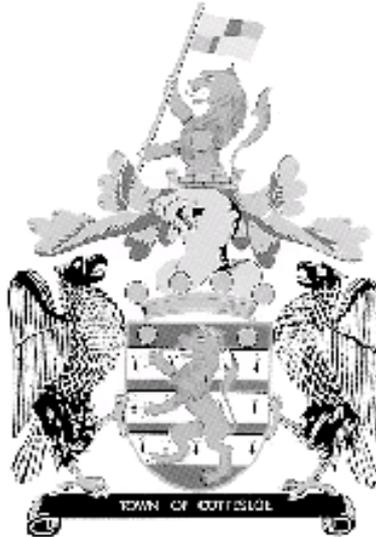


# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**SPECIAL MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, WEDNESDAY, 16 NOVEMBER, 2005**

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

The Mayor announced the meeting opened at 7.04pm.

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

Mayor Kevin Morgan  
Cr Patricia Carmichael  
Cr Daniel Cunningham  
Cr Jo Dawkins  
Cr Peter Jeanes  
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
Ms Delia Neglie	Planning Officer
Ms Jodie Peers	Executive Assistant

**Apologies**

Cr Bryan Miller

**Leave of Absence (previously approved)**

Cr Arthur Furlong

**3 PUBLIC QUESTION TIME**

Nil

**4 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****4.1 Cottesloe Beach Hotel Mediation**

Item 5.1 Cottesloe Beach Hotel Mediation will be discussed at the end of tonight's meeting. The meeting will be closed for this discussion due to the confidentiality of the mediation.

**4.2 Suspension of Standing Order 2.2**

Moved Mayor Morgan, seconded Cr Woodhill

That Council suspend that part of Standing Order 2.2 which requires that decisions made at this meeting must be made by absolute majority.

Carried by Absolute Majority 6/3

## 5 REPORTS OF COMMITTEES AND OFFICERS

Item 5.2 was dealt with first, followed by the closure of the meeting for discussion of Item 5.1 due to the confidentiality of the mediation.

### 5.1 COTTESLOE BEACH HOTEL - MEDIATION

**File No:** 104 Marine Parade  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 9 November, 2005  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

A recommendation is made to abandon the mediation process with Multiplex (Marine Parade) Pty Ltd and allow the State Administrative Tribunal to formally determine Multiplex's application for review of Council's decision to refuse development approval for the Cottesloe Beach Hotel.

#### BACKGROUND

On the 22<sup>nd</sup> December, 2004 Council considered a revised application for additions and alterations to the Cottesloe Beach Hotel. The application proposed the demolition of part of the existing hotel and the provision of 38 hotel suites to the rear of the remaining section of the hotel.

The development application sought a substantial variation to the Town Planning Scheme provisions on the basis that the proposed development involved work in relation to the 1937 brick rendered façade of the hotel.

As the façade is listed on Schedule 1 of the Town Planning Scheme text, Part VI of the Town Planning Scheme text gives Council the discretion to vary the requirements and standards of the Town Planning Scheme text.

In deciding whether to exercise that discretion or not, Council was required to consider the consequences and implications in exercising that discretion in terms of its impact on the amenity of the locality.

Council passed the following resolution.

*That Council Refuse the application for alterations and additions to the Cottesloe Beach Hotel at 104 Marine Parade as detailed on the plans received on the 14 December 2004, in accordance with Part VI of the Town of Cottesloe \Town Planning Scheme No.2, Part VII of the Town of Cottesloe Town Planning Scheme No.2; and the Metropolitan Region Scheme, acting under delegated authority from the Western Australian Planning Commission, for the following reasons:*

- (1) The proposal manifestly exceeds the statutory height requirements under TPS 2;*
- (2) Would unduly affect views to and from Cottesloe Beach;*

- (3) *The proposal manifestly overshadows the beach and neighbouring properties, and this is significantly more than would be the case if the proposal did not exceed 12 metres;*
- (4) *Would have a detrimental impact on views from surrounding properties;*
- (5) *Would negatively affect the adjoining properties and the streetscape due to the proposed building height and bulk;*
- (6) *The proposal manifestly fails to conform with the parking standards in TPS 2;*
- (7) *The proposal manifestly exceeds the plot ratio standards in TPS 2;*
- (8) *The proposal manifestly exceeds the site coverage standards in TPS 2;*
- (9) *The preservation of the facade does not warrant the manifestly excessive concessions sought by the applicant;*
- (10) *The amenity of the neighbouring area would be unreasonably diminished and the area's orderly and proper planning negatively impacted, if such concessions or variations were granted;*
- (11) *Would have an adverse effect on the Norfolk Island pines in John Street;*
- (12) *The proposed development does not satisfy the requirements of the WA Planning Commission in terms of the variety of short term accommodation;*
- (13) *The manifestly excessive concessions or variation to the factors set out above are not sufficiently offset in terms of a reduction in:*
  - (a) *anti-social behaviour associated with removal of the existing beer garden;*
  - (b) *the existing lack of on-site parking for the site;*
  - (c) *any potential contribution to tourism and hospitality facilities in the area;*
  - (d) *any conformity with aspects of the Council's Beachfront Development Objectives; and*
  - (e) *any potential cash in lieu of car parking.*

On the 18<sup>th</sup> February, 2005 Multiplex (Marine Parade) Pty Ltd made an application for review of the decision to the State Administrative Tribunal.

The State Administrative Tribunal subsequently advised the Town of Cottesloe of a directions hearing to be held on 4<sup>th</sup> March 2005.

In its response to the directions hearing, the Town of Cottesloe argued that a preliminary issue needed to be resolved by the State Administrative Tribunal in respect of the relationship between a *consent* issued under Part VI of the town planning scheme and an *approval* issued under Part VII of the scheme.

At the directions hearing held on 4<sup>th</sup> March 2005 both parties were in agreement that the preliminary issue should be dealt with at a preliminary hearing. The directions

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hearing was therefore adjourned to 18<sup>th</sup> March 2005 to allow the Town time to seek further legal advice given the confirmation of the preliminary issue by the parties to the hearing.

Following the directions hearing held on the 18<sup>th</sup> March 2005, the preliminary issue was listed for determination on 12<sup>th</sup> April 2005 before the President of the State Administrative Tribunal, Justice Barker. An order was also made by the State Administrative Tribunal that a statement of agreed facts, issues and contentions was to be filed and served by 4:00pm on 5<sup>th</sup> April 2005, a week prior to the hearing.

On the 7<sup>th</sup> April 2005 Multiplex subsequently sought and obtained a deferral of the hearing listed for the 12<sup>th</sup> April 2005 to the 10<sup>th</sup> May 2005.

On 13<sup>th</sup> April 2005 the Town presented Multiplex with a series of facts, issues and contentions that were capable of being determined at a preliminary hearing. The legal advisers of Multiplex chose not to respond to this document other than to disagree with one assertion made by the Town.

On the 10<sup>th</sup> May 2005 the Tribunal decided that as Multiplex was unable to agree the facts, issues and contentions, new orders should be made. The Town of Cottesloe was directed to file in the Tribunal (and on Multiplex) a statement of the issues, facts and contentions.

Multiplex was further directed to respond to the Town's statement of the issues, facts and contentions and advise the Tribunal of any other relevant statement of the issues, facts and contentions. Their response was to be filed with the Tribunal by no later than Monday 23<sup>rd</sup> May 2005 with a view to the Tribunal giving further consideration to the matter on 27<sup>th</sup> May 2005.

The submissions were subsequently made by the Town of Cottesloe and Multiplex and on 27<sup>th</sup> May 2005 the Tribunal determined that the preliminary issue should be heard separately to the hearing of the merits of the application for review. The preliminary hearing was listed for 30<sup>th</sup> June 2005.

The hearing took place and on 8<sup>th</sup> July 2005 President Barker handed down his decision which was that the Town of Cottesloe had the power to vary development standards.

As can be seen by the above, it took just over four months for the preliminary issue to be resolved.

Another directions hearing was set by the Tribunal for the 14<sup>th</sup> July 2005 to determine how best to proceed with the application for review. At the hearing, Multiplex indicated its preference for mediation. However Justice Barker made orders for a compulsory conference in order to "identify and clarify the issues in the proceedings" as well as to "promote the resolution of the matters by a settlement between the parties" (s.52(3) of the *State Administrative Tribunal Act 2004*).

Council was informed of this new development and on the 25<sup>th</sup> July 2005 it made the following resolution.

*That Council:*

- (1) Note this status report on the State Administrative Tribunal proceedings for the review of the proposed redevelopment of the Cottesloe Beach Hotel.*
- (2) Reaffirm its opposition to the application as proposed by the applicant and refused by Council.*
- (3) Prior to committing to a main hearing to determine the appeal, follow the legal advice received on the preliminary issue decision to extend the time to appeal to the Supreme Court and to enter into mediation.*
- (4) Instruct Council's solicitors that in any informal discussion, compulsory conference or formal mediation there must be a clear and firm alternative proposal from the applicant that achieves far greater compliance and has far less impact before Council would be willing to consider a negotiated outcome, and that it may be preferable for the appeal to be withdrawn and a fresh development application to be made.*
- (5) Require that any alternative proposals arising from the SAT proceedings be brought back to Council for consideration.*

At the request of Multiplex a Compulsory Conference was deferred to 18<sup>th</sup> August 2005 where the Town indicated its preparedness to enter into mediation talks. A formal directions hearing on 2nd September subsequently stayed the appeal hearings while mediation took place.

On 13<sup>th</sup> September 2005 the Town set out its view of what the parameters should be for any development proposal on the hotel site in anticipation of mediation talks commencing in earnest on 4<sup>th</sup> October 2005.

Multiplex subsequently sought and obtained a deferral to the 16<sup>th</sup> November 2005 while it ostensibly gives further consideration to the design parameters that are deemed to be acceptable to the Town of Cottesloe.

## **CONSULTATION**

N/A.

## **STAFF COMMENT**

Outside of the State Administrative Tribunal process, Multiplex has attempted on a number of occasions to "workshop" the design issues with Council.

On 14<sup>th</sup> June 2005 Multiplex made its first approach to the CEO to "workshop" hotel design issues with Council. After discussions with the Mayor, the approach was refused largely on the basis that the preliminary matter had yet to be determined.

Another approach was made by Multiplex wanting to deal with Council directly on the matter This time it was on the day of the handing down of the decision regarding the preliminary matter (8<sup>th</sup> July 2005).

As resolved by Council at its July meeting, it was put to Multiplex that such an approach was possible but that it could only happen if firm proposals were to hand and Multiplex withdrew its appeal.

This was not supported by Multiplex.

Despite these refusals, Multiplex is still intent on negotiating a deal directly with Council outside of the jurisdiction of the State Administrative Tribunal - as evidenced by the exchange of correspondence in October 2005 and more recently (see attached).

Staff are now concerned that Multiplex has no intention of presenting any design proposals to the scheduled mediation hearing on the 16<sup>th</sup> November, 2005 and it will simply revolve around a fruitless discussion on the design parameters. In short, the mediation process is likely to become a serious waste of time.

If there are no firm proposals for Council to consider arising from the scheduled mediation hearing, it is recommended that Council abandon the mediation process.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

At this point in time the direct cost to Council in defending the appeal is more than \$53,000. These costs are likely to escalate if Multiplex pursues its application for review with the State Administrative Tribunal.

On the other hand Multiplex may well decide that the State Administrative Tribunal is not the best solution.

It could withdraw the current application for review and enter into fresh negotiations with the Town.

Alternatively it may seek a political solution to a perceived impasse at a State Government level.

### **VOTING**

Simple Majority

### **COUNCIL COMMENT**

The CEO gave an update from the State Administrative Tribunal Compulsory Conference.

The CEO seeks to withdraw the Officer Recommendation as Multiplex propose to present a new development proposal to Council. The CEO has advised Multiplex that it would be suitable to present the new development proposal at the January, 2006 Special Council meeting.

The parameters need to be considered by Council at the November, 2005 Council meeting.

Multiplex have indicated that they will accept all of the parameters except for plot ratio and site coverage, and height is another determining factor. They gave a presentation of two sets of plans they are proposing to put to Council; one for a five storey development and one for a six storey development with increased setbacks. The CEO indicated to Multiplex that the second proposal is a risk as the government has stated that five storeys is the upper limit for beachfront development, unless the community allows otherwise.

A number of options are available to Council, including deciding to proceed with the Officer Recommendation.

The State Administrative Tribunal decision may be appealed by Council in the Supreme Court.

If Multiplex make no genuine demonstration of commitment then Council can decide to go back to the formal hearing and the Supreme Court.

### **OFFICER RECOMMENDATION**

That Council abandon the mediation process with Multiplex (Marine Parade) Pty Ltd and allow the State Administrative Tribunal to formally determine Multiplex's application for review of Council's decision to refuse development approval for the Cottesloe Beach Hotel.

#### **5.1 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Cunningham

**That Council, at the November meeting of Council, give further consideration to the draft design parameters for the Cottesloe Beach Hotel for the purposes of the mediation or any variation thereof.**

Carried 9/0

Note: The CEO advised the meeting that at the SAT hearing it became evident that Multiplex were close to presenting a revised design proposal to Council that conformed with most of the grounds on which Council refused the development application in December, 2004.

**5.2 PROPOSED TOWN PLANNING SCHEME NO. 3 – DRAFT SCHEME MAP & SCHEME TEXT FOR COUNCIL ENDORSEMENT FOR INFORMAL COMMUNITY CONSULTATION DURING DECEMBER, 2005**

**File No:** D 2. 5  
**Author:** Mr Andrew Jackson  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November 2005  
**Senior Officer:** Mr Stephen Tindale

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**INTRODUCTION**

This report presents the updated draft Town Planning Scheme No. 3 for endorsement by Council, for informal community consultation during December, 2005 in accordance with the agreed program.

This follows the Precinct Forums, Town Centre Study and studies by consultants undertaken earlier this year to inform the Scheme Review.

Council has committed to the consultation and to lodging the draft Scheme by the end of February 2006, for formal advertising consent.

Community feedback will further assist Council in finalising the draft Scheme during January and February 2006, prior to adoption for lodgement.

**DOCUMENTATION**

The draft documentation so far comprises of the draft Scheme Map and Scheme Text, which are the core components of a town planning scheme.

The updated documents have been compiled from:

- the versions previously devised and adopted by Council,
- the above-mentioned community and consultancy activities,
- technical and legal revisions,
- current statutory requirements, policy directions and planning practices; and
- working sessions with Councillors and staff.

At this stage the draft Local Planning Strategy and any intended Local Planning Policies or Design Guidelines remain to be reviewed, developed or completed.

These supporting documents require substantial work and will not be available for the December community consultation, however, they will be produced for consideration and adoption by Council together with the final draft Scheme for lodgement.

**INFORMAL CONSULTATION**

There is no statutory obligation on Council to undertake the informal consultation, however, Council considers the consultation desirable in order to:

- inform the community of the progress of the Scheme Review and the content of the updated draft scheme documents,
  - seek any further public comment to consider in finalising the draft scheme for lodgement; and
-

- identify any aspects requiring further work in completing the draft scheme and associated documents.

In addition, staff and Councillors will be able to continue to examine planning aspects and to refine the scheme documents towards lodgement.

In this context, and given the opportunity for ongoing revision, as well as the future formal public advertising period of at least three months, Council is encouraged to adopt the draft Scheme, subject to any changes it wishes to make, as sufficient for the purpose of the informal community consultation, in furthering the Scheme Review.

### **PROGRAM FOR CONSULTATION**

The program for consultation is scheduled to commence in late November and occupy most of December, with submissions received until early January.

There is a tight timetable to make any changes to the scheme documentation and disseminate it to the community.

Should Council wish to officially meet again to determine any outstanding matters, Wednesday, 23 November would be the last date for another special meeting.

### **VOTING**

Simple Majority

### **5.2 OFFICER RECOMMENDATION & SUBSTANTIVE MOTION**

Moved Cr Strzina, seconded Cr Woodhill

That Council adopt the draft Scheme Map and Scheme Text for the proposed Town Planning Scheme No. 3 for the purpose of informal community consultation during December 2005, subject to any changes stipulated by Council.

### **WITHDRAWALS & AMENDMENTS**

#### **1 DRAFT TPS3 TEXT AND MAP - SCHEDULE OF SUGGESTED CHANGES - from meeting held on Tuesday, 15 November, 2005.**

Each Scheme Text change was reviewed and voted upon separately, as follows:

##### **Page 16, Zoning Table No. 1**

Moved Mayor Morgan, seconded Cr Jeanes

**That column 4 of use class No. 23 Grouped Dwelling be altered from "X" to "D".**

**That column 4 of use class No. 39 Multiple Dwelling be altered from "X" to "D".**

Carried 9/0

##### **Pg 18, Zoning Table No. 1**

Moved Mayor Morgan, seconded Cr Carmichael

**That column 7 of use class No. 48 Service Station be altered from "P" to "X".**

Carried 9/0

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**Page 18, Zoning Table No. 1**

Moved Mayor Morgan, seconded Cr Jeanes

**That column 3 of use class No. 52 Foreshore Centre zone be altered from “P” to “X”.**

Carried 8/1

**Page 20, clause 5.3.2(c)**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 5.3.2(c) be amended to read:**

**Except in the case of multiple dwellings, the local government may vary the requirements of clause 5.3.2(b) in the case of extension to existing buildings or in particular cases where natural ground forms indicate that a variation is warranted and where, in the opinion of the local government, the amenity of the locality would not be unduly diminished.**

Carried 6/3

**Page 20, clause 5.3.6**

Moved Mayor Morgan, seconded Cr Dawkins

**That clause 5.3.6 be amended to read:**

**Development in the areas coded R30/R60 on the Scheme map abutting Stirling Highway shall be in accordance with the R30 development standards unless it -**

- (a) has no direct vehicular access to and from Stirling Highway; and**
- (b) is a comprehensive redevelopment of more than one lot abutting Stirling Highway,**

**in which case the local government may permit development in accordance with the R60 development standards.**

Carried 9/0

**Page 20, clause 5.3.8**

Moved Mayor Morgan, seconded Cr Strzina

**That paragraph 1 of clause 5.3.8 be amended to read:**

**Notwithstanding the density codes shown on the Scheme map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme map at the Gazettal date of the Scheme may, with the approval of the local government, be redeveloped or at a density higher than that shown on the Scheme Map if, in the opinion of the local government, the redevelopment would -**

Carried 8/1

**Page 21, clause 5.3.8(c)**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 5.3.8(c) be amended to read:**

- (c) **not detrimentally increase the mass, scale or surface area of the development relative to existing development on surrounding properties;**

Carried 9/0

**Page 23, clause 5.8.5**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 5.8.5 be amended to read:**

**In the Town Centre, Foreshore Centre, Restricted Foreshore Centre, Hotel or Special Development Zones, the local government may approve development without the required number of parking spaces being provided on the land, subject to the applicant making arrangements satisfactory to the local government for the provision of off-street parking in the vicinity; and in this regard the local government may accept cash in lieu of parking spaces on the land, subject to the following -**

- (a) **the cash in lieu payment shall not be less than the estimated cost to the applicant of providing and constructing the parking spaces required by the Scheme plus the value as estimated by the local government of that area of the land which would have been occupied by the parking space;**
- (b) **payments made under this clause shall be paid into a special fund to be used to provide public parking stations or for the provision of public transportation, in order to alleviate parking demand in the Scheme area.**

Carried 8/1

**Page 24 Part 5 - General development requirements**

Moved Mayor Morgan, seconded Cr Strzina

**That Council add a clause 5.11 Local Centre zone - mixed-use development:**

**In the Local Centre zone, in the case of mixed-use non-residential and residential development, the following shall apply:**

- (a) **for the Eric Street local centre, the ground floor shall be used for shops or services only and not for any office, residential or other uses; and**
- (b) **for the Railway Street local centre, the ground floor shall exclude residential use.**

Carried 9/0

Moved Cr Cunningham, seconded Cr Walsh

**That Council allow a discretionary use for the garden centre in the local centre zone.**

Carried 9/0

Moved Cr Cunningham, seconded Cr Strzina

**That clause 5.11(a) be amended to read: for the Eric Street local centre, the ground floor shall be used for shops, services or offices (subject to Council approval) only and not for any residential or other uses.**

Carried 8/1

**Page 25 table 2**

Moved Mayor Morgan, seconded Cr Strzina

**That Table 2: Development Requirements be amended to read as follows:**

**TABLE 2: DEVELOPMENT REQUIREMENTS**

<b>ZONE</b>	<b>MAXIMUM PLOT RATIO</b>	<b>MAXIMUM SITE COVER</b>	<b>BOUNDARY SETBACKS</b>	<b>HEIGHT</b>
<b>RESIDENTIAL</b>				
a) Residential development	In accordance with	In accordance with Residential Design Codes	In accordance with Residential Design Codes	2 storey (refer clause 5.3)
b) Non-residential development	0.5:1	50%	In accordance with Residential Design Codes	2 storey (refer clause 5.3)
<b>RESIDENTIAL OFFICE</b>				
a) Residential development	0.8:1	Residential Design Codes	In accordance with Residential Design Codes	2 storey (refer Clause 5.3.2)
b) Non-residential development	0.8:1	50%	In accordance with Residential Design Codes	2 storey (Clause 5.3 applies)
<b>TOWN CENTRE</b>				
a) Land bounded by Jarrad Sreet, Stirling Highway and Brixton Street	1.15:1	100%	In accordance with Design Guidelines	3 storey and 11.5m, subject to no undue adverse impact on amenity and to design guidelines
b) Land with frontage to Napoleon Street	1.0:1	100%	In accordance with Design Guidelines	2 storey
c) Remaining land	1.0:1	100%	In accordance with Design Guidelines	2 storey or 3 storey and 11.5m, subject to no undue adverse impact on amenity and to design guidelines
<b>LOCAL CENTRE</b>				
All development	0.5:1	75%	Nil	9 metres
<b>FORESHORE</b>				

ZONE	MAXIMUM PLOT RATIO	MAXIMUM SITE COVER	BOUNDARY SETBACKS	HEIGHT
<b>CENTRE</b>				
a) Residential	In accordance with Residential Design Codes	In accordance with Residential Design Codes	In accordance with Residential Design Codes	3 storey and 12m
b) Non-Residential	1.25:1	100%	In accordance with Design Guidelines	3 storey and 12m
<b>RESTRICTED FORESHORE CENTRE</b>				
All development	0.8:1	75%	In accordance with Design Guidelines	3 storey and: 9m to plate height; 10m to top of parapet; and 11.5m to top of ridge.
<b>HOTEL</b>				
All development	1:1	100%	In accordance with Design Guidelines	3 storey and 12m

Carried 6/3

**Page 26 table 2 - Development Requirements**

Moved Cr Cunningham, seconded Cr Dawkins

That Council dissent with Mayor's ruling that the Special Development zones be voted on separately

Lost 2/7

Moved Mayor Morgan, seconded Cr Walsh

**Ocean Beach Hotel land:****That Council add in appropriate development requirements including height limits as follows:****Special Development zone 'A' – maximum 12m height limit.**

Carried 6/3

Moved Mayor Morgan, seconded Cr Walsh

Council Depot land:

That Council add in appropriate development requirements for height limits as follows:

Adopt the usual Residential Development zone height limit for zone 'B'.

Lost 4/5

Moved Mayor Morgan, seconded Cr Utting

**Wearne Hostel land:**

**That Council add in appropriate development requirements for height limits as follows:**

**Adopt the usual Residential Development zone height limit for zone 'C'.**

Carried 6/3

Moved Mayor Morgan, seconded Cr Utting

**Deaf School land**

**That Council add in appropriate development requirements for height limits as follows:**

**Adopt the usual Residential Development zone height limit for zone 'D'.**

Carried 5/4

Moved Cr Strzina , seconded Cr Walsh

**Council Depot land:**

**That the provisions relating to the Depot site be amended to include: "height as determined by Council".**

Carried 9/0

**Page 27, Table 3 - Vehicle Parking Requirements**

Moved Mayor Morgan, seconded Cr Strzina

**That a note be added to the table in relation to the ability/intent of Council to formulate further scheme text provisions or policy measures for greater flexibility and discretion in car-parking requirements (such as regarding cash-in-lieu, reciprocal parking, reduced commercial parking in certain areas or circumstances, and so on).**

Carried 9/0

**Page 28, clause 6.2**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 6.2 be renamed as clause "5.12 - Special Development zone", delete other references to special control area and transfer to Part 5 (page 24) as a development requirements clause, which is more appropriate.**

**That a note be added explaining that the Special Development zone is generic, the Scheme Map notations A, B, etc are identifiers only (eg as for the Public Purposes reserves) and that additional provisions or policies may be devised for the individual sites as the need arises.**

**That clause 6.3 Special Control Area 2 - Tukurua and Le Fanu House be renumbered accordingly.**

Create a clause 6.2.6 “In this special control area, the height of all development for any use shall conform to the requirements for single-storey or two-storey development as set out in clause 5.3.2(b), and clause 5.3.2(a) or (c) shall not apply”.

Carried 8/1

**Page 34, clause 7.5**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 7.5 be amended to read:**

**Where desirable to -**

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage list under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1,

the local government may vary any development requirement specified in the Scheme or the Residential Design Codes, with the exception of any height requirement, by following the procedures set out in clause 5.5.2.

Carried 6/3

**Page 35, clause 8.2 Permitted development**

Moved Mayor Morgan, seconded Cr Strzina

**That clause 8.2 be amended by deleting (b) and re-list (c), (d) and (e) accordingly, to read as follows:**

**Except as otherwise provided in the Scheme, for th purposes of the Scheme the following development does not require the planning approval of the local government -**

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is -
  - (i) located in a place that has been entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*;
  - (ii) the subject of an order under Part 6 of the *Heritage of Western Australia Act 1990*; or
  - (iii) included on the Heritage List under clause 7.1 of the Scheme;
- (b) a home office;
- (c) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and
- (d) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.

Carried 8/1

**Page 40, clause 9.4.3**

Moved Mayor Morgan, seconded Cr Strzina

**That paragraph 1 of clause 9.4.3 be amended to read:**

**The local government shall give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways -**

Carried 9/0

**Page 43, clause 10.2 Matters to be considered by local government**

Moved Mayor Morgan, seconded Cr Strzina

**That the following matter be added to clause 10.2 as (zb) and that the current (zb) be re-numbered to (zc):**

**(zb) the suitability, durability, quality and aesthetic appeal of building materials, finishes and colours in relation to the development and locality.**

Carried 8/1

**Page 61, Schedule 2 - Additional Uses**

Moved Mayor Morgan, seconded Cr Strzina

That the four properties be moved from Schedule 2 to Schedule 4 and that the conditions of non-conforming use and residential use remain, and that each property be considered separately.

The Mayor subsequently withdrew the amendment and no change was made.

**2. SCHEME MAP CHANGES – RESIDENTIAL DENSITIES****Proposal 2.1**

That the area of small lots bounded by Jarrad St, Pearse St and Curtin Ave be R30 (ie eastern half of these street blocks), but that where any lots are amalgamated they be R20.

**Declaration of Interest**

Cr Jeanes declared a financial interest as he owned property in Rosser Street and left the meeting at 8.52pm.

Moved Cr Strzina, seconded Cr Dawkins

That the area of small lots bounded by Jarrad St, Pearse St and Curtin Ave be R30 (ie eastern half of these street blocks), but that where any lots are amalgamated they be R20.

Lost 3/5

Moved Cr Cunningham, seconded Cr Strzina

That the area of small lots bounded by Jarrad Street, Pearse St and Curtin Ave be R25 (ie eastern half of these street blocks).

Lost 3/5

*Cr Jeanes returned to the meeting at 9.10pm.*

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*Cr Cunningham left the meeting at 9.10pm and returned at 9.11pm.*

### **Proposal 2.2**

That all lots (or the street blocks) abutting Curtin Ave south of Athelstan St to Marmion St be R30.

Moved Cr Jeanes, seconded Cr Strzina

That all lots (or the street blocks) abutting Curtin Ave south of Athelstan St to Marmion St be R30.

Lost 4/5

### **Proposal 2.3**

That all Special Development zone sites have a density code shown on the Scheme Map at this stage, eg:

- Special Development Zone A - Ocean Beach Hotel land  
R60, but up to R100 subject to comprehensive planning,
- Special Development Zone B - depot land  
R30, but R40 subject to comprehensive planning,
- Special Development Zone C - Wearne Hostel land  
R30, but R40 subject to comprehensive planning,
- Special Development Zone D - Deaf School land  
R30, but R40 subject to comprehensive planning.

Moved Cr Jeanes, seconded Cr Strzina

**That all Special Development zone sites have a density code shown on the Scheme Map at this stage, eg:**

- **Special Development Zone A - Ocean Beach Hotel land  
R60, but up to R100 subject to comprehensive planning,**
- **Special Development Zone B - depot land  
R30, but R40 subject to comprehensive planning,**
- **Special Development Zone C - Wearne Hostel land  
R30, but R40 subject to comprehensive planning,**
- **Special Development Zone D - Deaf School land  
R30, but R40 subject to comprehensive planning.**

Carried 5/4

### **Proposal 2.4**

**Foreshore Centre Zone - code R60/R100**

*Cr Utting left the meeting at 9.22pm*

**Declaration of Interest**

Cr Carmichael declared a financial interest as she owned property in the Foreshore Centre zone and left the meeting at 9.24pm.

*Cr Utting returned to the meeting at 9.24pm.*

Moved Mayor Morgan, seconded Cr Strzina

**That the clause be amended to read:**

**R60 as is, but up to R100 subject to comprehensive planning criteria, to be spelt out in the Scheme Text, ie “unless the local government is satisfied that the development will enhance the amenity of the locality and meets certain policy criteria directed towards encouraging quality development” etc.**

Carried 5/3

*Cr Carmichael returned to the meeting at 9.25pm.*

**3. SCHEME MAP PREVIOUSLY ADOPTED - PROPOSED CHANGES**

**Proposal:** That Council accept the Changes Map as presented in the agenda.

*Cr Woodhill left the meeting 9.31pm and returned at 9.33pm.*

*Cr Carmichael left the meeting 9.32pm and returned at 9.34pm.*

The following items in the table attached to the agenda were withdrawn from enbloc voting: 3, 9(a) - (e), 15, 16, 17.

Moved Mayor Morgan, seconded Cr Strzina

**That the following changes be made:****3. Depot Site - change to Special Development zone B**

Carried 6/3

**9. Restricted Use sites - change the following sites to Additional Use sites**

**(a)-(e)**

Carried 8/1

**15. Area bounded by Salvado and Broome Streets and Curtin Avenue - change from R20 to R30**

Carried 6/3

**16. Area bounded by Marmion, Bird and Napier Streets - change from R20 to R30**

Carried 6/3

- 17 Area bounded by Margaret and North Streets, Vera View and Marine Parade - change from R20 to R25**

Carried 6/3

The following items were voted enbloc: 1, 2, 4 - 8, 10 - 14, 18 - 21.

Moved Mayor Morgan, seconded Cr Strzina

- 1. Place of Public Assembly zone, corner of Edward and Gordon Streets - change to Residential R20.**
- 2. Service Station zone, corner Eric Street and Curtin Avenue - change to Residential R20.**
- 4. Wearne Hostel site - change to Special Development zone C.**
- 5. Deaf School site - change to Special Development Zone D.**
- 6. Old Fire Station, corner Stirling Highway and Congdon Street - change from Residential R60 to Residential Office R60.**
- 7. Le Fanu and Tukurua sites, corner Rosendo and Salvado Streets and Marine Parade - add Special Control Area boundary.**
- 8. Restricted Use, corner Florence Street and Curtin Avenue - remove notation, thus reverting to Residential R20.**
- 10. Public purposes reserve, corner Ackland Way and Marmion Street - change denotation from Clinic (CL) to Community Use (CU).**
- 11. Telephone Exchange, corner Stirling Highway and Clive Road - change from Residential R20 to Public Purposes Reserve - Telecommunications (T).**
- 12. Public Purposes Reserve for sump, corner Stirling Highway and Station Street - remove Water, Sewerage, Drainage (WSD) denotation.**
- 13. Civic Centre - change to a Local Reservation.**
- 14. Reserve at 16 Athelstan Street (Old Flour Mill site) - change from Residential R30 to Local Parks & Recreation Reserve.**
- 18. Restricted Foreshore Centre Zone, corner Eric Street and Marine Parade - add R60.**
- 19. Foreshore Centre Zone, Marine Parade - add R100.**
- 20. Lots between John Street and Warnham Road located between R60 area and up to but not including Constantia site - change from R30 to R60.**
- 21. Clive Road Development area - change from R60 to R50.**

Carried 9/0

**Other Items**

Moved Mayor Morgan, seconded Cr Strzina

**That a provision be included in the scheme text to provide Council with discretion to provide an R20 setback in an R30 area.**

Carried 8/1

*Cr Dawkins left the meeting at 9.51pm and returned at 9.52pm.*

**5.2(a) SUBSTANTIVE RESOLUTION**

Moved Cr Strzina, seconded Cr Woodhill

**That Council adopt the draft Scheme Map and Scheme Text for the proposed Town Planning Scheme No. 3 for the purpose of informal community consultation during December, 2005 subject to the inclusion of the amendments adopted above excluding the amendment relating to the R60/100 density code for the Foreshore Centre Zone.**

Carried 9/0

**Declaration of Interest**

Cr Carmichael declared a financial interest as she owned property in the Foreshore Centre zone and left the meeting at 9.56pm.

**5.2(b) SUBSTANTIVE RESOLUTION**

**That Council include the amendment relating to the R60/100 density code for the Foreshore Centre Zone.**

Carried 6/2

*Cr Carmichael returned to the meeting at 9.56pm.*

**NOTICE OF MOTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (a) Send a letter to the Minister for Planning and Infrastructure which notes:**
- (i) Our progress in having finalised and released the draft Scheme Map and Text for informal community consultation during December, 2005.**
  - (ii) That the Council will during December, 2005 and January, 2006 be finalising the Local Planning Strategy and the policies and guidelines that support draft TPS 3, to enable these additional documents to be lodged with the draft Scheme Map and Scheme Text by 28 February, 2006.**

- (iii) Council's preference is to release the Local Planning Strategy and draft Scheme policies and guidelines for at least a 14 day informal community consultation period before these documents are lodged with the draft Scheme Map and Scheme Text, but will be unable to do so unless the lodgement deadline is extended by at least 6 weeks to mid-April, 2006.
  - (iv) That the Minister is requested to notify the Council by the end of December, 2005 whether such an extension is granted.
- (b) As part of the informal community consultation in December, 2005, notify the community:
- (i) As to the nature of the draft proposed policies and guidelines that are intended to support draft TPS 3.
  - (ii) That the draft Local Planning Strategy and these draft policies and guidelines are currently being finalised and will not be in a form to be released for comment until near the end of January, 2006.
  - (iii) That the Minister has been requested to grant a 6 week extension to her lodgment deadline to enable the Council to conduct a 14 day informal community consultation on the draft Local Planning Strategy and the draft policies and guidelines, failing which the Council will not have sufficient time to consult on these documents, apart from making them available on the Council website, the library and the Council office as and when each document is finalized towards the end of January, 2006, whereby any comment by electors would need to be received at the Council office a reasonable time prior to when Council considers these documents in early to mid February, 2006.

Carried 8/1

The votes were recorded:

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

**6 MEETING CLOSURE**

The Mayor, on behalf of Council, thanked the Manager Development Services and Ms Delia Neglie for all their hard work on the scheme to date.

The Mayor announced the closure of the meeting at 10.31pm.

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