

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**SPECIAL MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 10 APRIL, 2006**

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

The Mayor announced the meeting opened at 7.00pm.

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

**Elected Members**

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

**Officers**

Mr Stephen Tindale	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services

**Apologies**

Cr Daniel Cunningham

**3 PUBLIC QUESTION TIME**

Nil

**4 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**5 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**6 PUBLIC STATEMENT TIME**

Nil

**7 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

## 8 REPORTS OF COMMITTEES AND OFFICERS

### 8.1 MANAGER DEVELOPMENT SERVICES

#### 8.1.1 COTTESLOE BEACH HOTEL - REVISED PROPOSAL - REPORT FOR AMENDED RESPONSE BY COUNCIL TO STATE ADMINISTRATIVE TRIBUNAL

**File No:** 104 Marine Parade  
**Author:** Mr Andrew Jackson  
**Author Disclosure of Interest:** Nil.  
**Report Date:** 5 April, 2006  
**Senior Officer:** Mr Stephen Tindale

#### SUMMARY

- Through mediation, the review in the State Administrative Tribunal (SAT) for redevelopment of the Cottesloe Beach Hotel has reached the point where Multiplex has submitted a revised proposal.
- Council is required to provide an amended response to comment on the revised proposal.
- To this end, the Town's solicitors are preparing the official *Statement of Issues, Facts and Contentions*.
- This report is to inform Council on the revised proposal and to assist in completion of the amended Statement.
- It presents an overview assessment of the revised proposal having regard to Council's Parameters, the revised proposal, the applicant's justification and Council's consultants' comments – but is not a complete technical assessment as would be the case for a development application report.
- The legal aspects of the preliminary issue and discretion in the Scheme will be covered by the solicitors in their amended Statement.
- It is emphasised that the matter remains confidential at this stage.

#### SAT TIMEFRAME

- The SAT directions for the next steps are as follows – the modified dates are being confirmed.

<b>Due Date</b>	<b>Step</b>
14 April	Council to consider revised proposal and provide amended response to SAT.
21 April	Applicant to respond to Council's response.
24 April on	Next Compulsory Conference
26-28 July	Hearing.

#### BACKGROUND

- To facilitate the mediation Council previously provided Parameters to guide a revised development proposal.

- Multiplex has subsequently provided revised plans and supporting information in light of the Parameters.
- At the last Compulsory Conference the SAT directed the next steps including time for Council to provide a response to the revised proposal.
- On 27 February 2006 Council considered a status report on this matter, including the questions of discussion with Multiplex and community consultation, and resolved:

*That Council:*

- (1) *Dispenses with further proceeding with the mediation unless and except to the extent that the applicant is willing to agree to the height limits set out in Council's parameters, failing which the matter should expeditiously proceed to a hearing of the review without further public consultation or a meeting between elected members and representatives of the applicant;*
  - (2) *Undertake coordinated community consultation on any complying further revised proposal as part of the mediation process; and*
  - (3) *Agree to meet with the applicant to discuss any such complying further revised proposal, separate from the mediation process but in time to inform that process.*
- The applicant has been advised of Council's position accordingly.
  - Council is still required to consider the revised proposal for an amended response to the SAT.

## REVISED PROPOSAL

**Note:** Under this heading, a detailed and confidential report on the revised proposal was sent to elected members prior to the meeting for consideration. The report must remain confidential whilst the matter is under mediation by the State Administrative Tribunal.

## EXTENT OF VARIATION

**Note:** Under this heading, a detailed and confidential report on the extent of variation was sent to elected members prior to the meeting for consideration. The report must remain confidential whilst the matter is under mediation by the State Administrative Tribunal.

## OFFICER COMMENT

### Application of Parameters

- The mediation has examined the planning issues to guide a revised proposal and Council has provided Parameters offering meaningful concessions.
- The Parameters provide a reasonable, indeed generous, framework of variations to enable a development beyond the scope of what the Scheme would normally allow.
- That is:
  - allowing for some flexibility within the spirit and intent of the Scheme while not stretching the credibility of such discretion; and
  - ensuring that the development is compatible with the site and locality with regard to land use, scale and bulk, function, the public domain, and urban design and amenity considerations.

- The applicant needs to respond to the Parameters to show that a positive outcome may be produced.
- The revised concept stretches the reasonable bounds of discretion and disrespects the imperative to ensure that there are no undue adverse impacts caused by an approved development.
- A revised proposal should also take into account the bearing that the scale and appearance of the development would have on the quality and amenity of surrounding properties, the overall beachfront locality and the beach itself.
- Only where it can be shown that a revised proposal could seek further variation to the Parameters with no impacts of consequence should Council give consideration to departing from the Parameters, which are already significant departures from the Scheme.

### **Performance of revised proposal**

- In refusing the original proposal Council determined that whatever is built must be more acceptable in terms of development standards and the planning context of the beachfront for the long-term future.
- The original proposal asked too much of the Scheme provisions, site and surrounds – essentially imposing a redevelopment on the property instead of designing within the limits of the Scheme and acceptable planning principles, and not respecting the heritage context of the site or built form context of the beachfront.
- The correct approach would be to design within the development criteria and maybe to seek some minor relaxations, but not to dramatically surpass the Scheme requirements of Parameters and then reduce them only marginally so as to still be excessive.
- The revised proposal responds satisfactorily to a number of the Parameters, some of which are functional aspects fairly easy to satisfy by design changes.
- However, in terms of the paramount issues of the scale and form of development, it is considered that the revised proposal fails to satisfy the Parameters, Scheme or orderly and proper planning for the amenity of the locality.
- There is also an underlying, unresolved issue of the applicant's preference for permanent residential land use.
- The extent to which the Parameters have or have not been met is not a numerical phenomenon but entails relativity and weighting of the various aspects.
- For example, while providing the required number of parking bays is desirable, a minor shortfall may not be of any great consequence, whereas significantly exceeding the height limit would have a much more substantial impact as a variation of lasting effect and far-reaching implications.
- Furthermore, the collective impact of the large variations sought to the major Parameters is of concern in creating a dominant building out of keeping with the locality and representing an undesirable precedent for other such departures from the requirements of the Scheme, Council's objectives for the beachfront and the community's expectations of the amenity of the area.

**POLICY IMPLICATIONS**

- The outcome of the Review may be expected to influence planning policy for the beachfront.

**STRATEGIC IMPLICATIONS**

- The outcome of the Review may be expected to influence planning and development for the beachfront.

**FINANCIAL IMPLICATIONS**

- A mediated outcome would contain legal and professional costs, whereas a full hearing would be more costly.
- Developer contributions would assist funding of beachfront public domain improvements.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That Council not support the revised proposal for the Cottesloe Beach Hotel on the basis that Council considers that:

- (1) The revised proposal does not adequately satisfy the Parameters either individually, as interrelated or collectively.
- (2) The key Parameters of building height, plot ratio and site coverage have not been appropriately addressed.
- (3) The nature and extent of departures from the Parameters sought by the revised proposal is unacceptable.
- (4) The extent of discretion that would need to be exercised to allow the departures from the Parameters is unreasonable.
- (5) The changes to the Scheme that would be required to permit the proposal would warrant a scheme amendment process.
- (6) The revised proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality.

**DECLARATION OF INTEREST**

Cr Strzina made a declaration of interest in relation to his son who works on a part-time basis for Multiplex and earned approximately \$12,000 to \$15,000 last year. His son lives with him and is therefore considered to be a closely associated person as defined in the *Local Government Act*.

Cr Strzina advised the meeting that even though he received no income from his son, he had an indirect financial interest in the matter before Council.

Cr Strzina left the meeting at 7.05 pm.

**COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Walsh

**That Cr Strzina be allowed to participate in the debate and vote on the matter on the grounds that the matter is so trivial or insignificant as to be unlikely to influence Cr Strzina's conduct in relation to the matter.**

Carried by Absolute Majority 9/0

Cr Strzina returned to the meeting at 7.06 pm.

**AMENDMENT**

Moved Cr Jeanes, seconded Cr Dawkins

*That Council staff prepare a report on costs that have been incurred by the Town of Cottesloe to date in State Administrative Tribunal proceedings in relation to the matter and expected costs should the matter proceed to a formal hearing.*

The Mayor asked the Manager of Development Services to provide a verbal report on costs.

The meeting was informed that at a maximum, costs to date were in the vicinity of \$70,000. Based on a three-day formal hearing, costs could be expected to increase by another \$50,000 and a further \$15,000 to \$20,000 if a Senior Counsel was engaged to represent the Town of Cottesloe.

Cr Jeanes and Cr Dawkins were asked whether the verbal report was sufficient in terms of satisfying the intent of their amendment. Cr Jeanes and Cr Dawkins replied in the affirmative and subsequently withdrew the proposed amendment.



**8.1.1 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Walsh

**That Council not support the revised proposal for the Cottesloe Beach Hotel on the basis that Council considers that:**

- (1) The revised proposal does not adequately satisfy the Parameters either individually, as interrelated or collectively.**
- (2) The key Parameters of building height, plot ratio and site coverage have not been appropriately addressed.**
- (3) The nature and extent of departures from the Parameters sought by the revised proposal is unacceptable.**
- (4) The extent of discretion that would need to be exercised to allow the departures from the Parameters is unreasonable.**
- (5) The changes to the Scheme that would be required to permit the proposal would warrant a scheme amendment process.**
- (6) The revised proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality.**

Carried by Absolute Majority 7/3

*The vote was recorded:*

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

**8.1.2 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Walsh

**That Council reaffirm the appointment of Malcolm McCusker as the Town of Cottesloe's Senior Counsel in the matter.**

Carried by Absolute Majority 7/3

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

Nil

**10 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 7.37 pm.

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