

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE

MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 8 DECEMBER 2008

DEVELOPMENT SERVICES COMMITTEE

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS	1
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)	1
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
4	PUBLIC QUESTION TIME	1
5	PUBLIC STATEMENT TIME	1
6	APPLICATIONS FOR LEAVE OF ABSENCE.....	2
7	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	2
8	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	2
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	2
10	REPORTS OF COMMITTEES AND OFFICERS.....	3
10.1	PLANNING	3
10.1.1	NO. 8 (LOT 6) HAINING AVENUE - TWO GROUPED DWELLINGS	3
10.2	GENERAL	13
10.2.1	PROPOSED LOCAL PLANNING SCHEME NO. 3 - PRELIMINARY REPORT ON SUBMISSIONS	13
11	ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	21
12	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....	21
12.1.1	DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE 2008-2009 HOLIDAY PERIOD RECESS OF COUNCIL	21
13	MEETING CLOSURE.....	23

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The meeting was declared open at 6.05pm.

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

Cr Jack Walsh	Presiding Member
Cr Jay Birnbrauer	
Cr Greg Boland	
Cr Jo Dawkins	
Cr Ian Woodhill	
Cr Patricia Carmichael	Observer

Officers Present

Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Ms Pauline Dyer	Development Services Secretary

Apologies

Cr Victor Strzina

Officer Apologies

Nil.

Leave of Absence (previously approved)

Nil.

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4 PUBLIC QUESTION TIME

Nil.

5 PUBLIC STATEMENT TIME

Ms Gabrielle Gill, 63 Eric Street, Cottesloe (neighbour) – Item 10.1.1 No. 8 Haining Avenue

Ms Gill outlined her concerns about the proposed development in terms of bulk and scale, overlooking and effect on property value, with particular reference to the upper-level bedroom windows, which she requested should be screened up to 1.6m with obscure glazing in order to protect the privacy of

her home. Ms Gill invited inspection of her property. She was also concerned about being given short notice of the matter going to Committee and the limited ability of neighbours to attend Council, whereby it was requested to defer the matter.

Mr Michael Patroni, 10 High Street, Fremantle (architect) – Item 10.1.1 No. 8 Haining Avenue

Mr Patroni brought along a model of the proposed dwellings as well as some illustrative photos of other frontal garages. He elaborated on the forward garage and how it helped by not pushing-back the subject dwelling to the north and east. He also described the urban design approach to the streetscape and the form of the buildings. Mr Patroni considered that the proposal essentially complied with the Residential Design Codes and all aspects have been satisfactorily addressed, hence support for the proposal was requested.

Ms Jane Ward, 6 Haining Avenue, Cottesloe (neighbour) – Item 10.1.1 No. 8 Haining Avenue

Ms Ward outlined her appreciation of the streetscape and how it had evolved, as well as tabled some photos in this regard.

Mr Martin Welsh, 10 Haining Avenue, Cottesloe (neighbour) – Item 10.1.1 No. 8 Haining Avenue

Mr Welsh outlined his understanding of the positioning of other dwellings in relation to the sewer easement and suggested that there may be some potential for the proposed development to be setback further.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Boland, seconded Cr Woodhill

The Minutes of the Ordinary Meeting of the Development Services Committee held on Monday 17 November 2008 be confirmed.

Carried 6/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS**10.1 PLANNING****10.1.1 No. 8 (Lot 6) HAINING AVENUE - TWO GROUPED DWELLINGS**

File No:	1527
Attachments:	Location Plan Submissions (3) Correspondence from Applicant Photo Plans
Responsible Officer:	Laurie Vicary Acting Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	8-Dec-2008
Author Disclosure of Interest	Nil
Property Owner	C Beros & M Kimber
Applicant	Spaceagency Architects
Date of Application	6 August 2008 (Amended 25 November 2008)
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	903m²
M.R.S. Reservation:	N/A

SUMMARY

This site is located on the northern side of Haining Avenue and comprises two lots on a survey strata plan that were conditionally approved on 17 June 2008 by the Western Australian Planning Commission (WAPC). Planning approval for demolition of the existing dwelling was subsequently issued under delegated authority on 23 July 2008 to satisfy a condition of the WAPC's approval.

The development application currently submitted is seeking a setback variation to the front and western boundaries. However, given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

PROPOSAL

The application is for two, 2-storey grouped dwellings on a survey strata plan.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area

Policy No 003

HERITAGE LISTING

Municipal Inventory – Category 3 (Existing building has approval to be demolished following decision to approve subdivision by WAPC)

DRAFT PLANNING SCHEME No 3

No changes are proposed to the zoning of this lot.

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE****Town Planning Scheme Policy/Policies**

Policy	Required	Provided
Garages and Carports in Front Setback Areas	6m (may be reduced to 1.5m where vehicles are parked parallel to the street alignment and relevant criteria are satisfied)	1.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2 – Streetscape	Garages setback 4.5m from the primary street or setback 3m where vehicles are parked parallel to the street alignment	1.5m	Clause 6.2.3 – P3
6.3 – Boundary setback requirements	2.7m setback from pergola to western boundary (including total length of wall)	1.44m (2.22m to roof)	Clause 6.3.1 – P1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

CONSULTATION**REFERRAL****INTERNAL**

- Building
- Works

EXTERNAL

N/A

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of a letter to 5 adjoining property owners. 3 submissions were received.

The main points raised in the submissions are summarised as follows:

Steve and Jane Ward, 6 Haining Avenue

- The proposed location of the eastern garage and relocation of trees will not conform with the streetscape;

Martin Welsh, 10 Haining Avenue

- Overlooking issues with garden roof/garage and outlook from dining area;
- Retention of boundary trees;
- Privacy concern due to height of decking on eastern boundary and from upper floor windows on eastern elevation;
- Location of proposed garage in front setback - all the houses on Haining Avenue are setback considerably with no front fences. The average home is setback 6m. There is a certain streetscape to Haining Avenue and if a house in the middle of the street is built forward, this streetscape will be spoilt. We built our house in 2006 and set the house back 6m to maintain a level of consistency in the street.

Gabrielle Gill, 63 Eric Street

- The properties share a common wall giving the appearance from our property of one dwelling;
- The proposed residences appear to use the full width of the block thus causing significant loss of privacy;
- The impact of bulk, scale and form on our living areas would be visually overpowering and reduce amenity to our backyard;
- The second storey ceiling to floor, clear glass, full length and width windows of both properties will look directly into indoor and outdoor areas and have an over-towering effect on our property;

- The proximity of the existing dwelling at 10 Haining Avenue already creates a problem due to light from an upper floor window at night;

BACKGROUND

With regard to heritage, in 2001 Council removed the existing dwelling from Town Planning Scheme Policy No. 12 and the building was downgraded from a Category 2 listing in the Town's Municipal Inventory to a Category 3 listing thereby reducing its heritage significance and allowing normal development standards to apply.

On 17 June 2008 the Western Australian Planning Commission granted conditional approval for two lots on a survey strata plan each with individual street frontages, which necessitated the demolition of the existing dwelling. Planning approval for demolition was subsequently issued on 23 July 2008 subject to a full photographic and documented record of the existing dwelling both internally and externally which was then provided by the applicant.

Following an assessment of the development application, detailed discussions between Council staff and the applicant have taken place in an attempt to address the Town's concerns regarding building height (due to height of a proposed skylight), the front setback, garage setback, setbacks to the eastern and western boundaries, a boundary (dividing) wall, fill, visual privacy, development on proposed common property and addressing the concerns of neighbours.

The Town subsequently received a letter and amended plans on 25 November 2008 from the applicant (see attached) which addresses most of the initial concerns but does not satisfy all of Council's requirements.

STAFF COMMENT

The following comments are made regarding the application and revised plans received 25 November 2008.

Building height

The heights of both proposed dwellings comply with Town Planning Scheme No 2 (TPS 2) and the Residential Design Codes (RD Codes) following the deletion of a proposed skylight from Residence 1. The height of the proposed roof is now 6.68m (RL: 17.84) above the natural ground level determined at the centre of each dwelling (RL: 11.16). This is 0.32m below the maximum height permitted.

Minor incursion into street setback area

A 1m x 3.5m balcony addition is proposed above the garage to Residence 1. This intrudes 1m into Council's preferred 6m front setback (Council Resolution 28/10/02). Its length has been reduced so as not to exceed 20% of the frontage of the proposed strata lot and it now complies with the acceptable development standards of the Residential Design Codes (RD Codes - Clause 6.2.2). As it is a relatively small open-sided, unroofed balcony it is not considered that it will detract from the streetscape and it provides articulation to the proposed upper floor and therefore is supported.

Setbacks to side boundaries

A minimum 2.7m setback is required from the support posts of the proposed pergola for Residence 2 to the western boundary, taking into account the total length of the proposed dwelling and the requirement of the RD Codes to take the nearest higher value for all intermediate height and length values rather than extrapolating a more exact setback calculation based on the actual length and height of the pergola.

A reduced setback of 1.447m from the pergola posts to the western boundary is proposed. However, the roof of the pergola is to be setback 2.228m from the western boundary which far exceeds the normal 0.75m setback to eaves that is permitted under the RD Codes.

The visual impact of the structure will not be that significant on the adjoining property due to a difference in ground levels of up to 1.2m and because, allowing for the height of a standard 1.8m high boundary fence, the height of the pergola when viewed from the neighbouring property will effectively be only 4.035m where the level difference is greatest. This has been demonstrated by the applicant in cross-section B-B (see attached).

The original submitted plans showed the supports located on the western boundary which potentially would have much more significant impact on the adjoining property. However, the revised plans are a preferred option and can be supported under performance criteria of the Codes which state (Clause 6.3.1):

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.*

In this case, the proposed pergola will be adjoining a garage and driveway to HN 6 Haining Avenue and will not have a significant effect on sun or ventilation to that property or appurtenant open spaces. Also due to the level differences between the two properties, together with the proposed 2.228m setback to the roof of the pergola and the open-sided appearance of the structure, its building bulk will not be that significant. In addition, no specific objection was raised to the location of the pergola by the neighbour during advertising.

The setback to the eastern boundary has been amended to comply with the RD Codes.

Fill

This is compliant with the acceptable development standards of the RD Codes.

Visual Privacy

The location of the windows to bedroom 4 in both units has been amended to comply with the visual privacy requirements of the RD Codes. The windows to the master bedrooms to the northern boundary also comply with the acceptable development standards of the RD Codes. No accessible balconies are proposed from these bedrooms.

Boundary (dividing) wall

A proposed 3m high dividing wall at the rear of the two dwellings has been setback 1m from the northern boundary to comply with the RD Codes. A standard height dividing wall/fence is proposed to the boundary which will not impact on the adjoining property.

Front setback to garage

The proposed double garage to Unit 1 has been designed parallel to the street with a 1.5m setback from the front boundary.

Council's Policy for 'Garages and Carports in Front Setback Area (Policy TPSP 003) generally requires garages to be setback behind the 6m front setback line. However, the policy does also allow for garages to be constructed with a reduced setback of 1.5m where vehicles are parked parallel to the street alignment and having regard to:

- *The relevant objectives of the RD Codes;*
- *The effect of such variation on the amenity of any adjoining lot;*
- *The existing and potential future use and development of any adjoining lots, and;*
- *Existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment.*

The Acceptable Development standards of the RD Codes (Clause 6.2.3 – A3.5) permit garages to be setback 3m where vehicles are parked parallel to the street.

Any further reduction to this setback would need to be considered under the relevant performance criteria which states:

The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

The explanatory guidelines of the RD Codes further address the setback to garages and state inter alia:

Garages are not acceptable unless they can be accommodated without obstruction to views between street and house at ground level. Such exceptions are likely to be rare...

In the case of complete redevelopment of a site in an established streetscape, any garage or carport accessed from the street should be set back in accordance with the general building setback unless:

- *the area, dimensions or shape of the site make this unfeasible; or*
- *there is an established, consistent, pattern of carports within the setback area.*

In this case, the approved survey strata lot for Residence 1 is irregular in shape and has a 4m sewer easement at the rear preventing the dwelling from being located over this area. Some variation to the general building setback for the proposed garage would therefore not be unreasonable.

However, although the applicant has amended the original plans of the garage to indicate an 'open grille' appearance fronting the street rather than a solid wall, and has agreed to leave the existing street trees in-situ and add additional landscaping in front of the proposed garage, the proposed 1.5m reduced front setback is likely to have a significant visual impact on the streetscape.

Currently, there are no other garages or carports located in the front setback to Haining Avenue and most newer garages are integrated into the houses with an upper floor extending over the full width of the garage which reduces the visual impact of the garages on the streetscape. The garage pertaining to 12 Haining Avenue does have a reduced setback but this is to its secondary street boundary as the dwelling is a corner property and is orientated towards Charles Street.

A compromise situation would be to require the proposed garage to be setback a minimum 3m from the front boundary if parallel to the street alignment as this would comply with the acceptable development standards of the RD Codes and would still achieve a 6m average front setback. Alternatively, the applicant could be required to re-orientate the garage perpendicular to the street and setback a minimum 4.5m in accordance with the acceptable development standards of the RD Codes. This would reduce the amount of paved area required for a driveway and therefore potentially have less visual impact on the streetscape. A carport option was also initially discussed with the applicant as this would allow a clear and unobstructed view of the dwelling and potentially have least visual impact on the streetscape even if it were to be located in the front setback, but the applicant advised that this was not an option they wanted to pursue.

All these alternatives would provide good articulation to the frontage of the development whilst having less visual impact on the streetscape than the current proposal and allowing some compromise due to the irregular shape of the strata lot and the sewer easement at the rear.

It is therefore suggested that the applicant be required to further amend the front setback to the garage to conform to one of the abovementioned suggestions.

Comments from neighbours

The amended plans and accompanying letter from the applicant received 25 November 2008 addresses the concerns raised by the adjoining owners. In brief these issues are also discussed below:

- *Need for relocation of trees or removal of trees along eastern boundary* – No trees are proposed to be relocated on the verge or removed along the eastern boundary;
- *Overlooking issues/visual privacy* – The revised plans comply with the visual privacy requirements of the RD Codes;
- *Location of garage in front setback and impact on streetscape* – This matter has been addressed in detail in this report;
- *Bulk, scale and form of the proposed development impacting on the property to the rear* – The revised plans comply with the acceptable development standards of the RD Codes in respect to the rear boundary.

Development on common property

The current approved strata plan conflicts with the development proposal as it would necessitate the proposed garage to Residence 1 to be built on common property. However, the applicant has advised that the owner will be seeking to revise the current WAPC approval to reflect the development proposal. There would be no objection in principle to supporting this revised strata plan providing it complied with the RD Codes and WAPC policies for subdivision.

CONCLUSION

The applicant has attempted to address Town Planning Scheme No 2 and the RD Codes and, on balance, it is considered that the amended plans have merit and should largely be supported. Notwithstanding this, further design revisions are considered necessary for proposed Residence 1 to ensure that the location of the double garage in the front setback area does not detract from the amenity of the surrounds and streetscape.

COMMITTEE COMMENT

Committee discussed at some length the situation in relation to the front and rear setbacks, streetscape and the overlooking aspect. On balance Committee was generally supportive of the forward garage as proposed subject to the officer condition as recommended. Regarding the rear privacy consideration, Committee was mindful of the basic compliance together with the neighbour concern.

The Manage Development Services described the urban design context and explained the scope to seek privacy screening. He advised that the architect could respond in time for the Council meeting so that there was no real need to defer the item and liaison with the neighbour/s could occur.

Committee after weighing-up possible amendments decided to adopt the officer recommendation as it stands and await further information for Council before any action to modify the proposal.

Note: The architect has since confirmed his intention to submit a plan showing suitable horizontal screening to the closer upper-level bedroom window, plus to signify his preparedness to redesign in response to condition (k) regarding the garage arrangement. This information is anticipated to be made available in time for officers to provide advice so that Council can determine the proposal.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Walsh, seconded Cr Dawkins

- (1) That Council GRANT its Approval to Commence Development for two grouped dwellings at No 8 (Lot 6) Haining Avenue, Cottesloe, in accordance with the plans submitted on 25 November, 2008, 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 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 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 crossovers, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.

- (e) The existing redundant crossover being removed and the verge, kerb and all surfaces made good at the applicant's expense to the 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) Any fencing to the site 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 Council.
 - (h) That the area depicted as 'common property' on the approved survey strata plan be deleted to allow for the design of the proposed dwellings, to the satisfaction of the Western Australian Planning Commission.
 - (i) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.
 - (j) The proposed crossovers being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossovers shall be located away from the base of the trees.
 - (k) At building licence stage, revised plans being submitted to show the proposed garage to Residence 1 being setback from the front boundary either:
 - (i) A minimum 3m, if parallel to the street alignment; or
 - (ii) A minimum 4.5m, if perpendicular to the street alignment;and the final design and location of the proposed garage being to the satisfaction of the Manager Development Services.
 - (l) The area between the proposed garage, if located parallel to the street alignment, and the front boundary being landscaped to the satisfaction of the Manager Development Services.
- (2) Advise submitters of Council's resolution.

Carried 6/0

10.2 GENERAL**10.2.1 PROPOSED LOCAL PLANNING SCHEME NO. 3 - PRELIMINARY REPORT ON SUBMISSIONS**

File No: SUB/721 & SUB/334
Responsible Officer: Laurie Vicary
Acting Chief Executive Officer
Author: Delia Neglie/Andrew Jackson
Projects Planning Officer

Proposed Meeting Date: 8-Dec-2008
Author Disclosure of Interest Nil

PURPOSE OF REPORT

- This report presents, as a preliminary step, various schedules and summaries of the submissions received on proposed Local Planning Scheme No. 3 (LPS3) when it was officially advertised for public inspection / comment earlier this year.
- This material is provided for Council's information and general discussion at this stage, but not for any specific determination of the submissions, which require further analysis and reporting / recommendations, as explained below.
- The material appraises Council of the scope and substance of the submissions, for an overall appreciation of the responses received and the aspects upon which Council will need to deliberate.
- To convey the complexion of the submissions they have been categorised and summarised in a range of ways so that some of the main aspects can be accessed and absorbed – most of this data is contained in an accompanying computer disc rather than printed at this point.
- The report also presents the necessary procedure and indicative timing to complete Council's dealings with the submissions as part of the overall scheme review process.
- A recommendation is made regarding Council's approach to the task.
- The report and attachments / disc are therefore a prelude to and background reading for Council's detailed consideration of the submissions and possible modifications to the proposed Scheme, to occur in early 2009.

POLICY IMPLICATIONS

Nil at this time, however, LPS3 provides for planning policies in the normal manner, which are to be created in conjunction with the Scheme.

STRATEGIC IMPLICATIONS

The Scheme, which includes the Local Planning Strategy, is in itself a key strategic instrument to shape and manage the future of the district.

STATUTORY REQUIREMENTS

- The *Planning & Development Act 2005* contains overarching provisions governing the review of local planning schemes.
- The *Town Planning Regulations 1967 (as amended)* set out the procedures which must be followed by local government, the Western Australian Planning Commission (WAPC) and the Minister for Planning & Infrastructure (Minister) when reviewing local planning schemes.

FINANCIAL IMPLICATIONS

Processing the submissions so far has been covered by staff costs plus contract assistance, and more expenditure on contractors / consultants may be required in the ongoing work to address the submissions.

BACKGROUNDFormulation of Proposed Scheme

- Proposed LPS3 has been several years in the making and Council has undertaken extensive community consultation in formulating and finalising the scheme proposals.
- In March and April 2005, this consultation included a series of Precinct Forums and a Town Centre Study.
- In December 2005, Council carried out a final round of community consultation on the draft scheme, including a mail-out, website, displays, open days and structured feedback form.
- In addition, Council undertook a number of studies by consultants to inform the draft scheme, including a parking review, heritage review and beachfront development guidelines.
- The draft scheme was also subject to considerable legal review.
- In February 2006 the proposed Scheme was lodged with the WAPC for consent to advertise and liaison ensued with the Department for Planning and Infrastructure (DPI), WAPC and Minister towards that end.

Statutory Advertising of Proposed Scheme

- In August 2007, Council received from the WAPC conditional approval by the Minister to advertise proposed LPS3.
- Settlement of various modifications required by the WAPC / Minister followed, culminating in the Scheme being advertised as directed for three months, which commenced on 11 April 2008 (a notice as required was placed in the Government Gazette by the WAPC on this date).
- The advertising approval was subject to Council:
 - Writing directly to owners of those lots proposed to be rezoned from Foreshore Centre to either Restricted Foreshore Centre or Residential and advising of the differences between the current and proposed zones, and inviting comment thereon.
 - Formally inviting public comment on residential densities and building heights in respect of the Residential zone.

- Ensuring that all relevant authorities or bodies are made aware of the draft scheme and invited to comment.
- Taking appropriate steps to ensure that owners and occupants of land in the Town are made aware of the draft scheme and invited to comment.
- In addition, in December 2007, as a result of representations by Council, the Minister's further approval to advertise the proposed Scheme was subject to an Enquiry by Design (EbD) process to address some outstanding matters in relation to particular areas – below refers.
- In accordance with these approvals, on 11 April 2008, the following letters were sent out:
 - 24 letters to community groups.
 - 13 letters to government authorities.
 - 4 letters to adjoining local authorities.
 - 55 letters to landowners of land zoned Foreshore Centre under TPS2 and proposed to be changed to Residential R60 under LPS3.
 - 60 letters to landowners of land zoned Foreshore Centre under TPS2 and proposed to be changed to Restricted Foreshore Centre R60 under LPS3.
- On 18 April 2008, the following letters were sent out:
 - 540 letters to absentee landowners.
 - 4754 letters to ratepayers and occupiers.
- On 11 April 2008, a notice of the Scheme advertising period was published in the Post community newspaper, displays of the Scheme were placed at the Council Office and the Library, and notices were placed on the noticeboards outside the Council Office and in Napoleon Street.
- On 3 June 2008, further information was sent to all ratepayers and occupiers, comprising an A3 copy of the Scheme Map and a summary list of differences between existing Town Planning Scheme No. 2 (TPS2) and proposed LPS3.
- On 17 June 2008, another letter was sent to landowners on Stirling Highway between Clive Road and Eric Street in order to clarify the Scheme proposals.

STATUTORY NEXT STEPS

Actions by Council

- Under the Regulations, Council is required to consider the submissions within six months from the close of advertising or such longer period as is approved by the WAPC, and in respect of each submission shall consider whether the Scheme should be modified accordingly or whether that submission should be rejected.
- After considering all of the submissions, Council is required to pass a resolution to adopt the Scheme, with or without modifications, or that it does not wish to proceed with the Scheme.
- Within 28 days of the resolution, Council is to forward the Scheme documents to the WAPC with:
 - A Schedule of Submissions – to include names and addresses; descriptions of properties; the submissions or a summary thereof; and maps, plans, etc as necessary or as may be required by the WAPC.
 - Recommendations regarding each submission.

- Particulars of modifications recommended.
- A copy of the Council resolution.
- If Council wishes not to proceed with the Scheme, a summary of reasons why.

Actions by WAPC & Minister

- After considering Council's deliberations on the submissions, the WAPC is to submit its recommendations on them and any modifications to the Minister.
- If particular recommended modifications are considered by the Minister to be *substantial*, Council is to advertise them for as long as directed, then within three months to:
 - Consider any submissions received.
 - Make recommendations to the WAPC in respect of each submission.
 - Forward the submissions and recommendations to the WAPC.

The WAPC is to examine the submissions and forward its recommendations to the Minister, who is to:

- Approve the Scheme or require further modifications, whereupon within 42 days of being notified by the WAPC of the Minister's decision, Council is to comply with the modifications and/or forward three copies of the Scheme to the WAPC for the Minister's final approval; or
- Refuse to approve the Scheme, whereupon Council is to notify each submitter of the refusal.
- Lastly, the approved Scheme is to be endorsed by the WAPC and Minister then gazetted and advertised as finally approved, whereupon it commences operation and TPS2 ceases.

OVERVIEW OF SUBMISSIONS

Submissions Received

- A total of 553 submissions were received.
- Most were received by the due date, although some arrived later, but these have still been included.
- Submissions are required to be on the prescribed Form 4, but despite the form being provided and emphasised, some 6% were received without a form; however, these have still been included (and where possible a form has been obtained).
- As required by the Regulations, receipt of each submission has been acknowledged in writing.

Statistical Analysis

- A statistical analysis of the submissions in terms of their number, nature and origin has been undertaken to gain an appreciation of their characterisation; which is attached and indicates:
 - 37% of the submissions are standardised regarding the beachfront; 20% of which are from owners / residents, 16.5% from Cottesloe and 80% were from outside Cottesloe.

- 63% of the submissions are individual (although they include depot site pro-forma letters); 90% of which are from owners / residents, 84% from Cottesloe and 16% from outside Cottesloe.
- *For Councillor use this statistical analysis is contained in the computer disc accompanying this report.*

Standardised Submissions

- It is apparent that 206 of the submissions are more or less standardised, given the large amount of pro-forma letters, and there are 20 types of standard letters following four basic pro-formas, as follows:
 - Two pro-formas are regarding the conceptual proposal for the Seapines / Lido site. One consists of only a paragraph endorsing that proposal, and there are 20 such letters. The other comprises the bulk of these submissions, with 154 consisting of about 12 variations of a detailed letter, reflecting the submission made by planning consultants on behalf of the landowners. One version of this was sent in by 106 submitters. Other versions entail singular variations or were sent in by groups of 6-10 submitters.
 - The third pro-forma comprises 29 submissions with 7 main variations (and a few minor variations) and is broader in its comments regarding beachfront built form, but specific about Clauses 5.13 and 5.3.5 of the Scheme. It appears that people were given a sheet of notes which some attached but most paraphrased or altered.
 - The fourth pro-forma includes 3 submissions and links the need for more height to meeting the aims of the Scheme.

Individual Submissions

- There are 347 individual submissions of a general / diverse nature, the subject of which includes but is not limited to:
 - Beachfront sites, including submissions from landowners or consultants.
 - The EbD, including requesting invitation / involvement and comment regarding purpose / process.
 - Beachfront issues, including but not limited to height, plot ratio, short-stay accommodation, density, environmental issues, access, car parking, and character.
 - Residential height.
 - Residential density generally.
 - Residential density for particular properties / areas.
 - The Town Centre, including Curtin Avenue and the railway lands (Development Zone E).
 - The depot site (although most of these were pro-forma letters).
 - The Wearne Hostel and WAIDE sites, including from the owners / operators and community.
 - Government authorities including the Heritage Council of WA, Main Roads WA, Water Corporation and Tourism WA.

Schedule of Submissions

- A Schedule of Submissions has been prepared as required by the Regulations, which lists the details of each submitter plus the subject matter and a summary of each submission.
- A recommendation on each submission is to be added following future officer assessment / reporting and Council consideration.
- The Schedule is the master document on the submissions and is attached for Council's perusal / reference at this juncture.
- Due to the large size of the schedule it is arranged in two parts: A – Details of Submitters (name, address, etc), and B – Content of Submissions (subject and summary).
- For ease of reading, these parts printed on A3 sheets (*as provided for Councillor use*) may be placed side-by-side (A on the left and B on the right) for a continuous flow of information across the columns and down the rows, including turning over the pages.
- *For Councillor use this main schedule is contained in the computer disc accompanying this report.*

Extract Schedules

- For accessibility of information, several extracts of the Schedule of Submission have been prepared as working tools, including:
 - An extract schedule of the 157 individual submissions regarding the beachfront generally.
 - An extract schedule of the 72 individual submissions regarding the CBH and OBH sites specifically.
 - An extract schedule of the 58 individual submissions regarding the Town Centre, Railway Lands and Curtin Avenue.
 - An extract schedule of the 3 individual submissions regarding the Foreshore Vision.
- These extracts consolidate the submissions on their topics for an overview of the comments made.
- *For Councillor use these extract schedules are contained in the computer disc accompanying this report.*

Compiled Summaries

- Also for accessibility of information, three compiled summaries of submissions have been prepared as working tools for the first three abovementioned extract schedules, including:
 - The beachfront.
 - The CBH and OBH sites.
 - The Town Centre, Railway Lands and Curtin Avenue.
- These summaries condense the comments made on their topics for a snapshot of the submissions.
- *For Councillor use these compiled summaries are contained in the computer disc accompanying this report.*

Enquiry by Design

- As advertised, proposed LPS3 required an EbD process to produce: firstly, Building Design Controls for Special Control Area 2 covering the Cottesloe Beach Hotel and Ocean Beach Hotel sites (also having regard to the creation of a concept plan for the public domain foreshore); and secondly: a preliminary Structure Plan / Design Guidelines for Development Zone E (ie the railway lands, taking into account planning for future Curtin Avenue and the Town Centre).
- The EbD is being conducted during November and December 2008, the outputs of which are intended to involve additional public advertising and consideration of submissions, leading to recommended outcomes to be incorporated, with or without modification, into LPS3.
- Whilst on the one hand the EbD is a relatively discreet exercise to focus on defined areas and aspects in order to round-out the proposed Scheme, on the other hand there is likely to be some interplay between the submissions and the EbD findings.
- Although it is not the role of the EbD to consider or determine the submissions per se, which falls to Council, the submissions may have a bearing on the EbD deliberations and the EbD may have an influence on the assessment of the submissions.
- Hence it is logical and desirable to ensure that any interrelationships are explored and the conclusions are correlated between the overall submissions and the EbD outcomes.

Timeframe to Consider Submissions

- The initial six month period for Council's consideration of the submissions ends on 16 January, when Council is in recess.
- Previously, the intent was to carry out the EbD during the Scheme advertising period and to undertake additional advertising of the resultant proposals, yet a timeframe for completion of the exercise was not prescribed and would most likely have taken longer, in parallel with consideration of the Scheme submissions.
- Owing to the extended dominance of the major EbD process throughout 2008 and into 2009, more time is required for officers and Council to devote to a detailed and comprehensive examination and determination of Council's recommendations on all of the submissions.
- This additional time is necessary to progress the submissions phase in its own right, and as explained could be brought-together with completion of the EbD process – the aim should be to advance consideration of all the submissions and to ensure that the solutions are coordinated.
- Therefore, it is recommended that the WAPC be requested to grant an extension of time for Council's consideration of the Scheme submissions until 16 April 2009, bearing in mind the EbD process / advertising and further advertising of any substantial modifications.
- Also, Council would need to be prepared to have briefing sessions, workshops and special meetings to satisfy this activity and timeframe.

COMMITTEE COMMENT

Committee commended officers for the hard work to date on the submissions and for the various formats in which the information was presented in order to assist Council's understanding of the aspects arising. Committee acknowledged the large and complex task ahead for officers to assess the submissions in detail, then for Council to deliberate upon the planning aspects and to make recommendations regarding each submission; including the timing involved and the need to progress the matter. In this respect Committee queried whether workshops would be necessary and was concerned that parts of the proposed Scheme, which had been painstakingly formulated, might unravel unnecessarily.

The Manager Development Services emphasised that the submissions would still need to be considered on merit but in context and that the overall timing, steps and means were being explored by offices for a possible revised recommendation to Council. On this basis Committee was content to leave the recommendation as is pending further discussion at and advice to Council.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Boland, seconded Cr Woodhill

That Council:

- (1) Note this report and information on the submissions received regarding proposed Local Planning Scheme No. 3.**
- (2) Request that the Western Australian Planning Commission, in accordance with Regulation 17(1), agrees to an extension of time to 16 April 2009 for Council to respond on the submissions received regarding the Scheme, together with consideration of progress of the Enquiry by Design process.**
- (3) Agree to briefing sessions, workshops and special meetings to achieve this target.**

Carried 6/0

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

Nil.

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**12.1.1 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE 2008-2009 HOLIDAY PERIOD RECESS OF COUNCIL**

File No: Sub/39
Responsible Officer: Laurie Vicary
Acting Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 15-Dec-2008
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to delegate authority to the Manager Development Services, Acting Chief Executive Officer and incoming Chief Executive Officer (from 5 January 2009) to make determinations on those applications for planning consent that are assessed during the period from Tuesday 16 December 2008 to Friday 30 January 2009 while the Council is in recess.

BACKGROUND

The following resolution was passed by Council at its December 2007 meeting:

That Council:

- (1) *In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby further delegates to the Manager Development Services, the Acting Chief Executive Officer and the incoming Chief Executive Officer, under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 18 December 2007 to Friday 1 February 2008.*
- (2) *The exercise of those powers referred to in (1) is granted subject to:*
 - (a) *The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and*
 - (b) *A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:*
 - (i) *circulated on a weekly basis to all Councillors; and*

- (ii) *subject to the current call-in arrangements for Delegated Authority Items.*

CONSULTATION

Nil

STAFF COMMENT

It is requested that the Manager Development Services, Acting Chief Executive Officer and incoming Chief Executive Officer be granted additional delegated authority to determine applications beyond their current delegated powers, in consultation with the Development Services Committee Chairperson or Deputy, during the December and January recess of Council.

In practice this arrangement works well and ensures that the processing of applications is not unduly delayed (as there is a right of appeal after 60 days). Also, during the recess period there are usually fewer applications and any significant or problematic ones can be identified for referral to Development Services Committee and Council from February onwards.

This special delegation is only useful if the Chair and/or Deputy are available during the holiday period.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Town of Cottesloe Town Planning Scheme No. 2
Residential Design Codes
Fencing and Signage Local Laws

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Dawkins, seconded Cr Boland

- (1) **That Council:**
- (2) **In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby**

further delegates to the Manager Development Services, the Acting Chief Executive Officer and the incoming Chief Executive Officer (from 5 January 2009), under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 16 December 2008 to Friday 30 January 2009.

- (3) The exercise of those powers referred to in (1) is granted subject to:
- (a) The relevant officer discuss those applications that fall within the extending powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and
 - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:
 - (i) circulated on a weekly basis to all Councillors; and
 - (ii) subject to the current call-in arrangements for Delegated Authority Items.

Carried 6/0

13 THANKS TO STAFF

The Manager Development Services, Mr Andrew Jackson, took the opportunity to thank Mr Ed Drewett, Senior Planning Officer, for his extra efforts in handling core planning matters, in particular the development applications case-load, during the demanding and ongoing LPS3 submissions and Enquiry by Design phases; which have imperatively preoccupied the MDS and Project Planner, Ms Delia Neglie, for many months, and will extend well into 2009. Mr Jackson also expressed appreciation to all the other planning and support staff for their assistance and contributions throughout the challenging year.

Cr Dawkins on behalf of Committee recorded a vote of thanks to all staff of the Planning Department for their hard work during 2008 in serving Committee as well as advancing LPS3 and undertaking the EbD.

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7.30pm.

CONFIRMED: PRESIDING MEMBER _____ DATE: .../.../...