

# **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, Tuesday, 28 September, 2010**

28 October 2010

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

The Mayor announced the meeting opened at 07.03PM.

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

Mayor Kevin Morgan	Presiding Member
Cr Jay Birnbrauer	
Cr Rob Rowell	
Cr Greg Boland	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	
Cr Ian Woodhill	

**Officers**

Mr Carl Askew	Chief Executive Officer
Mr Graham Pattrick	Manager Corporate & Community Services
Mr Andrew Jackson	Manager Development Services
Mrs Lydia Giles	Executive Assistant

**Apologies**

Cr Jo Dawkins

**Officer Apologies**

Mr Geoff Trigg

**Leave of Absence (previously approved)**

Cr Jack Walsh  
Cr Dan Cunningham

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

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 PUBLIC STATEMENT TIME**

Mrs Jane Fenwick (For Mrs. F. M. Drake Brockman) – 66 Marine Parade, Cottesloe. – Item 11.1.3 - No. 2 Salvado Street - Alterations and Additions to 'Le Fanu' Which Is Listed on The State Register of Heritage Places

Mrs Fenwick notified the Council that Mrs Brockman has concerns with overlooking and privacy issues with the North East corner of the development and that she is in discussion with the owners of No. 2 Salvado Street and their architect.

The CEO advised Mrs Fenwick prior to the meeting that her concerns had been noted and will be discussed at the meeting tonight and an amendment to address her concerns will be proposed by the Deputy Chair of Development Services, Cr Birnbrauer.

Ms. Philippa Wiggins, 50 John St, Cottesloe. – Item 11.2.4 - Indiana Tea House – Proposed Refurbishment

In relation the item on the Indiana toilets Mrs Wiggins requested that a notice be placed in both the male and female toilets to identify that Indiana are responsible for their cleanliness and maintenance. She is tired of Council taking responsibility and a notice will help direct people to Indiana Management.

The Mayor acknowledged that signage will help identify responsibility for the toilets as belonging to Indiana and will be included as part of the outcome of Council's resolution tonight. He confirmed that Council funds, if allocated, would be for capital upgrades and/or additional works such as rendering or tiling to an acceptable standard.

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Strzina, seconded Cr Boland

[Minutes August 23 2010 Council.DOC](#)

**The Minutes of the Ordinary meeting of Council held on Monday, 23 August, 2010 be confirmed.**

**Carried 8/0**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor acknowledged and thanked Coastcare and their many volunteers for the native planting carried out over the last few weeks with thousands of new plants along our foreshore. It was a wonderful effort by all volunteers and

corporate groups and he requested that Council's thanks be conveyed to the group for their hard work and effort.

In relation to the review of the Beach Local Law and the recent newspaper/media reports, the Mayor reaffirmed that the Works and Corporate Services Committee had determined to refer the matter back to administration for more work on September 21. A Council is only as good as its administration and we are a small town with limited resources. The Mayor advised that he will work together with the CEO to ensure that we have mechanism in place to ensure that any future proposed laws have a robust review process is in place and that officer reports are carefully checked. Whilst there were some good changes proposed there was also some that were not so good. Council will need to provide guidance to staff and consider how prescriptive we are in terms of what our officers can do to ensure the general safety and enjoyment of the public at the beach. We need to find the right balance with the discretion given to officers and guidance to beachgoers.

The recent media debate has not been helped by less than accurate reporting. We will work our way through this issue and take guidance from our insurers and legal advisors. As a personal view the Mayor was of the option there should be no law which tells a child what they can wear or see in change rooms.

In relation to the matter of Indiana toilets the Mayor advised that this has been an ongoing concern for Council and that this has not been adequately conveyed to the Lessee however administration are now working with Indiana to get the toilets ready for summer. Under the terms of the current lease Indiana is responsible for the cleaning and maintenance of the toilets and change rooms. In addition we need to plan for the long term and Council must assist administration to ensure that we have facilities that are of a standard acceptable for Perth's premier beach.

## **8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**

### **BACKGROUND**

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

Standing Orders 12.1 and 21.5 read as follows:

#### **Members to Rise**

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

**Suspension of Standing Orders**

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

**COUNCIL RESOLUTION:**

**Moved Cr Birnbrauer, seconded Cr Strzina**

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

**Carried 8/0**

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

For the benefit of the members of the public present and those who had made statements in relation to matters before Council, the following reports were dealt with first;

- 11.1.3 No. 2 Salvado Street - Alterations and Additions to 'Le Fanu' Which Is Listed On The State Register Of Heritage Places
- 11.1.4 No. 151 Marine Parade - North Cottesloe Surf Life Saving Club - Proposed Partial Road Closure on Marine Parade To Facilitate Alterations And Additions Approved By Council
- 11.2.4 Indiana Tea House – Proposed Refurbishment
- 11.2.7 Request for Approval to Install Artificial Turf on the Road Verge - 23 and 25 Perth Street, Cottesloe

The remainder of the items from the Development Services Committee were dealt with *en bloc*

- 11.1.1 28 Deane Street - Major Alterations and Additions to Two Storey Dwelling Including Swimming Pool And New Garage With Deck
- 11.1.2 No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings

The remainder of the items from the Works and Corporate Services Committee were dealt with *en bloc*

- 11.2.1 Event Application - The Finer Things
- 11.2.2 Record Keeping Plan
- 11.2.3 Beaches & Beach Reserves Local Law
- 11.2.5 Potential Relocation of Depot Functions
- 11.2.6 Rear Laneway Sealing - Rear of 183 Curtin Avenue, Cottesloe
- 11.2.8 Tender for the Supply and Laying of Asphaltic Concrete
- 11.2.9 Statutory Financial Reports for the Month Ending 31 August 2010

- 11.2.10 Schedule Of Investments and Loans as At 31 August 2010
- 11.2.11 Accounts Paid In the Month of August 2010
- 11.2.12 Property & Sundry Debtors Report for August 2010



**10 REPORTS OF OFFICERS**

Nil

**11 REPORTS OF COMMITTEES****11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 20 SEPTEMBER 2010****11.1.1 28 DEANE STREET - MAJOR ALTERATIONS AND ADDITIONS TO TWO STOREY DWELLING INCLUDING SWIMMING POOL AND NEW GARAGE WITH DECK**

**File No:** 2037

**Attachments:** [28DeaneAerialPhoto.pdf](#)  
[28DeaneSitePhotos.pdf](#)  
[28DeanePlans.pdf](#)  
[28DeaneSupportGraphics.pdf](#)  
[28DeaneSupportTextandTurningPlan.pdf](#)  
[28DeaneNeighboursSignatures.pdf](#)

**Responsible Officer:** Carl Askew  
Chief Executive Officer

**Author:** William Schaefer  
Planning Officer

**Proposed Meeting Date:** 20 September 2010

**Author Disclosure of Interest:** Nil

**Property Owner:** Dr D Fick and Dr C Chapman

**Applicant:** Meaghan White Architect

**Date of Application:** 27 August 2010

**Zoning:** Residential – R30

**Use:** P - A use that is permitted under this Scheme

**Lot Area:** 911m<sup>2</sup>

**M.R.S. Reservation:** Not applicable

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**SUMMARY**

This application is seeking the following variations to Council's Scheme, Policies, Local Laws or the Residential Design Codes:

- Front Setback.
- Building on Boundary.
- Side Setbacks.
- Privacy Setbacks.
- Vehicle Manoeuvre Space.

Each of these aspects is discussed in this report and refers to plans received on 27 August 2010.

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

**PROPOSAL**

The subject site occurs at the crest of Deane Street, between Avonmore Terrace and Broome Street. The topography of the area is unusual, with the subject property elevated up to 7.5m above the street level, behind a road cutting.

It is proposed to substantially enlarge the second storey of the dwelling, effectively creating a lightweight box that sits above a renovated ground floor. This design virtually eliminates the need to alter the building footprint.

At the rear of the property it is also intended to demolish the existing garage and build a new garage with deck, as well as construct a swimming pool.

The plans have been arrived at through liaison with Council's staff.

**STRATEGIC IMPLICATIONS**

Nil.

**POLICY IMPLICATIONS**

Council Resolution TP128A October 2002 – Front Setbacks

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

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

**SUSTAINABILITY IMPLICATIONS**

Nil

**PROPOSED LOCAL PLANNING SCHEME NO 3**

No changes to the zoning or density coding of the lot are proposed under LPS3.

**HERITAGE LISTING**

N/A.

**MUNICIPAL INVENTORY**

N/A.

**NATIONAL TRUST**

N/A.

**VARIATIONS**

<b>Statutory Non-Compliance</b>	<b>Standard</b>	<b>Proposed</b>
Resolution TP128a October 2002 - Front Setbacks.	6.0m front setback for new residential development in the district.	4.1m (4.5m to new upper- floor face of dwelling).

<b>RDC Discretionary Provisions</b>	<b>Required</b>	<b>Proposed</b>
6.3.2 A2 - Buildings on Boundary - East Upper Wall.	Max wall height 3.5m.	Wall height 7.4m.
6.3.1 A1 - Buildings Set Back from Boundary - West Upper Wall; and East Garage/Deck.	3.0m (West Upper Wall); 2.5m (East Garage/Deck).	1.0m (West Upper Wall); 1.5m (East Garage/Deck).
6.8.1 A1 - Privacy Setbacks:  Dwelling Deck - Looking North-East and North- West; and  Garage Deck - Looking North.	7.5m in all instances.	Dwelling Deck: 2.0m (to North-East) and 2.4m (to North- West);  Garage Deck: 4.5m (to North).
6.2.3 A3.2 - Setback of Garages and Carports.	6.0m permanently available manoeuvre space.	5.7m

**APPLICANT'S JUSTIFICATION**

The architect submitted a detailed report with the proposal. A copy of the report and other justification is attached.

A summary of the points that are particularly relevant is as follows:

- The second storey encroachment into the front setback area is the function of a considered approach that has exhausted every design alternative. For example, extending the dwelling to the rear would ruin the ocean view of the neighbour at No. 30 Deane Street, contrary to her wishes. A new dwelling that complies with the 6.0m setback requirement would also potentially compromise the views of this neighbour.
- The proposal ensures that the original dwelling is preserved, that its materials are recycled, and that an energy-efficient, modern dwelling is constructed.

- Due to the elevated site and the presence of dense screening vegetation, the proposed second storey would be scarcely visible from street level. In any event, the high-quality finish intended for the second storey would enhance the visual amenity of the area.
- A precedent exists next door, with the dwelling at No. 26 Deane Street set back 4.0m from its front boundary.
- The upper storey has been designed to float above the verandah below, reducing the effects of bulk and mass on the streetscape. It is noted that the setback of the existing verandah is 3.4m – the eaves of the upper floor are proposed to be setback further than this at 4.1m, with the face of the upper floor wall proposed to be even further set back 4.5m.
- The proposed second storey has been expressly supported by both affected neighbours.
- The two-storey wall on the eastern boundary makes use of an existing wall on the boundary. The affected neighbour prefers the prospect of a two storey parapet wall alongside little-used areas of her property to the prospect of an elongated house that jeopardises ocean views to the north-west.
- The setback of the upper western wall does not affect the neighbour's major openings/habitable spaces and satisfies the RDC Performance Criterion.
- Privacy matters have been considered during consultation with neighbours. The owners of No. 26 and No 30 Deane Street are supportive of the proposed decks.

### **Advertising**

- The neighbours at No. 26 and No. 30 Deane Street, and No. 21 Pearse Street, were consulted by the applicant at various times during preparation of the proposal, and have signed plans in support.
- The application was advertised to one other neighbour as per Town of Cottesloe Town Planning Scheme No 2.
- The advertising consisted of a Letter to the Adjoining Property Owner.

### **PLANNING COMMENT**

#### **Front Setback**

It is proposed to have a minimum front setback of 4.1m (4.5m to the face of the upper floor) whereas by Resolution TP128A, Council prefers front setbacks of 6.0m.

The proposal seeks a variation for the upper floor only, which would float above the existing verandah. It should be noted that the verandah is setback 3.4m from the front boundary, with the face of the existing ground floor being setback approximately 5.6m.

#### **Design Rationale**

Following liaison with Council's officers, the applicant has provided justification for the reduced front setback. To begin with, the second storey encroachment into the

front setback area is the result of considered design that exhausted alternative solutions.

The box-like upper floor additions provide space for the owners and reduce costs by utilising the existing second-storey slab. By adding to the front of the existing dwelling, extension to the rear of the dwelling is unnecessary and thus the wishes of the owners of No. 30 Deane Street to preserve views to the north-west are respected.

Another benefit of the box-like design is its role in preserving open space on the lot: the proposal would cover only approximately 26% of the lot, in lieu of the 55% permitted under the RDC in R30 areas.

### **Urban Design Appreciation/Streetscape Context**

From a planning perspective, the proposal would function without undue disruption to the streetscape. For example, the floating second storey would not be readily visible from street level as the site is elevated up to 7.5m above Deane Street and is screened by dense vegetation (refer attached drawing “3D View from Street”).

The upper storey would float above the verandah below. When compared to the full-height solidity of the dwelling at No. 26 Deane Street next door, which is set back 4.0m), the proposed floating upper floor would seem significantly less massive. The floating design is also expected to ameliorate the effects the upper floor’s width, which extends almost the full width of the property.

The width of the upper floor is considered less than ideal, however, the flat roof design does ensure that the overall height of the dwelling is within the 7.0m limit and thus less impactful than an 8.5m high pitched-roof proposal. Streetscape drawings submitted by the applicant support this view, demonstrating that the contextual height of the dwelling would remain relatively modest.

In any event, as the site is well-screened and relatively isolated, the impact of bulk on the streetscape is likely to be low.

More generally, the high-quality, modern finish intended for the second storey would enhance the visual amenity of the area.

### **Precedents and other Planning Considerations**

Council has favourably considered several similar front setback reductions in recent years. The proposed dwelling for 7 Avonmore Terrace was approved with a 4.5m primary street setback in May 2010. A 4.0m front setback was approved for the dwelling at 12 Salvado Street in December 2006. The proposed upper floor is in keeping with the mix of setbacks that are found in south Cottesloe generally, and is consistent with the R30 density-coding setback standards of the RDC.

No changes to the front fence are intended.

It is noted that the proposed second storey has been expressly supported by both affected neighbours.

In general terms, the variation is regarded as consistent with the spirit of the Town’s Resolution, which was to prevent extreme setback reductions from being approved.

No written objection was received. It is considered that the variation can be supported.

**Building on Boundary**

It is proposed to increase the length and height of the existing 3.5m high, 16.0m long parapet wall to the eastern boundary.

Under RDC Acceptable Development Standard 6.3.2 A1 (iii), boundary walls in R30 areas may occupy 2/3 of the distance behind the front setback. By this rationale, a boundary wall of 26.33m in length would be permitted, whereas it is proposed to have a compliant wall of only 21.07m in length.

However, the new wall would be 7.4m in height, whereas RDC Acceptable Development Standard 6.3.2 A1 (iii) contemplates walls of only 3.5m in height.

It is therefore necessary to assess the proposed wall on boundary under the Relevant Performance Criterion, which allows for:

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

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

In this instance the wall makes effective use of space by utilising an existing parapet wall which enables the addition of floor space without increasing the footprint of the building. The owner of the adjoining property has supported the proposed over-height parapet on the grounds that it will facilitate the construction of additions to 28 Deane Street that are distant from important sea view corridors.

Site inspection has revealed that the affected area of the neighbouring property does not have major openings or active habitable spaces.

Lastly, as the wall on boundary does not affect the north facing windows of the dwelling or the outdoor living areas at the rear of the lot, the passage of direct sun to the building and its living spaces remains uninterrupted.

**Side setbacks**

The following setbacks do not comply with the Acceptable Development Standards of the RDC:

Wall	Setback Standard	Proposed
West Upper	3.0m	1.0m
Garage Deck	2.5m	1.5

It is therefore necessary to assess the setbacks under Performance Criterion 6.3.1 P1, which states:

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

- *Provide adequate direct sun and ventilation to the building;*

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

The west upper wall is proposed to be setback 1.0m in lieu of 3.0m. As sunlight will freely enter the dwellings at No. 28 and No. 26 Deane Street from the north, and the passage of prevailing south-westerly sea breezes will not be affected, the variation would not compromise the provision of direct sun and ventilation to either building.

As revealed in the attached photographs, the 22m-long wall to the eastern elevation of the dwelling at No. 26 Deane Street is devoid of major openings and no active outdoor spaces occur in the area that would be affected by the variation. Thus, the privacy of the neighbouring property would be preserved, and the effects of building bulk would be minimal. Support for the variation has been expressed by the owner of the adjoining property.

Under Acceptable Development Standard 6.3.1 A1 (ii) of the RDC, unenclosed outdoor living areas are required to be setback as though they were major openings to habitable rooms with wall heights 2.4m above their Finished Floor Levels (FFL). The setback of the garage deck is thus required to be 2.5, whereas only 1.0m is proposed.

The low height of the garage deck balustrade ensures that direct sun and ventilation will be available to both the subject property and the property at No. 30 Deane Street. This low wall height also reduces the effect of building bulk. The neighbour at No. 30 Deane Street wishes to preserve the view corridor from her property and has supported the proposed deck on the basis that it *not* be screened.

### **Privacy Setbacks**

The following privacy setbacks do not comply with the Acceptable Development Standards of the RDC:

<b>Location</b>	<b>Setback Standard</b>	<b>Proposed</b>
Dwelling Deck - Looking North-East and North-West;	7.5m	Dwelling Deck: 2.0m (to North-East) and 2.4m (to North-West);
Garage Deck - Looking North.	7.5m	Garage Deck: 4.5m (to North).

It is therefore necessary to assess the privacy issues in the light of Performance Criterion 6.8.1 P1, which reads as follows:

*Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimized by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.*

*Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass. Where these are used, they should be integrated with the building design and have minimal negative effect on residents' or neighbours' amenity.*

*Where opposite windows are offset from the edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.*

The applicant has provided justification for the privacy encroachments on the grounds that written support has been obtained from all four of the neighbours, including those on the far side of the ROW. It is also noted by the applicant that the major openings/ active outdoor spaces of the properties at 21 and 19A Pearse Street (which is under construction) are orientated to the north, away from the garage deck.

Site inspection has revealed that the active outdoor spaces/major openings of neighbours would not be directly overlooked from either the dwelling deck or the garage deck (refer attached photographs).

### **Vehicle Manoeuvre Space**

It is proposed to have vehicle manoeuvre space of 5.7m in front of the garage, whereas RDC Acceptable Development Standard 6.2.3 A3.2 (and Council's Engineering Policy) requires 6.0m of vehicle manoeuvre space to be available.

The proposed garage satisfies RDC Acceptable Development Provision 6.5.1 A1 (i), which requires two parking spaces to be provided on site. There is no practical alternative to accessing the property from the rear as the embankment in front of the property has rendered street access impossible.

The Engineer-certified vehicle turning circles show that safe entry and egress from the garage is feasible (refer attachment). Proposals for greater variations have recently been approved by Council at 31D Curtin Avenue, 217 Marmion Street and 223 Marmion Street, the latter of which has been completed and appears to be functioning well.

Council's Works Department has supported the turning circles and the variation may be approved on this basis.

### **CONCLUSION**

The proposal reflects carefully-considered design that achieves modernisation and expansion of the existing dwelling while still respecting the amenity interests of neighbours.

Although the execution of the upper floor and its positioning extending into the front setback area may be seen as a somewhat bold expression, Council has favourably considered similar variations in the past. The relatively sheltered site and floating-design effect would ameliorate the built-form impression on the streetscape and ensure that the aesthetic consistency of the area is maintained.

The proposal could also be interpreted an excellent example of how an existing dwelling can be comprehensively upgraded without substantial change to building footprint. In the light of recent community concern about the number of large-scale new dwellings across Cottesloe, this type of redevelopment could prove encouraging.



Overall, the contemporary design reflects best architectural practice in Cottesloe and may be read as an intelligent, sensitive response to the context of the setting.

All other variations can be supported under the RDC or Council's Policies and Laws.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee supported retention of the existing dwelling and the design rationale as presented and assessed. Committee was also satisfied with the resultant two-storey wall on the eastern boundary in this context and under performance assessment.

## **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Birnbrauer, seconded Cr Strzina

**THAT Council GRANT its Approval to Commence Development for the proposed major alterations and additions to the two-storey dwelling including a swimming pool and garage with deck on Lot 11 (No. 28) Deane Street, Cottesloe, in accordance with the plans dated 27 August 2010, subject to the following conditions:**

- (a) All construction work shall be carried out in accordance with the *Environmental Protections (Noise) Regulations 1997, Regulation 13 – Construction Sites*.**
- (b) The external profile of the development as shown of the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (c) Stormwater runoff from any paved portion of the site shall not be discharged into the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings submitted for a building licence.**
- (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 shall comply with the Town of Cottesloe *Policies and Procedures for Street Trees, February 2005* where development requires the removal, replacement, protection or pruning of street trees.**
- (f) The finish and colour of the wall on the eastern boundary shall be to the satisfaction of the Manager Development Services.**
- (g) Air-conditioning plant and equipment shall be located closer to the subject dwelling than the adjoining dwellings, and housed or treated to ensure that sound emissions do not exceed the levels prescribed in the *Environmental Protection (Noise) Regulations 1997*.**
- (h) Any future modifications to fencing within the front setback area shall be of an open-aspect design in accordance with Council's *Fencing Local Law* and the subject of a separate application to the Town.**

- (i) Prior to the completion of works, a drainage soakwell shall be installed in the right-of-way adjacent to the development, to the specification and satisfaction of the Manager Engineering Services and at the applicant's cost; with the details being confirmed prior to the issue of a Building Licence.
- (j) Prior to the completion of works, the applicant shall make an agreed contribution to the upgrade of the footpath adjacent to the development, to the specification and satisfaction of the Manager Engineering Services, with the details and payment to be confirmed prior to the issue of a Building Licence.
- (k) The pool pump and filter shall be located closer to the subject dwelling than the adjoining dwellings, and housed or treated to ensure that sound emissions do not exceed the levels prescribed in the *Environmental Protection (Noise) Regulations 1997*.
- (l) Wastewater or backwash water from swimming pool filtration systems shall be disposed of into adequate soakwells and contained within the boundary of the property.
- (m) A soakwell system having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary shall be installed to the satisfaction of the Environmental Health Officer.
- (n) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.

**Advice Note:**

The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

Carried 8/0

**11.1.2 NO. 2 & 4 ATHELSTAN STREET - FIVE AGED PERSONS DWELLINGS**

**File No:** 2035  
**Attachments:** [Plans 2 4 Athelstan.pdf](#)  
[ArchitectsComments2 4 Athelstan.pdf](#)  
[NeighbourComments 2 4Athelstan.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer  
**Proposed Meeting Date:** 20 September 2010  
**Author Disclosure of Interest** Nil  
**Property Owners:** M J Hansen, Regalstar Investments P/L,  
Lohsum P/L, T Loh, D L Court, M Cooley, Action  
Engineering P/L  
**Applicant** Lawrence Scanlan & Associates Pty Ltd  
**Date of Application** 25 August 2010  
**Zoning:** Residential R20  
**Use:** P - A use that is permitted under this Scheme  
**Lot Area:** 1667m<sup>2</sup>  
**M.R.S. Reservation:** Not applicable.

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**SUMMARY**

This application is seeking the following variations to Town Planning Scheme No 2 (TPS 2), Council's Policies and/or the Residential Design Codes (RDC):

- Plot Ratio (affecting density bonus sought under RDC)
- Walls on boundaries; and
- Retaining/fill in front setback.

Each of these aspects is discussed in this report and refers to plans received on 25 August 2010.

Following an assessment of the application it is recommended that the application be refused for the same reasons given by Council in its previous decision of 22 February 2010 for a similar proposal on these lots.

Notwithstanding this, an alternative recommendation is also provided so Council can consider its options when reviewing the application.

**PROPOSAL**

This application is for the demolition of two single dwellings and construction of 5 two-storey aged persons dwellings.

The proposed dwellings are attached and comprise:

Ground floor

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- Master bedroom;
- Ensuite;
- Study;
- Kitchen/living/dining area;
- Laundry;
- WIR (Units 2, 3 & 4);
- Powder room;
- Store; and
- Double garage.

#### Upper floor

- 2 bedrooms with ensuite(s) (Units 1, 3 & 5)
- One guest bedroom with ensuite and Carer's Suite including separate bedroom and ensuite (Units 2 & 4);
- Family room (Unit 1 only);
- Upper floor (garden) terraces.

The dwellings are all of contemporary design, two with pitched roofs, two with skillion roofs and one with a flat roof.

### **BACKGROUND**

A summary of recent planning applications previously considered by Council for this site is as follows:

#### 25 May 2009

Council considered an application for 5 Aged Persons Dwellings and resolved:

*The item be referred back to administration at the request of the applicant for further consideration for a future meeting of Council to address the issues raised in the Officer's report and for revised plans to be provided.*

#### 22 February 2010

Council considered a re-submission of the application for 5 Aged Persons Dwellings and resolved to refuse the application for the following reasons:

- The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and*
- The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.*

### **STATUTORY ENVIRONMENT**

- Town Planning Scheme No 2
-

- Residential Design Codes

### PROPOSED LOCAL PLANNING SCHEME NO 3

No change is proposed to the zoning or density of these lots.

### APPLICATION ASSESSMENT

#### AREAS OF NON-COMPLIANCE

#### Residential Design Codes

Design Element	Acceptable Standards	Proposed Plot Ratio (based on applicant's calculations)	Performance Criteria Clause
7.1 – Special purpose dwellings	Maximum plot ratio for single houses and grouped dwellings – 100m <sup>2</sup>	Unit 1 – 215m <sup>2</sup> ; Unit 2 – 211m <sup>2</sup> ; Unit 3 – 202m <sup>2</sup> ; Unit 4 – 211m <sup>2</sup> ; Unit 5 – 214m <sup>2</sup>	Clause 7.1.2 – P2

Design Element	Acceptable Standards	Proposed	Performance Criteria Clause
6.3 – Buildings on Boundaries	Walls not higher than 3m with an average of 2.7m up to 9m in length to one side boundary	Eastern wall to Unit 5 has a length of 10.7m;  Northern wall to Unit 1 has max. height of 3.7m, averaging 3.45m	Clause 6.3.2 – P2
6.6 – Site works	Excavation or filling between the street alignment and building, or within 3m, whichever is the lesser, not exceeding 0.5m, except where necessary to provide access for pedestrians or vehicles, or natural light for a dwelling	Up to 1m fill to Unit 1	Clause 6.6.1 – P1

### CONSULTATION

The Application was advertised as per Town Planning Scheme No 2 and the Residential Design Codes. The advertising consisted of a letter to 11 adjoining property owners (same as previously advertised). Five submissions were received, including a letter headed from the 'Residents of Athelstan Road' and signed by 9 adjoining property owners. The submissions are summarised below:

Letter signed by: B. Moore, 1 Athelstan St; N Cruickshank, 3 Athelstan St; J Wade, 5 Athelstan St; D Pope, 6 Athelstan St; P Elder, 7 Athelstan St; K Purich, 8 Athelstan St; A. Sudlow, 9 Athelstan St; S Foulds, 10 Athelstan St; E Birchmore, 15 Athelstan St.

- Has a sense of déjà vu as proposal does not appear to differ significantly from the previous proposal that was rejected;
- Whilst some 'small' changes and/or concessions have been made there is basically nothing that would change our view that the proposal as it stands should not be approved by Council;
- Is in full agreement with the views expressed by other residents of the street as stated in a letter dated 13 September 2010;
- If there was a demand for this type of housing it would have been included in Local Planning Strategy No 3;
- There is a significant amount of accommodation that provides for this housing configuration without being zoned as over 55s;
- The issue here is the abuse of the Codes by a developer to achieve these outcomes. If the proposal met the requirements of the Codes it is unlikely the residents would be raising an issue;
- Other similar density housing such as in the Flour Mill development is on the other side of the cul-de-sac so has less impact to residents and is located on R30 zoned land;
- The concessions provided under the Aged and Dependent Persons requirements are not being adhered to and the reductions in size and bulk proposed by the developer are largely immaterial changes;
- This proposal is for 5 units of approximately 211m<sup>2</sup> when the Codes stipulate a maximum 100m<sup>2</sup> for each dwelling. This is still a 111% increase over the stipulated size. The proposed reduction in size is not a significant modification and is still a long way from meeting the Codes;
- These are all still double-storey, 3-bed, 3-bath dwellings, some with two living areas or a second kitchen, when these dwellings are typically single-storey and designed for one/two residents. At 211m<sup>2</sup> these are nearly as large as a family home and could feasibly each accommodate 6 individuals;
- The proposal could set a precedent in the area for aged persons dwellings well outside the Codes and could be used to justify other developments, impacting on other residents;
- Noise could be generated from the upper floor terraces fronting the street particularly with the proposed increased density;
- The west-end of Athelstan Street currently has 13 dwellings and houses approximately 35 people. The proposed development would significantly change the demographic of the street;
- The street will change from a low density, quiet, family-orientated street to one where there is significantly higher density and traffic;
- The proposed density is more appropriate in Subi Centro rather than a quiet street in Cottesloe; and

- The development will devalue properties in the street.

D Dures, 1 Haining Avenue

- Objects to five buildings on the lots as they will be too obtrusive as a group.

B & M Goodlet, 3 Haining Avenue

- Objects to proposal;
- There will be a loss of privacy and value to property due to proposed rear balconies – need clarification that proposed 1.6m high screening will be from the top of slab;
- If balconies are removed, it is requested that they be replaced by windows at sufficient height and/or of a material that doesn't overlook our yard;
- A minimum 1.8m high boundary fence/wall above our ground level is required along the rear boundary to avoid privacy concern from the ground floor;
- Roofing materials should be non-reflective; and
- The proposed living areas appear significantly higher than that recommended for the over 55s concession that the developer is requesting.

## **APPLICANT'S JUSTIFICATION**

The applicant has submitted a detailed submission with the application in support of the proposal (refer attached). Although principally the same as that previously submitted, albeit updated to reflect the current application, additional comments have also been made specific to this proposal. These are summarised below:

- The proposed units have been substantially reduced in size since the previous submission;
- The development complies with all the planning guidelines save for the size of the individual units. However, if a standard three house development was constructed, over 1667m<sup>2</sup> of plot ratio is allowed, and the over 55s scheme as presented only uses a total of 1053m<sup>2</sup> – 63% of what is allowable;
- The overall massing as presented to the street is substantially less overbearing than a 3-house design and the external modelling of the façade together with the eclectic palette of materials selected will ensure that the dwellings will sit comfortably within the streetscape;
- The garage to Unit 1 is proposed on the north-west corner of the site off the slip road which makes for a gentler, domestic character to the development at the point of maximum visual exposure;
- Units 2, 3, 4 and 5 have had their first floor areas reduced with 2 and 4 completely redesigned;
- The principle of deep setbacks to the upper floors is maintained and increased with the reduction or elimination of some family rooms;

- Total area of units were reduced initially by 317m<sup>2</sup> and in this submission reduced by a further 114m<sup>2</sup>. This equates to an average reduction of 63m<sup>2</sup> per unit;
- At first floor level the front street terraces will be screened by 1.6m high hedges;
- First floor accommodation is designed for guests, grandchildren or live-in carers; and
- The current proposal is lower and has less impact on adjoining properties with any issues previously raised having been addressed.

### PLANNING COMMENT

The main planning issues have not significantly changed since the previous submission, although the proposal has been have modified and the plot ratio reduced.

The proposed development complies with TPS 2, relevant Council Policies and the RDC for aged and dependent persons, with the exception of the following:

- Plot Ratio;
- Walls on boundaries; and
- Retaining/fill in the front setback.

Each of these issues is discussed below:

#### Plot Ratio

Under Town Planning Scheme No. 2 the lot is zoned Residential R20. This would permit a maximum of 3 single or grouped dwellings on the amalgamated lots. However, Clause 6.1.3 of the RDC states:

*For the purposes of an aged or dependent persons' dwelling, the minimum site area may be reduced by up to one third, in accordance with part 7.1.2 and 7.1.3.*

If the 1/3 reduction is applied then the average and minimum lot area may be reduced as shown below:

<b>Single house or grouped dwellings (without reduction)</b>	<b>Aged or dependent persons' dwelling (with reduction)</b>
Min. 440m <sup>2</sup> Ave. 500m <sup>2</sup>	Min. 293.34m <sup>2</sup> Ave. 333.34m <sup>2</sup>

On this basis, the amalgamated lots would accommodate 5 aged or dependent persons' dwellings.



The proposed minimum lot areas range from 329.25m<sup>2</sup> to 330.64m<sup>2</sup> which are all in excess of the minimum lot area permissible. In this respect, the issue with the proposed development arises over the proposed plot ratio for each dwelling.

Under Clause 7.1.2 of the RDC the Acceptable Development Standards for aged and dependent persons' dwellings state, inter alia:

*A maximum plot ratio area of:*

- *In the case of single houses or grouped dwellings – 100m<sup>2</sup>*

Plot ratio is defined as:

*The ratio of the gross total of all floors of buildings on a site to the area of land in the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of any lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides.*

The proposed plot ratio for each of the proposed dwellings compared to the previous application is as follows:

Unit	Proposed Plot Ratio (based on applicant's calculations)	Plot Ratio (previous applications)	
Unit 1 (western end)	215m <sup>2</sup>	266.86m <sup>2</sup>	243m <sup>2</sup>
Unit 2	211m <sup>2</sup>	265.52m <sup>2</sup>	237m <sup>2</sup>
Unit 3	202m <sup>2</sup>	264.68m <sup>2</sup>	223m <sup>2</sup>
Unit 4	211m <sup>2</sup>	260.84m <sup>2</sup>	235m <sup>2</sup>
Unit 5	214m <sup>2</sup>	247.03m <sup>2</sup>	229m <sup>2</sup>

All of the proposed units are still more than double the maximum permitted plot ratio area permitted under the acceptable development standards of the RDC.

Furthermore, an assessment of the submitted plans revealed that the proposed dwellings actually exceed the individual plot ratios stated by the applicant and therefore revised plans have been requested to accurately show the correct floor layouts that are reflective of the figures provided based on the RDC definition; ie: for smaller dwellings than shown on the plans.

The relevant performance criteria of the RDC to consider a variation state:

*Dwellings that accommodate the special needs of aged or dependent persons and which:*

- *Are designed to meet the needs of aged or dependent persons;*
- *Are located in proximity to public transport and convenience shopping;*

- *Have due regard to the topography of the locality in which the site is located; and*
- *Satisfy a demand for aged or dependent persons' accommodation.*

The proposed development has been designed to take account of existing topography and will have reasonable access to public transport and shops (approx. 330m to the nearest bus stop and approx. 360m to the Eric Street shops based on a GIS assessment). This is walkable for the able-bodied.

The applicant has advised that the ground floor of the units will be designed to meet the needs of aged and dependent persons and the petition previously submitted by the applicant signed by local residents indicates that there may be demand for this type of housing.

Notwithstanding this, the plot ratio of each dwelling is still of concern, especially as the applicant has advised that the first floor accommodation is for guests and/or grandchildren, rather than being specifically designed to meet the needs of aged or dependent persons, albeit that a Carer's Suite is now included for Units 2 & 4.

The explanatory guidelines of the RDC further discuss the special purpose dwelling requirements and state:

*The intention of this provision is to encourage the development of small-scale specialised housing in local communities, as an alternative to larger scale, relatively segregated complexes.*

*Because aged or dependent persons' dwellings are generally smaller than conventional dwellings, and the occupants do not usually have a high car ownership ratio, the codes under acceptable development provision 6.1.3 allow the reduction of the site area by one-third of that provided for by the code applying to the site, together with reduced car parking standards.*

*To prevent these concessions from being abused, for example as a back-door way of increasing density for standard housing without re-coding an area, the concessions are subject to four constraints:*

- *There is a limit on the size of such dwellings;*
- *They must be purpose-designed;*
- *There is a minimum of five dwellings in a single development; and*
- *They are subject to a legal agreement to restrict occupancy.*

The guidelines also state:

*It is important that dwellings designated aged or dependent persons are designed to allow for aging-in-place whereby dwellings cater for an individual to remain in their chosen place of residence even though their physical and sensory abilities may change over their lifespan, with certain minimum standards, as set out in appropriate Australian Standards, that are part of construction or can be introduced with relative ease. In particular, this would include designs with minimal use of levels or stairs, adequate passageways and door widths, roofed car parking spaces, accessible utilities and slip-resistant floors for kitchens, laundries, bathrooms and toilets as*

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*described in the AS 4299-1995 Adaptable housing. This would result in such dwellings being more flexible to accommodate the changing needs of older people.*

Although the applicant's supporting documentation may be taken into consideration, the proposed two-storey dwellings nevertheless do not represent small-scale specialised housing that meet the specific requirements of the Codes intended for a reduction in site area to be applied under the acceptable developments standards of the RDC.

This number of new two-storey dwellings would equate to an approximate density of R30, rather than the existing R20 code, and would have a greater visual impact on the existing streetscape than if the site were developed for 2 or 3 dwellings, albeit that the scale of such dwellings could potentially be larger than that proposed - although with greater separation and less continuous massing.

There is no objection to supporting 3 aged persons accommodation units on these lots with the proposed plot ratio (or larger) as this would satisfy the demand for providing this type of accommodation without compromising the existing R-Code density allocated to this area.

Alternatively, Council could approve the 5 aged persons dwellings as proposed under the relevant performance criteria of the RDC, or consider initiating a Town Planning Scheme Amendment to rezone the lots to Residential R30, which would permit the proposed density development 'as-of-right', rather than having to obtain a significant planning concession under the R-Codes. However, such a Scheme Amendment is likely to attract objections from residents and would generally be contrary to the existing R20 zoning proposed to remain under LPS 3 as recommended in the adopted Local Planning Strategy.

#### Building on Boundary

Unit 5 (eastern end) has a wall on the boundary that has a height varying between 2.1m and 3m, averaging 2.5m, which is allowable under the RDC, however, its proposed length is 10.7m which exceeds the maximum length permitted under the acceptable development standards of the RDC by 1.7m. Also, the height of the garage and store to Unit 1 along the northern boundary has a height up to 3.7m, averaging 3.45m, and so exceeds the maximum and average heights permitted under the acceptable development standards of the RDC, while its length is only 8.7m and therefore is otherwise compliant.

It is necessary to consider these walls on boundaries under the performance criteria of the RDC which state:

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

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

The proposed wall to Unit 5 will be setback behind the 6m front setback area and makes effective use of space considering that the proposed lot will be only 9.34m wide (less than the 10m width usually required for an R20 zone). It will also provide additional screening to the proposed wheelchair access ramp at the front of the unit without having a significant adverse effect on the amenity of the adjoining property.

The proposed garage/store to Unit 1 along the northern boundary makes effective use of space and is necessary to allow sufficient minimum headroom for vehicles entering or exiting the property, whilst also avoiding too steep a driveway gradient for seniors to use. The proposed wall should enhance privacy to the neighbour to the north and would be partially screened by existing trees and other vegetation to reduce its visual impact. No objection has been received from the adjoining property owner.

#### Retaining/fill in front setback

Fill and retaining up to 1m above NGL is proposed for the front of Unit 1 to provide a usable (flat) front garden area for the occupants with similar levels to the proposed finished floor level. This variation appears reasonable and can be considered under the performance criteria of the RDC which state:

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

It would have little visual impact on the streetscape due to the existing topography along this section of Athelstan Street and it is a practical measure to provide good accessibility to this area for elderly persons and can be supported.

#### **Additional Comments**

##### Street Tree

The submitted plans show the removal of a street tree in front of Unit 1. However, the applicant has since confirmed that this was an error as the crossover to this Unit no longer necessitates its removal.

##### Building Height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No.2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

The Council's Policy in relation to Building Heights states:

*Provided that it is satisfied that the amenity of the neighbouring area will not be adversely affected, the Council will...measure building height for attached houses and grouped dwellings from NGL as determined by Council at the centre of the area contained within the external walls of each individual house.*

On this basis, the NGL at the centre of each proposed dwelling has been determined to be as shown in the table below, which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor.

ANGL (RL)	Unit 1 – 11.60
	Unit 2 – 11.30
	Unit 3 – 10.50
	Unit 4 – 9.75
	Unit 5 – 9.50

Based on this NGL the permitted and proposed heights (RL) are as follows:

Height parameter	Unit	Permitted	Proposed	<i>Proposed (previous application)</i>
ANGL +6m	Unit 1	17.60	17.60	17.60
+8.5m		20.10	18.80	18.85
	Unit 3	16.50	15.80	14.11
+8.5m		19.00	17.00	
	Unit 4	15.75	15.40	16.02
+8.5m		18.25	16.70	
ANGL +7m	Unit 2	18.30	17.50	18.16
	Unit 5	16.50	15.50	15.27

On this basis, all the proposed dwellings comply with Council's Building height requirements and are generally well below the maximum permitted building heights.

## CONCLUSION

The latest proposal is effectively a variation on a theme, yet is a relatively modest improvement over the previous application. The revised plans attempt to address some of the concerns raised before; eg the entries and ground floors will now meet the standards for aged and disabled persons accommodation required under the RDC. Plot ratio is still a substantial fundamental departure from the normal standard specified for this type of housing.

Neighbour objections have again been received, albeit fewer individual submissions were received at this time.

Should Council remain concerned about the proposed increased density on the lots, the proposed plot ratio for each of the aged persons dwellings, and the objections raised during advertising, then the applicant should be advised that the application is not supported.

Alternatively, should Council consider that the proposal has now has adequate merit and sufficient satisfies the relevant performance criteria of the RDC, then a recommendation of approval is outlined.

## VOTING

Simple Majority

**COMMITTEE COMMENT**

Committee discussed the prospect of a deferral and took advice from the Manager Development Services that, although the latest revised plans were quite similar to the initial plans and the basic issues were well-known whereby the proposal was capable of being determined, deferral would afford the benefits of additional advertising, liaison and reporting before a final, more considered decision by Council. Committee concluded in favour of allowing more time.

**OFFICER RECOMMENDATION**

Moved Cr Walsh, seconded Cr Dawkins

1. That Council REFUSE the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 25 August 2010, for the following reasons:
  - (i) The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and
  - (ii) The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.

OR:

2. That Council GRANT its Approval to Commence Development of the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 25 August 2010, subject to the following conditions:
  - (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
  - (b) Stormwater runoff from the driveways or any other paved portion of the site shall not be discharged onto the street reserve/s, and right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings submitted for a building licence.
  - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
  - (d) The applicant applying to the Town of Cottesloe for approval to construct the proposed crossovers in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
  - (e) The existing redundant crossovers being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the specification and satisfaction of the Manager Engineering Services.

- (f) Air-conditioning plant and equipment shall be located closer to the proposed dwellings than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (g) The finish and colour of the boundary walls facing the northern and eastern neighbours shall be to the satisfaction of the Manager Development Services, with details being submitted as part of the building licence application.
- (h) The proposed development shall comply with the Acceptable Development Standards of the Residential Design Codes specific to Aged or Dependent Persons Dwellings, Clause 7.1.2 - A2 (iii) & (iv).
- (i) At least one occupant of each dwelling must be disabled, a physically-dependent person, aged over 55, or the surviving spouse of such a person, and prior to issue of a Building Licence the owners shall enter into a legal agreement with the Town of Cottesloe binding the owners, their heirs and successors in title requiring that this provision be maintained. All prospective purchasers shall be advised by the owner/developer or agent of this requirement, which shall also be included as a notification on all titles by the owner/developer.
- (j) The amalgamation of Lots 20 and 21 being finalised by the Western Australian Planning Commission before the commencement of development.
- (k) No verge trees adjoining the site are to be removed and the trees shall be protected at all times during demolition and construction, to the satisfaction of the Manager Engineering Services.
- (l) The owner(s) shall treat the roof surfaces to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (m) The design of the dwellings shall be modified to have plot ratios (in accordance with the definition of Plot Ratio in the Residential Design Codes) consistent with the plot ratios intended by the applicant as specified in the plans received on 25 August 2010. This shall be accurately shown on the detailed plans submitted for a Building Licence, to the satisfaction of and for approval by the Manager Development Services.

3. Advise the submitters of the decision.

Advice Note:

The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

**AMENDMENT**

Moved Cr Strzina, seconded Cr Dawkins

That at the request of the applicant the item is deferred to the October Council meeting to enable further consideration of the latest revised plans by submitters, officers and elected members.

Carried 6/1

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Birnbrauer, seconded Cr Strzina**

**That at the request of the applicant the item is deferred to the October Council meeting to enable further consideration of the latest revised plans by submitters, officers and elected members.**

**AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 8/0**



**11.1.3 NO. 2 SALVADO STREET - ALTERATIONS AND ADDITIONS TO 'LE FANU' WHICH IS LISTED ON THE STATE REGISTER OF HERITAGE PLACES**

<b>File No:</b>	<b>1934</b>
<b>Attachments:</b>	<a href="#">Site photos 2 Salvado.pdf</a> <a href="#">Aerial2Salvado.pdf</a> <a href="#">HeritageCouncil.pdf</a> <a href="#">ModelPhotos.pdf</a> <a href="#">Neighbours comments2Salvado.pdf</a> <a href="#">PlanningImpactStatement.pdf</a> <a href="#">Plans2Salvado.pdf</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Ed Drewett</b> <b>Senior Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>20 September 2010</b>
<b>Author Disclosure of Interest</b>	<b>Nil</b>
<b>Property Owner</b>	<b>S Wyatt and S Gibson</b>
<b>Documentation</b>	<b>Hocking Planning &amp; Architecture in association with Zorzi Builders</b>
<b>Date of Application</b>	<b>1 April 2010 (Amended 20/8/10, 1/9/10; 6/9/10)</b>
<b>Zoning:</b>	<b>Residential R30</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Lot Area:</b>	<b>1492m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Not applicable</b>

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**SUMMARY**

This application has been assessed specifically in the context of the property's heritage significance in addition to the relevant provisions of Town Planning Scheme No. 2 and the Residential Design Codes.

The documentation received 20 August 2010 and revised plans received 1 & 6 September 2010 has evolved following detailed discussions between the applicant, the Town's staff, the Heritage Council of Western Australia (HCWA) and on advice from the Design Advisory Panel to ensure that the design and extent of works proposed are appropriate for a property of such high heritage significance and addresses the statutory planning requirements.

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

**PROPOSAL**

To consider extensive alterations and additions to the existing vacant and dilapidated building to enable it to be renovated and restored for residential use.

The proposed works, based on the submitted documentation, include:

Demolition

- Removal of four internal rooms, one of which has been significantly adapted and has lost its integrity, the other three are small former bedrooms of some significance;
- Removal of the northern verandah which was intrusively enclosed in the post World War II (WW2) period;
- Removal of existing ablution block which is an intrusive structure of post WW2 period;
- Excavation to basement level of the demolition area to permit basement parking; and
- Demolition of post-WW2 limestone boundary wall to Salvado Street to enable rationalisation of levels and prevent site drainage back onto Le Fanu.

Restoration/Reconstruction

- The original roof configuration, roof materials and roof details visible from the two street frontages are to be reconstructed, including the decorative gable treatments and the 'pepperpot' roof above the study;
- The extant chimneys are to be restored in appearance, but not to working order – all four chimneys within the retained portion of the existing building will be retained or reconstructed;
- The original verandah configuration, materials, roof, balustrade, flooring and upstand wall materials are to be reconstructed;
- The original leadlight windows, sashes, fanlights and toplights are to be reconstructed;
- The whole of the interiors of the former ballroom, formal dining, study, north-south entry gallery and basement cellars are to be restored and minimally adapted;
- The study beside the side entry will be reconstructed;
- Part demolition of the eastern end of the existing kitchen, which was intrusively renovated, to enable a ramp access to the basement car parking from Salvado Street;
- The basement levels to the former ballroom and the cellar are to be retained and restored; and
- The limestone boundary wall to Marine Parade will be retained and reconstructed as necessary.

Adaption Strategy

Externally, adaption has been kept to a minimum with:

- The central bay of the Marine Parade frontage adapted to form a new entry;
- The rear of the existing kitchen rebuilt on the same line to facilitate construction of the ramp to the basement garage;

Internally, adaption has been confined to:

- Conversion of two small rooms of little significance into a new entry hall opening into the central gallery, which in turn will be adapted to open into the new formal entertainment area;
- The former kitchen will be adapted as a guest suite; and
- A powder room will be attached to the eastern end of the formal ballroom, utilising the large reconstructed stained glass window.

New development strategy

- New development will be confined to the demolition footprint, apart from cantilevering of the upper roof terrace over the existing roof behind the ridge lines visible from the two frontages;
- New development is to have its ground floor level consistent with the existing ground floor level of Le Fanu and the basement level related to the existing undercroft and cellar floor levels;
- Upper floor levels of new development is to be set 0.9m below the height of the ridge line to the Marine Parade frontage to enable panoramic views to the west whilst keeping the upper floor level as low as possible;
- The new development will respect the character of the original house, in its scale and proportion, use of materials, forms and details, whilst being discernibly of contemporary construction;
- The new development seeks to reinforce the presentation of Le Fanu to the two street frontages, whilst being more contemporary in character of the northern and eastern facades which are discreet from the street frontages;
- Carparking will be wholly below ground with access restricted to Salvado Street along the eastern boundary; and
- Sound-absorbent finishes are to be used for the garage and vehicle ramp.

**STRATEGIC IMPLICATIONS**

Heritage is recognised as a cornerstone of the character and amenity of Cottesloe, which Council aims to foster through the planning approvals process and related measures.

**POLICY IMPLICATIONS**

- WAPC SPP 3.5 Historic Heritage Conservation
- Proposed heritage incentives policy under LPS 3

**STATUTORY ENVIRONMENT**

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

**PROPOSED LOCAL PLANNING SCHEME NO 3**

It is proposed to include this lot into a special control area so as to strengthen the Council's heritage approach.

The objectives of this special control area are to:

- a) encourage conservation and restoration of the existing heritage buildings within Special Control Area 1;
- b) ensure that any future development with Special Control Area 1 does not unduly adversely affect the significance of the existing heritage buildings and their settings; and
- c) ensure that any future development with Special Control Area 1, including alterations and additions to the existing heritage buildings, will enhance the setting and protect the visual prominence of the existing heritage buildings.

In this special control area, the height of all development for any use shall conform to the general requirements for single-storey or two-storey development.

**HERITAGE LISTING**

- State Register of Heritage Places
- TPS 2 – Schedule 1
- Municipal Inventory – Category 1
- Register of the National Estate
- National Trust Classification

**BACKGROUND**

A brief chronology of this application is as follows:

- 1 April 2010  
Planning application submitted for alterations and additions to existing dwelling;
- 12 April 2010  
Following preliminary assessment, application forwarded to Heritage Council of WA as it is a statutory requirement that approval be sought prior to Council determining the application;
- 14 April 2010  
Application and plans (Rec:1/4/10) advertised in accordance with TPS 2;
- 25 May 2010  
Revised plans and documentation submitted by applicant;
- 2 June 2010  
Presentation by applicant to Design Advisory Panel (DAP) for discussion;
- 23 June 2010  
Correspondence received from Heritage Council of WA;
- 24 June 2010  
Meeting held with applicant, Heritage Council and Town's staff to discuss proposal;
- 20 August 2010  
New and revised documentation submitted by applicant;
- 25 August & 1 September 2010  
Further correspondence received from HCWA;
- 1 & 6 September 2010  
Revised plans submitted by the applicant.

**CONSULTATION**

The application and original plans were advertised in accordance with Town Planning Scheme No 2. 29 letters were sent to neighbouring property owners and 7 submissions were received which are summarised below:

M Bahen, 4C Salvado Street

- Supportive of the proposal and acknowledges the commitment of the owners to such a significant undertaking;
- Only objects to the height if it has material adverse impact on adjoining property;
- Screening should be used to avoid overlooking;

- A dilapidation report should be required to ensure there is no damage to adjoining property and dust from the site should be controlled; and
- Wishes the applicant all the best for this ambitious project and is confident that any issues that may arise would be resolved by discussion.

#### H Janssen, 1/8 Salvado Street

- Disappointed with proposal;
- Whilst not against some minor extensions, the essential house is to remain;
- What is proposed is (on a smaller scale) a Bank West tower situation in the City with the façade present and not much else;
- The original building will pale into insignificance and the profile of the building will be lost. Also queries whether chimneys will be retained;
- Objects to the structure over underground carpark and is reminded of the entrance to a city carpark or hotel;
- Proposal is not in-keeping with a heritage-listed building and it only confirms belief that a heritage precinct is a farce and that it is far too late for such an idea;
- If approved then it is only justice that Tukurua should be permitted to develop its curtilage as the owner sees fit; and
- Le Fanu will be developed once only and it is vital it is done with sensitivity and respect.

#### E Smith, Tukurua, 9 Rosendo Street

- Cottesloe Council, the Heritage Council and the people of Council should be grateful that people of means have at last taken on the job of refurbishing Le Fanu;
- Has no objection to proposed height but feels it will overlook Mrs Drake-Brockman's house and 4 Salvado Street, possibly to the detriment of their privacy;
- Dividing fences, walls and landscaping are to be addressed at a later date;
- No objection to underground parking but question the construction over the entrance to the carpark and feel it may not "fit in" with the heritage house;
- Only real concern is the sheer bulk of the extension. Le Fanu does not enjoy the same amount of curtilage as Tukurua and questions the context or perspective aspect of such a massive addition; and
- For too long in Cottesloe the height restrictions imposed have been for houses fit for pygmies with low ceilings. High ceilings and increased airflow are definitely a health benefit and impossible under current restrictions. Therefore any increased height is to be welcomed.

#### M Hanna, 3/5 Salvado Street

- Objects to proposed wall and roof height which represents a 30% concession. The height exceeds reasonableness from the point of view of adjoining property owners all of whom have had to abide to 6m requirements;

- Although nobody owns a view the Town has endeavoured to ensure that coastal developments are in-keeping with these already generous height provisions and ensure that adjoining neighbours are not disadvantaged by over-zealous developers/owners;
- The concession sought of around 16% on the roof height is a material change; and
- Doesn't believe any change is required and Le Fanu should be restored in line with existing requirements and material concessions should not be granted.

S L Conlan, 5/6 Salvado Street

- Objects to proposed height concession as it will block ocean views from four west-facing windows of own property; and
- Purchased property 20 years ago for the purpose of having ocean views.

J Fenwick on behalf of F Drake-Brockman, 66 Marine Parade

- Keen to assist new owner in having a successful renovation process and giving the house a new lease of life;
- Has no issue with the design but requests the following be addressed:
  - (a) Details of fencing to be discussed to protect house from dust, rubbish and trespass;
  - (b) Security of property is to be maintained, including a minimum 6 feet high boundary barricade to be erected to lower site invasion, especially from dust;
  - (c) Area below existing ablution block will need to be retained as wishes to keep natural slope;
  - (d) There is obviously a privacy issue to rear bedroom and bathroom but is happy to add opaque film to these windows to maintain privacy;
  - (e) A dilapidation report is to be provided;
  - (f) Adjoining property is to be protected and retained during works to LeFanu's sewer connection;
  - (g) Existing front fence is to be protected and repaired by others if damaged;
  - (h) Drainage is to be investigated prior to work being done to prevent further stormwater and soil encroachment;
  - (i) A site management plan would be welcomed; and
  - (j) Would be grateful for consideration of a later start for any on-site activity that involves excessive noise, heavy machinery and vibration.

N Barbarich, 4B Salvado Street

- Strongly objects to any increase in the height of the dividing fence/wall as this would significantly impact on ocean views and amount of light to the front of our dwelling, the main living areas and courtyard. However, providing there is no increase to the wall then has no issue.

**Applicant's response to neighbours' comments**

The submissions received during advertising were forwarded to HP & A for consideration and a comprehensive response has been provided in the 'Planning Impact Statement' which is summarised below:

**Height and Scale**

- Sightlines from the neighbouring properties immediately to the east of Le Fanu are below the Le Fanu existing north-south ridge line of RL: 17.97;
- There are no sightlines between Le Fanu and the neighbouring Drake-Brockman house;
- The greater part of the roof of the second storey addition is below the height limit of 8.5m, and the raised gable section of the roof runs east-west minimizing intrusion on ocean views from properties further up Salvado Street;
- The roof form has been carefully considered following comments from HCWA and the DAP; and
- Whilst minimizing visual intrusion for neighbouring and overlooking properties, the roof form provides a satisfactory composition with the existing heritage property and enhances views of Le Fanu, which has been an element of the ongoing townscape.

**Building Bulk**

- It is a HCWA requirement that the extension does not intrude on the bulk and scale of the existing house and retains its heritage values;
- The HCWA recommendation is evidence that the bulk and scale of the extension is acceptable with the retention of the heritage values of the existing house;
- The extension has been designed in a character respectful of the original, but subtly and readily differentiating the new from the old; and
- The revised plans eliminate the rear overhang to the retaining wall leading to the carpark and treats the upper floor extension as a projecting and bracketed bay in a more traditional form which was favoured by the HCWA.

**Visual Privacy**

- During construction, the applicant will ensure privacy to Drake-Brockman's bedrooms, bathrooms and living areas through the use of a 1.8m high planted screen wall, applied film to glazing and other measures as suggested by the neighbour;
- Longer-term privacy will be ensured through 1.8m high planted screening to the terrace and northern boundary; and



- The view from the upper floor bedroom doors will avoid the neighbour's windows.

#### Chimneys

- Existing chimneys to the former ballroom and study are to be retained, restored and strengthened;
- The damaged chimneys to the dining room and family rooms are to be retained and partly reconstructed; and
- Only the chimney to the former kitchen will be demolished.

#### Views

- From comparison of the cadastral plan and aerial photograph it can be seen that the three properties east of Le Fanu do not have visual sightlines between Le Fanu or Drake-Brockman's house or over Le Fanu because the ridge height (RL: 17.97) is above the upper-floor sightlines from these houses;
- Only the fourth house east of Le Fanu and those properties further up the hill would see over the properties and have a wider ocean view, and then Le Fanu will just be one element within this view. This would also be the case with other properties higher up on the southern side of Salvado Street, along Avonmore Terrace and Rosendo Street; and
- Le Fanu will not result in a loss of any views of significance to neighbouring properties and its restoration will enhance the view of the property.

#### Site works

- No pile-driving is presently planned for the construction of the new basement. Boundary perimeter retaining walls are proposed to be constructed in a continuous ground sawing and concrete pouring process which removes the need for sheet or pile-driving. The feasibility of this process will be determined by geotechnical investigation;
- Requirements regarding hours of operation will form part of the builder's contract of works, to be agreed with Council at Building Licence stage, and will have due regard to neighbours;
- Normal site control procedures will be applied to reduce the nuisance of wind-borne construction dust. Floors will be sprayed, wetted and swept to keep down dust and all activities will separately controlled to minimise dust and nuisance to Council's requirements; and
- A vertical concrete retaining wall is proposed along the eastern boundary to the height of the neighbour's wall with selected render to all exposed surfaces. No further increase in height to this wall is proposed.

**APPLICANT'S SUBMISSION**

Following liaison with the Town's staff and the Heritage Council of WA the applicant submitted the following documents on 20 August 2010 that detail the proposal:

- Updated development application and Heritage Impact Statement;
- Conservation Management Plan; and
- Planning Impact Statement.

On 1 & 6 September 2010 revised plans were also submitted to the Town for assessment.

**PLANNING COMMENT**

The applicant appears to have made a genuine attempt to address the concerns raised by the adjoining property owners and the documentation and plans have been significantly revised since they were advertised having due regard to these issues.

Notwithstanding this, in addition to requiring the approval of the HCWA, the applicant also requires Council's approval for the concessions sought under TPS 2 and the RDC as well as the written support of Council under Clause VI of the Scheme for alterations to the Category 1 building.

In view of the complex nature of this proposal the assessment criteria to be considered by Council is discussed below:

**DESIGN ADVISORY PANEL (DAP)**

On 2 June 2010 the application was presented to the DAP for discussion based on revised plans submitted on 25 May 2010. The applicant was subsequently advised by the Manager Development Services the following:

- *After completion of the presentation and initial discussion then departure of the consultant, the attendees identified a number of chief recommendations for assessing the design of the proposal having regard to the planning and heritage framework.*
- *The height regime for determination of the proposal is TPS2, which contains some specific scope for the exercise of discretion; while intended LPS3 is more restrictive, with no flexibility. In this respect it is observed that the existing building is single-storey whereas the proposed addition is double-storey.*
- *The proposed addition is very large and amounts to virtually a second dwelling at the back of the existing building; ie the equivalent of a new, free-standing, two-storey dwelling, as well as being self-contained whereby the original rooms are ancillary entertainment spaces rather than main living quarters – that is, both the footprint and height of the addition could be significantly reduced by occupying the original dwelling as primary parts of the family home.*

- *The Burra Charter should be interpreted carefully and is not a mandate for mock-historic design or mimicry of detailing, nor for non-traditional design elements, clashes of architectural treatments or undue loss of valuable original fabric. Ready differentiation between the old and the new as the objective demands sensitive positioning of an addition, together with the particular style and materials/finishes. Traditional construction language if proposed can still consist of materials and details particular to it yet distinct from the original.*
- *Physical separation rather than integration tends to be better. An addition ought to enhance and highlight an original building as the heritage focus, rather than dominate, compete or clash with it, and where similar styles or materials are used they should not be confused with or detract from the original. In this regard the design may be seen as flawed in seeking to build into and over the original dwelling, while the proposed addition, especially in relation to the upper level, can be seen as out of proportion, too busy and in need of better articulation.*
- *The proposed upper-level verandah with its front edge coincident with the ridgeline of the original dwelling is not found in traditional construction. This compromises the integrity of the roof forms of the original dwelling and presents a discordant composition which is not sustainable as an innovation.*
- *The proposed upper-floor roof forms impact on the traditional distinction between roofs to internal rooms and those to verandahs. In traditional dwellings as in this case the ridged and gabled roofs of the main building are pitched steeper than the lean-to roofs of the verandahs.*
- *As mentioned above traditional construction does not feature cantilevers and it is apparent that there is sufficient space available to design so as to not force such a departure.*
- *The alternative of a sympathetic contemporary design for the addition should not necessarily be dismissed, because such a solution would achieve a logical and clearly legible distinction between the original building and new construction. It would also allow lower floor-to-ceiling distances and flat roof forms to reduce overall height. Contemporary design is also able to better-handle intrusions into original construction; for example, non-traditional large expanses of glass (ie the western windows) and balconies (common today) to capture the ocean view.*
- *A 3D scale model of the proposal would be a great help – including showing three components: the existing building, the portion to be demolished, and the addition.*
- *The proposed conservation works appeared comprehensive and of quality, which will be vital to the appropriate heritage restoration of the place.*

**Applicant's response to DAP comments**

The applicant has responded to the above comments in the 'Planning Impact Statement' and submitted further revised plans on 1 & 6 September 2010 which address many of the concerns raised by the DAP. In brief the applicant's response to the DAP's comments are as follows:

- *The proposed height of the majority of the 2-storey development is close to compliance with the height requirements of TPS2. The gabled section of the roof is necessary for the composition of the new with the old and is placed to minimize intrusion onto view lines from elevated properties in the vicinity. That this increased height does not diminish the heritage values of Le Fanu is attested by the HCWA recommendation;*
- *The whole development, original and new, complies with site coverage requirements and is comparable in scale with other new development in the vicinity. The original section of Le Fanu does not contain bathrooms, kitchens or toilets. These would be intrusive elements in the original section of Le Fanu and, as far as possible, these have been located in the new build section;*
- *The original roof form has a variety of pitches, profiles and gables. Design of the new roofs: hipped roofs with gables only as features, verandah roofs to be bull nose, other roofs to have uniform eave details, gables to have sunscreens to east and west skylights derived from original gable detail;*
- *The applicants, being highly mindful of the Burra Charter, and being sympathetic to the character of the original, have demonstrated how new and old are subtly and readily differentiated;*
- *Physical separation was not an option in this situation, without significantly greater intrusion onto heritage zones and elements and loss of heritage fabric. There are historic examples of building into and over the existing dwelling which have not been considered flawed, other than from a polemical point of view. The revised design has satisfactorily addressed the other matters as demonstrated by the HCWA recommendation to the Town;*
- *A 3D perspective model has been developed for the project and the plans for the proposal have always been provided in colour codings for retained/reconstructed, retained/adapted and new build;*
- *The proposed conservation works would be comprehensive, as scheduled, and be incorporated into a heritage agreement between the applicant and HCWA. The conservation works are guided by a conservation plan;*
- *Hocking Planning & Architecture's (HP& A) record of 13 AIA Heritage and Conservation Awards, 6 MBA Heritage Awards and 2 HIA Heritage Awards attest to HP & A's competence in delivering the highest level of conservation works;*
- *The proposed upper-level verandah detail is unusual but not unprecedented, as the works of Hunt, Poole and other exponents of the Arts & Crafts style*

*attests. Alternatives were tested but were less satisfactory than the proposed, which has been recommended for approval by HCWA;*

- Differentiation between verandahs and roofs has in part been adapted with their edge detail. To fully differentiate between verandah and roof pitches would have resulted in much more of the roof exceeding the roof height, than as proposed;*
- The reflection of original details in the new is interpreted in contemporary ways for new or differing purposes to the old;*
- Existing chimneys to the former Ballroom and study are to be retained, restored and strengthened. The damaged chimneys to the dining room and family rooms are to be retained and partly reconstructed. The existing chimney to the former kitchen would be demolished;*

Again, the applicant has had regard to the constructive comments provided by the DAP and the revised documentation and plans are an attestment to this having resulted in a much more favourable design than that originally proposed.

## **HERITAGE CONSIDERATIONS**

### **Assessment framework**

There is a defined planning and heritage framework for assessment of the proposal, which includes the HCWA. This framework guides consideration of the design approach to the heritage place. The Burra Charter is a further guide to the heritage dimension, including consideration of the most appropriate design approach to combining the old with the new.

Together with the planning technical assessment involved (ie: development requirements or standards), the heritage values and classification of a property have a significant bearing on the consideration of a proposal and the extent to which it is acceptable or may warrant some design modifications or conditions of approval.

In this instance, there is a strong collection of heritage instruments and classifications relating to the place and they provide guidance on how the assessment of proposals should be approached and the values of the place to take into account.

### **Statement of Significance (HCWA)**

The Heritage Council's 'Statement of Significance' for this property provides the following description:

*Le Fanu, a large single-storey, Federation Queen Anne style residence of architectural distinction, set within a garden enclosed by a limestone wall/retaining wall, has cultural heritage significance for the following reasons:*

- The place is an example of a grand beachside home, exhibiting in its scale and character the affluence which accompanied the gold boom of the 1890s;*

- *The place has considerable architectural value through its skilled use of diverse architectural elements to create visual interest and a landmark corner development;*
- *The place contributes an important element to the streetscape of Cottesloe Beach and, as part of the wider Cottesloe precinct, an important element of the gracious old residential building stock for which the suburb is renowned;*
- *The place forms part of an historic precinct, comprising Le Fanu, the neighbouring Tukurua, Belvedere and nearby Meath, indicative of the early residential form of Cottesloe and is an aspect of the historic foundation of the suburb;*
- *The place contains several internal spaces of considerable architectural significance which have largely retained their integrity and authenticity;*
- *The place has social significance as the residence of the Holmes family who had a significant effect upon the cultural life of Western Australia, through banking and charitable activities;*
- *The place also has social significance through the period of ownership by the Church of England Diocese of Perth, when the church, under the guidance of Bishop Le Fanu, continued the works first established by the Holmes family;*
- *The place is representative of the way of life when the female members of wealthy families did not undertake paid employment but instead organised good deeds for charitable organisations as part of their social role. It was part of a philosophy that privilege entails responsibility (noblesse oblige); and*
- *The place contributes to the community's sense of place by being representative of the style of the gracious turn-of-the century summer residences, built by the well-to-do, representatives of the foundation of the suburb but which are now rare.*

### **Municipal Heritage Inventory**

The property is classified Category 1 in the MHI which is defined as:

*Highest level of protection: included in the State Register of Heritage Places, provides maximum encouragement to the owner to conserve the significance of the place. Photographically record the place.*

The MHI description of the place is:

*Very high historical and architectural significance, a landmark*

Its significance is stated as:

*This house is of considerable significance on a state level for its rare architecture and its historical associations. The original owners were prominent in business and charity. Examples of a breed rarely seen these days.*

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The property is described as:

*Nestled in the dunes at the bottom of Salvado Street is "Banksia" built by Henry Diggins Holmes and his wife Marion between 1892 and 1897. The cluster of roofs trace the development of the complex building. The architect was the same as for the Ministering Children's League Hostel which was the Holmes house with eight bedrooms, a ballroom and a dining room which can seat forty people. The walls are course rubble-limestone with brick quoining around the Romanesque arched windows, doors and airvents. It had an iron roof now replaced with asbestos sheeting. The windows are laced to take advantage of the ocean views from three sides. The gables on all foursides have Tudor details, one has diamond shaped shingles and timber decoration. The southern façade is the most dominant with a candle snuffer roofed hexagonal bay with arched windows to the south-east. The eaves have decorative corbelling. The roof is topped with an elaborate cast metal finial. A dominant gable thrusting forward to enclose arched windows is supported on decorative masonry corbels and turned supports. There are remains of stained glass in the arches of this and the bay and remains of decorative corbelling to the sides of the windows. The verandahs are supported on simple square posts. The chimney stacks are stuccoed with an elaborate frieze and double corbel. The front door is solid wood with lights on either side and above. The house is in a very poor state of repair. The entire garden is enclosed by a limestone wall.*

### **WAPC Heritage Policy**

The WAPC State Planning Policy (SPP) 3.5 Historic Heritage Conservation was gazetted in 2007.

It objectives are:

- To conserve places and areas of historic heritage significance;
- To ensure that development does not adversely affect the significance of heritage places and areas;
- To ensure that heritage significance at both the State and local levels is given due weight in planning decision-making; and
- To provide improved certainty to landowners and the community about the planning process for heritage identification, conservation and protection.

The Policy describes the existing statutory framework for heritage conservation and the relationship and responsibilities of the HCWA, the WAPC and local governments. It also specifies policy measures and the means for their implementation and requires local governments to have regard to specific matters relating to heritage in considering applications for planning approval.

Those matters relevant to the subject proposal include:

- The conservation and protection of any place or area that has been registered in the register of heritage places under the Heritage Act or is the subject of a

conservation order under the Act, or which is included in the heritage list under a Scheme;

- Whether the proposed development will adversely affect the significance of any heritage place or area, including any adverse effect resulting from the location, bulk, form or appearance of the proposed development;
- The level of heritage significance of the place, based on a relevant heritage assessment;
- Measures proposed to conserve the heritage significance of the place and its setting;
- The structural condition of the place, and whether the place is reasonably capable of conservation.

The Policy also requires that the following development control principles should be applied for alterations or extensions affecting a heritage place:

- Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric;
- Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it;
- Development should be in accordance with any local planning policies relating to heritage.

Local government has a role in support of the policy through ensuring that due regard is given to heritage significance in development assessment, planning schemes and planning strategies.

The applicant has responded positively to the WAPC's Heritage Policy requirements in the documentation and revised plans, by ensuring that the proposal is supported by the HCWA, and that it includes the retention and restoration/reconstruction of the street facades, original roof profile, gallery and hall and all major internal spaces.

The existing facades will be retained behind generous setbacks which will be simply landscaped to enhance the qualities of the existing house, which is in poor structural condition, has deteriorated to the point of fragility and needs to be conserved and returned to its landmark status.

### **Town Planning Scheme No. 2 (TPS2)**

Clause 5.1.2 of TPS 2 requires Council in considering a proposed development in relation to heritage to have regard to:



- The need for preservation of existing trees or areas or buildings of architectural or historical interest;
- The choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally.

The subject property is also included in Schedule 1 of TPS 2, which is the heritage listing available in terms of local government heritage control, as a scheme has the force and effect of law, ie: affording heritage protection.

The Schedule lists the property as follows:

- *House No. 2 Salvado Street, Cottesloe at corner of Marine Parade - Large limestone house constructed circa 1900. Classified by the National Trust.*

This invokes Part 6 of the Scheme: *Conservation and Preservation of Places of Natural Beauty and Historic Buildings and Objects of Historic or Scientific Interest*, requiring Council's written consent to proposals in addition to a planning approval under Part 7.

Broadly, Part 6 requires virtually any change to such a place to receive Council's consent, and in practice the making of a development application enables that step to be addressed.

Part 6 states that:

*The Council considers that the places of natural beauty, and historic buildings, and objects of historic or scientific interest in Schedule 1 should be conserved and preserved.*

The matters covered requiring Council consent include to:

- a) *clear, excavate or fill any land;*
- b) *fell, remove, kill or irreparably damage any tree;*
- c) *erect any fence;*
- d) *commence or carry out any renovation, modification, refitting, decoration or demolition of any building;*
- e) *alter or remove any building or object or any part thereof.*

It is considered that the proposal satisfactorily fulfils the heritage requirements under TPS 2, albeit that the proposed crossover still needs to be satisfactorily addressed to ensure minimal disturbance within the public domain and retention of the verge trees in Salvado Street.

**APPLICATION ASSESSMENT****Areas of Non-compliance****Town Planning Scheme No 2**

	<b>Permitted</b>	<b>Proposed</b>
Height	Wall height - 6m Ridge height – 8.5m	<u>Lower roof section</u> Wall height - 7.82m (RL: 19.82) Ridge height - 8.64m (RL: 20.64) <u>Upper roof section</u> Wall height – 9.34m (RL:21.34) Ridge height – 10.74m (RL: 22.74)

**Residential Design Codes**

<b>Design Element</b>	<b>Acceptable Standards</b>	<b>Provided</b>	<b>Performance Criteria Clause</b>
6.3 - Boundary setback (to Northern elevation)	4.6m to Guest-Entertainment Rooms (Ground floor)	4.1m – 13.3m	Clause 6.3.1 – P1
	4m to balcony (upper floor)	0.95m	
	2.1m to columns	0.785m – 9.9m	
	6.5m to bedroom-kitchenette/bar (upper floor)	1.955m – 11m	
6.8 – Privacy (to northern elevation)	4.5m to NE bedroom (upper floor)	1.95m	Clause 6.8.1 – P1
	7.5m to balcony (upper floor)	0.95m	

The proposed development, based on revised plans received 1 & 6 September 2010, complies with TPS 2, relevant Council Policies and the Residential Design Codes (RDC), with the exception of the following:

- Building height
- Setbacks
- Privacy
- Proposed crossover

Each of these issues is discussed below:

**Building height**

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No2

expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height. However, variations may be permitted in the case of extensions to existing buildings, having general regard to maintaining privacy, views and general amenity, and special consideration is considered warranted in this case in view of the heritage status of the building which prevents it from being demolished or original parts being significantly altered.

The NGL at the centre of the lot has been determined to be RL: 12.0 which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor. Based on this NGL the maximum permitted wall height is 6m (RL:18.0) and the maximum permitted ridge height is 8.5m (RL:20.5).

The proposed roof comprises of two sections: a lower hipped section which forms the majority of the first floor addition, and a smaller, elongated pitched and gabled-ended roof section which extends above the main roof and is orientated east-west.

The proposed height variations sought are as follows:

Proposed	Height variation sought
<u>Lower section:</u>	
Wall height - 7.82m (19.82)	1.82m
Ridge height - 8.64m (RL: 20.64)	0.14m
<u>Upper section:</u>	
Wall height – 9.34m (RL: 21.34)	3.34m
Ridge height – 10.74m (RL: 22.74)	2.24m

The general policy requirements in TPS 2 in respect to considering variations to maximum building heights appear to have been satisfactorily addressed in the submitted documentation and revised plans and are further discussed in the individual planning sections below. Council therefore has discretion to allow the proposed height variation having due regard to these relevant Scheme provisions.

In addition, as a reference guide, the relevant performance criteria of the RDC (Clause 6.7.1) in relation to height states:

*Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:*

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance*

There are a variety of housing types in the locality including single-storey and two-storey houses as well as multiple dwellings, some which are on substantially retained lots, including 64 Marine Parade, immediately south of Le Fanu, which is currently being re-developed for 2 two-storey multiple-dwellings with a flat roof height of 8.7m above the determined NGL, as approved by Council in June 2009.

Although a significant height concession is sought for Le Fanu, the existing dwellings to the east have natural ground levels that are generally higher due to the natural rising topography along Salvado Street so these properties will be less affected by the proposed height than if they were all on a flat level. Furthermore, nearby heritage properties on the State Register, such as 'Tukurua' and 'Belvedere', have substantially higher ridge heights than the surrounding dwellings and are unique and visually attractive in their own right.

Le Fanu also has an existing raised ground floor level (RL: 12.45) above NGL and ceiling heights in excess of 3m making it extremely difficult to design any first floor addition without substantially altering or completely demolishing the existing dwelling, which is not an option.

The applicant has provided various streetscapes with the submitted documentation, photographs and photo/montages (received 6/9/10) showing Le Fanu in its street context and has commented:

*The visual connection of Le Fanu, Tukurua and Belvedere would make a splendid set-piece at the heart of South Cottesloe and would encourage higher standards for new and heritage developments.*

The location of the addition on the northern side of Salvado Street ensures that adequate direct sun and daylight will be maintained to adjoining properties despite the increased height proposed as winter shadow will generally be restricted to over the road reserve.

Views of significance are also unlikely to be significantly affected as the proposal has been amended so as to remove the original proposed north-south orientated gabled roof which would have had most impact on views. A more linear approach has been taken to the proposed roofing to make it less intrusive or obstructive on existing views.

In the addition, the HCWA is supportive of the proposed height and the applicant has provided further justification for the building height in the submitted 'Planning Impact Statement' which is summarised below:

- *The ridge of the upper gable roof is considerably less than one third of the whole roof and is located east-west to minimize disrupting views from some distance away and having no impact on the view lines of the eastern neighbours;*
- *The proposed height of the majority of the two-storey development is close to compliance with the height requirements of TPS 2. The gabled section of the roof is necessary for the composition of the new with the old and is placed to minimize intrusion onto view lines from elevated properties in the vicinity. That this increased height does not diminish the heritage value of Le Fanu is attested by the HCWA'S recommendation;*
- *Sightlines from neighbouring properties, immediately to the east of Le Fanu, are below the Le Fanu existing north-south ridge line of RL: 17.97 There are no sightlines between Le Fanu and the neighbouring Drake-Brockman house;*

- *The roof form has been carefully considered following the comments from the HCWA and the Towns Design Advisory Panel whilst minimizing visual intrusion*

On balance, the proposed height variation can be supported under TPS 2 and the performance criteria of the RDC and it warrants support in this case.

### Setbacks

Due to the irregular-shaped northern boundary to the lot and, taking account the parts of the existing dwelling with highest heritage significance, setback concessions are sought on both the ground and upper floors to this boundary. These can be considered under performance criteria, which state:

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

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

The proposed reduced setbacks will not impact on direct sun or ventilation to Le Fanu or the affected adjoining property as any shadow cast from the winter sun will be over Salvado Street and there will be adequate space for air circulation for both the proposed development and the adjoining property. Furthermore, the neighbour on the northern side has not raised any objection to the proposed reduced setbacks.

### Visual Privacy

The proposed upper floor north-facing bedroom windows and balcony do not comply with the acceptable development standards of the RDC for visual privacy and therefore needs to be considered under performance criteria which states:

*Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.*

*Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass.*

*Where they are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.*

*Where opposite windows are offset from the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.*

The applicant is proposing to partially screen the upper floor balcony with full height lattice screening but a section may still result in some overlooking of the adjoining property and rear courtyard area.

The northern neighbour's courtyard is substantially overlooked from the rear of 4C Salvado Street, albeit that this has largely been addressed by the recent approval of a 0.85m vertical louvered privacy screen and additional landscaping along the boundary. The proposed new balcony will be approximately 6.8m away from the main outdoor living area and the majority of overlooking is likely to be towards the neighbour's side wall and upper floor bed/bathroom windows. In response, the neighbour has not raised any particular issue regarding visual privacy and has offered to add opaque film to these windows to resolve the issue.

#### Proposed crossover

Details regarding the proposed crossover gradient and transition to the undercroft parking area from Salvado Street were only incorporated in the revised plans received 1 September 2010. The Manager Engineering Design has subsequently reviewed the proposal and has advised:

- *There will be a major issue with the proposed cut of 1.63m at the property boundary for the proposed crossover and driveway;*
- *There will be services - power, water, gas, Telstra etc in the verge, some of which may need to be lowered to below the proposed new crossover levels, at the proponent's cost;*
- *The proposed cut in the verge would have to be battered back on a slope on each side to make it safe for people to walk along the verge without falling into a concrete walled trench on the verge. That battered or sloped edge to the new crossover levels will mean one and probably two sizable, good condition street trees having to be removed;*
- *The battered slope will mean the property on the east side of No 2 will lose a lot due to the battering of the crossover excavation and therefore a lot of the use of their verge;*
- *The proposed parking bay on the verge would make the crossover issue even more damaging to the verge levels and should be rejected.*

From a planning viewpoint, the location of the new crossover on the eastern side of Le Fanu, off Salvado Street, is still the preferred position so as to best retain the visual integrity of the building, although retention of the street trees and minimal excavation within the verge will be necessary. An alternative location off Marine Parade could also be considered although it would need to be supported by Council and the HCWA and is not favoured by the applicant as it would require undercutting the existing ballroom. Another alternative may be to consider a mechanical lifting device on the site to avoid the necessity of gradient changes within the verge or potential disruption to street trees.

Officers have reviewed this matter with the consultant, who has since liaised with the owners to consider potential options, then advised as follows:

*We have looked at the issues discussed and would like Council to consider the application as previously submitted for adapting levels across the verge in order to achieve a 1 in 5 ramp to the proposed basement parking area.*

*We have discussed the suggestion to install a vehicle lift, which would be more complex and would be disruptive to neighbours. We do not wish to proceed with this alternative due to the visual intrusion of such a mechanism next to the heritage house, the visual impact of this element on the neighbouring property and the potential for noise intrusion at all hours to both households.*

This situation is problematic. Strictly-speaking the application for planning approval is confined to the private property, and although for completeness the plans show the crossover intended on Council's verge, that requires a separate engineering works approval. It should never be assumed that proposals on private property can simply externalise their impacts on the public domain, affecting verge levels, services, infrastructure (footpaths, signs, light poles, etc), trees and landscaping. The introduction of significant cut or fill, re-contouring (berms) and retaining walls around trees (or the loss of trees) and so on is not supported. Essentially, the design of the proposal needs to be modified to address this matter on-site with minimal impact on the verge or neighbouring properties. The conservation of the place is considered insufficient cause to affect the amenity, character and heritage context of the public domain verge and Norfolk Island Pine tree-lined street defining Cottesloe. Hence an overall approval would need to be conditioned in this respect.

### **HCWA Assessment and Recommendations**

The Heritage Council initially considered the application on 11 June 2010, and then considered new documentation and revised plans on 13 August 2010. A summary of its responses is as follows:

#### ***Consideration of plans dated 24 May 2010 – now superseded:***

##### 11 June 2010

*The Council resolved to advise the Town of Cottesloe that the Heritage Council is broadly supportive of the conservation and adaption of Le Fanu. However, in order to assist the Council in providing a formal view on the proposal, the Council has requested, as a matter of urgency, for the preparation of a Conservation Plan by an independent heritage consultant.*

*In terms of the proposal the Heritage Council wishes to provide the following comments:*

- The Council is concerned with the proposed development's impact on significant fabric;*
- The Council is concerned with the bulk, scale and similarity in stylistics of new build and existing building. There is not enough differentiation in the styles to clearly delineate the old and the new.*

As outlined, the applicant addressed these concerns via revised plans and additional documentation, subsequently reconsidered by the HCWA.

***Consideration of Documentation, Conservation Management Plan and Revised Plans received by HCWA 30 July 2010:***

13 August 2010

The Heritage Council considered revised drawing received 30 July 2010 and resolved:

*To advise the Town of Cottesloe that the revised proposal will be recommended to the Minister for authorisation due to the Conservation Order that is in place over the lot. The authorisation will be subject to conditions and that the Building License Application is to be referred to the Heritage Council for review and advice prior to works being undertaken on site.*

*The Council further advises that the assessment of the proposed development has been made from a heritage viewpoint. The matter of height is intrinsic to the discussion of bulk and scale which has been deemed acceptable.*

The Heritage Council also resolved the following:

1. *Recommend to the Minister that the proposed works to Le Fanu are authorised subject to the following conditions:*
    - *A Heritage Agreement shall be entered into prior to the undertaking of the works associated with the proposed development;*
    - *The draft conservation management plan shall be reviewed and finalised prior to the issue of a building licence. The proposed works are to be revised to comply with the policies within the conservation management plan if changes arise out of the review process;*
    - *Physical interpretation of the progressive development of the place from a seaside cottage to a place as it stands shall be incorporated into the detailing of the interior spaces and finishes;*
    - *A Standard Archival Record of the Place shall be prepared prior to any demolition or soft strip out works being undertaken;*
    - *A landscape plan shall be submitted for review and advice prior to landscaping works being undertaken;*
    - *A material palette and colour scheme shall be submitted for review and advice prior to the issue of a building licence;*
    - *The proposed tracked louvre doors or storm shutters to enclose the proposed upper terrace are not supported. The Council considers the solidity of the proposed storm shutters to be a sub-optimal solution and advises that the applicant should explore a glazed solution;*
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- *The breach in the front boundary wall facing Marine Terrace is not supported. The stairs up to the verandah and proposed front entrance facing Marine Terrace requires further consideration by the applicants;*
  - *The building licence application drawings are to be referred to the Office of Heritage for review and advice prior to any works being undertaken on site;*
  - *The first floor cantilevered section on the east elevation should be weatherboard or another lightweight cladding option;*
2. *Recommend to the Minister that once the Heritage Agreement has been finalised, the encumbrance of the Conservation Order can be removed from the place.*
  3. *Advise the Town of Cottesloe that the proposed works will be recommended to the Minister for authorisation subject to conditions and that the Building License Application is to be referred to the Heritage Council for review and advice prior to works being undertaken on site and further advice that the assessment of the proposed development has been made from a heritage viewpoint. The matter of height is intrinsic to the discussion of bulk and scale which has been deemed acceptable.*

*As there is a Conservation Order on the place, a permit would be required from the Minister for Heritage and this is currently in progress.*

#### 10 September 2010

Subsequently, by letter of this date to the current owners, the HCWA has advised that the Minister for Heritage has now granted a permit to overcome the Conservation Order and allow the proposal to proceed, subject to the conditions contained in the HCWA resolution of 13 August 2010 above. The Town's decisions on the present planning and future building licence applications can proceed accordingly.

#### **CONCLUSION**

This complex application has evolved following extensive consultation between Hocking Planning & Architecture, on behalf of the applicant, the Town's staff and the HCWA, as well as DAP input and submissions from neighbours.

The documentation received on 20 August 2010 and the revised plans received 1 and 6 September 2010 are now considered to sufficiently address all of the relevant planning and heritage considerations which have arisen, to enable a conditional approval.

The HCWA has endorsed the proposed height of the proposal as intrinsic to the bulk and scale of the building, and recommendation that the proposed works to Le Fanu be authorised, subject to detailed requirements. The Minister for Heritage has since cleared the way for this to occur.

Council is the authority responsible to determine the planning application and in so doing is obliged to take on-board the advice and recommendation of the HCWA, including reflecting its specific conditions, in order to apply those requirements via a formal determination.

It is assessed that the revised proposal can now be supported, subject to attention to particular details to be addressed via completion of the heritage actions and pursuant to Building Licence and works approvals processes.

This will entail some subsequent liaison, design refinements, review, documentation and approvals, however, the commitment of all parties to the restoration, conservation and extension of Le Fanu can be expected to satisfactorily address these details.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Committee expressed support for Le Fanu to be restored at last and for the revised design of the extension, noting that the 3D images were very useful in demonstrating the final conservation and development. Committee commended the new owner/consultant in tackling this major task and the officer report in assessing the proposal. Clarification was sought and provided regarding the boundary wall fencing to the street frontages; the interface with the eastern neighbouring property; the vehicular access/verge treatment, which is governed by condition (8); and when the works were expected to be commenced and completed – a two year construction period is envisaged from early 2011.

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Birnbrauer, Seconded Cr Strzina

That Council GRANT its Written Consent and Approval to Commence Development for the alterations and additions and associated conservation works to Le Fanu at No. 2 (Lot 121) Salvado Street, Cottesloe, in accordance with the documentation (Heritage Impact Statement, draft Conservation Management Plan and Planning Impact Statement) received 20 August 2010 and revised plans received 1 and 6 September 2010, subject to the following conditions:

- (1) The proposed works to Le Fanu are authorised subject to the following detailed requirements:
  - a) A Heritage Agreement with the Heritage Council of Western Australia (HCWA) shall be entered into prior to the undertaking of the works associated with the proposed development.
  - b) The draft Conservation Management Plan shall be reviewed by the HCWA and finalised prior to the issue of a Building Licence. If changes arise out of the review process the proposed works are to be revised to comply with the policies within the Conservation Management Plan.

- c) Physical interpretation of the progressive development of the place from a seaside cottage to a place as it stands shall be incorporated into the detailing of the interior spaces and finishes, to the satisfaction of the HCWA.
  - d) A Standard Archival Record of the Place shall be prepared and submitted to the HCWA prior to any demolition or soft-strip-out works being undertaken.
  - e) A landscape plan shall be submitted to the HCWA and the Town for review and advice prior to landscaping works being undertaken.
  - f) A materials palette and colour scheme shall be submitted to the HCWA and the Town for review and advice prior to the issue of a Building Licence.
  - g) The proposed tracked louvre doors or storm shutters to enclose the proposed upper terrace are not supported. The HCWA considers the solidity of the proposed storm shutters to be a sub-optimal solution and advises that the applicant should explore a glazed solution.
  - h) The proposed breach in the existing front boundary wall facing Marine Parade is not supported. The stairs up to the verandah and proposed front entrance facing Marine Parade require further consideration by the applicants, for review and advice by the HCWA pursuant to the Building Licence application.
  - i) The Building Licence application drawings are to be referred to the Office of Heritage for review and advice prior to any works being undertaken on site.
  - j) The first floor cantilevered section on the eastern elevation should be weatherboard or another lightweight cladding option, for review and advice by the HCWA pursuant to the Building Licence application.
- (2) The Building Licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and referred by the Town to the HCWA for review and advice prior to issue of the Building Licence, to ensure that all works proposed, including the abovementioned matters, are in accordance with the heritage requirements.
  - (3) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Council and any approvals as required under the relevant heritage classifications.
  - (4) Adequate storage disposal on-site shall be provided to contain site stormwater in accordance with Council's Local Law. Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters, downpipes and soakwells used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings for a Building Licence.
  - (5) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction sites.
  - (6) Prior to the granting of a Building Licence, a comprehensive Dilapidation Report addressing the adjoining properties, together with a comprehensive
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Demolition and Construction Management Plan (which shall include dealing with any asbestos or other hazardous materials) shall be submitted to the satisfaction of the Town.

- (7) No verge trees adjoining the site are permitted to be pruned, damaged or removed and they shall be protected at all times during the demolition and construction works, to the satisfaction of the Town.
- (8) The proposed crossover design and resultant changes to the verge as indicated in the revised plans are not supported by Council. A separate approval for any works affecting the verges is required apart from the planning approval for the private property. Therefore, the applicant is required to redesign the proposed vehicular access in relation to the verge, subject property and proposed development, to the satisfaction of Council and the HCWA as may be necessary.
- (9) Any works affecting the verges shall be to the specification and satisfaction of the Town and prior-approved as required. Any damage within the road reserve occasioned by the demolition and construction activities shall be rehabilitated to the specification and satisfaction of the Town at the applicant's cost.

Advice Notes:

- 1. This approval is to the proposed demolition, development and required restoration / conservation works only. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of Cottesloe Town Planning Scheme and any heritage classifications of the property.
- 2. The applicant / owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
- 3. The Town will advise the submitters of the decision.

Carried 7/0

**AMENDMENT**

**Moved Cr Birnbrauer, seconded Cr Strzina**

**That a new item (10) be added to read: "The applicant shall liaise further with the northern neighbour to address privacy screening for (i) the dividing boundary and (ii) the upper-floor rear balcony; and full details of the solutions shall be included in the plans submitted for a Building Licence, all to the satisfaction of the Manager Development Services and the HCWA"**

**Carried 8/0**

**COUNCIL RESOLUTION**

**That Council GRANT its Written Consent and Approval to Commence Development for the alterations and additions and associated conservation works to Le Fanu at No. 2 (Lot 121) Salvado Street, Cottesloe, in accordance**

with the documentation (Heritage Impact Statement, draft Conservation Management Plan and Planning Impact Statement) received 20 August 2010 and revised plans received 1 and 6 September 2010, subject to the following conditions:

- (1) The proposed works to Le Fanu are authorised subject to the following detailed requirements:

  - a) A Heritage Agreement with the Heritage Council of Western Australia (HCWA) shall be entered into prior to the undertaking of the works associated with the proposed development.
  - b) The draft Conservation Management Plan shall be reviewed by the HCWA and finalised prior to the issue of a Building Licence. If changes arise out of the review process the proposed works are to be revised to comply with the policies within the Conservation Management Plan.
  - c) Physical interpretation of the progressive development of the place from a seaside cottage to a place as it stands shall be incorporated into the detailing of the interior spaces and finishes, to the satisfaction of the HCWA.
  - d) A Standard Archival Record of the Place shall be prepared and submitted to the HCWA prior to any demolition or soft-strip-out works being undertaken.
  - e) A landscape plan shall be submitted to the HCWA and the Town for review and advice prior to landscaping works being undertaken.
  - f) A materials palette and colour scheme shall be submitted to the HCWA and the Town for review and advice prior to the issue of a Building Licence.
  - g) The proposed tracked louvre doors or storm shutters to enclose the proposed upper terrace are not supported. The HCWA considers the solidity of the proposed storm shutters to be a sub-optimal solution and advises that the applicant should explore a glazed solution.
  - h) The proposed breach in the existing front boundary wall facing Marine Parade is not supported. The stairs up to the verandah and proposed front entrance facing Marine Parade require further consideration by the applicants, for review and advice by the HCWA pursuant to the Building Licence application.
  - i) The Building Licence application drawings are to be referred to the Office of Heritage for review and advice prior to any works being undertaken on site.
  - j) The first floor cantilevered section on the eastern elevation should be weatherboard or another lightweight cladding option, for review and advice by the HCWA pursuant to the Building Licence application.

- (2) The Building Licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and referred by the Town to the HCWA for review and advice prior to issue of the Building Licence, to ensure that all works proposed, including the abovementioned matters, are in accordance with the heritage requirements.
- (3) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Council and any approvals as required under the relevant heritage classifications.
- (4) Adequate storage disposal on-site shall be provided to contain site stormwater in accordance with Council's Local Law. Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters, downpipes and soakwells used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings for a Building Licence.
- (5) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction sites.
- (6) Prior to the granting of a Building Licence, a comprehensive Dilapidation Report addressing the adjoining properties, together with a comprehensive Demolition and Construction Management Plan (which shall include dealing with any asbestos or other hazardous materials) shall be submitted to the satisfaction of the Town.
- (7) No verge trees adjoining the site are permitted to be pruned, damaged or removed and they shall be protected at all times during the demolition and construction works, to the satisfaction of the Town.
- (8) The proposed crossover design and resultant changes to the verge as indicated in the revised plans are not supported by Council. A separate approval for any works affecting the verges is required apart from the planning approval for the private property. Therefore, the applicant is required to redesign the proposed vehicular access in relation to the verge, subject property and proposed development, to the satisfaction of Council and the HCWA as may be necessary.
- (9) Any works affecting the verges shall be to the specification and satisfaction of the Town and prior-approved as required. Any damage within the road reserve occasioned by the demolition and construction activities shall be rehabilitated to the specification and satisfaction of the Town at the applicant's cost.
- (10) The applicant shall liaise further with the northern neighbour to address privacy screening for (i) the dividing boundary and (ii) the upper-floor rear balcony; and full details of the solutions shall be included in the plans submitted for a Building Licence, all to the satisfaction of the Manager Development Services and the HCWA.

**Advice Notes:**

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1. This approval is to the proposed demolition, development and required restoration / conservation works only. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of Cottesloe Town Planning Scheme and any heritage classifications of the property.
2. The applicant / owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
3. The Town will advise the submitters of the decision.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 8/0**

**11.1.4 NO. 151 MARINE PARADE - NORTH COTTESLOE SURF LIFE SAVING CLUB - PROPOSED PARTIAL ROAD CLOSURE ON MARINE PARADE TO FACILITATE ALTERATIONS AND ADDITIONS APPROVED BY COUNCIL**

**File No:** 1825  
**Attachments:** [151 MarinePdePlans.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer  
**Proposed Meeting Date:** 20 September 2010  
**Author Disclosure of Interest:** Nil  
**Property Owner:** The Crown (leased to NCSLSC)  
**Applicant:** NCSLSC  
**Date of Request:** 3 September 2010  
**Zoning:** N/A  
**M.R.S. Reservation:** Parks & Recreation (Club only)

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**PROPOSAL**

To partially close a section of the Marine Parade road reserve adjoining the North Cottesloe Surf Life Saving Club (NCSLSC) to facilitate alterations and additions that were supported by Council on 14 December 2009 and approved by the Western Australian Planning Commission (WAPC) on 3 May 2010.

**BACKGROUND**

On 14 December 2009 Council resolved:

*That with respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on the revised plans date-stamped received 9 December 2009 and labelled as Option B, advises the WAPC that the application, incorporating an extension to the lease boundary, is SUPPORTED...(subject to conditions and advice notes).*

Following subsequent referral by the Town, the WAPC approved the application on 3 May 2010 subject to conditions and advice notes, including inter alia:

*That the proposed amendment to the existing lease boundary is required to be approved by the Crown prior to commencement of development within the affected area.*

In order to implement the planning approval the Club has now requested that the Town undertake the necessary administration to enable the partial road closure to be performed under the Land Administration Act (LAA).

**PLANNING COMMENT**

The Club is required to seek Council's support to the proposed road closure on Marine Parade to enable the subject portion of road reserve to be amalgamated with

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its lease boundary in accordance with the planning approval for extensions to the club premises.

Under section 58 of the LAA, where a road dedicated for public use is proposed to be closed, the process is initiated by the Local Government. The Local Government is required to advertise the proposed road closure, allowing 35 days after the publication of a notice in a newspaper for any objections, and to consider any responses before requesting closure.

The Managers of Development Services and Engineering Services are supportive of the proposed partial road closure on Marine Parade pursuant to Council's support for the alterations and additions to the NCSLSC and the WAPC approval.

To facilitate this process the Town is required to advertise the proposal and consult with relevant authorities in accordance with the requirements of the LAA. Upon completion of that phase a further report to Council will be necessary to deal with any objections received and determine whether to continue with the closure.

In effect, Council has already given its support in-principle for the road closure and the purpose of this report / resolution is to now procedurally instigate the official process.

#### **VOTING**

Simple Majority

#### **COMMITTEE COMMENT**

Committee supported this necessary process. Committee also asked that Council be reminded of the parking provision for the surf club in relation to the proposal. In this respect it is advised that on 14 December 2009 Council resolved to recommend as below and on 3 May 2010 the WAPC approved the planning application with such a condition:

*The design, any construction, marking-out and signage for a maximum of three on-street parking bays for the exclusive use of the Club, as well as for the provision of a suitably-located access way and loading area required for the proposed bin enclosure, shall be to the specification and satisfaction of the Manager Engineering Services, and shall be provided at the Club's cost and coordinated as part of the overall development.*

#### **OFFICER & COMMITTEE RECOMMENDATION**

**Moved Cr Birnbrauer, seconded Cr Rowell**

THAT Council:

1. Supports the proposed closure of a portion of the road reserve along Marine Parade adjoining the North Cottesloe Surf Life Saving Club lease area, in order to enable the alterations and additions approved by the WAPC on 3 May 2010.
2. Requests staff to carry-out the necessary procedures in accordance with Section 58 of the Land Administration Act; including advertising and consultations then reporting-back for Council to consider any responses received and determine whether to continue with the road closure.

3. Advise the NCSLSC of this resolution and the procedures and timeframe involved.

**AMENDMENT**

**Moved Cr Boland, seconded Cr Strzina**

**To add a new sentence in item 2 after the word 'closure' which reads: "This is to include liaison with the NCSLSC and the WAPC as to whether the footpath needs to be widened, whereby the intended on-street parking bays and access way for the bin enclosure for the Club's purposes warrant review in relation to the approval"**

**Carried 6/2**

**COUNCIL RESOLUTION**

**THAT Council:**

1. Supports the proposed closure of a portion of the road reserve along Marine Parade adjoining the North Cottesloe Surf Life Saving Club lease area, in order to enable the alterations and additions approved by the WAPC on 3 May 2010.
2. Requests staff to carry-out the necessary procedures in accordance with Section 58 of the Land Administration Act; including advertising and consultations then reporting-back for Council to consider any responses received and determine whether to continue with the road closure. This is to include liaison with the NCSLSC and the WAPC as to whether the footpath needs to be widened, whereby the intended on-street parking bays and access way for the bin enclosure for the Club's purposes warrant review in relation to the approval
3. Advise the NCSLSC of this resolution and the procedures and timeframe involved.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 8/0**

**11.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 21  
SEPTEMBER 2010****11.2.1 EVENT APPLICATION - THE FINER THINGS**

**File No:** SUB/550-02  
**Attachments:** Event Application – The Finer Things  
Outdoor & Large Public Events  
Outdoor & Large Public Event Guidelines  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Annaliese Davis  
Events Support Officer  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

Tsvet Productions contacted the Town of Cottesloe requesting to hold a charity event on the Civic Centre Main Lawn on Saturday 19<sup>th</sup> February 2011. The event is a non for profit event aimed to promote food and wine appreciation as well as conducting an auction to fundraise for the selected charity, Love Angels. ([www.loveangels.com.au](http://www.loveangels.com.au))

At the Council meeting in August, Council resolved to refer the matter back to administration in order to finalise certain details within the application form and re-present to Council.

The recommendation is that Council:

1. Give in-principal approval for 'The Finer Things' subject to the following conditions:
  - a) relevant sound monitoring is carried out throughout the event with a bond of \$2,000 to ensure the event organisers comply with sound monitoring officers.
  - b) All relevant approvals by CEO, Principal Environmental Health Officer and Independent Structural Engineer are received prior to the event.
2. Class the event as a Charity /Community event category 2 with a fee of \$550 and a bond of \$2,000. In addition there will be fees associated for sound monitoring or others at the discretion of the CEO.

**BACKGROUND**

The report went to Council in August 2011 and was deferred until all relevant sections of the event form were completed.

**STRATEGIC IMPLICATIONS**

Nil

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**POLICY IMPLICATIONS**

The Outdoor Concerts & Large Public Events policy and guidelines are both relevant when considering this application. As stated in the policy:

*b.) All outdoor concerts and major public events shall comply with the Town of Cottesloe's Guide to Outdoor Concerts and Large Public Events. Please see attached for these guidelines.*

In addition the policy states that:

*(f) An application for an event is to be made to Council on the Event Application and Checklist Form not less than 90 days prior to an event. The CEO may request additional information or action as deemed appropriate*

*(g) The in-principle support of the Council of the Town of Cottesloe to stage an outdoor concert or large public event does not constitute an approval. Approval for an event will only be given by the CEO upon satisfactory compliance with all statutory and other requirements at least 24 hours prior to the commencement of an event.*

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

The event organisers will be required to pay the fees and bond's as shown in the 2010/2011 Fees and Charges.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The following is a broad schedule of the event:

**Tentative Date/Tickets:**

February 19<sup>th</sup> 2011 from 3:00pm till 8:00pm and all tickets are pre-sold.

**Fundraising:** Tsvet Productions were contacted regarding how much money would be raised for The Love Angels. Tsvet Productions confirmed that all money from ticket sales would cover the cost of the event and all money raised in the auction (main part of the event) will go directly to the charity. There is a section on the event application form which asks for the name and contact number of the charity. Therefore they can be contacted after the event if necessary.

**Guests:**

There will be 250 tickets sold. Approximately 77% of the guests will be 25 to 40 years old with the remainder in the 40 – 55+ age.

**Draft Schedule of event:**

- 3:00 – 4:00pm: Guests will arrive and there will be stand up drinks and canapés in the marquee. Classical piano music or Jazz will play (TBC)
- 4:00 – 7:00pm: There will be commentary for food and wine appreciation over the afternoon displaying 30 different courses of tapas with wines that compliment, all from restaurants across Perth. A fundraising auction for Love Angels Foundation will also take place in this time. This is the main source of fundraising for the event and will have items such as jewellery, fine wines, holidays, and memorabilia which have all been kindly donated to auction off.
- 7:00pm – 8:00pm DJ (to be confirmed) will play from 7:00pm till 8:00pm

The event will conclude at 8:00pm.

There will be security at the event and water will be freely available. It will be a smoke free environment. The event organisers will require the main lawn from Friday 18<sup>th</sup> February and Sunday 19<sup>th</sup> February for set up and break down.

If in-principle approval is granted by Council, the Events Officer and Principal Environmental Health Officer will begin collecting all relevant information regarding compliance with noise, health and safety regulations. The final approval will only be given once all the requirements have been met by Tsvet Productions to the satisfaction of the CEO with reference to the Outdoor Concerts and Large Public Event Guidelines (attached).

The event will take place between 3:00pm and 8:00pm and noise monitoring systems will be in place therefore the noise impact on local residents will be controlled. Additionally, applying the bond of \$2,000 will ensure that the event organisers comply with the sound monitors request on the day of event.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee requested that after the event, Council BE informed as to how much money was raised for charity. Additionally Committee requested that officers clarify with organisers to confirm the conclusion time for the event.

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT COUNCIL:**

1. Give in-principal approval for 'The Finer Things' subject to the following conditions
  - a) Relevant sound monitoring is carried out throughout the event with a bond of \$2,000 to ensure the event organisers comply with sound monitoring officers.

- b) All relevant approvals by CEO, Principal Environmental Health Officer and Independent Structural Engineer are received prior to the event.
- 2. Class the event as a Charity /Community event category 2 with a fee of \$550 and a bond of \$2,000. In addition there will be fees associated for sound monitoring or others at the discretion of the CEO.

Carried 8/0

**11.2.2 RECORD KEEPING PLAN**

**File No:** SUB/185  
**Attachments** Town of Cottesloe Record Keeping Plan  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Asha Boudville  
Records Manager

**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A recommendation is made to adopt the revised Record Keeping Plan and forward to the State Records Commission.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

The *State Records Act 2000* ("Act") has specific provisions relating to the responsibility to create, manage and dispose of records in accordance with principles and standards issued by the State Records Commission.

**FINANCIAL IMPLICATIONS**

There has been significant officer and contractor time invested in the development and preparation of the Record Keeping Plan over the last 9 months.

**SUSTAINABILITY IMPLICATIONS**

Various Policies related to the Record Keeping Plan have been reported to Council during 2009/2010.

**CONSULTATION**

Nil

**STAFF COMMENT**

Due to legislative requirements the Town of Cottesloe is required to submit a revised recordkeeping plan to the State Records Commission every five (5) years. This plan outlines our current recordkeeping policy and procedures.

Records are an important information resource to the Town and we are obliged to maintain a records management system that completely, accurately and reliably creates and maintains evidential records of business activities carried out by the

Town of Cottesloe. Records may only be destroyed through an approved scheme with guidelines set by the State Records Commission.

This plan applies to all staff within the Town of Cottesloe including Councillors, part-time employees and contractors.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**That Council adopt the revised Record Keeping Plan and forward to the State Records Commission.**

**Carried 8/0**



**11.2.3 BEACHES & BEACH RESERVES LOCAL LAW**

**File No:** SUB/594  
**Attachments:** [Beaches Beach Local Law doc](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A recommendation is made to endorse the proposed amended Beaches & Beach Reserves Local Law and refer for State wide public advertising.

**BACKGROUND**

The existing Beaches and Beach Reserves local law is due for a review. Provisions within the existing law have been identified by staff as lacking in certain areas and requiring more specific controls over what is allowed to occur on the beach and beach reserve.

The increase in the popularity of the beach and the subsequent increase in the commercial and event usage of the beach and beach reserve have also highlighted the existing law is now inadequate to deal with certain demands and situations.

Research from other local authorities who have responsibility for, and management of, beaches and beach reserves as well as local experience of previous events that have occurred on Cottesloe Beach have been incorporated into the drafting of the new local law.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Section 3.5 & 3.12 of the Local Government Act applies.

**3.5. Legislative power of local governments**

- 1. A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*

2. *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.*
3. *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
4. *Regulations may set out –*
  - (a) matters about which, or purposes for which, local laws are not to be made; or*
  - (b) kinds of local laws that are not to be made,*

*and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind*
5. *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).*

### **3.12. Procedure for making local laws**

1. *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
2. *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
3. *The local government is to –*
  - (a) give Statewide public notice stating that –*
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- 3a. *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*

4. *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

***\* Absolute majority required.***

5. *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*

6. *After the local law has been published in the Gazette the local government is to give local public notice –*

- (a) stating the title of the local law;*
- (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
- (c) advising that copies of the local law may be inspected or obtained from the local government's office.*

7. *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*

8. *In this section –*

*making ~ in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

Regulation 3 of the Local Government Functions and General Regulations provides the following.

**3. Notice of purpose and effect of proposed local law - s. 3.12(2)**

*For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that –*

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law*

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

The Draft Local Law has been reviewed by Council's legal advisers - McLeods.

If Council approves the proposed amended Beaches & Beach Reserves Local Law it will be forwarded for public state wide advertising.

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**STAFF COMMENT**

The following were added into the **Definitions** section:

- Peters Pool
- Pylon
- South Cottesloe Beach
- Telephone Beach
- The Cove
- Toy Vehicle

The following clauses were added into the **Environmental** section:

- Abandonment of any animal
- The discarding of cigarette butts
- Climbing on Mudurup Rocks

The following clauses were added into the **Quiet Amenity** section:

- Age limit of opposite sex entering change rooms
- Commercial activity
- Fund raising
- Betting or gambling
- Public speaking
- Use of broadcasting equipment
- Filming and photography
- Processions and demonstrations
- Advertising
- Graffiti
- Damage to reticulation
- Damage to lighting
- Discharging gas
- Discharging chemicals
- Urinate or defecate
- Feeding of animals and birds
- Unlocking gates and doors
- Wasting fresh water
- Obstruction of footpaths and car parks

The following clauses were added into the **Safety** section:

- Entering the water after sounding of shark alarm
- Interfering with life saving equipment
- Hinder a beach patrol
- Keeping clear of rescue operations
- Comply with signs and directions
- Authorised persons may give directions
- Glass containers prohibited
- Possession of alcohol prohibited
- Lighting of fires
- Diving from groyne or pylon

- Flying of aerial devices
- Exclusive use of beach
- Operation of toy vehicles
- Obstruction and loitering
- Interfere with rubbish bins
- Pretend to be in distress in the water
- Dig large holes on the beach

The following clauses were added into the **Fishing, Netting and Spear Fishing** section:

- Fishing north side of Groyne
- Cast fishing line into swimmers
- Use of cray traps north side of Groyne
- Safe fishing on the Groyne
- Fishers to allow free passage others on Groyne
- No fishing between safe swimming flags
- Discarding of hooks and lines

The following clauses were added into the **Watercraft** section:

- Boats interfering with swimmers
- Litter or discharge oil from boats
- Anchoring of boats
- Encroach boats in to swimmers and fishers
- Watercraft to be 200 metres from shore

The following clauses were added into the **Rangers and Authorised officers** section:

- Impersonate Ranger
- Police to be authorised person
- Impersonate life guard
- Council may authorise persons
- Name and address to be given
- Hindering a Ranger
- Sounding of shark alarm
- Photograph or record Ranger
- Increase of penalties

It is anticipated these changes will enhance the rangers ability to ensure a safer, more enjoyable beach environment to all residents and visitors.

## **VOTING**

Absolute Majority

**OFFICER RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Strzina

THAT Council approve the proposed Beaches & Beach Reserves Local Law to be advertised state wide for public comment.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

That the Item be referred back to administration and deferred until next month.

Reason: To request that the local law be re-examined by administration.

Carried 6/0

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Woodhill

That Council refer the matter back to administration in order to re-examine the Beaches and Beach Reserves Local Law and re-present to Council.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

Carried 8/0

**11.2.4 INDIANA TEA HOUSE – PROPOSED REFURBISHMENT**

**File No:** SUB/992  
**Attachments:** [Confidential Update - Memo to Councillors re Indiana.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report recommends that Council support a contribution towards *capital related* refurbishment works planned for the Indiana public change rooms and toilets and authorise the Chief Executive Officer to incur expenditure up to \$40,000 in support of such works. It also recommends that Council transfer funds from its Property Reserve account in order to support these works.

**BACKGROUND**

The cleaning and maintenance of the public toilets and change rooms at Indiana has been a point of contention for many years with regular complaints from the public about the state of the facilities, their general upkeep, maintenance and cleanliness. Many of these complaints come direct to Council (and elected members) on the assumption that Council is responsible for them.

At the July 2010 Council meeting as a matter of *New Business of an Urgent Nature introduced by Elected Members by Decision of the Meeting* the following comment was provided from the Works & Corporate Services Committee:

Progress Report – Indiana Tea House Change Rooms and Toilets

*Further to the earlier discussion in relation to the Indiana Tea House (ITH) and the condition of the public change rooms and toilets, Mayor Morgan proposed that Committee consider, as a matter of urgent business, that elected members receive a confidential update on the progress of upgrading and maintaining the change rooms and toilets at ITH.*

As a consequence Council resolved as follows:

*That elected members be provided with a confidential update on progress with upgrading and maintaining the change rooms and toilets Indiana Tea House (ITH).*

A confidential update was provided to all elected members in August 2010.

**STRATEGIC IMPLICATIONS**

Nil.

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**POLICY IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

Health Act  
Indiana Lease

**FINANCIAL IMPLICATIONS**

As part of the consideration of issues associated with the change rooms & toilets, Town officers have estimated that a total redevelopment of the facilities is in the order of \$300,000, depending upon final design, finishes, fixtures and fittings. The Lessee has been made aware of and supports the quantum of this estimate, but is not in a position to undertake such a proposal at this time.

The Lessee is proposing to undertake a combination of capital refurbishment and maintenance works at a cost of approximately \$80,000. He has requested that Council consider a contribution of 50% of these costs and is keen to undertake such works in the next month and prior to the busy summer season.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Lessee and Manager – Indiana.  
Town staff, including Principal Environmental Health Officer and Civic Centre Conservation Officer  
Elected Members

**STAFF COMMENT**

The Lessee has been advised the need for significant and visible change prior to summer and a detailed officer assessment report has been prepared and provided to the Lessee in relation to facility cleaning and maintenance. A meeting took place in August to discuss the intentions of the Lessee with regard the Town's work schedule and other refurbishment proposals, as well as the current cleaning and maintenance practices/regimes. The Lessee discussed a number of proposed changes/improvements which will address many of the primary issues/concerns raised by the Town, however it was noted that there may also be other works that need to be addressed based upon investigations to date. These works will be assessed after the Lessee submits his finalised schedule of works.

Any temporary closure of the facilities to undertake refurbishment works will need to be managed and the provision of temporary facilities has been suggested by the Town and will be discussed with the Lessee as the works program is finalised and confirmed. In addition, if the Town is to be a significant contributor to the works program it must also be involved in the assessment of all quotations and supervision of works and this has been formally advised to the Lessee.

Specific quotations are yet to be provided but estimates from qualified contractors have been obtained by the Lessee who is keen to commence works immediately and



before summer. This timeframe is supported by staff with any remedial works carried out during less busy times. Indicative costs of proposed works by the Lessee are in the order of \$80,000. It is reasonable for Council, as Lessor and owner, to consider a contribution to the *capital* items, providing all matters raised in the Town's scope of works are addressed. Matters of maintenance and cleaning are clearly the responsibility of the Lessee under the terms of his Lease and any contribution to operational costs should therefore not be considered by Council. This has been reinforced to the Lessee.

The potential impact of the proposed changes will clearly demonstrate to the community that significant improvements have been made and on that basis Council may wish to positively consider the request for a contribution up to fifty per cent (50%) for capital related works, which will improve the facility beyond what can be achieved through cleaning and maintenance alone.

In addition to Council considering a contribution to the capital works as requested by the Lessee it is also recommended that Town staff continue to ensure that the Lessee maintain cleaning and maintenance schedules as per Council's requirements and in accordance with current lease conditions, through ongoing monitoring and inspections and inclusive of formal written notification of minimal expectations.

It is further recommended that Council consider the total redesign/redevelopment of the facilities or the provision of replacement facilities, at an estimated cost of \$300,000, depending upon final design, finishes, fixtures and fittings within the next three (3) to five (5) years. As part of Council's long term planning for its foreshore it is also recommended that additional toilet facilities at the beachfront be considered within the next five (5) to ten (10) years, to ease pressure on the existing facilities and increase service levels.

## **VOTING**

### **Absolute Majority**

## **COMMITTEE COMMENT:**

Committee discussed the report at length and spoke of the history related to operation of the change rooms and toilets. Disappointment was expressed that the prior resolution of Council in relation to cleaning and maintenance regimes had not been conveyed to the Lessee until recently and that the proposed refurbishment works were now necessary in order to bring the facility back to an acceptable standard. Committee was keen to ensure that ongoing cleaning and maintenance of the facilities is monitored and enforced and that procedures and processes are put in place including addressing issues of 'non-compliance', complaints handling and suitable signage at the toilets. In addition, Committee discussed the matter of the opening hours of the facilities and the broader planning issue of suitable locations for, and types of, facilities along the entire beachfront. As a consequence of the discussions a number of amendments to the officer recommendation were proposed.

**OFFICER RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Woodhill

THAT Council

1. Support the request from Indiana for a contribution to undertake capital related refurbishment works planned for the Indiana public change rooms and toilets as outlined in this report.
2. Authorise the Chief Executive Officer to incur costs up to \$40,000 for the purposes of the refurbishment works as outlined in item 1.
3. Pursuant to Section 6.8 of the Local Government Act 1995
  - i. Authorise the following expenditure – capital related refurbishment works planned for the Indiana public change rooms and toilets at a cost of not more than \$40,000.
  - ii. Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:
    - a. Increase the Other Property & Services Budget – Public Works – Contractors and Consultants (Expenditure) by \$40,000.
    - b. Decrease the Property Reserve by \$40,000

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Boland

That a point (4) be added to the recommendation which states, 'Council be provided with a staff report next month on a plan to ensure that the cleanliness and maintenance of the facility is monitored and enforced to the satisfaction of the Council, into the future, including appropriate staff responsibilities.

Carried 6/0

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

That a point (5) be added to the recommendation which states, 'Council be provided with a further report ensuring that this facility can remain open 24/7 with suitable safe guards if needed for community safety.

Carried 6/0

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

That a point (6) be added to the recommendation which states, 'Council is provided with a report on suitable locations and types of toilet facilities along the entire Cottesloe beach front.

Carried 6/0

**COMMITTEE COMMENT:**

Elected Members discussed the report and officer recommendation and re-iterated previous Committee comments in relation to Council's resolved position. It was acknowledged that some works had already commenced by the Lessee and that there was a need to monitor and enforce Council's resolved position during the summer. It was noted that the additional recommendations by the Committee were aimed at addressing Council's immediate and longer term concerns. In addition it was suggested that Council approach the Lessee again in relation to relinquishing control of the toilets and change rooms. Council also discussed the longer term need to plan for future facilities along the entire beachfront and to seek State Government assistance.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Strzina**

**THAT Council**

- 1. Support the request from Indiana for a contribution to undertake capital related refurbishment works planned for the Indiana public change rooms and toilets as outlined in this report.**
- 2. Authorise the Chief Executive Officer to incur costs up to \$40,000 for the purposes of the refurbishment works as outlined in item 1.**
- 3. Pursuant to Section 6.8 of the Local Government Act 1995**
  - i. Authorise the following expenditure – capital related refurbishment works planned for the Indiana public change rooms and toilets at a cost of not more than \$40,000.**
  - ii. Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:**
    - a. Increase the Other Property & Services Budget – Public Works – Contractors and Consultants (Expenditure) by \$40,000.**
    - b. Decrease the Property Reserve by \$40,000**
- 4. Be provided with a staff report next month on a plan to ensure that the cleanliness and maintenance of the facility is monitored and enforced to the standard of the Council, in the future, including appropriate staff responsibilities.**
- 5. Be provided with a further report ensuring that this facility can remain open 24/7 with suitable safe guards if needed for community safety.**
- 6. Be provided with a report on suitable locations and types of toilet facilities along the entire Cottesloe beach front.**

**Carried 8/0**

**11.2.5 POTENTIAL RELOCATION OF DEPOT FUNCTIONS**

**File No:** SUB/220  
**Attachments:** [Memo to All Councillors Depot Update September 2010](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report recommends that Council support contributions to the preparation of two feasibility and concept plans for a relocation of the Town's depot services to either a new joint site with the Cities of Nedlands, Subiaco and Town of Claremont or a sharing of the Town of Mosman Park depot site on McCabe Street. It authorises the CEO to incur expenditure up to \$20,000 in support of such plans, including potential future (minor) supplementary related works. It also recommends that these costs are drawn from a reallocation within existing accounts for Contractors and Consultants.

**BACKGROUND**

In July 2010 Council received a report in relation to the relocation of its depot operations and resolved as follows:

*THAT COUNCIL:*

1. *Note this progress report and request staff to discontinue considering this proposal in light of community reaction and recognition of the necessity to retain the golf course area as community recreational and open space.*
2. *Request staff investigate alternative sites for further evaluation and reporting, including from those previously examined.*
3. *Reaffirm its position that the existing depot services should be relocated and the site realised for residential redevelopment.*
4. *Note that, depending upon the length of time before a relocation can take place, some remedial works at the existing depot may be required and request that the Manager Engineering Services advise accordingly.*

*Carried 7/2*

This report addresses part two of Council's resolution.

**STRATEGIC IMPLICATIONS**

In February 2010 Council set, as one of the Key Result Areas of the CEO to;

- 3.3 *Progress the preferred solution for Council's depot services and redevelopment of the current site*

Council's Future Plan 2006-2010 states:

Objective 4 – “To Manage Development Pressures.” Strategy 4.5 states “Consider undeveloped Government-Owned land for higher density development provided there is both public support and benefit for the Cottesloe Community”. This could also apply to Council-owned land.

Objective 5 – “Maintain Infrastructure and Council Buildings in a sustainable way”. Strategy 5.1 states “Adopt a policy position on assets that have a realisable value such as the Depot and Sumps”. Strategy 5.4 states “Maximise income from non-rates sources”.

## **POLICY IMPLICATIONS**

The following Council policies apply to this item:

- Community Consultation
- Investment of Surplus Funds
- Investments
- Occupational Safety & Health
- Regional Cooperation
- Sale of Council Property
- Assets with a Realisable Value

## **STATUTORY ENVIRONMENT**

A Development Application will ultimately be required by the Town of Mosman Park for any new or redeveloped structures at the McCabe St site and for any area of land reserved under the Metropolitan Region Scheme (MRS).

Redevelopment of the Town's existing depot site is governed by current TPS2 and future LPS3 in terms of zoning, land use, development control and structure planning.

## **FINANCIAL IMPLICATIONS**

There are resources included in the 2010/2011 Budget for the construction of a new operations centre but there are no funds specifically set aside for the completion of site feasibility and concept plans, however, Council can reallocate existing resources for this purpose. A reduction in the Town Planning Contractors and Consultants budget from \$115,500 to \$95,500 can be accommodated based upon existing expenditures and future predicted use.

The receipt of any income from the sale of the existing depot is not included in the 2010/11 Budget.

## **SUSTAINABILITY IMPLICATIONS**

In relation to the existing depot there is potential to achieve a number of sustainability improvements with this proposal. Any environmental problems with the existing site could be addressed and any new dwellings built on a redeveloped site would have to meet modern sustainability standards.

A new depot construction would also feature the highest level of environmental and sustainability provision, regarding infrastructure and operation.

**CONSULTATION**

Consultation has previously taken place with a number of WESROC Councils, as well as a local real estate agency. These discussions are ongoing. Specifically for this report there has been discussion with the Chief Executive Officer and Manager Engineering Services from the Town of Mosman Park

**STAFF COMMENT**

Since the above Council decision in July 2010 officers have been exploring options for our depot, including re-engaging in the current planning with the Cities of Nedlands, Subiaco and Town of Claremont for a new shared depot site, discussions with the Town of Mosman Park to share their existing depot and exploration of commercial sites and opportunities close to Cottesloe. Each of the proposed depot options is being progressed and both options appear viable and could be advantageous for Cottesloe, depending upon final locations, capital cost outlays, and agreement in relation to tenure and operations.

The combined Nedlands, Subiaco, Cottesloe and Claremont depot study is an update of a previous 2006 study for a joint depot which, for various reasons, did not proceed at that time. The original consultant (GHD) was subsequently engaged to update the previous report in light of recent changes and to incorporate the City of Subiaco. Whilst not initially included in the new proposal, Cottesloe's requirements will now be incorporated within the study brief and report outcomes. A separate report in relation to this matter will be prepared for Council consideration in the coming months once the consultant report is finalised and further details resolved. At that time there will be a need for Council to consider and provide *in principle* support for its ongoing participation. The proposed combined site with Nedlands/Subiaco/Claremont would probably be at a *greenfields* location, will involve all new structures, facilities and buildings and will take advantage of a combined business operation that will have significant size and capacity. The Town's contribution towards the update of the previous GHD study is in the order of \$4,000.

The Town has also submitted a list of its requirements to the Town of Mosman Park. The proposed introduction of its operations to Mosman Park would require only a partial redesign of the existing depot land and facilities. The Town of Mosman Park has indicated *in-principle* support for such a partnership, however, prior to discussing matters of operational management and financial arrangements, Council needs to know if it is physically possible to jointly share the Mosman Park site and accommodate both Towns' requirements. Officers have therefore discussed the preparation of a *site concept plan* using a suitably qualified consultant. Two estimates have been sourced by Mosman Park, one from a consultant previously involved with the preparation of their depot Master Plan in 2009 (James Christou and Associates) and another from GHD – the consultants currently working on the Nedlands/Subiaco/Claremont proposal. Christou & Associates have the advantage of prior knowledge of Mosman Park's site and operations hence a lower estimate. Both the Manager Engineering Services and Manager Development Services are of the opinion that the Christou & Associates quote would suffice in meeting the initial feasibility and concept plan objective.

If either proposal proves to be of significant benefit to the Town, and it is likely that both will, there will be a need for Council to commit to one or other proposal and,

once committed, make both a capital contribution to any proposed developments/changes/land acquisition as well as negotiate a long term lease or similar agreement with an associated annual fee. In order to be able to reach that position and make an informed decision in relation to either option it is recommended that Council make a reasonable contribution to both studies, given our initial approaches to both the City of Nedlands and Town of Mosman Park.

As indicated above, the Nedlands GHD study represents an investment of \$4,000. The Town of Mosman Park has requested that the Town of Cottesloe meet the full cost of the initial feasibility and concept plan and, given the cost is not significant, Council may consider this to be a reasonable investment. However officers consider that there is benefit to both Towns in undertaking this study and so Council may therefore wish to consider only making a *contribution* to the proposed study and request that Mosman Park also contributes. If this position is supported by Council it is recommended that a *majority contribution* in the order of two thirds of the total cost (67%) be made by Cottesloe. If the Town was to be the sole financial contributor to the concept plan preparation then it can also have full responsibility for the process, timing, activities as well as outcomes of the consultant study. There are significant benefits to the Town with this approach.

Once the initial concept study is completed, agreed and capital cost estimates obtained, a second report will need to be presented to both Council's confirming the feasibility and seeking endorsement to proceed. Stage two of this project would then address the primary elements that need to be resolved and agreed including community consultation, cost sharing arrangements, negotiation and preparation of a draft agreement, terms of tenure, facility management and operation, site security and access etc.

The requirement to use Council funds for these consultancies represents unbudgeted expenditure. Whilst Council has an allocation in its budget for depot capital works these funds do not cover operational tasks such as the preparation of concept plans. If endorsed, these costs can come from a reallocation of an existing account for Contractors and Consultants.

## **VOTING**

Absolute Majority

## **OFFICER RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Strzina  
THAT Council:

1. Accept and endorse requests from both the City of Nedlands and Town of Mosman Park for a contribution each to undertake feasibility and concept plans for the relocation of the Town's depot operations.
2. Authorise the Chief Executive Officer to incur costs up to \$20,000 for the purposes of the feasibility and concept plans as outlined in item 1.
3. Pursuant to Section 6.8 of the Local Government Act 1995:
  - i. Authorise the following expenditure – Feasibility and Concept Plans for the relocation of the Town's depot operations at a cost of no more than \$20,000.

- ii. Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:
  - a. Increase the Other Property & Services Budget – Depot Building – Contractors and Consultants (Expenditure) by \$20,000.
  - b. Decrease the Town Planning and Regional Development Budget – Other Expenses – Contractors and Consultants – (Expenditure) by \$20,000.

### **AMENDMENT**

Moved Mayor Morgan, seconded Cr Boland

That point (2) of the recommendation be changed to include the following addition immediately after \$20,000 and before the word “for” “including a maximum contribution of two thirds of the cost of the Mosman Park study”.’

Carried 4/2

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

Moved Mayor Morgan, seconded Cr Woodhill

**THAT Council:**

- 1. Accept and endorse requests from both the City of Nedlands and Town of Mosman Park for a contribution each to undertake feasibility and concept plans for the relocation of the Town’s depot operations.
- 2. Authorise the Chief Executive Officer to incur costs up to \$20,000 including a maximum contribution of two thirds of the cost of the Mosman Park study, for the purposes of the feasibility and concept plans as outlined in item 1.
- 3. Pursuant to Section 6.8 of the Local Government Act 1995:
  - i. Authorise the following expenditure – Feasibility and Concept Plans for the relocation of the Town’s depot operations at a cost of no more than \$20,000.
  - ii. Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:
    - a. Increase the Other Property & Services Budget – Depot Building – Contractors and Consultants (Expenditure) by \$20,000.
    - b. Decrease the Town Planning and Regional Development Budget – Other Expenses – Contractors and Consultants – (Expenditure) by \$20,000.

Carried 8/0



**11.2.6 REAR LANEWAY SEALING - REAR OF 183 CURTIN AVENUE,  
COTTESLOE**

**File No:** PRO/878  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The applicants have, without initial discussion with Council or staff, paid for the sealing of a section of ROW 56, behind their property, 183 Curtin Avenue. The laneway is Crown Land and runs between Jarrad Street and Rosser Street. The applicants have requested part of the payment of the \$4000 cost of the asphalt surfacing.

The recommendation is that Council inform the applicants that, because of no previous request for a financial contribution being received before works were undertaken, no partial financial contribution can be made for the asphalt sealing of the laneway behind 183 Curtin Avenue, Cottesloe.

**BACKGROUND**

This laneway has been partially sealed, partially unsealed for many years. A couple of short sections have been sealed in recent years, as conditions of housing improvements or replacement. Minor maintenance has occurred at various intervals, as is common with unsealed laneways in Cottesloe. There have been no shared cost 'deals' proposed by residents with Council to seal the remainder of this laneway. No discussion was held with the applicants about such a proposal being put to Council for consideration of Council financial contribution prior to the works being undertaken. The sealed section is 10.7m long by 3.0m wide. The sealing cost was \$4000.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Councils' Right of Ways/Laneways Policy applies.

**STATUTORY ENVIRONMENT**

There are no statutory requirements to seal laneways or contribute to privately funded sealing. Such Crown Land laneways are vested in Council for care, control and maintenance. All works on such Council controlled laneways must be approved by Council and works controlled by Council staff.

**FINANCIAL IMPLICATIONS**

Council did not receive a submission for a shared cost or cost contribution surface asphalt works on the laneway. There is no agreement for any financial implication. The cost of a 50% contribution, if Council so resolved, would be \$2000.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

Previous shared cost or contributions to cost laneway improvements, particularly asphalt surfaces, have first been considered by Council and either rejected or approved to a certain cost limit, prior to works being undertaken. Such works have been arranged by staff and the private payment being made to Council. Staff have then been able to observe and control such works.

Asphalt surfacing has also taken place on laneways as a development condition on a house upgrading or redevelopment. Again, staff are fully involved before and during such works.

In this case, works were undertaken and completed with no request to Council or staff notification. A contribution to the works was then requested. If such a contribution was agreed to, it would set a precedent to others wishing to have other laneways sealed. With only \$20,000 budgeted for laneways improvements, Council might have such contributions totally remove its capacity to consider small laneway works due to its budget being consumed by similar contribution requests.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council inform the applicants that, because of no previous request for a financial contribution being received before works were undertaken, no partial financial contribution can be made for the asphalt sealing of the laneway being 183 Curtin Avenue, Cottesloe.**

**Carried 8/0**

**11.2.7 REQUEST FOR APPROVAL TO INSTALL ARTIFICIAL TURF ON THE ROAD VERGE - 23 AND 25 PERTH STREET, COTTESLOE**

**File No:** PRO/3111  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

An application has been received for the installation of artificial grass on the road verge fronting 23 & 25 Perth Street, Cottesloe.

The recommendation is that that Council:

1. Resolve to approve the installation of artificial turf on the narrow road verge of Perth Street fronting 23 and 25 Perth Street, if manufacturers details can be provided to show that the material will allow drainage water to pass through into the base material and;
2. That it be noted that this approval is site specific, with no general application considered for wide verges, or slopes or for vehicle parking use and that all future use will be considered on a case by case basis by the Manager of Engineering Services.

**BACKGROUND**

Staff noticed the excavation of the verge in front of 23 and 25 Perth Street and the progress towards installation of green artificial (plastic) grass or turf, between the kerb line and footpath, a width approximately 2.1m. The installers were told to stop, and that an application was required to Council to use the artificial material.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Councils Residential Verges Policy applies.

**STATUTORY ENVIRONMENT**

The verge area is part of the road reserve. All residential road reserves are vested in Council for care, control and maintenance. Council therefore carries any liability in regards to approved verge treatments.

**FINANCIAL IMPLICATIONS**

Nil, other than potential future liability.

**SUSTAINABILITY IMPLICATIONS**Positive

- No watering required, therefore bore or drinking water is saved
- No mowing, edging or spraying for insects or plant diseases.

Negative

- Material is made out of oil.
- If ignited there is potential for noxious chemicals to be released.

**CONSULTATION**

Only with other Councils to discuss policy provisions for artificial grass.

**STAFF COMMENT**

Council's current Residential Verge Policy does not deal with artificial turf. It supports native vegetation, minimising verge watering and requires that any verge works beyond a flat, non-reticulated lawn will require a design and Council approval.

Artificial grass or turf is now being 'pushed' by advertising with its benefits being underlined – No watering, weeding or mowing. It looks green and real for years, can easily be removed and, so we are told, allows water ingress faster than lawn grass. .

An investigation of other Local Government policies and discussions with western suburbs engineers indicates that it is generally being treated similarly to concrete, asphalt and brick paving – one third of the verge being allowed to be covered and drainage being directed into a soak pit.

The use of plastic or artificial turf on the proposed location would cause less concern because of its narrow width, relatively flat levels and because of its position at the end of a cul de sac street. If it can be shown to allow rain water through its absorptive base, then, for this site, there are no real concerns, unless Council has an aesthetic concern.

If it was proposed in a 40m wide road reserve i.e. a 15m wide verge, on a slope, with proposed vehicle parking, then more issues would need to be considered.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Strzina, seconded Cr Woodhill

THAT COUNCIL:

1. Approve the installation of artificial turf on the narrow road verge of Perth Street, fronting 23 and 25 Perth Street, if manufacturers details can be provided to show that the material will allow drainage water to pass through into the base material and;

2. Noted that this approval is site specific, with no general application considered for wide verges, or slopes or for vehicle parking use and that all future use will be considered on a case by case basis by the Manager Engineering Services.

3/3

CASTING VOTE FOR

CARRIED 4/3

In considering the use of his casting vote the Mayor advised that he would support the officer recommendation as listed in order to refer the matter to full Council for deliberation.

#### **AMENDMENT**

**Moved Cr Birnbrauer, seconded Mayor Morgan**

**That these words be added after 'installation' in item 1 "at no cost to the Town of Cottesloe".**

**Carried 8/0**

#### **AMENDMENT**

**Moved Cr Rowell, seconded Cr Birnbrauer**

**That a new item 3 be added to read "In the event that the turf is considered unsatisfactory to Council requirements, Council retains the discretion to remove the artificial turf."**

**Lost 3/5**

#### **COUNCIL RESOLUTION**

##### **THAT COUNCIL:**

1. **Approve the installation at no cost to the Town of Cottesloe of artificial turf on the narrow road verge of Perth Street, fronting 23 and 25 Perth Street, if manufacturers details can be provided to show that the material will allow drainage water to pass through into the base material and;**
2. **Noted that this approval is site specific, with no general application considered for wide verges, or slopes or for vehicle parking use and that all future use will be considered on a case by case basis by the Manager Engineering Services.**

##### **THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**4/4**

**CASTING VOTE FOR**

**Carried 5/4**

In considering the use of his casting vote the Mayor advised that he would support the officer and Committee recommendation.

**11.2.8 TENDER FOR THE SUPPLY AND LAYING OF ASPHALTIC CONCRETE**

**File No:** SUB/600  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

On behalf of the local governments of Cottesloe, Claremont, Mosman Park, Subiaco and Cambridge a tender was advertised by the Town for the supply and laying of all road and carpark asphaltic concrete (hotmix) for a period of three years. This follows the completion of the previous three year contract at the end of June 2010.

The recommendation is that Council accept the tender prices submitted by Roads 2000 for the supply and laying of all construction and rehabilitation asphaltic concrete within the Town of Cottesloe for a three year period, commencing October 2010.

**BACKGROUND**

The Town of Mosman Park has arranged for the past two x three (3) year tenders for Asphaltic Concrete on behalf of interested Councils within WESROC, as a regional tender.

This year, the Town of Cottesloe has called the tender, in order to achieve bulk purchase benefits for all participants. A three year contract period is normally sought to facilitate long term planning of pricing for projects and to reduce the effort required in administering the tender process.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Council's *Purchasing Policy* applies to this tender.

**STATUTORY ENVIRONMENT**

The Local Government Act 1995 requires all purchases in excess of \$100,000 per year be the subject of a tender process. This has been undertaken through a regional tender undertaken on behalf of all WESROC Councils (apart from the City of Nedlands and the Shire of Peppermint Grove).

**FINANCIAL IMPLICATIONS**

The Town of Cottesloe uses in excess of 1,000 tonnes of asphaltic concrete per year. Any major change in cost per tonne has an immediate impact on road construction and maintenance costs.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Asphalt supply companies wishing to submit tenders.

**STAFF COMMENT**

A total of five tenders were submitted and each complied with the tender requirements. These tenders came from Fulton Hogan, Boral Asphalt, Roads 2000, Downer EDI Works and Asphaltech.

Tenders received demonstrated a large range of costs over the 5 tenderers, with the two lowest tenderers – Roads 2000 and Boral Asphalt offering the lowest set of prices.

Three years ago, the tenders received showed a substantial jump in prices compared to the previous contract. The prices just received show a levelling off for asphalt prices, similar to CPI increases. The major impact on asphalt is the cost of bitumen, which is derived from imported crude oil, and the fuel prices for machinery used.

Tenders received were considered at a combined meeting between engineering representatives from Cottesloe, Claremont, Cambridge, Subiaco and Mosman Park municipalities. The main points considered when comparing tenders were demonstrated ability, tender pricing, experience and safety. It was generally agreed by all at the meeting that Roads 2000 satisfied the needs of the five authorities to the fullest extent.

The proposed successful tender shows a cost increase (depending on which type of mix and the tonnage per site) of 9.4% to 13.3% from three years ago, over three years. Prices from a range of associated services, particularly 'cold planing' or 'milling' (machine removal of old asphalt layers) are also part of this contract.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council accept the tender prices submitted by Roads 2000 for the supply and laying of all construction and rehabilitation asphaltic concrete within the Town of Cottesloe for a three year period, commencing October 2010.**

**Carried 8/0**

**11.2.9 STATUTORY FINANCIAL REPORTS FOR THE MONTH ENDING 31 AUGUST 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Wayne Richards  
Accountant  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**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 August 2010, to Council

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

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

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD net profit or loss of \$311,002 as at 31 August 2010. Operating Revenue is below budget by \$45,873 (1%). Operating Expenditure is \$238,434 (15%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 August 2010 is shown on page 7.

The Capital Works Program is listed on pages 20 - 25 and shows total expenditure of \$1,186,220 compared to YTD budget of \$1,044,250.



**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 August, 2010, as per the attached Financial Statements, submitted to the 21 September 2010 meeting of the Works and Corporate Services Committee**

**Carried 8/0**

**11.2.10 SCHEDULE OF INVESTMENTS AND LOANS AS AT 31 AUGUST 2010**

**File No:** SUB/150 & SUB/151  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Wayne Richards  
Accountant  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 August 2010, as per attachment, to Council.

**STRATEGIC IMPLICATIONS**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

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

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Schedule of Investments on page 16 of the Financial Statements shows that \$1,417,623.82 was invested as at 31 August 2010.

Reserve Funds make up \$649,240.82 of the total invested and are restricted funds. Approximately 76% of the funds are invested with the National Australia Bank, 18% with Westpac, and 6% with BankWest.

The Schedule of Loans on page 17 shows a balance of \$6,827,123.41 as at 31 August, 2010. There is \$459,792.00 included in this balance that relates to self supporting loans.

**VOTING**

Simple Majority.

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 August 2010, as per the attached Financial Statements, as submitted to the 21 September 2010 meeting of the Works and Corporate Services Committee.**

**Carried 8/0**

**11.2.11 ACCOUNTS PAID IN THE MONTH OF AUGUST 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Wayne Richards  
Accountant  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the list of accounts paid for the period ending 31 August 2010 to Council, as per the attached financial statements

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Resource requirements are in accordance with existing budgetary allocations.

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The list of accounts commencing on page 8 of the Financial Statements has the following significant payments that are brought to your attention:

- \$14,977.12 to WA Local Government Superannuation Plan for superannuation contributions.
- \$14,896.30 to WA Local Government Superannuation Plan for superannuation contributions.
- \$29,870.50 to LGIS Liability for Councils first instalment towards public liability insurance for 2010-2011.
- \$15,597.95 to Western Metropolitan Regional Council for transfer station tipping fees.
- \$34,965.81 to B & N Waste Pty Ltd for green waste collection services.

- \$15,556.01 to Western Metropolitan Regional Council for transfer station tipping fees.
- \$43,410.53 to Transpacific Cleanaway for waste collection services.
- \$11,220.00 to Breac Pty Ltd for environmental health services.
- \$40,557.00 to LGIS Workcare for the first instalment of workers compensation insurance for Council staff for the year 2010-2011.
- \$470,536.01 to the Shire of Peppermint Grove for Councils contribution towards the new joint library building project.
- \$17,803.51 to Western Metropolitan Regional Council for transfer station tipping fees.
- \$14,190.42 to the Shire of Peppermint Grove for Councils contribution towards the new joint library building project.
- \$11,317.77 to Western Metropolitan Regional Council for transfer station tipping fees.
- \$26,727.30 to Titan Ford for a new PK ranger crew cab pickup for the deputy works supervisor.
- \$64,678.47 & \$87,855.13 for staff payroll.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council receive the List of Accounts for the period ending 31 August 2010, as per the attached Financial Statements, as submitted to the 21 September 2010 meeting of the Works and Corporate Services Committee.**

**Carried 8/0**

**11.2.12      PROPERTY & SUNDRY DEBTORS REPORT FOR AUGUST 2010**

**File No:** SUB/145  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Wayne Richards  
Accountant  
  
**Proposed Meeting Date:** 21 September 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 August 2010 to Council.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

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

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Sundry Debtors Report commences on page 18 of the Financial Statements and shows a balance of \$223,115.34 of which \$152,646.23 relates to the current month. The balance of aged debtors over 30 days stood at \$70,469.11

Property Debtors are shown in the Rates and Charges analysis on page 19 of the Financial Statements and show a balance of \$4,803,738.99. Of this amount \$204,328.83 and \$630,063.35 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$4,656,828 in 2010 compared to \$4,208,800 last year.

**VOTING**

Simple Majority.

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Woodhill**

**THAT Council receive the Property and Sundry Debtors Report for the period ending 31 August 2010, as per the attached Financial Statements, as submitted to the 21 September 2010 meeting of the Works and Corporate Services Committee.**

**Carried 8/0**

**12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil

**14 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 7:58 PM

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