise its intention to change its policy for Right of Way/Laneways by the addition of extra points 14, 15 and 16.

(14) Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude.

(15) Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council with the case to prevent such sealing and drainage.

(16) The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least 2/3rds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of 2/3rds of those owners for a differential rating payment system for those properties to fund such improvement works.

This advertising has been completed, with one received comment supporting the general policy and another making a variety of comments about the general policy but not addressing the proposal to add three extra points to the policy regarding laneway sealing.

This report recommends that the modification to the existing, adopted policy, be accepted and items 14, 15 and 16 be added to the *Rights of Way/Laneways* policy.

STATUTORY ENVIRONMENT

There are no statutory requirements for Council to seal or not seal laneways. However, Council is responsible for the condition of laneways used by the public, apart from privately owned ROW's or laneways.

Council's town planning scheme requires that the development of land for residential purposes shall conform to the provisions of the *Residential Planning Codes*.

With regards to vehicular access, the *Residential Planning Codes* item A4.1 provides for:

Access to on-site parking to be provided, where available, solely from a right of way available for the use of the relevant lot and adequately paved and drained from the property boundary to a constructed street, or from a secondary street where a right of way does not exist.

Council's existing policy seeks to comply with this statement.

POLICY IMPLICATIONS

Council's *Right of Way / Laneways* policy applies.

STRATEGIC IMPLICATIONS

The areas of the strategic plan most applicable to this item are:

Governance – Consistency – All decisions made are consistent with relevant statutes, Council policy and the aims of this plan.

Management – Statutory Compliance – All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council has an adopted policy for Rights of Way/Laneways. In order to provide for situations where there is a strongly presented attitude by the majority of affected residents against sealing of their laneway, additions to the policy to address this situation were presented to Council in September, 2005.

Council resolved to advertise these possible changes/additions for public comment.

CONSULTATION

This item deals with a consultation result regarding the proposed changes to a Council policy.

STAFF COMMENT

Only one comment was received during the consultation period, ending on 4 November. This comment supported the policy, its objectives and resolutions. It also goes on to comment on the problems of one particular laneway and supports the full development of the laneway system as a secondary road network.

One additional comment was received after the advertising closing date for comments.

This submission goes through the total policy content but does not address the advertised intention to add three extra points to the policy regarding sealing.

VOTING

Simple Majority

12.2.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Walsh

That Council:

- (1) Adopt the additions to the Rights of Way / Laneways policy for inclusion in the formal policy:**
 - (a) Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude,**
 - (b) Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage,**
 - (c) The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least 2/3rds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of two thirds of those owners for a differential rating payment system for those properties to fund such improvement works; and**
- (2) Inform the people who have commented on this matter of Council's decision.**

Carried 7/4

**12.2.6 REAR LANEWAY/ILLEGAL ENCROACHMENT - RIGHT OF WAY
FLORENCE STREET, COTTESLOE**

File No: E13. 1.20
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 1 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting on 27 September, 2005, after discussion on this matter, Council resolved:

That Council defer the matter in order to obtain legal advice on how best to quit the land in question to adjoining landowners.

The legal advice has been obtained, as required.

This report recommends that Council invite the affected owners to pursue the case that they have title by adverse possession under Sections 222-223A of the *Transfer of Land Act 1893*, including the provision of material supporting their claims.

STATUTORY ENVIRONMENT

The total length of this laneway is owned 'fee simple' by Council. A sewer main owned by Water Corporation exists in the laneway. A legal opinion has been received on Rights of Way/Laneways within the Town of Cottesloe regarding adverse possession.

Council is obligated to maintain the laneway for public access even though it is not Crown land vested in Council.

POLICY IMPLICATIONS

Council's *Rights of Way/Laneways* policy applies.

1. Council's attitude towards the status of Rights of Way/Laneways is that all such accesses should be Crown land, where they are used by the general public rather than for a specific restricted property access function.
2. Any sections of Rights of Way/Laneways owned by the Town of Cottesloe will be surrendered to the Crown under processes included in the Local Government Act. Any such sections owned by ratepayers of the Town of Cottesloe, which become available to Council for little or no cost, will also be surrendered to the Crown for Crown land.
3. When a Right of Way or Laneway is required for primary access to a new development the developer will upgrade by paving, kerbing and drainage, the Right of Way or Laneway from the nearest built gazetted road or existing built laneway to the furthestmost lot boundary, to the satisfaction of the Manager Engineering Services.
4. The developer may elect to have the Laneway upgrading works done by the Town of Cottesloe or by a Contractor.
 - (a) If the Town is to undertake the works, payment of the full estimated value of the works must be received by the Town before works commence.

- (b) If the developer employs contractors, a supervision and inspection fee is to be charged, in accord with Section 6.16 of the Local Government Act 1995.
- 5. The design of the Right of Way or Laneway must recognise the need to minimise vehicle speeds and maximise safety and security.
- 6. When a Right of Way is required for primary or secondary access from an existing property redevelopment, it is conditional (Town Planning) upon the developer to contribute an amount equivalent to 50% of the costs to construct a portion of standard ROW 4m x 20m in area.
 - (a) Where a charge has been applied, as condition of development for the upgrade of a ROW, the money is to be placed in a Reserve Account established under Section 6.11 of the Local Government Act, for the specific purpose of ROW upgrade.
- 7. 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 Right of Way.
- 8. Fees and charges for contribution to works, supervision and inspection will be determined annually by Council in accordance with the provisions of Section 6.16 of the Local Government Act 1995.
- 9. In situations where new developments or redevelopments are not factors in laneway upgrading and the condition of particular laneways has created concern regarding unsafe conditions for drivers and pedestrians, an increased public liability risk and ongoing maintenance requirements, the following shall apply regarding upgrading:
 - (a) A construction program of ROW's and Laneways will be determined by priority on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.
 - (b) The design of the ROW/Laneway will recognise the need to minimise vehicle speeds and maximise safety and security.
 - (c) All fences abutting ROW's and Laneways shall be constructed and maintained in accordance with Council's fencing Local Laws.
 - (d) The funds available for ROW/Laneway upgrading per budget year shall be total of:
 - (i) The equivalent of the total of minimum rates levied on privately owned ROW/Laneway sections per financial year; plus
 - (ii) Contributions received through the development process as covered under point #6, ie the contents of the Reserve Account for this purpose; plus
 - (iii) An amount determined by Council in each budget document, to be made available from Council funds for ROW/Laneway upgrading and construction.
 - (e) Where adjacent landowners wish to contribute to the cost of construction of a ROW/Laneway or section thereof, the project will be given priority over all other such works, subject to the following:
 - (i) The application shall contain confirmation by landowners of their request for the upgrading and the amount each is willing to contribute.
 - (ii) It will be the responsibility of the applicants to collect the contributions and deliver all monies to the Council.
 - (iii) A minimum of 50% of the total cost of the work, estimated by the Council's Manager Engineering Services will be required prior to acceptance of any application. If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years then expenditure involved will be treated as contributions, in order to assess priorities and make up the minimum of 50%.

- (iv) Work will not commence until the full amount of the contribution has been received by the Council.
 - (v) The programming and design of the work will be at the sole discretion of the Council.
 - (vi) Applications will be approved in the order in which the full amount of the contribution is received by the Council and will be subject to the availability of funds to meet the Council's contribution through budget allocations each year.
10. The higher the percentage of cost of laneway upgrading to be provided by private property owner contribution, the higher the priority of project acceptance from Council, apart from the need to allow for funding to remove public liability risks and unsafe conditions on any other ROW or Laneway.
11. As a general rule it is Council policy to keep laneways open, even if un-constructed. Applications for closure are to be considered by Council.
12. The widths of ROW's/Laneways, the need for truncations on 90° bends, 'Tee' junctions and outlets of laneways onto gazetted roads, and set back requirements from laneways are issues dealt with in other Council documents.
13. Naming of Laneways is not supported as this may create problems of residents requesting the normal services of a street eg access for emergency vehicles, postal services, refuse collection and street numbering.

However, the installation of metal plates at each end of Laneways/ROW's showing the ROW number is supported.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

All affected owners were informed in May, 2005 of Council's resolution not to support the partial closure of encroachment areas within Right of Way (ROW) No. 20. Residents were informed of the requirement to remove encroachments from this laneway and their response was to retain a legal firm to pursue the matter.

Council resolved at the September, 2005 meeting to obtain legal advice prior to reconsidering this matter.

CONSULTATION

All affected landowners have received letters in the past on this matter and are currently involved in correspondence to the Town of Cottesloe.

STAFF COMMENT

The legal advice covers four main alternatives for Council:

1. "The Town could do nothing."
However, this solves nothing and the problem remains. The residents have recently demonstrated that they want the issue resolved.

2. "The Town could invite the owners to pursue any claim they consider they have to adverse possession in the usual legal way."
This means that the owners would individually make an application to the Department of Land Information under Sections 222-223A of the *Transfer of Land Act 1893*.

The owners would pay all survey, title change and legal costs, but no compensation costs arise ie; the landowners do not pay Council or the Crown for the value of the land.

The owners have to provide evidence as to why they have a claim for adverse possession and Council has an opportunity to be satisfied that the claim has been substantiated (or not) in order to object or raise no objection.

If the claim is made under section 222 of the *Transfer of Land Act 1893*, advertising for public comment occurs after the Registrar of Titles is satisfied that it has merit.

3. "The Town could endeavour to reach agreement with the owners as to the terms on which the Town would sell or transfer the relevant land to the owners."
This action has a number of difficulties. Council should not be seen to be selling land at less than market price because this denies the true value becoming available on behalf of the rest of the ratepayers in the Town area. Substantiating why a particular value was adopted would be difficult, and the administration time and cost could be large to all concerned.
4. "The Town could bring the dispute to a head by asserting its ownership rights."
Under this option Council would be involved in 'effective entry' onto the land in question to remove obstructions. An alternative, though unlikely, possibility is for the owner to acknowledge Council's ownership rights to break any adverse possession claims.

From the tone of Council comments at the September, 2005 meeting debates on this matter, the majority attitude was to find a way to have land owners obtain legal possession of the disputed land sections, quickly, without dispute and without Council wishing to try to obtain market value for the land.

Option 2 is seen by staff as the most effective way of reaching that objective.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee agreed that the property owners who are not successful in gaining adverse possession should be allowed the opportunity to purchase the land at a nominal value.

Cr Cunningham stated his concern that the legal advice is silent on this matter, and also on Section 52 of the *Land Administration Act*.

OFFICER RECOMMENDATION

That Council invite the affected land owners in Florence Street to pursue any claim they consider they have to title by adverse possession of portions of Right of Way No. 20 the usual legal way, through sections 222-223A of the *Transfer of Land Act 1893*, including the opportunity for Council to review the material required to be provided to support any claim.

12.2.6 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Invite the affected land owners in Florence Street to pursue any claim they consider they have to title by adverse possession of portions of Right of Way No. 20 the usual legal way, through sections 222-223A of the *Transfer of Land Act 1893*, including the opportunity for Council to review the material required to be provided to support any claim; and**
- (2) Provide the opportunity for properties not successful in gaining adverse possession, to purchase the land at a nominal value, subject to legal advice and sufficient number of properties obtaining adverse possession.**

Carried 11/0

12.2.7 RIGHT OF WAY NO. 56 - REOPENING/PEDESTRIAN USE

File No: E13. 1.56
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 18 October, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in February, 2005 Council resolved the following, regarding Right of Way (ROW) No. 56:

That Council:

- (1) Consider the merits of formal closure of ROW 56 if a submission is received within 6 months;*
- (2) Inform the owners of the four affected properties that any closure of a laneway or ROW must meet requirements of the Land Administration Act 1997 regardless of any other factors; and*
- (3) That the existing closure structures will have to be removed until such time as a successful process has been completed for closure to prevent all use or vehicle use of this laneway, which includes advertising, public consultation, Service Authority comments and possible Department of Planning and Infrastructure involvement.*

More than six months has passed since this meeting date. This is referred to in a letter received from the owners of 15 Jarrad Street, which requests the option of the laneway being opened for pedestrian and cyclist use only.

This report recommends that Council follow the requirements of *Section 3.50* of the *Local Government Act 1995*, to close the north west leg of ROW No. 56 to vehicle use (but leave it open for pedestrians and cyclists) and that it be reconsidered with comments received in the December, 2005 meeting.

STATUTORY ENVIRONMENT

This laneway has the registered title owner of Queen Victoria, hence it is Crown land. The *Local Government Act 1995*, *Section 3.50*, provides for the legal closure provisions for laneways and rights of way. A search of Council records indicates that the existing closures mid-way between Jarrad Street and Rosser Street on the western leg of ROW No. 56 were not approved by Council.

POLICY IMPLICATIONS

The *Rights of Way/Laneways* policy applies (attached).

STRATEGIC IMPLICATIONS

The areas of the *Strategic Plan* most applicable to this item are:

Governance – Consistency: All decisions made are consistent with relevant statutes, Council policy and the aims of this plan.

Management – Statutory Compliance: All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The 2004 inspection of all ROWs/Laneways in the Town of Cottesloe revealed a number of anomalies, including illegal closures or obstructions on laneways.

The report in February, 2005 covered the existing closures of ROW NO. 56. This ROW is in the shape of an “H”, with the eastern north/south leg being open and constructed for public use, the east/west connector being in poor condition but capable of access to the gate/closure at the west end and the western north/south leg is closed off at its northern end, with the southern section used by the owners of 10 and 12 Rosser Street for rear access and the northern section virtually restricted for the use of 15 Jarrad Street.

These closures have been in place for many years, but no adverse possession claims are valid on Crown land. No information has been found that the existing closures were ever legalised through compliance with State legislation and Council completing a formal process for closure to vehicle and pedestrian access.

One further complication exists with the narrow spite strip running along the western boundary of the north/south leg of the ROW between Rosser Street and Jarrad Street. Council has previously approved the crossing of the strip by the owners of 10 Rosser Street, by giving approval for a rear garage, accessed from Rosser Street via this laneway.

CONSULTATION

The affected adjacent property owners have been made aware of the legal situation with ROW, after the February, 2005 Council meeting resolution. No public advertising has taken place because no formal closure has been approved by Council.

STAFF COMMENT

No recent request has been received for the formal closure of portion of ROW No. 56 involving retention of the two obstructions (a fence extension and a high gate).

An earlier letter from the owners of 10 Rosser Street underlined their need to have vehicle access from Rosser Street to their new garage to the rear of their property via the ROW.

Council could chose to have the fence and gate obstructions removed and bollards installed in their place, to convert these alignments to pedestrian/cyclist use if a formal process is followed to convert the western leg of ROW No. 56 from its current laneway/thoroughfare status for a period of four years if:

- (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).*

This would appear to be the most applicable way of achieving the local residents requests, if Council supports the conversion to a pedestrian/cyclist route after all submissions have been considered.

VOTING

Simple Majority

DECLARATION OF PROXIMITY INTEREST

Cr Jeanes declared a proximity interest and left the meeting at 8.44pm.

12.2.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) **Follow the requirements of Section 3.50 of the Local Government Act, 1995 in assessing local resident and general public support for the closure to vehicle use of the north western leg of Right of Way No. 56 by the installation of bollards, as shown on Plan No. ROW 56/1/05, including public advertising and letters to affected residents in Jarrad Street and Rosser Street, Cottesloe; and**
- (2) **Consider the results of public consultation regarding this matter in its February, 2006 meeting.**

Carried 9/1

Cr Jeanes returned to the meeting at 8.46pm

12.2.8 RETENTION OF OLD CROSSOVERS, AFTER REAR LANEWAY ACCESS APPROVED

File No: E17. 5 & 238 Marmion Street
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 2 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A letter has been received from the owners of 238 Marmion Street, Cottesloe requesting approval to retain and upgrade their front crossover, against the development condition, while still using the new double garage from Bird Street.

This request is similar to many developments, with the main problem being the number of cars parking at the property exceeding two. The extra cars are then parked on the verge or on the site of the old crossover.

Council's standard development condition is for the old crossover to be removed when a new rear laneway or rear street access is created.

This reports recommends changes to Council's *Parking – Residential* policy by the inclusion of two items to emphasise Council attitude towards the removal of redundant crossovers.

STATUTORY ENVIRONMENT

The *Local Government Act 1995* vests Council with the care, control and maintenance responsibilities of the road reserves. This includes installation and maintenance of crossovers, footpaths and verge treatments. Crossover construction and maintenance is covered in the *Local Government Act 1995*, Schedule 9.1, Clause 7(2), (3) & (4) *Local Government (Uniform Local Provisions) Regulations 1996*.

This provision gives Council control of crossover construction and maintenance with the property owner receiving a Council contribution for the first crossover built to the property. After that initial contribution, the landowner must fund replacements and upgrading as required, with required maintenance included. Council has the power to order such maintenance if the landowner will not undertake such repairs, with Council, as a last resort, undertaking urgent repairs and charging 50% of the repair costs.

POLICY IMPLICATIONS

Council's *Parking-Residential* policy applies:

OBJECTIVE

To encourage property owners to provide sufficient on site parking.

To minimise vehicle damage to road verges.

To provide guidelines for temporary parking areas on road verges where conventional on site parking cannot be achieved.

PRINCIPLE

On-site parking should be provided on all residential lots in accordance with the residential Planning Codes, Town Planning Scheme and decisions of Council. Council recognises that there are occasions where this is not immediately possible and temporary solutions may be required.

ISSUES

Verges are part of the road reserves, and as such are not a parcel of land which can be developed in such a way that property rights to individuals may accrue. Residents who may be granted approval to develop verge parking need to be aware that the land remains under the ultimate control of Council.

Continuous or regular parking on verges can cause serious damage to the verge surface, creating dust problems in summer and mud problems in winter. Paving verges continues the extension of hardstanding areas which may contribute to an ongoing drainage problem, as well as difficulties for the healthy growth of street trees and other nearby plants. Verge parking on a regular basis should be discouraged and should not contribute to drainage responsibilities of Council, or significantly disadvantage local plant life.

The general provisions of this policy will apply to all existing verge parking areas including crossovers made obsolete by redevelopment, or the construction of walls, or other obstructions.

The provisions of the Local Government Act, Cottesloe Council Local Laws, Town Planning Scheme and relevant Policies will apply.

POLICY

- 4.1 The Chief Executive Officer is delegated responsibility to approve residential parking other than on-site parking.
- 4.2 In the event of any redevelopment, any verge parking area approved in accordance with this policy, or by any previous decision of Council, or any vehicle crossing place made obsolete, is to be removed and the verge reinstated at no cost to Council.
- 4.3 Applications for a verge parking area should detail the special circumstances which currently prevent vehicle access onto private property.
- 4.4 Council reserves the right to order the removal of any verge parking area which is not built, used, or maintained to the satisfaction of Council.
- 4.5 Council, pursuant to Clause 4.4 above, will consider an application for the construction of a verge parking area as a temporary measure in the following circumstances only:
 - (a) where the applicant acknowledges that the verge parking area is to be totally removed at no cost to Council if the property is redeveloped, or if the removal is required by Council;
 - (b) where vehicle access onto private residential property cannot reasonably be gained by a conventional vehicle crossover, or from a trafficable right of way;
 - (c) where a vehicle cannot be accommodated on site due to insufficient area, or major variation of natural ground levels, or where access to available space on-site is an unreasonable expectation, or
 - (d) where on-site parking, with turn around space on a busy road cannot be reasonably achieved, and
 - (e) where a vehicle may be safely accommodated on the verge without adversely affecting the sight distance.
- 4.6 Construction of a temporary verge parking area shall be in accordance with written approval in regard to the following conditions:
 - (a) the dimensions and finished level of a verge parking area being consistent with the specification for a single width vehicle crossing place;
 - (b) provision for two vehicles parked in tandem if space permits;
 - (c) a standard concrete kerb entry being built in accordance with the design for a brick paved crossover.
 - (d) the surface being protected paving brick, approved by the Manager of Engineering and laid on a sand bed evenly graded to conform with verge levels;
 - (e) provision being made for the disposal of all stormwater in close proximity without contributing water to the road/public drainage system;
 - (f) existing or proposed verge parking areas are not to include any fence or sign, which restricts usage to any property owner, occupier, business or customer.

- (g) reinstatement resulting from excavation by other service authorities, or by Council in the course of road works, is to be carried out at the expense of the property owner.
- 4.7 Paved set down areas will be considered in special circumstances for approval on road verges where the following applies:
 - (a) The set down area will be limited to one bay, 6m long by 2.7m wide, at a right angle to the kerbline and immediately behind the kerbline.
 - (b) A footpath from the set down area to the private property, maximum width 1.2 metres, may be approved.
 - (c) If the surface of an original crossover is being converted to this use, then the remainder of the crossover is to be removed and replaced with indigenous native plant species in a non-lawn setting.
 - (d) Wherever possible, drainage water from the verge, in this situation, is to be controlled and directed into a private soak pit.
 - (e) Where existing parking restrictions are compromised by this approval, the applicants will find the change of signage necessary to allow "Authorised Vehicles Only" signs for the set down area plus any other required sign changes.
 - (f) This approval, if given, for a set down area, does not grant the right for full time long term parking. Its use is restricted to short term visits, mail and other forms of deliveries, and to aid the infirm and disabled to access private properties as visitors.
 - (g) Applicants for the approval of "Set Down Areas" must demonstrate the difficulties in the normal form of access from rear ROW or parking areas on adjacent streets or formal parking bays. Other factors would include narrow laneway widths, extreme level changes on existing vehicle ROW accesses and problems of access for the frail and disabled.

STRATEGIC IMPLICATIONS

Council's Strategic Plan provisions for this subject are:

Management/Statutory Compliance: All procedures and decisions comply with external and internal statutes.

District Development/Environment/Streetscape: Provision of clean, safe, sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council has both a policy and a standard development condition that both require redundant crossovers to be removed if a laneway or rear street access has been approved to a garage at the rear of a property.

Council's town planning scheme requires that the development of land for residential purposes shall conform to the provisions of the Residential Planning Codes.

With regards to vehicular access, the Residential Planning Codes (R-Codes) Item 3.5.4 "Vehicular Access" states "Vehicular access provided so as to minimise the number of crossovers to be safe in use and not detract from the streetscape."

Council's existing policy and development condition is aimed at meeting that requirement.

However, there are many cases per year when the developer or landowner requests the retention of an old crossover at the front of the property even after the installation of a double garage accessed from the rear laneway. This request often is received after the development is nearing completion and all conditions had been previously agreed to.

This matter has caused depot staff problems, when the Council approved condition requires the crossover removal and landowners or developers demand retention or refuse removal regardless of staff actions.

CONSULTATION

This matter has not been the subject of public consultation, although the problem has been discussed between the Engineering and Planning departments.

STAFF COMMENT

Council's attitude in past years has been to try to protect the green, tree lined aesthetics of Cottesloe by having new access, where possible, down laneways, old crossovers being removed and verge parking not promoted.

In recent years, there has been a progressive increase in the number of vehicles parking on the verges, more double garages installed with access from the rear laneways and more demands for the old crossovers to be retained to provide parking for the third and fourth vehicles connected with those houses.

With the value of land increasing in Cottesloe, the level of development, per property, is increasing to make maximum use of the land available. This is one reason why more boats, playground items and vehicles are permanently on the road verge ie there is no room for them on the property.

Verge parking, be it on existing grassed areas or on old crossovers which should have been removed, creates the following long term problems:

1. Vehicles damage the verge surface, create dust in summer and mud problems in winter.
2. Vehicles compact the verge, increasing the drainage water runoff problems and decreasing the water being absorbed into the water table.
3. It adversely affects street trees and other verge vegetation due to compaction and general vehicle damage.
4. More old crossovers being retained means more of Cottesloe covered in asphalt, bricks and concrete which detracts from the streetscape.
5. The intention of approving rear access to on-site garages is to remove cars from the verges, to protect the street aesthetics.
6. Safety on the footpaths for pedestrians and the local streets for drivers is reduced due to the movement of vehicles onto and off the old crossovers and verges.

This includes bullbars and tow balls left intruding over the footpath from parked vehicles and visitors parking on the footpath width.

The practical problems of the multi car family (often in excess of two cars) are not easy to totally solve, in regards to parking. If it can't fit on the property, it will end up on the kerbline, the verge or the old crossover (if it is allowed to remain).

The following are proposed changes or additions to the existing *Parking-Residential* policy:

1. A statement will be included with development approvals highlighting that any retention of an old crossover, where primary access is via a rear street or laneway, will not give any right for approval of an extra garage or carport within the front setback area, accessed by the old crossover.
2. With every development approval that has a condition requiring the removal of a redundant crossover, a \$500 bond shall be paid to ensure the removal takes place. If the crossover hasn't been removed within two months after the rear access/new garage is being used, and the owner refuses to undertake the removal, Council staff shall use the bond to complete all removal and rehabilitation works.
3. If no option exists, and justification for a front crossover has been provided, for parking purposes only, the area involved shall be reinforced grass, using commercial concrete products to achieve a grass verge aspect capable of carrying cars eg 'BG' Blocks.

These changes or additions will alert the owner/developer to Council's concerns regarding the importance of the verge, particularly with the \$500 bond requirement. They will also promote the retention of 'green' verges, quality aesthetics for the verge and reduce the idea of a future front access to an additional garage or carport in the front setback area.

It will also remove the pressure put on depot staff when inspecting for redundant crossover removals, because of the underlining of Council's attitude regarding this matter.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) Advertise for public comments its resolve to modify the *Parking-Residential* policy with the addition of the following two clauses:
- (2) With every development approval including a condition requiring the removal of a redundant crossover because of the creation of a side or rear lane access, a \$500 bond shall be paid at the time of building licence approval to ensure the redundant crossover is removed. If the redundant crossover hasn't been removed within two months of the new rear access being used by the owner, and the owner refuses to undertake the removal, Council staff shall remove the crossover and rehabilitate the crossover area using funds taken from the \$500 bond. Any unspent bond funds shall then be returned.

- (3) If no alternative exists, and justification has been provided by the property owner, as part of a separate application, for a constructed verge parking area, consideration will be given to approval based on a reinforced grass area using available commercial products, to ensure a green aspect to the verge and capacity for drainage water to soak away without overflowing onto the street surface.
- (4) Reconsider this matter in the February, 2006 meeting, including received comments, prior to adopting any new policy changes or additions.

12.2.8 COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

- (1) **That Council Advertise for public comments its resolve to modify the *Parking-Residential* policy with the addition of the following two clauses:**
 - (a) **With every development approval including a condition requiring the removal of a redundant crossover because of the creation of a side or rear lane access, a \$500 bond shall be paid at the time of building licence approval to ensure the redundant crossover is removed. If the redundant crossover hasn't been removed within two months of the new rear access being used by the owner, and the owner refuses to undertake the removal, Council staff shall remove the crossover and rehabilitate the crossover area using funds taken from the \$500 bond. Any unspent bond funds shall then be returned; and**
 - (b) **If no alternative exists, and justification has been provided by the property owner, as part of a separate application, for a constructed verge parking area, consideration will be given to approval based on a reinforced grass area using available commercial products, to ensure a green aspect to the verge and capacity for drainage water to soak away without overflowing onto the street surface.**
- (2) **Reconsider this matter in the February, 2006 meeting, including received comments, prior to adopting any new policy changes or additions.**

Carried 10/1

12.2.9 REHABILITATION OF PEPPERMINT TREE, WILLIAM STREET, COTTESLOE

File No: E17. 5
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 2 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in June, 2005 Council resolved to:

- (1) *Remove the Peppermint tree at William Street, situated at 116 Grant Street and replace with a new Peppermint tree;*
- (2) *Request staff to explore options to preserve the Peppermint tree at the rear of 112 Grant Street and present same to Council; and*
- (3) *Inform residents and petitioners of the above and the reasons for removing the tree at 116 Grant Street.*

This report provides a professional tree surgeon's advice regarding this Peppermint tree and recommends that the tree receive 'final pruning' to promote the best longer-term tree development.

STATUTORY ENVIRONMENT

Council has responsibility under the Local Government Act for the care, control and maintenance of the road reserve. This includes all street trees and the road verge.

POLICY IMPLICATIONS

Council adopted a new *Street Tree* policy in February, 2005 which states:

The Town of Cottesloe has demonstrated, in past years, its commitment to the amenity and visual image of the Town's streetscape by the introduction and maintenance of street trees.

This commitment will continue with the maintenance of existing trees and the establishment of new trees, based on the following conditions and requirements:

1. The Norfolk Island Pine tree is the icon or symbol of Cottesloe and shall be preserved.
2. The Town of Cottesloe shall aim at planting and maintaining one street tree per property frontage.
3. All individual street tree planting will be undertaken by Council staff. All other planting on verges, other than a lawn, will require a submission to the Town of Cottesloe for approval.
4. Tree pruning shall be aimed at producing a full canopy typical of the species, while still addressing legal obligations and the preservation of public safety. Major pruning may require the Manager Engineering Services to seek professional advice.
5. Tree removals must be seen as a last resort, used for dead and/or dangerous trees. The Manager Engineering Services must give approval for any tree removal. The following reasons do not justify tree removals:
 - tree litter/leaf fall ("messy:" tree),
 - restoration of a view,

- alternative species requested by resident,
 - a desire to re-landscape,
 - house alterations requiring crossover relocation,
 - shading of lawns, pools,
 - swimming pool installation – root or falling leaf problems,
 - perception that tree may fall in a storm.
6. A proposal to remove or replace multiple street trees in one street shall require an expert's report, public consultation and consideration by Council.
7. For development or building approvals, plans and drawings submitted must include the locations of all street trees on abutting road verges for the consideration of the effects of such land or building changes on these street trees.
8. A person or company identified as having damaged or removed a street tree(s) without Council approval, shall be required to provide full compensation to Council for all costs associated with the re-establishment of an advanced tree of that same species together with an assessed value determined by the Manager Engineering Services for the loss of amenity/aesthetic value of that tree(s).
9. The Town of Cottesloe will maintain a street tree species list of the most suitable tree species for the different soil and micro climate areas of the town, plus species determined as being unacceptable as street trees.
Such undesirable species would exhibit the following characteristics:
- intolerance to drought or low watering conditions;
 - self pruning of larger limbs;
 - suckering or adventitious growth patterns;
 - roots that cause damage to paths, roads, buildings, pipelines;
 - susceptibility to insect and pathogen infestation;
 - aggressive self seeding; and
 - unacceptable toxicity.

STRATEGIC IMPLICATIONS

The most applicable section of the Strategic plan is:

District Development/Environment/Streetscape: Provision of clean, safe, sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

FINANCIAL IMPLICATIONS

\$2,500 for cable and bracing or \$900 for finial pruning. Both costs can be met through the street tree maintenance allocation.

BACKGROUND

This tree is old and in a post mature state of decline. There are several methods possible for saving the tree, but all have a level of risk. The advice received is that to cable brace and bolt through the tree may snap the east or both portions of the trunk. This is not recommended.

The second, recommended, option is to undertake 'finial pruning' which would involve removal of the rotted and falling east stem, pruning of the west stem to a clean, balanced shape and flush cutting to the strongest systemic line.

CONSULTATION

Nil

STAFF COMMENT

Cable bracing and bolting appears suitable for only certain types of failure or damage. The proposed treatment, by a qualified tree surgeon, would remove the dead east stem, and prune the remaining west stem to achieve the best shape for promoting future growth.

Regardless of the treatment, the tree is not in good health and may fail in the near future even with this treatment.

VOTING

Simple Majority

COMMITTEE COMMENT

The Manger Engineering Services is to use his best endeavours to arrange a meeting between Mr Porter and Mr Turner prior to the Council meeting on Monday, 28 November, 2005.

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) Have the Peppermint tree at the rear of 112 Grant Street, in William Street, finial pruned to promote longevity; and
- (2) Inform all original residents and petitioners of Council's decision.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Have the Peppermint tree at the rear of 112 Grant Street, in William Street, pruned and cable braced to promote longevity, as per Mr Turner's report dated 24 November, 2005; and
- (2) Inform all original residents and petitioners of Council's decision.

Carried 11/0

12.2.9 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Have the Peppermint tree at the rear of 112 Grant Street, in William Street, pruned and cable braced to promote longevity, as per Mr Turner's report dated 24 November, 2005; and**
- (2) Inform all original residents and petitioners of Council's decision.**

Carried 11/0

12.3 FINANCE**12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER 2005**

File No:	C 7. 4
Author:	Mr Alan Lamb
Author Disclosure of Interest:	Nil
Period Ending:	31 October 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October 2005, 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

A report on the variances in income and expenditure for the period ended 31st October 2005 is shown on pages 54 and 55. It will be noted from that a lot of these variances are as a result of timing differences.

It can be noted on the Operating Statement on page 17 that operating revenue is ahead of budgeted figures by an amount of \$181,315, the main reasons for this being grant monies for roadwork's paid in advance and extra grant funding for Civic Centre Projects.

Overall expenditure is \$308,244 less than budgeted, with the main reasons relating to timing differences, though there could be some savings in the areas of insurance premiums and legal expenses.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2005, as submitted to the 22 November, 2005 meeting of the Works and Corporate Services Committee.

Carried 11/0

12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2005

File No: C 7.12 & C 7.13
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on Page 47 of the Financial Statements shows that \$3,389,060.73 was invested as at 31st October 2005. Of this, \$697,586.02 was reserved and so restricted funds. Approximately nineteen per cent of the funds were invested with the Home Building Society, seventy five per cent with National Australia Bank, and six per cent with Bankwest.

The Schedule of Loans on Page 48 shows a balance of \$403,448.59 as at 31st October 2005. Of this \$190,817.07 relates to self supporting loans.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2005, as submitted to the 22 November, 2005 meeting of the Works and Corporate Services Committee.

Carried 11/0

12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2005

File No: C 7. 8
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 October, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

Significant payments included in the list of accounts commencing on page 39 of the Financial Statements, brought to Council's attention include:

- \$10,463.31 to West Australian Local Government Superannuation Plan being for employer contributions to the plan.
- \$11,022.00 to B & N Waste for greenwaste collections.
- \$35,090.00 to Claremont Asphalt for works at various locations.
- \$14,318.81 to the Western Metropolitan Regional Council for transfer station fees & tip passes.
- \$13,345.45 to the Western Australian Treasury Corporation for loan repayments.
- \$10,641.46 to FESA levies for Council properties.
- \$37,871.86 to Trum Pty Ltd (t/a Wasteless) being for domestic and commercial waste collection services for the month of September 2005.
- \$31,606.46 to the ATO being for the Business Activity Statement for the period ended 31-09-05.

- \$49,722.06 & \$50,550.04 being staff payroll for the month of October.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 31 October, 2005, as submitted to the 22 November, 2005 meeting of the Works and Corporate Services Committee.

Carried 11/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 OCTOBER, 2005**

File No: C 7. 9
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 October, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 44 to 46 of the Financial Statements shows a balance of \$222,805.36 of which \$48,207.15 relates to the current month. Of this, \$18,291.90 relates to grant funding for the Coast Care position. The balance of aged debt greater than 30 days stood at \$174,598.21 of which \$59,064.81 relates to Pensioner Rebate claims, \$14,516.15 relates to disputed legal expenses incurred with the Sea View Golf Club lease, \$45,500.00 relates to the trade in of a truck, and \$18,675.10 relates to outstanding rent charges. It is anticipated that these debtors will be cleared shortly.

The Property Debtors Report on page 43 of the Financial Statements shows a balance of \$1,485,863.68. Of this amount \$167,734.83 and \$7,040.25 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 stood at \$1,311,089, as against \$1,420,365 at the same time last year.

VOTING

Simple Majority

**12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL
RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 October, 2005; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 October, 2005.**

Carried 11/0

12.4 CIVIC CENTRE APPEAL WORKING GROUP

12.4.1 BRIEFING NOTES

File No: C 4. 9
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 8 August, 2005

BACKGROUND

Council purchased the property at 109 Broome Street in the early 1950's, with some financial support from the local RSL which sold its hall to assist with the project, and sold off some of the land to assist with funding the purchase and the cost of modifying the buildings into a Civic Centre. The private residence was converted into a main town hall (named the Cottesloe War Memorial Hall possibly due to the RSL involvement), lesser hall (converted garage/stables), Council Chambers and offices. Council made further adjustments to the buildings and grounds to better suit their new purpose over a number of years.

In 1996, with funding provided by the Lotteries Commission, Council engaged a consultant (Considine and Griffiths) to prepare a Conservation Plan for the Civic Centre. The Plan contained a number of recommendations which Council resolved (March 1996) to adopt (this action was one of the recommendations). These recommendations included Heritage Council registration (Interim Entry 13/12/1996, Permanent Entry 09/05/1997), use be found for the Caretakers Lodge (Not sure but in 1998 it was used as "artist in residence" and has been utilised almost continuously since.), costing of the conservation works (September 2000, the report indicated an expenditure requirement of around \$3m), a comprehensive report on the condition of all garden walls, balustrades etc (July 2002), Commitment to achieving matters identified as short, medium and long term actions be made and time frames adopted (Commenced with a staged plan to address potentially dangerous areas in 2000/01 and Council has been budgeting for significant works to be done annually since. Five year plan, for garden walls etc, prepared for 2005/06 budget/PAP.), landscape master plan and report on condition of all major significant trees and other plantings (being done on an ongoing basis as part of works on walls etc), all works likely to affect heritage are referred to an appropriate heritage conservation professional (all works over seen by Maitland Consulting Structural Engineering and Considine an Griffiths).

Council has made significant inroads into meeting its commitment to the fourteen recommendations made in the Conservation Plan (especially since 2000) and has been assisted by a number of Lotteries Commission grants. The community also assisted by staging a major fundraising function in 1998 which raised \$10,000. Despite spending significant sums on conservation and maintenance works annually for a number of years and making a dent into the required works it is apparent that without significant external assistance it will take many years to complete all that has to be done and so the notion of a National Trust Appeal was floated and accepted.

In February, 2003 Council resolved to appoint a consultant to assist it with the Trust Appeal process. The Consultants met with the Mayor, Standing Committee

Chairmen, the CEO and MCS (the Working Group) 14 July 2004 to conduct a SWOT analysis. At this meeting it was agreed that the focus for the Appeal should be the gardens rather than the interior of the buildings because the gardens were more focal, more easily accessed.

The Working Group met again with the consultant 13 June 2005 to discuss the forming of a fundraising committee and appointment of a patron. The Working Group made a recommendation to Council, via the MCS, in June and Council resolved as follows:

That Council:

- (1) Foreshadow the formation of a Cottesloe Civic Centre Gardens Appeal Fundraising Committee and the possible appointment of an appeal patron;*
- (2) Request Council members to lodge a list of potential committee members, chairperson and/or patron with the Manager Corporate Services by 8 July, 2005; and*
- (3) Authorise the Mayor in conjunction with the Deputy Mayor and standing committee presiding members to review the lodged lists of names, contact and obtain agreement from relevant people and recommend to the August meeting of Council members for the committee and a possible patron.*

Councillor Furlong responded with a list of ten names.

At the last meeting held 16 August 2005, it was recommended that the Working Group:

- (1) Agree on a Patron and a listing of six person to sit on the Fundraising Committee.
- (2) Appoint an appropriate person to make contact with the people agreed upon about their proposed roles.
- (3) Meet again once contacts have been made to formulate a recommendation to the September meeting of Council.

A name was put forward for a prospective committee chairman at the meeting.

The group noted the report and recommendation and agreed that it meet again in the near future.

No resolution was passed and there was no recommendation to Council at that stage.

The plan was that a prospective chairman, that this group thought might be in a position to take on this task, be contacted confidentially. Following some delay whilst the gentleman was away, this was done and, unfortunately, he declined.

THIS MEETING

The purpose of this meeting is to review the situation.

OFFICER RECOMMENDATION

Nil at this time.

WORKING GROUP COMMENT

It was noted that the proposed funding campaign may be better left till there is a higher level of community use of the Civic Centre grounds etc and that increased use may be best generated by the reintroduction of the "Friends of the Civic Centre" (FCC) group that operated successfully some years ago. It was proposed that the FCC's role not be fundraising and that this group focus solely on making the Civic Centre grounds a focal point for the community with activities such as regular market days and other such activities that should attract Cottesloe residents. The notion being to change the focus from private functions to community use to give the Civic Centre a higher profile before further developing the National Trust Appeal plan.

12.4.1 WORKING GROUP & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Call for nominations from residents of the Town to be on a Friends of the Civic Centre Committee; and**
- (2) That the purpose of the Committee be to devise plans and programs for activities, to be conducted at the Cottesloe Civic Centre, that are designed to increase community use of the facility and to assist with and oversee the operation of such activities.**

Carried 11/0

12.5 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**12.5.1 WESTERN POWER SUB-STATION SITE - CORNER JARRAD STREET AND CURTIN AVENUE**

File No: X 8.26
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 18 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

Western Power has previously informed Council that it will be commencing works in 2006 at its sub-station site to upgrade the capacity from 66kv to 132kv, redirect 132kv power lined to the site and complete other works, including a solid surround fence.

There has been a request for this intention to be urgently studied, because of its negative impact on any future relocation of Curtin Avenue to the west side of the rail reserve.

This report recommends that a specialist consultant be employed to report on the need to increase the sub-station capacity, the possibility of alternative sites and estimated costs to relocate the existing sub-station to another site versus upgrading of the existing site.

STATUTORY ENVIRONMENT

Western Power have control of the existing sub-station site and can continue to develop within that site, to meet their power supply obligations, without Council approval.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Possible cost of employing specialist consultant for report, approximately \$5,000.

BACKGROUND

Western Power have stated that there will be a projected shortfall in power supply from the Cottesloe sub-station by December, 2008 due to an increasing rate of electricity use compared with original estimates.

This will require Western Power to have upgraded the capacity from 66kv to 132kv by that time.

Previous statements have included the points that it would cost approximately \$30m to relocate, that alternative nearby sites are not available and that progressive upgrade of the existing site is the most appropriate solution.

This may clash with the long term objectives regarding the eventual highway alignment of Curtin Avenue/West Coast Highway through Cottesloe.

CONSULTATION

Nil.

STAFF COMMENT

The information provided by Western Power cannot be challenged by staff because of lack of expertise in this area.

If Council wants more assurance that there are no practical alternatives to the permanent existence of this sub-station site, with the expansion to 132kv, then it would require a specialist with knowledge of the Western Power detailed requirements to provide a report on possible options.

If the sub-station site is to remain, even within its present boundaries, it creates a major blockage around which any future Curtin Avenue re-alignment must be planned.

VOTING

Absolute Majority - possible budget modification.

COMMITTEE COMMENT

Cr Cunningham spoke to the notice of motion that he had put forward.

A consultant's report would provide Council with information on whether the sub-station could be moved to an alternative site rather than simply increasing the capacity of the existing sub-station.

COUNCIL COMMENT

The Manager Engineering Services advised that the consultant would need to be provided with specific questions that Council would like to be answered. The consultant has also advised that Council needs to be aware that Western Power may have already purchased equipment for the works, which are commencing in 2006.

Cr Cunningham advised that the questions he would like answered is "Can the sub-station be moved altogether and if so what will it cost and what are the implications for the future.

The Mayor asked whether it would assist if Council requested a preliminary assessment.

OFFICER & COMMITTEE RECOMMENDATION

That Council obtain a specialist consultant report regarding the Western Power sub-station at the corner of Curtin Avenue and Jarrad Street, aimed at the veracity of:

- (1) The quoted need to upgrade the sub-station capacity from 66kv to 132kv;
- (2) The low possibility of other sites being used;
- (3) The high costs (approximately \$30m) to relocate the sub-station to another site.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That Council obtain a specialist consultant report regarding the Western Power sub-station at the corner of Curtin Avenue and Jarrad Street, aimed at providing a preliminary assessment as to whether it would be worthwhile seeing an in-depth assessment of:

- (1) The quoted need to upgrade the sub-station capacity from 66kv to 132kv;
- (2) The low possibility of other sites being used;
- (3) The high costs (approximately \$30m) to relocate the sub-station to another site.

Carried 11/0

12.5.1 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council obtain a specialist consultant report regarding the Western Power sub-station at the corner of Curtin Avenue and Jarrad Street, aimed at providing a preliminary assessment as to whether it would be worthwhile seeking an in-depth assessment of:

- (1) The quoted need to upgrade the sub-station capacity from 66kv to 132kv;**
- (2) The low possibility of other sites being used;**
- (3) The high costs (approximately \$30m) to relocate the sub-station to another site.**

Carried 10/1

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

Nil

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**14.1 COTTESLOE BEACH HOTEL – PLANNING PARAMETERS FOR MEDIATION**

File No:	104 Marine Parade
Author:	Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Report Date:	24 November 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made that Council adopt planning parameters for the redevelopment of the Cottesloe Beach Hotel, to assist the mediation process with Multiplex in the State Administrative Tribunal.

BACKGROUND

Council at its Special Meeting on 16 November 2005 resolved:

That Council, at the November meeting of Council, give further consideration to the draft design parameters for the Cottesloe Beach Hotel for the purposes of the mediation or any variation thereof.

The parameters have previously been provided at officer level to the SAT to facilitate the mediation process and it is now appropriate to seek Council endorsement in order to afford certainty in the ongoing mediation.

A full report accompanies this agenda paper which must remain confidential whilst the matter is under mediation by the State Administrative Tribunal.

CONSULTATION

N/A.

POLICY IMPLICATIONS

The parameters may influence future planning policy for the beachfront.

STRATEGIC IMPLICATIONS

The parameters may contribute to resolution of the hotel redevelopment and give direction to planning measures for the beachfront.

FINANCIAL IMPLICATIONS

The parameters would assist a mediated outcome, which would contain legal and professional costs.

CONCLUSION

The parameters provide a reasonable and perhaps generous framework of variations/concessions to enable a development beyond the scope of what the scheme would normally allow. Multiplex needs to respond to them to show that it can produce a positive outcome, rather than to impose or conceive a revised concept that stretches the reasonable bounds of discretion and does not respect the need to ensure that there are no undue adverse impacts caused by an approved development.

Any development proposal must relate the scale and appearance of the development to its impact on the quality and amenity of surrounding properties, the overall beachfront locality and the beach itself.

Only where it can first be evidenced that a revised proposal could seek further variation to the parameters with impacts of little consequence, should Council give consideration to departing from the parameters. They already represent significant departures from the scheme.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council adopts the current planning parameters for the Cottesloe Beach Hotel for the purpose of the SAT mediation process, and agrees to reference therein to officer-level support being modified to read as Council support.

Cr Utting left the meeting at 9.00pm.

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Miller

That Council close the meeting for the consideration of item 14.1 on the grounds that it relates to legal advice obtained, or which may be obtained, by the Town of Cottesloe in relation to the proposed redevelopment of the Cottesloe Beach Hotel.

Carried 10/0

COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Jeanes

That standing order 12.1 requiring members to rise when speaking and standing order 12.4 placing limitations on the number of speeches that may be made by a member both be suspended for the duration of the discussion of this agenda item.

Carried 9/1

Cr Utting returned to the meeting at 9.03pm.

14.1 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council adopt the amended planning parameters for the Cottesloe Beach Hotel as documented in the confidential minute for the purpose of the SAT mediation process and agrees to reference therein to officer-level support being modified to read as Council support.

Carried 7/4

15 MEETING CLOSURE

The Mayor announced the closure of the meeting at 10.20pm.

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