

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 15 FEBRUARY 2010

CARL ASKEW
Chief Executive Officer

18 February 2010

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.....	3
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	3
10	REPORTS OF COMMITTEES AND OFFICERS.....	4
10.1	PLANNING.....	4
10.1.1	NO. 2 & 4 ATHELSTAN STREET – FIVE AGED PERSONS DWELLINGS - REVISED PLANS FOR FURTHER CONSIDERATION	4
10.1.2	NO. 29 NAPOLEON STREET – CHANGE OF USE FROM SHOP TO SMALL BAR (INCLUDING TWO OUTDOOR ALFRESCO AREAS)	17
10.1.3	NOS (UNITS) 1-4 - 62 MARINE PARADE – MAJOR ALTERATIONS AND ADDITIONS	30
10.1.4	NO. 110 NAPIER STREET – CHANGE OF USE FROM PROFESSIONAL OFFICE: MANUAL LYMPHATIC DRAINAGE TO SPORTS PHYSIOTHERAPY CONSULTING ROOMS – RETROSPECTIVE APPLICATION	39

	10.1.5	NO. 2 (LOT 5) CHAMBERLAIN STREET – ALTERATIONS AND SECOND STOREY ADDITIONS	49
	10.1.6	No. 38 (STRATA LOTS 1-6) MARINE PARADE – SUBDIVISION PROPOSAL	55
11		ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	60
12		NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING	60
13		MEETING CLOSURE.....	60

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Officer announced the meeting opened at 6:01pm.

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

Cr Jack Walsh Presiding Member

Cr Jay Birnbrauer

Cr Victor Strzina

Arrived 6:07pm

Cr Patricia Carmichael

Cr Davina Goldthorpe

Ms Jo Dawkins

Officers Present

Mr Carl Askew

Chief Executive Officer

Mr Andrew Jackson

Manager Development Services

Mr Ed Drewett

Senior Planning Officer

Mr Will Schaefer

Planning Officer

Ms Rianna Fitzpatrick

Health & Building Services Secretary

Apologies

Cr Ian Woodhill

Officer Apologies

Ms Pauline Dyer

Development Services Secretary

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

Roger Gregson – Item 11.1.3 – 38 Marine Parade

Mr Gregson spoke briefly on behalf of the strata owners who all wished to improve the property, explaining that the proposal had been designed to fit-in with neighbouring developments along Marine Parade and seeking favourable

consideration of the application. Mr Gregson thanked Committee for the opportunity to speak to the proposal.

Jamie Loh – Item 11.1.1 – 2 & 4 Athelstan Street

Mr Loh advised that the proposal was a new application which had been widely advertised and significantly improved over the previous version, whereby there was no objection in terms of streetscape. He contended that the RDC did allow for consideration of variation to the plot ratio dwelling size, and described how the layout and two-storey design was meant to function in relation to that. Mr Loh also advocated that the proposal had received a good measure of support from the locality and general community and that the Town's Annual Report identified the need to provide for aged persons housing, which this proposal addressed.

Laurie Scanlan – Item 11.1.1 – 2 & 4 Athelstan Street

Mr Scanlan as the project architect reiterated the points made by Mr Loh. He commented that dwelling size was a subjective consideration and elaborated on the lifestyle market in Cottesloe which the design was aimed to suit. Mr Scanlan also put that fewer single family homes could appear just as bulky and referred to the indicative sketch submitted accordingly.

Robina Crook – Item 11.1.2 – 29 Napoleon Street

Ms Crook from Planning Solutions consultants representing the applicant spoke in favour of the proposal as suitable for the Town Centre and having a permeable urban form. Council's support was looked forward to.

Greg Chatfield – Item 11.1.1 – 2 & 4 Athelstan Street

Mr Chatfield spoke for 10 objectors in the street/neighbourhood who remained opposed to the proposal with genuinely-held concerns. He emphasised the constraints of the RDC in respect of what was intended for aged persons housing and highlighted the excesses of the application in this regard. Mr Chatfield also cautioned that the expressions of support were questionable and concluded that the proposal should not be supported.

Brett Slocombe – Item 11.1.4 – 110 Napier Street

Mr Slocombe described the background to the situation and the use of the verge for parking as well as the desire to continue the practice. He also showed a couple of photos of examples of other approved verge parking for businesses in Cottesloe, such as the building company professional office on the Florence Street / Curtin Avenue corner site similar to his.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

[Minutes December 07 2009 Development Services Committee.doc](#)

The Minutes of the Ordinary meeting of the Development Services Committee held on 7 December 2009 be confirmed.

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

10 REPORTS OF COMMITTEES AND OFFICERS**10.1 PLANNING****10.1.1 NO. 2 & 4 ATHELSTAN STREET – FIVE AGED PERSONS DWELLINGS – REVISED PLANS FOR FURTHER CONSIDERATION**

File No:	1847
Responsible Officer:	Carl Askew Chief Executive Officer
Author Responsibility:	Andrew Jackson Manager Development Services
Applicant:	Lawrence Scanlan & Associates Pty Ltd
Zoning:	Residential R20
Use:	P- A use that is permitted under the Scheme
Lot Area:	1667m²
Proposed Meeting Date:	15 February 2010
Author Disclosure of Interest	Nil

SUMMARY

This application supersedes a similar proposal that was deferred by Council on 25 May 2009 at the request of the applicant.

In this proposal the following variations are sought to Town Planning Scheme No. 2 (TPS 2), Council's Policies and/or the Residential Design Codes:

- Plot Ratio
- Building on boundary
- Removal of street tree

These issues are discussed in this report.

Alternative outcomes are articulated for Council to consider in determining the application. On balance, it is concluded to be difficult to sustain approval of a proposal with the degree of variation sought contrary to the thrust of the RDC provisions for aged persons housing, as explained. Therefore, the recommendation is for refusal of the amended proposal, although potential conditions of approval are identified should Council be so inclined.

PROPOSAL

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

The proposed dwellings are attached and each comprise a master bedroom with ensuite, kitchen, living area, laundry, store/garage at ground floor level, with 2

additional bedrooms, bathroom ensuite, family room (kitchenette/family room for 1 dwelling) and garden terraces on the upper floors.

The dwellings are of contemporary design with their main outdoor active habitable areas on the northern side for best solar orientation.

BACKGROUND

A previous application for 5 aged persons dwellings on these lots was considered by Council on 25 May 2009 whereby it was resolved that:

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

The applicant has since liaised closely with officers as well as neighbours/the general community and submitted a revised proposal for consideration, which this report evaluates.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
- Council's Street Tree Policy
- Residential Design Codes

PROPOSED LOCAL PLANNING SCHEME NO. 3 (LPS3)

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Proposed
Street Trees	Retention of street trees	Removal of 1 street tree

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.3 – Buildings on Boundaries	Walls not higher than 3m with an average of 2.7m up to 9m in length up to one side boundary	Eastern wall on boundary to Unit 5 has length of 10.7m.	Clause 6.3.2 – P2
7.1 – Special purpose dwellings	Maximum plot ratio for single houses and grouped dwellings – 100m ²	Unit 1 – 243m ² ; Unit 2 – 237m ² ; Unit 3 – 223m ² ; Unit 4 – 235m ² ; Unit 5 – 229m ²	Clause 7.1.2 – P2

CONSULTATION

The application was advertised by the Town in accordance with TPS 2 and the Residential Design Codes. The advertising consisted of a letter to 11 adjoining property owners.

Prior to the submission of the application, the applicant sought the comments of adjoining residents, 4 of whom responded by stating that they are 'indifferent' to the proposal. The applicant has also obtained the signatures of 108 people, mostly Cottesloe residents, stating that they are in full support of the proposed development and are of the view that there is a definite need for housing in Cottesloe for residents over the age of 55.

3 letters of objection/comment and a petition signed by 9 people has also been received. The main comments raised are summarised below:

Petition signed by owners of 1, 3, 5, 6, 7, 8, 9 & 10 Athelstan Road:

- The proposal is for 5 units of approximately 230m² when the code stipulates a maximum 100m² for each dwelling. This is still a 130% increase over the stipulated size in the code;
- The advertised 12% reduction in size under the new proposal is not a significant modification and still a long way from meeting the requirements of the code;
- These are all still double-storey, 3 bedroom, 3 bathroom dwellings with two living areas or a second kitchen, when these dwellings are typically single storey and designed for one/two residents. As a comparison, there has been a recent development on Athelstan Road for a house of 285m² (designed for a family) on a 597m² block. At 233m² these are nearly as large as this family home and could feasibly accommodate 6 individuals;
- The proposal could set a precedent in the area for aged persons dwellings well outside the Codes and could be used to justify other developments, impacting on other residents in the area;
- The proposed upper floor terraces on the street front could generate noise, particularly with the proposed increased density;
- The proposal does not meet the requirements of the Codes for an increased density for aged persons accommodation;
- The street will change from a low density, quiet, family-orientated street to one where there is significantly higher density and traffic; and
- The proposed development will devalue properties in the street.

R & B Moore, 1 Athelstan Road:

- The proposed changes to the original submission have not been sufficiently redesigned to alleviate our previous concerns;
- The amalgamation of 2 blocks into 5 under the over-50 legislation constitutes a total change in the fundamental residential coding of Cottesloe and affects the family-orientated nature of the street;
- The proposed development is not compliant with the Council's codes without the waiver created by the aged persons requirements;

- The building size grossly exceed the Code requirements;
- The garaging of a possible 10 cars and parking problems of visitors' vehicles will add to a very congested streetscape that is currently children-friendly;
- The precedent set will change the character of the street and surrounds;
- There will be added noise impact because of excessive traffic movements;
- This is more alike to Subiaco style development;
- There will be a concentration of age demographic in one small locality; and
- The mix of units, flats and duplexes in Cottesloe allows an aged person choosing to down size plenty of opportunity.

D. Dures, 1 Haining Avenue:

- The size of the development is excessive. Up to 4 units would be more fair and reasonable.

B & M Goodlet, 3 Haining Avenue:

- Dwellings must not compromise privacy. Any north facing balconies or external access would be unacceptable. North facing windows should be opaque;
- The northern boundary fence, if replaced, must be 1.8m high to alleviate privacy concerns;
- The roofing material for Units 4 & 5 are to be non-reflective; and
- The proposed units could have a negative impact on the flow of traffic and demand additional street parking in Haining Avenue.

APPLICANT'S JUSTIFICATION

The applicant has submitted a detailed submission with the application in support of the proposal (see attached).

Although principally the same as that previously submitted, albeit updated to reflect the current plans, additional comments have also been made specific to the current application. These are summarised below:

- A petition signed by 100 Cottesloe residents (submitted with the application) demonstrates the support for this type of housing and the underlying demand;
- The proponent has personally contacted all adjacent owners and has produced signed documentation demonstrating that they have no objection to the size, scale and type of development proposed;
- The total area of the units has been reduced by 203m² since the original submission and 138m² since the submission to the Development Services Committee of 18 May 2009. This is an average of 40m² per unit;
- The proposed dwellings and garages are entirely behind the 6m setback;
- 1st floor setbacks have been increased to over 12.2m;

- Unit 3 has been deeply recessed behind a pyramid roof of the garage. Its first floor is setback 16m from the street with adjoining units stepping progressively forward. This is so far back as to read as a single-storey unit, especially from pedestrian approaches along Athelstan Road;
- The average setback to the first floor living areas has been increased to 14m;
- Units 1 & 2 share a common wall at 1st floor level but all other units have a 3.5m separation. This combined with the increased and varying setbacks reduces the impact of the upper floor massing and will create a streetscape that is predominantly single-storey in character;
- The balustrade to Unit 3 has been designed as a lighter, more transparent open masonry element whilst still in-keeping with the different architectural style;
- Western flank walls of garages to Units 3 & 5 have been lowered to relate more intimately to street scale;
- From the south side of Athelstan Road Unit 3 is entirely screened by a large peppermint tree;
- The mature eucalypt in the SW corner partly will screen the development from Marmion Street;
- If 3 dwellings were constructed on this site the building bulk and floor areas could be considerably greater than that of a unit development;
- All proposed pathways, door approaches and functional areas comply with Design for Access and Mobility AS 1428.1 and Adaptable Housing AS 4299-1995;
- From the outset the project has been developed as a genuine response to the needs of the over 55s and the disabled. It seeks to cater for people with limited mobility seeking appropriate accommodation – in particular, those who have been long term residents in the area;
- In the event of major disability, residents have the security of knowing that they can remain in occupancy by being able to employ and accommodate full time carers in the upstairs wing;

In addition to these comments, the applicant has also responded to the submissions received during advertising (refer attached).

STAFF COMMENT

The previous application for 5 aged persons dwellings on this site was discussed in detail in the report to Council of 25 May 2009 (see attached). The main planning issues have not significantly changed since that time, although the plans have been

modified to reflect some of the issues that were previously raised. As such the original report has been partly replicated below:

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

- Plot Ratio
- Building on boundary
- Removal of street tree

Each of these issues is discussed below:

Plot Ratio

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

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

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

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

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

The proposed minimum lot areas range from 329.25m² to 330.64m² which are all in excess of the minimum lot area permissible.

The issue with the proposed development arises over the proposed plot ratio for each dwelling.

Under Clause 7.1.2 of the RDC the acceptable development standards for aged and dependent persons' dwellings state, inter alia:

A maximum plot ratio area of:

- *In the case of single houses or grouped dwellings – 100m²*

Plot ratio is defined as:

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

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

Unit	Proposed Plot Ratio	Plot Ratio (previous application)
Unit 1 (western end)	243m ²	266.86m ²
Unit 2	237m ²	265.52m ²
Unit 3	223m ²	264.68m ²
Unit 4	235m ²	260.84m ²
Unit 5	229m ²	247.03m ²

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

The relevant Performance Criteria of the RDC to consider a variation state:

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

- *Are designed to meet the needs of aged or dependent persons;*
- *Are located in proximity to public transport and convenience shopping;*
- *Have due regard to the topography of the locality in which the site is located; and*
- *Satisfy a demand for aged or dependent persons' accommodation.*

The proposed development has been designed to take account of existing topography and will have reasonable access to public transport and local shops. Furthermore, the applicant has advised that the ground floor of the units will be designed to meet the needs of aged and dependent persons and the petition submitted by the applicant signed by local residents indicates that there appears to be a demand for this type of housing.

Notwithstanding this, the scale of each dwelling is of concern, especially as the applicant has advised that the first floor accommodation is for guests and/or grandchildren, rather than being specifically designed to meet the needs of aged or dependent persons.

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

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

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

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

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

The guidelines also state:

It is important that dwellings designated aged or dependent persons are designed to allow for aging in place whereby dwellings cater for an individual to remain in their chosen place of residence even though their physical and sensory abilities may change over their lifespan, with certain minimum standards, as set out in appropriate Australian Standards, that are part of construction or can be introduced with relative ease. In particular, this would include designs with minimal use of levels or stairs, adequate passageways and door widths, roofed car parking spaces, accessible utilities and slip-resistant floors for kitchens, laundries, bathrooms and toilets as described in the AS 4299-1995 Adaptable housing. This would result in such dwellings being more flexible to accommodate the changing needs of older people.

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

This number of new two-storey dwellings would equate to an approximate density of R30, rather than the existing R20 code, and combined with the proposed size, number of new garages, crossovers, loss of the street tree etc, the development is likely to have a greater visual impact on the existing streetscape than if the site were developed for 2 or 3 dwellings, albeit that the scale of such dwellings could potentially be larger than that proposed.

There is no objection to supporting 3 aged persons accommodation on these lots with the proposed plot ratio as this would satisfy the demand for providing this type of accommodation without compromising the existing R-Code density allocated to this area. Alternatively, Council could approve the 5 aged persons dwellings as proposed under the relevant performance of the RDC.

Building on Boundary

Unit 5 (eastern end) has a wall on the boundary that has a height varying between 2.1m and 3m, averaging 2.5m, which is allowable under the RDC, however its proposed length is 10.7m which exceeds the maximum length permitted under the acceptable development standards of the RDC by 1.7m. It is therefore necessary to consider the wall under performance criteria which state:

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

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

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

Street Tree

The crossover to proposed Unit 1 necessitates the removal of a street tree.

The objective of Council's Street Tree Policy is to recognise the environmental and aesthetic contribution that street trees make to the continuing development and presentation of the streetscape. The policy also emphasises that tree removal must be seen only as a last resort, used for dead and/or dangerous trees.

In this case, the Manager Engineering Services has advised that the Peppermint tree may be removed because of its poor condition and location near the intersection. However, the tree and stump is to be removed at the owner's expense and a new semi-mature Peppermint tree is to be planted in a suitable location to the satisfaction of the Manager.

Building Height

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

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

Provided that it is satisfied that the amenity of the neighbouring area will not be adversely affected, the Council will...measure building height for attached houses

and grouped dwellings from NGL as determined by Council at the centre of the area contained within the external walls of each individual house.

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

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

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

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

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

CONCLUSION

As discussed, should Council continue to be concerned about the proposed plot ratio for each of the aged persons dwellings, the proposed increased density on the lots and the objections raised by nearby owners during the advertising period, then the application should not be supported. The decision would be based on the remaining grounds of contention, as reflected in the officer recommendation for refusal which is preferred as the appropriate outcome in the circumstances.

Alternatively, should Council consider that the proposal has sufficient merit, satisfies the relevant performance criteria of the RDC and the objections cannot be sustained, then conditional approval would result, as provided by way of a secondary recommendation.

The revised proposal is in certain respects better than the previous application considered by Council last May, as the applicant has attempted to address a number of the concerns raised in the earlier report and has confirmed that the design of the ground floors and entry will conform to the standard requirements for aged and disabled persons accommodation as required under the RDC. Aspects such as noise and privacy have also been taken into consideration in the revised design so as to be consistent with the relevant design requirements of the RDC.

At the same time, submissions for and against the proposal have been received and the main issues raised against the proposal are similar to those discussed in the initial report to Council and have been reiterated in this report. Overall, despite the improved design, a recommendation of refusal is made on the basis that the proposal still fundamentally significantly exceeds the spirit and intent of the RDC provisions in terms of a density bonus for and the plot ratio of dwellings meant to be small-scale and purpose-designed for aged persons housing.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee again discussed the proposal and basic matter at length, and remained concerned that the dwellings proposed were simply too large to justify against the intent and requirements of the RDC, despite any apparent demand and the local luxury-orientated market. Concern was expressed in relation to the degree of discretion required, parking impact and Council's difficult deliberations on other similar proposals in the past. At the same time Committee pondered how best to approach the provision of such housing. Mr Jackson advised that as it had not been seen fit to amend the RDC in this regard a Scheme Amendment would be the proper way to consider variation of the provisions for Cottesloe.

OFFICER RECOMMENDATION

1. That Council REFUSE the proposed 5 aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 9 December 2009, for the following reasons:
 - (i) The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and
 - (ii) The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.
2. But that should Council wish to GRANT its Approval to Commence Development of the proposed 5 aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 9 December 2009, the approval be 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 crossovers being removed and the verge, kerb and all surfaces being 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) The finish and colour of the boundary wall facing the eastern neighbour shall be to the satisfaction of the Manager Development Services, with details being submitted as part of the building licence application.
 - (h) The proposed development shall comply with the Acceptable Development Standards of the Residential Design Codes specific to Aged or Dependent Persons Dwellings, Clause 7.1.2 - A2 (iii) & (iv).
 - (i) At least one occupant of each dwelling must be disabled, a physically-dependent person, aged over 55 or the surviving spouse of such a person. Prior to occupation of any of the dwellings, the owners shall enter into a legal agreement with the Town of Cottesloe binding the owners, their heirs and successors in title requiring that this provision be maintained. All prospective purchasers shall be advised by the owner/developer or agent of this requirement, which shall also be included as a notification on all titles by the owner/developer.
 - (j) The amalgamation of Lots 20 and 21 being finalised by the Western Australian Planning Commission before commencement of development.
 - (k) The existing street tree (identified on the approved plans to be removed) shall be removed at the owner's expense, including the stump, and a replacement semi-mature Peppermint tree shall be planted in a location to be approved by the Manager Engineering Services.
 - (l) The owner(s) shall treat the roof surfaces to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
3. Advise the submitters of the decision.

COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Birnbrauer

1. That Council **REFUSE** the proposed 5 aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 9 December 2009, for the following reasons:
 - (i) The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and
 - (ii) The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.

2. Advise the submitters of the decision.

Carried 5/1

10.1.2 NO. 29 NAPOLEON STREET – CHANGE OF USE FROM SHOP TO SMALL BAR (INCLUDING TWO OUTDOOR ALFRESCO AREAS)

File No: 1852
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Applicant: Planning Solutions (Aust) Pty Ltd
MRS Reservation: Primary Regional Road (Part)
Zoning: Town Centre & R100 (Part)
Use: Use not listed

Proposed Meeting Date: 15 February 2010
Author Disclosure of Interest Nil

SUMMARY OF PROPOSAL

This proposal is for a change of use from a Shop (previously trading as the Leaf Tea Merchant) to a 'Small Bar'.

No external alterations are proposed other than new signage and a retractable awning over a proposed alfresco area (in road reserve).

The following new areas are to be provided:

- Bar area – 19.41m²
- Seated area for patrons – 17.61m²
- Standing area for patrons – 50.08m²
- Seated alfresco areas – 13.71m² (within road reserve)
- Seated alfresco area - 12.39m² (within side accessway)

It is proposed to accommodate up to 75 patrons seated or standing internally and up to 20 patrons seated externally in two licensed alfresco areas (one occupying an existing public carbay at the front of the premises proposed to be converted to pavement, and the other in the existing walkway alongside the premises).

Two existing parking bays are proposed to be used for staff parking at the rear of the premises with access from Clapham Lane.

Operating hours will be 12.00pm to 12.00am, 7 days a week, with expected peak periods in the evenings after normal business hours.

Target age will be 25 to 65 years old.

The intent is that the premises offer a small, intimate experience, focussed on premium wines and champagnes with tapas-style food. It would operate in accordance with all the necessary controls under the liquor licensing regulations and Council's Planning, Building and Health requirements.

BACKGROUND

These premises have a lengthy planning history. This is summarised as follows:

- Pre 2003 – Use of premises as a bank;
- 24 February 2003 – Council approval granted for change of use from ‘Office’ to ‘Shop’ and ‘Residential’, alterations to the existing retail building (to provide two separate outlets), 2nd storey residential extensions and widening of the existing pedestrian accessway;
- 31 July 2003 – Approval granted for internal fitout of shop for Leaf Tea Merchant (no change of use involved. Included internal seating shown for 42 customers);
- 25 August 2003 – Council approval granted for an increase to the upper floor residential unit;
- 17 February 2004 – Planning approval granted for side awning over walkway;
- 23 February 2004 – Council approval granted for change of use of the 2nd storey from ‘Residential’ to ‘Offices’;
- 2 July 2004 – Planning approval granted for a rear entry canopy over walkway; and
- 28 November 2008 – Council approval granted for an Outdoor Eating Area Licence for Lexi for Flowers (in previous adjoining tenancy) to allow 2 tables and 4 chairs on the footpath in Napoleon Street.

STATUTORY ENVIRONMENT

- Metropolitan Region Scheme
- Town Planning Scheme No. 2
- Proposed Local Planning Scheme No. 3
- Liquor Licence Policy
- WAPC Planning Bulletin 85 – Small Bar Licensed Premises

CONSULTATION

The application was advertised by the Town in accordance with TPS 2. The advertising consisted of a letter to 10 adjoining property owners and Procott.

40 submissions were received, predominantly pro-forma letters, all in support of the proposal. 6 of these submissions were signed by the same authors.

The main points raised are summarised as follows:

- Complements existing businesses in Napoleon Street;
- Offers an alternative dining and entertainment option for mature persons;

- Within walking distance from homes;
- Beneficial to community, adds vibrancy to area;
- Contributes to the range of activities and atmosphere in Napoleon Street;
- Avoids necessity to drive to Claremont, Subiaco or Fremantle to find this type of establishment; and
- Will provide more activity on the street at night creating a safer environment.

APPLICANT'S JUSTIFICATION

The applicant has submitted a detailed submission with the application in support of the proposal (see attached).

The main points in the report are summarised below:

- The proponent, Mr Rhys Lloyd, is a resident of Cottesloe and has had extensive experience in hospitality. He is now seeking to provide an alternative entertainment option not currently available in Cottesloe;
- The proposed small bar is intended to be a small-scale venue that is in-keeping with the amenity and character of the area, targeted to a sophisticated and mature clientele;
- The existing premises already incorporates toilets, kitchen, serving and dining areas;
- A licence, including a Public Interest Assessment, has been applied for as required under the Liquor Control Act 1988;
- Food will be prepared off-site in an existing commercial kitchen upstairs at Cimbalinos. It will be plated and heated as required on-site;
- The proposed use is consistent with state and local planning policies, including Council's Liquor Licence Policy;
- The proposal will support a positive sense of place and community through increased diversity of land use and encouraging activation of the area outside of normal business hours, while protecting the existing character of the 'main street';
- The development will positively contribute to safety and crime prevention within the area by providing a greater level of casual surveillance of the area during times that are currently quiet;
- Entertainment will be pre-recorded music only. The intended ambience will incorporate only non-intrusive music at a 'conversational' volume;
- The service of food that complements alcoholic beverages encourages responsible drinking behaviour. It is not expected that the proposed development will require additional crowd control measures, such as security

personnel or security patrols, due to the small scale and intimate nature of the business;

- It will be located within a commercial area and therefore will have limited impact on residential or other sensitive uses;
- All service vehicles will use Clapham Lane for deliveries, with direct access to the kitchen available via the rear of the building. It is anticipated 2 bulk (alcohol and food) deliveries will occur each week, plus occasional incidental deliveries. All deliveries will occur during normal business hours;
- Bin storage is at the rear of the building, and waste will be collected via Clapham Lane; and
- Parking requirements ought to be varied, without payment for cash-in-lieu for the following reasons:
 - Council has previously approved parking shortfalls for compatible uses in the locality;
 - There are a significant number of car parking bays adjacent to or within comfortable walking distance of the site;
 - The site is approx. 110m from the train station and 80m from a bus stop;
 - Patrons are likely to car pool or walk to the 'small bar' as a significant proportion of the clientele is expected to be local residents;
 - A substantial number of trips to the small bar are likely to be multi-purpose trips (eg after work drinks and food, pre/post dinner drinks, shopping trips etc);
 - The peak period will be after normal business hours when there is lower demand for car parking in the locality;
 - The proponent intends to operate an 'incentive rewards scheme' for staff to encourage alternative modes of transport. Under this scheme, staff will earn rewards (eg meals, vouchers etc) for utilising alternative modes of transport to attend the workplace; and
 - The proposed development will enhance the amenity of the area and provide diversity of entertainment opportunities and therefore should be encouraged.

STAFF COMMENT

The following comments are made in respect to this application for the use of the existing premises as a 'small bar':

Land Use:

Changes to the Liquor Control Act 1988 that came into effect in May 2007 introduced a new classification – that of a small bar licence. A small bar license is a form of hotel licence with:

- A condition prohibiting the sale of packaged liquor; and

- A condition limiting the number for persons who may be on the licensed premises to a maximum of 120.

An application to a licensing authority for the grant of a small bar licence must be accompanied by a certificate from Council as provided for in section 40 of the Liquor Control Act.

The proposed use only involves serving drinks and food on the licensed premises and to restrict the number of patrons to a maximum of 95 patrons so it conforms with the classification as a small bar.

A small bar is not listed in the zoning table of TPS 2 or in proposed LPS 3. As such, Council may –

- a) determine that the use is not consistent with the objectives and purpose of the particular zone and is, therefore, not permitted, or
- b) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and therefore follow the advertising procedures of Clauses 7.1.4 to 7.1.6 in considering an application for approval to commence development.

Notwithstanding this, the rear portion of the lot is reserved under the Metropolitan Region Scheme (MRS) for Stirling Highway and only the front portion is zoned under TPS 2. However, TPS 2 may be considered a framework for the consideration of local planning issues and the proposal is therefore discussed in this context.

The objectives and purpose of the Town Centre zone (current and proposed) are:

TPS 2:

To promote the centre's function as the commercial and administrative centre serving Cottesloe, Peppermint Grove and Mosman Park. In considering development applications, Council shall have regard to how a proposal would affect the amenity of the zone, including such matters as staging of development, integration of buildings, access, parking, pedestrian movement, services and landscaping; and shall have regard to the Town Centre Zone Development Policy.

Proposed LPS3:

- (a) *Improve the amenity and function of the Cottesloe town centre;*
- (b) *Provide for a wide range of land uses, including shops, offices, entertainment, health, and community facilities and services, consistent with the district-serving role of the centre; and*
- (c) *Provide the opportunity for residential uses and development within the town centre.*

The proposed small bar use is consistent the Scheme objectives and would not be out-of-keeping with the other retail-type café uses in the area. Furthermore, similar alfresco areas currently exist in Napoleon Street following approval by Council and these areas add to the amenity and attraction of the area.

Health Requirements

The proposal has been referred to the Principal Environmental Health Officer and generally complies with Health legislation although full details will be required at the building licence stage. The number of toilets is adequate for 95 patrons and Cimbalinos is an approved food premises which may be used for the preparation of food, as advised by the applicant. Bins are to be kept in the dedicated bin area located in the 'common service area' and not in the rear parking area. The Section 39 liquor licencing process will include relevant health-related requirements. In addition, a separate outdoor eating permit will be necessary (and has been applied for concurrently).

Liquor (Licensed Premises) Policy – attached

This Policy was adopted by Council in 2008 and is to be considered when assessing, amongst other things, planning applications which may involve a liquor licence.

Council is to have regard to the following matters:

Number of premises within a locality and their distribution.

This is the only 'small bar' application that has been received by Council. It is different from other proposals for licensed premises in the town centre as these are usually associated with hotels or restaurants. The relatively small size of the proposed licensed areas and the commitment of the applicant to create a quiet atmosphere for a mature clientele should ensure that the use does not prejudice the amenity of the locality. The support for the proposal during the advertising period further reinforces the general acceptance of the proposal by residents and other businesses.

Hours of operation

Operating hours will be 12.00pm to 12.00am, 7 days a week, with expected peak periods in the evenings after normal business hours. These hours of operation are similar to other establishments with liquor licenses, including Lamonts and the Albion Hotel.

Number of patrons is restricted and it is unlikely that anti-social behaviour will be an issue that may otherwise impact on other businesses or residents in the area.

Number of patrons

It is proposed to accommodate up to 75 patrons seated or standing internally and up to 20 patrons seated externally in two licensed alfresco areas. Based on the merits of this proposal and the character of the town centre it is not anticipated that the

amenity of the locality will be affected. In relation to parking it is noted that a limit on the number of patrons would help to minimise demand, ie a reduction of say 20 patrons could represent a proportional reduction in parking.

Floor area

The proposed public floor area will be 68m² internally and 26m² externally. Total = 94m². This is not a large venue and number of patrons will be restricted.

Noise and entertainment

The applicant has advised that entertainment will be pre-recorded music only. The intended ambience will incorporate only non-intrusive music at a 'conversational' volume.

Public safety

The premises will not trade past midnight and additional security personnel is not required under the Policy. Furthermore, the proposal is only for a small scale, intimate bar experience.

Location

The premises is located in the town centre and is not neighbouring residential properties so both indoor and outdoor activities may be supported.

Parking

TPS 2 and proposed LPS 3 do not contain specific car parking requirements for a 'small bar' as it is a use not listed. However, assessment of a 'small bar' would equate most closely with the parking provision of a hotel/tavern.

The parking requirement for a hotel/tavern (in this context) is 1 space for every 2m² of floor or ground area open to the public for consumption of liquor, although this can be further reduced to 1 space to every 4m² of floor and ground area in areas used solely for seated customers.

If assessed on this basis a total of 29.4 bays are required (rounded up to 30 bays). This compares with a restaurant use which would require 23.75 bays (24 bays) or a shop use which would require 8.46 bays (9 bays).

If the proposed alfresco areas are included then, based on a hotel/tavern use, up to an additional 6.5 bays (7 bays) would be required bringing the total to 37 bays required. However, it has been the Town's practice to exclude alfresco areas from floorspace calculations as these areas are generally used by patrons already at the premises and do not necessarily result in additional patrons being present. A retractable awning is proposed over the front alfresco area making this area more useable throughout the year (similar to the Dome café).

The previous use of the building as a shop with a residential unit above required a total of 19 bays (2 being allocated to the residential unit). However, in 2003 Council was of the opinion that the use of the premises and the retention of a pedestrian link to the side of the building warranted a 13 bay parking concession to be granted for the shop thereby reducing the parking requirement to 6 bays (2 being allocated to the residential unit and 4 allocated to the shop). This was then further reduced by Council in 2004 when an application to change the residential unit to an office was approved with a dispensation of another 3 bays for the existing shop use on the ground floor under Clause 3.4.2 (c) (i) of TPS 2.

In brief, this results in 5 bays approved for the office use on the upper floor and 1 bay approved for the shop use (two tenancies) on the ground floor.

The increased parking shortfall for the proposed 'small bar' is 13 bays (30 bays for 'small bar' minus 17 bays required for original shop use, excluding the residential component). Only 1 on-site car bay is available at the rear for the proposed use and the proposed alfresco area will result in the loss of 1 public car bay in Napoleon Street.

Council's decision to grant a parking concession of 16 bays (13 bays + 3 bays) for the previous approved shop use is not inconsequential and was done without the necessity of cash-in-lieu.

If Council agrees that the proposed 'small bar' use can be considered as 'retail' (similar to a café), even though its parking requirements are akin to a tavern, then it has discretion to approve the parking shortfall as per Clause 3.4.2(c) (i) of TPS 2 or to request cash-in-lieu.

Clause 3.4.2(c) states:

- (i) *Where the use of an existing building is to change to a use consistent with that nominated on the Town Centre Zone Development Policy Plan (ie: retail), the Council may permit such change of use notwithstanding the fact that there is insufficient parking on or near the site subject to Council having regard to the nature of the use to be made of the site, the known or likely volume of goods or materials, or the numbers of people moving to or from the site and the likelihood or otherwise of congestion of traffic on any road or in other public places in the vicinity.*
- (ii) *In assessing the number of parking bays required for a development containing multiple uses the Council may have regard to the likely use pattern of the various components of the development, in particular the likely maximum use of the development at any one time and reduce the number of parking bays required accordingly.*

Reciprocal parking

Similar to other approved uses in the area, such as Lamonts, day time trade is likely to include multi-purpose visitors to the Town Centre and may include public transport users, locals walking to their local centre and also local workers at lunch and after

work. The focus of the 'small bar' is proposed to be in the evenings when the availability of parking is generally more plentiful. It is also anticipated that as a licensed premises, some persons visiting the 'small bar' with the intention of drinking alcohol may either car pool, take a taxi or walk. Furthermore, the applicant intends to operate a 'incentive rewards scheme' for staff to encourage alternative modes of transport and reduce demand for staff parking.

Cash in lieu

Under Clause 5.5.4 of TPS 2 Council may use discretion to allow for a parking shortfall and require a cash-in-lieu payment. Council has used this clause for a number of proposals in the past, more particularly for a change of use that may be considered an intense, day-time, single destination use, such as the boatshed on Jarrad Street.

Alternatively, Council also has used its discretion to approve a shortfall in parking under Clause 3.4.2 of TPS 2 for a number of change of use proposals in the Town Centre, including these premises. The Scheme only allows this form of discretion for the Town Centre and the intent of this is to acknowledge the existing provision of public car parking and to encourage the retention of existing buildings by allowing appropriate changes of use and mix of uses to create a vibrant centre.

Were Council to invoke the cash-in-lieu clause, based on a calculated shortfall of parking, then a dollar amount would need to be determined taking account the number of bays required and their value, as well as the pre-requisite that Council has provided or is in the process of providing a public parking station nearby. However, in this case the increased parking shortfall is 13 bays which if provided as cash-in-lieu would make the proposition commercially unviable. The applicant has requested that no cash-in-lieu be paid.

In comparison, the change of use application for Lamonts at 12 Station Street had a 12 bay parking shortfall and in 2008 Council approved the use subject to the applicant paying a cash-in-lieu contribution for parking spaces to the value of \$30,000, which was based on the use being more akin to a restaurant than a tavern. This equated to only approximately 3 bays rather than 6 bays in view of the likely costs to be incurred by the applicant, the appropriateness of the use, and the viability of the project.

The applicant has suggested that it may be possible to redesign some of the existing carbays in Napoleon Street to provide 1 new public car bay, at the applicant's cost, to replace the bay proposed to be lost to the alfresco area. However, the initial proposal was not supported by the Manager Engineer Services (MES) as it would not be compatible with the existing parking layout. In addition, the MES advises that cash-in-lieu should be payable for the lost bay in Napoleon Street, and in any event, the footpath is already becoming congested with alfresco-type activities and therefore the proposed alfresco area may be in-advisable.

Any redesign of the existing parking bays to accommodate an additional bay in Napoleon Street is difficult due to the restricted width of the street and the existing pattern of parking. The loss of street furniture to accommodate an extra bay is also

not supported, particularly as any redesign should be considered by the current Public Domain Infrastructure Study to ensure a holistic approach. Notwithstanding this, other businesses have successfully provided alfresco areas in Napoleon Street (without the loss of car bays) such as the Dome café and Cimbalinos and these have enhanced the visual appeal of the area.

In summary, it is considered that, apart from creation of the footpath alfresco area, the proposal ought not result in additional off-site changes affecting more of the street, other businesses or public convenience, and the conversion of one bay would negligibly diminish the overall supply of parking in the Town Centre.

Council is presently constructing a new 25-bay car park on Station Street opposite Forrest Street in the Town Centre locality, as well as continuing to plan for additional public parking at its existing car park on Station Street and vacant sump site on Station Street, and these initiatives are considered to satisfy the Scheme requirement that cash-n-lieu be taken in relation to the ongoing provision of parking.

MRS Reservation

The application was referred to the Department of Planning as a significant proportion of the lot is reserved under the Metropolitan Region Scheme (MRS) for Primary Regional Road. The Department of Planning has advised that it has no objection to the proposal.

CONCLUSION

It is considered that the proposal will make a positive contribution to the Town Centre, despite the parking shortfall in terms of on-site provision (rather than overall supply and time of demand). It will contribute to the character of the Town Centre and add vibrancy by providing an alternative experience to the other licensed premises in the locality. The proposed use also appears to be widely supported by residents and businesses in the area.

With regards to parking, it is considered that as the focus of the use is after-hours, and day-time users would tend to be on multi-purpose visits to the town centre or work in the centre, there is potentially adequate public parking available to meet the shortfall in parking provision, especially in view of the previous parking concession given by Council for the shop and office use on the site.

Council may therefore either:

- (i) Under Clause 3.4.2 (c) of TPS 2 waiver the normal parking requirements so as to allow the proposed use with an additional shortfall of 13 car bays plus the loss of 1 car bay in Napoleon Street, without the necessity of cash-in-lieu; OR
- (ii) Under Clause 3.4.2 (c) of TPS 2 waiver the normal parking requirements so as to allow the proposed use with an additional shortfall of 13 car bays but require the submission of a suitable detailed design for one additional car bay to be provided in Napoleon Street, to the satisfaction of the Manager Engineering Services, prior to

commencement of development (this may necessitate redesigning some existing bays or removing/relocating street furniture); OR

(iii) Under Clauses 3.4.2 (c) and 5.5.4 of TPS 2 waive the normal parking requirements so as to allow the proposed use with an additional shortfall of 12 car bays and require cash-in-lieu for one of the on-site bay, that being equivalent to the loss of one public car bay in Napoleon Street (note: cash-in-lieu may only be applied to on-site bays rather than to bays in the public domain); OR

(iv) Under Clause 5.5.4 of TPS 2 require cash-in-lieu payment for up to 13 car bays as being the increased shortfall of parking on-site. This last option would potentially make this or any other change of use application commercially unviable, although some contribution may seem more equitable and consistent regarding collective contributions from proposals in the Town Centre over time towards the supply of shared parking.

On balance, either options (i) or (iii) are considered most appropriate from a planning viewpoint having due regard to Council's previous decisions on this lot and avoiding the necessity of redesigning the existing public parking bays in Napoleon street. Cash-in-lieu may be appropriate in recognition of the loss of 1 public car bay, although the applicant has request this be waived.

VOTING

Absolute Majority

COMMITTEE COMMENT

Committee was satisfied with the parking situation and cash-in-lieu for one bay in recognition of the loss of the street bay. Committee concurred that no more of the street parking should be reconfigured due to the proposal. In this connection Mr Jackson confirmed that the current Town Centre Public Domain Infrastructure Improvement Plan study was considering the urban design of the streets in the locality. He also confirmed that under TPS2 the use could be approved by absolute majority of Council. There was some discussion about the cash-in-lieu amount which Council could determine and Mr Jackson undertook to provide more advice. It was queried whether the walkway would remain effective as a thoroughfare given its alfresco furniture and use. Mr Jackson commented that although narrow the intent was to provide for passage plus alfresco as found in many walkways, lanes and arcades in downtown areas around the world.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Walsh

1. **That Council GRANT its Approval to Commence Development for the proposed change of use from a shop to a 'small bar', including two alfresco areas, at 29 Napoleon Street, Cottesloe (ground floor tenancy 1), in accordance with the plans submitted on 14 & 22 December 2009, subject to the following conditions:**

(a) **The proposed development complying with the definition of a 'small bar' in accordance with the Liquor Control Act;**

- (b) The hours of operation being between 12.00pm to 12.00am, seven days a week only;
- (c) No live or other amplified music is to be played from the premises;
- (d) The external profile of the development as shown on the approved plans not being changed whether by addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council;
- (e) The accessway located along the western boundary of the site remaining open for unrestricted pedestrian access (minimum width 1.5m) during all hours and being lit at night;
- (f) Food is to be available to patrons during trading hours;
- (g) No external signage shall be permitted without the approval of a separate signage application;
- (h) The owner/occupier is to encourage and facilitate staff and patrons to use alternative transport to limit car parking demand, including walking, cycling, bus, train, taxis and car-pooling. Additional methods such as annotated menus/drinks list, leaflets, timetables, free taxi calls, travel vouchers and loyalty/staff incentive reward discounts or other incentives should also be used where possible;
- (i) No goods or materials shall be stored, either temporarily or permanently in the parking area at the rear of the premises. All goods are to be stored elsewhere within the building;
- (j) All construction work shall be carried out in accordance with the Environmental Protection (noise) regulations 1997, Regulation 13 – Construction sites;
- (k) Prior to occupation of the new small bar premises, the applicant shall pay a cash-in-lieu contribution for 1 on-site car bay, being not less than the estimated cost to the owner of providing and constructing the parking space plus the value as estimated by Council of that area of land which would have been occupied by the parking space, to the satisfaction of the Manager Development Services.
- (l) The building licence plans and supporting documentation shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services, and shall include:
 - (i) Details of the proposed bin store within the common service area at the rear of the premises;
 - (ii) Details of the proposed retractable awning, including materials and colour;
 - (iii) Details of all intended changes within the road reserve and footpath (including location of chairs, tables etc), which being at the applicant's cost; and

- (iv) Compliance with all relevant Health legislation.

Carried 6/0

10.1.3 NOS (UNITS) 1-4, 62 MARINE PARADE – MAJOR ALTERATIONS AND ADDITIONS

File No: 1855
Responsible Officer: Carl Askew
Chief Executive Officer
Author: William Schaefer
Planning Officer

Proposed Meeting Date: 15 February 2010

Author Disclosure of Interest: Nil
Property Owner: The owners of Strata Plan 6083
Zoning: Residential
Use: P – A use that is permitted under this Scheme
Density: R30
Lot Area: 914 sq m

SUMMARY

This application is for major alterations and additions to the existing block of four units at the above address. Essentially the proposal seeks to double the footprint of the existing building and add a pyramidal roof. The proposal has evolved via previous liaison with Council's Planning Officers and review by the Design Advisory Panel.

It is understood that there are several reasons for extending the existing building rather than demolishing and redeveloping. These include:

- Making use of the existing building (cost and recycling).
- The architectural design response to the current building, the site and surrounds.
- The multiple strata ownership (ie retaining the same number of dwellings/owners).
- The R30 density, which allows only three new dwellings rather than four – although proposed LPS3 provides for a density bonus to facilitate redevelopment of existing units.
- The provision of TPS2 affording height discretion in respect of extensions to existing buildings.
- The evolving streetscapes along Marine Parade and elsewhere in South Cottesloe, including the two new dwellings immediately south and the strata units being somewhat similarly redeveloped immediately north.

No written objections to the proposal have been received. Given the assessment that has been undertaken, the recommendation is to approve the application.

PROPOSAL

The proposed alterations and additions are summarized as follows:

- Addition of pyramidal roof to existing building (at a low pitch of 15%);
- Major additions effectively doubling the footprint of the existing four units, occupying the available vacant rear yard; and

- Major interior alterations and improvements to the building exterior, modernising the appearance of the building and improving its presentation to the streetscape.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Building Height

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Advertising

Following receipt of the revised plans dated 12 January 2010, a total of 17 letters were sent to neighbours on Salvado Street, Marine Parade and Princes Street to ensure good coverage. No written submissions were received.

APPLICATION ASSESSMENT

Concessions are sought for the following items:

<i>Non-compliance with TPS2</i>	<i>Min/Required</i>	<i>Proposed</i>
Building Height	8.5m above NGL	11.36m above NGL [note – existing building already 0.28m over max ridge height]
Wall Height – Concealed Roof	7.0m above NGL	8.78m above NGL [note – new wall to follow height of existing walls]
Wall Height – Beneath Pitched Roof	6.0m	8.78m above NGL [note – wall height will not change from existing; variation arises from addition of pitched roof to existing walls]
<i>Discretionary Provisions</i>	<i>Min/Required</i>	<i>Proposed</i>
Setback – North First 1	1.1m	Nil

Setback – North First 2	3.0m	1.5m
Setback - North Second 1	1.4m	Nil
Setback - North Second 2	1.8m	1.5m
Setback - North Second 3	3.45m	2.8m
Setback – East Second 1	8.2m	5.4m
Privacy Setbacks – East Balconies	7.5m	5.5m
Overshadowing	35% max	62%

APPLICANT'S JUSTIFICATION

The applicant has submitted two letters and several supplementary drawings in support of the proposal (attached). Justification from the letters and drawings has been included under the relevant sub-headings in the Officer's Comment section of this report.

STAFF COMMENT

With regard to the revised plans received on 12 January 2010, the main issues are as follows:

Building Height

Natural Ground Level

Natural Ground Level (NGL) was determined to be 8.31m by comparison of geographical centre of site with contour data obtained from the survey.

Maximum Ridge Height of Roof

The height of the existing building is 17.09m, which is 8.78m above NGL and therefore already 0.28m above the maximum ridge height allowable under Clause 5.1.1 (c) of the Scheme.

It is proposed to add a pyramidal tiled roof pitched at 15 degrees. The maximum ridge height of the roof at this one particular point only is intended to be 19.67m, which is 11.7m above NGL in lieu of 8.5m. Clause 5.1.1 (c) of TPS2 does give Council discretion to vary from the height requirement in the case of extensions to existing buildings provided that the amenity of neighbouring areas is not unreasonably diminished.

The applicant has supplied the following justification for the proposed overheight roof:

1. The hipped roof is consistent with the pattern of roofs at Nos. 60 and 60A Marine Parade;
2. The hipped roof will soften the proposed parapet development at No. 64 Marine Parade, which is intended to be 2.7m higher than the top of the eaves at No. 62 Marine Parade; and

3. The pitch of the roof is such that it will not be visible until viewed from 20m west of the site frontage, which is approximately the location of the car parking area on the far side of Marine Parade. It is expected that the top of the pyramidal roof will not be visible until viewed from 33m west of the site frontage, which is approximately the location of the footpath adjacent to the dunes.

A site inspection and examination of the streetscape drawings makes it apparent that the streetscape would probably be enhanced by the addition of the roof as it would balance the mass of roofs that extend from Salvado Street to Princes Street.

Prohibiting the addition of the roof would tend to result in a squat building that accentuates the height difference between No. 64 and No. 62 Marine Parade.

Photographs taken from the rear of the adjoining property indicate that views to the ocean are not possible over the existing roof height and the addition of the roof would therefore not have significant adverse effect on the amenity of the neighbours.

No written objections to the proposal have been received from any of the 17 consulted adjoining landowners.

In conclusion, the increase in roof height may be permitted on the basis that it functions as an extension to an existing building and does not unreasonably diminish the amenity of adjoining properties. If anything, the roof will enhance the streetscape and is probably preferable to the flat roof that currently exists.

Maximum Height of Walls

The intended concealed-roof walls will continue the existing wall-height of 17.09m. The addition of the roof to the existing walls automatically requires that they be considered as walls beneath a pitched roof and thus renders them less compliant with the Scheme than they are now, despite their height not changing.

For walls beneath pitched roofs, Clause 5.1.1 (c) of TPS2 contemplates maximum heights of 6.0m above NGL. The RDC allow for walls with concealed roofs to achieve a maximum of 7.0m above NGL. Therefore the proposed walls will be either 2.78m overheight and 1.78m overheight, depending on whether they occur beneath the pitched roof or not.

Clause 5.1.1 (c) of TPS2 gives Council discretion to vary from the height requirement in the case of extensions to existing buildings provided that the amenity of neighbouring areas is not unreasonably diminished.

In this case the proposed overheight walls are considered likely to perform without unduly impacting on the amenity of adjoining landowners. For example, under the report heading *Buildings Setback from Boundary* it is demonstrated that the walls will not have an undue impact on the provision of sunlight or ventilation to northern or eastern neighbours. Views from this property will not be affected as the dwellings have been designed to maximise access to the vista occurring to the west and north-west.

Whilst the landowner to the south will not be deprived of ventilation or views, as the prevailing winds are captured from the south-west and views from the west and north-west, this neighbour will be overshadowed by 62% in lieu of the 35% prescribed by the Acceptable Development Standards of the RDC.

It is difficult to ascribe the excess overshadowing to the effects of the overheight walls as the additions are approximately 30.0m in length and would generate less-than-ideal shadow regardless of height.

Notwithstanding, it is assessed that the applicant has demonstrated that the additional overshadowing can be approved under the Performance Criteria of the RDC (refer report heading *Overshadowing*), and no written objections have been received from the affected landowner.

In summary, the proposed overheight walls may be considered approvable on the basis of being extensions to existing buildings that do not unreasonably diminish the amenity of surrounding areas.

Buildings Setback from Boundary

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

Wall	Required Setback	Proposed
North First 1	1.1m	Nil
North First 3	3.0m	1.5m
North Second 1	1.4m	Nil
North Second 2	1.8m	1.5m
North Second 3	3.45m	2.8m
East Second 1	8.2m	5.4m

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

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

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

Northern Setbacks

The five northern walls for which reduced setbacks are sought are considered to generally satisfy the relevant Performance Criterion as they occur to the south of the dwellings at No. 64 Marine Parade and therefore allow for sunlight and fresh air to enter the building and its appurtenant open spaces without generating overshadowing or ventilation issues for the neighbours. Moreover, all of the walls

have been proposed without major openings and the privacy of neighbours is thus maintained.

Building bulk issues for the owners of No. 64 Marine Parade are unlikely to be significant as the dwellings have been orientated to maximize views to the west and north-west, rather than to the south where the reduced setbacks are proposed. It should also be noted that the presence of the existing oversized dividing wall is expected to screen the effects of the development from the property at No. 64 Marine Parade, and that many of the reduced setbacks may not even be detectable from the neighbouring dwellings.

No written submissions have been received from the adjacent landowners.

Adjoining landowners at 1-9/5 Salvado Street may possibly notice a reduction in the view corridor between Nos. 62 and 64 Marine Parade. However, the majority of these units are orientated to take advantage of views to the north-west. Furthermore, at present the view corridor is blocked by substantial trees and as views are significantly restricted (refer photographs) it is not expected that the proposed reduced setbacks will significantly reduce the neighbours' amenity. No written objections have been received from the landowners at 1-5/5 Salvado Street.

Southern Setbacks

It is worth noting that the walls proposed for the southern boundary all meet the Acceptable Development Standards of the RDC, as setbacks are measured from the centre of the ROW. Photographs make clear that the view corridor from the rear of the neighbouring lot will be affected, but as the walls comply they may be supported.

Eastern Setback

A concession of 2.8m is sought for the upper floor of the eastern elevation. The variation has been justified by the applicant, who states that the design constraints imposed by the Cottesloe-specific 6.0m front setback requirement have resulted in a building that is further set back from the street than would normally be proposed.

With regard to the Performance Criterion of the RDC, the applicant has highlighted the fact that the area proposed to be affected by the reduced setback is the car park of the neighbouring lot, rather than active outdoor habitable space. As such, the passage of sunlight and ventilation to the adjoining dwellings is not hindered, the effects of building bulk are ameliorated, and no privacy issues have resulted. The applicant has further stated an intention to replace the trees along the eastern boundary of the development and thus reduce the impact of the proposal.

No written objections were received from any of the five affected landowners.

On balance, the reduced eastern setback is considered to have met the Performance Criterion of the RDC and may be supported.

Privacy

The viewing platforms of the four balconies along the eastern elevation are setback 6.3m in lieu of the 7.5m required by the Acceptable Development Standards of the RDC.

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

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

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

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

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

The applicant has justified the privacy encroachments on the grounds that it is carpark, rather than active habitable space or major openings to habitable rooms that are proposed to be overlooked. The applicant has also stated an intention to plant screening vegetation along the eastern boundary.

The affected dwellings are orientated to take advantage of views to the north-west and there is correspondingly a lack of outdoor living areas on the southern elevation of the units. A site inspection has confirmed that active habitable spaces and major openings are sufficiently distant from the proposed dwellings to be considered protected. Given that the proposed east-facing balconies are likely to be less-used than the ocean-facing living/entertainment areas on the other side of the building, it could be reasonably concluded that the privacy variation will not have a significant adverse effect on the neighbours.

No written objections were received from any of the adjoining landowners.

As such the balconies are deemed to have met the relevant Performance Criterion and may be supported.

Overshadowing

It is proposed to overshadow the property at No. 60A Marine Parade by a total of approximately 62%, whereas for areas with a density coding of R30 the Acceptable Development Standard of the RDC prescribes a maximum shadow figure of 35%. In addition, Clause 5.1.2 (j) of TPS2 directs Council to have regard to the utilisation of solar energy by neighbouring properties.

Solar access for the neighbouring dwelling must therefore be assessed under RDC Performance Criterion 6.9.1 P1, which contemplates:

Development designed to protect solar access for neighbouring properties taking account of the potential to overshadow:

- * *outdoor living areas;*
- * *major openings to habitable rooms;*
- * *solar collectors; or*
- * *balconies and verandahs.*

The applicant has attached shadowfall drawings that indicate the entire upper floor of the neighbouring dwelling will be free from midwinter shadow. It also appears that the north-western windows of the ground floor will also receive sunlight in midwinter. As these could be considered the critical habitable rooms/living areas of the adjoining dwelling, it is assessed that the above Performance Criterion has been met and that the variation may be supported.

With regard to Clause 5.1.2 (j) of TPS2, no solar collectors exist on the neighbouring dwelling. Furthermore, the 3D shadow drawing suggests that no more than four out of the twelve north-facing windows would ever be in shadow. Plans of the neighbouring dwelling reveal that out these four windows, only one is to a habitable room (a bedroom), with the remaining three openings being to a WIR, stairwell and passageway/foyer. Thus, while the percentage of lot proposed to be overshadowed is high, the real impact of the alterations and additions is likely to be insignificant. No written objection has been received from the owner of 60A Marine Parade.

It is recognised as difficult to develop east-to-west orientated lots without generating overshadowing. Council has recently approved a dwelling that overshadows the neighbouring lot by more than 52% (238-240 Marine Parade) for the above reasons.

As the streetscape drawings show, the proposed building is not out of scale in relation to the examples either side of it, and it is assessed that the building will function without undue impact on the amenity of the neighbouring property.

CONCLUSION

The existing building is already overheight, ageing, dysfunctional in terms of internal layout, and in need of substantial improvement from the perspective of the upmarket streetscape along Marine Parade. Given such parameters, it would be difficult to significantly modernise the dwellings without varying from the Scheme or RDC to some degree.

The proposed alterations and additions are relatively bulky, however, on balance they can reasonably be expected to perform without unduly impacting on the amenity of neighbours.

Overall it is considered that the proposal will positively benefit the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee expressed support for the proposal as a worthwhile improvement along Marine Parade and did not see any problem associated with it.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Dawkins, seconded Cr Birnbrauer

THAT Council GRANT its Approval to Commence Development for the proposed major alterations and additions to Units 1-4 / 62 Marine Parade, Cottesloe, in accordance with the revised plans submitted on 12 January 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway 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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling 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.
- (e) 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*.
- (f) The finish and colour of the boundary wall facing the northern neighbour shall be to the satisfaction of the Manager Development Services and the details shall be included in the building licence application.
- (g) As part of the building licence application a comprehensive construction management plan shall be submitted to the satisfaction of the Manager Development Services and shall demonstrate how the works will be undertaken without undue disruption to the ROW adjacent to the property.

Advice Notes:

- (i) Given the intention to build up to each side boundary in part, it is recommended that dilapidation reports be prepared for the properties at Nos 64 and 60A Marine Parade.
- (ii) The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

Carried 6/0

10.1.4 NO. 110 NAPIER STREET – CHANGE OF USE FROM PROFESSIONAL OFFICE: MANUAL LYMPHATIC DRAINAGE TO SPORTS PHYSIOTHERAPY CONSULTING ROOMS – RETROSPECTIVE APPLICATION

File No: 1850
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Applicant: Cottesloe Sports Physiotherapy
MRS Reservation: Primary Regional Road
Zoning: N/A (R30/60)
Use: AA - Consulting Rooms

Proposed Meeting Date: 15 February 2010
Author Disclosure of Interest Nil

SUMMARY AND BACKGROUND

This is a retrospective application for the change of use of an existing building from Professional Office, previously used for Manual Lymphatic Drainage, to Sports Physiotherapy Consulting Rooms.

In July 2009 the applicant wrote to the Town requesting consideration of formalised verge parking in Napier Street for the existing business. An inspection of the premises subsequently revealed that the current business was not operating in accordance with the previous planning approval and that a change of use had occurred.

The applicant was requested to either cease the current use or bring it into compliance with the original planning approval. Alternatively, a new application could be submitted for Council to consider legitimising the current operation. It is the latter option that the applicant decided to pursue.

On balance, given the assessment that has been undertaken the recommendation is to conditionally approve the application.

Planning History

- 1988 – Application to rezone lot from Residential/Professional Offices to Offices refused by Council as it was considered that the proposed zoning would not be compatible with adjoining residential zoning;
- 1994 – Council granted one year temporary approval for a change of use to Professional Offices - Manual Lymphatic Drainage, subject to conditions including:

1. It shall not entail the employment of more than two persons at any one time;
 2. The hours of trade shall be restricted to 9.00am to 6.00pm weekdays, excluding public holidays;
 3. The applicant shall provide 4 on-site carparking spaces; and
 4. The Planning Consent is valid until the 31 December 1995, at which time an application for renewal of the land use will be required to be submitted to Council.
- 1995 – Council deleted Point 4 to allow use to become permanent, at the applicant's request.

STATUTORY ENVIRONMENT

- Metropolitan Region Scheme
- Town Planning Scheme No. 2
- Proposed Local Planning Scheme No. 3
- Policy: Home Occupations & Professional Offices in Residential Zones

CONSULTATION

Notwithstanding that the lot is not zoned under TPS 2, the application was advertised by the Town to the adjoining owners at 489 Stirling Highway and 108 Napier Street, Cottesloe. Wider notification was not considered necessary as no objections had been previously received despite the use operating in its current way for some time and the nearest property opposite was nearly 50m away, that being a dental surgery, which was unlikely to be significantly affected by this proposal. No submissions have been received following the current advertising.

The application was also referred to the Department of Planning (DoP) due to its location entirely within the MRS – Primary Regional Road reservation. No response has been forthcoming to date.

APPLICANT'S JUSTIFICATION

The applicant has submitted a letter detailing the proposal. The main points are summarised below:

- Cottesloe Sports Physiotherapy has been in operation for 5 years;
- When this use started only myself, a receptionist and another part-time physio was operating at the premises. Council advised at that time that the nature of the business (physiotherapy) was not dissimilar to the previous approved use;
- The core work of a physiotherapist is to assess and treat patients with pain or dysfunction, and rehabilitate them thus improving quality of life and well being. We work closely with the medical profession and other allied health professionals such as podiatry and massage therapy;

- I am often requested to lecture at Curtin University or the Australian Physiotherapy Association;
- We take on student physiotherapists (both graduate students from Notre Dame and Curtin University and post-graduate masters or PhD students) from Curtin University on practical placements for up to 4 weeks at a time. We also take on work-experience students from nearby schools such as PLC and have a strong association with community sporting clubs and businesses;
- I worked at the Olympics in Beijing as the Physiotherapist to the Australian Swimming Team;
- Our main patient group are local residents of Cottesloe and the immediately surrounding suburbs;
- Due to its popularity the patient usage has no doubt increased since its days as a Manual Lymphatic Drainage Clinic;
- There is only one full-time employee other than myself (Grace Conlan – a Cottesloe resident). All other employees are part-time with some of these employees doing only 2 or 4 hours per week;
- Our maximum patient numbers are limited by space inside the building as the footprint is just over 100m², with the ability to work only 3 consulting rooms at any one time. There is also a rehabilitation room for patients to exercise. The therapist either treats patients in one of the consulting rooms or supervises exercise in the rehabilitation room;
- There are currently 8 practitioners working variously at the premises in the sub-specialities of physiotherapy, pilates, podiatry and massage therapy (see letter for details of individual hours worked);
- Hours of operation are 7.00am to 7.00pm Monday to Friday and 8.00am to 12.00 noon on Saturday;
- On-site parking is available for 4 cars. Patients also park on the verge which over the years has degraded significantly which is both unsightly and unsafe for patients, hence my desire to upgrade the area at the businesses expense;
- Appointments are taken on a half hourly or hourly basis and as such can overlap with patient parking as some patients will still be inside the building finishing an appointment as some are arriving;
- Patients prefer to park on the verge and as a result Napier Street is free from parked cars; and
- All current signage complies with the strict codes stipulated by the WA Physiotherapy Registration Board. There are two wall signs and an A frame verge sign.

STAFF COMMENT

The property is located on the western side of Stirling Highway on the northern corner of Napier Street. The building was constructed as a dwelling and then subsequently converted to a Professional Office to allow Manual Lymphatic Drainage.

Land use in the vicinity is predominantly residential, though the property opposite to the south is a dentist's surgery (No. 493 Stirling Highway).

Under TPS 2 Consulting Rooms is an 'AA' use in the zoning table for the Residential Zone, that is, a use that is not permitted unless special permission is granted by Council. However, the lot is technically not zoned Residential under TPS 2 (see below), but otherwise would be.

Metropolitan Region Scheme (MRS)

The land falls completely within the MRS - Primary Regional Road reservation for Stirling Highway, rather than being zoned under TPS2.

The comments of the DOP have been requested in relation to the regional road reservation, which remains under review and is expected to require no more than a 5m road widening if and when that may be sought to be implemented.

Local Planning Strategy

Certain general provisions of TPS2 apply to non-residential development in the district, including parking, signage and other "matters to have regard to". These form a framework of assessment of the development proposal in the context of surrounding residential land use and amenity. Council therefore can determine the proposed change of use from a local planning perspective having regard to TPS2 and proposed LPS3.

In this connection both TPS2 and proposed LPS3 provide a residential density coding of R30/60 over the subject section of Stirling Highway, which supports medium density residential development of the area.

TPS2

Because the application is for determination under the MRS, TPS2 provides only a framework for consideration of the local land use implications of the proposal. Nevertheless, TPS2 and related policies are relevant considerations with respect to orderly and proper planning and the preservation of amenity, and in Council exercising delegation on behalf of the WAPC.

The following land use guidance is provided by TPS2 in terms of the intent of zoning and land use / development controls.

*3.4 Zone Provisions**3.4.1 Residential Zone*

- (a) *The purpose and intent of the Residential Zone is to promote a residential environment in any particular locality compatible with the maximum residential*

density permissible in that locality and with the desire of the inhabitants for Cottesloe to retain its quiet residential character. Development will be guided and controlled by the Development Guide Map, the Residential Planning Codes and the variations thereto as well as the amenity provisions contained in Part V - General Provisions of the Scheme.

5.1.2 Council shall have regard to:

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

The tenor of these Scheme provisions is a common theme of promoting residential amenity for the wellbeing of residents and to ensure that any proposals are consistent with this purpose.

Proposed LPS3

Proposed LPS3 is modelled on TPS2 and reflects the land use intent and development control regime relating to this area. It strengthens the importance of zoning regulation, land use control and development requirements/standards, including the residential density coding as mentioned above.

In other words, proposed LPS 3 supports the continuation of residential use and development in the vicinity and the location of non-residential uses in other appropriate zones or centres. Additionally, LPS3 aims at securing and strengthening the character and amenity of established residential neighbourhoods.

Local Planning Policies

While there is no local planning policy which deals specifically with the Stirling Highway MRS reservation, Council's *Policy TPSP 007: Home Occupations & Professional Offices* provides a reference for considering non-residential uses in Residential zones.

This Policy states that it is Council's basic policy to restrict professional offices use to zones in which they are appropriately suited, but that Council may grant special approval where it is satisfied that the use will not prejudicially affect the amenity of the neighbourhood.

The Policy's assessment criteria for these types of applications include:

- *No more than 3 staff members shall operate from the business at any one time.*
- *Trading hours are to be restricted to 9-5pm weekdays only.*
- *No more than 10 vehicle trips per day shall be generated by the business.*
- *The number of clientele shall not exceed 4 persons at any one time.*
- *Parking shall be provided at the rate of 1 car space to every 40m² of gross floor area.*

The thrust of this Policy is to preserve the integrity of residential areas and to contemplate only those low-impact, non-residential professional office uses that are

compatible with the preservation of residential amenity. It is apparent that the present use of the premises exceeds these policy parameters.

Previous Refusals

Council refused change of use proposals for No. 463 Stirling Highway in 1995 (chiropractic consulting rooms) and 2007 (psychiatry consulting rooms). The refusals were based on concerns regarding amenity and traffic, as well as the undesirable potential for the residence to the north (No. 461 Stirling Highway) to also be proposed to become non-residential (with little parking space available for such).

At the time, Council flagged that the land use future of the area could be looked at under the scheme review, however, the scheme review has not subsequently identified or supported this area as moving towards expanded non-residential use or development – indeed, as explained above, proposed LPS3 and the residential development trend are encouraging continued residential zoning and intensification.

The Town Centre, Local Centre and Business zone areas are where commercial activities are directed to locate and this policy has proven successful for the protection of residential amenity and the management of activity centres in Cottesloe.

Parking

The applicant is proposing to retain 4 on-site car bays and construct an additional 7 car bays perpendicular to the existing crossover on the Council verge.

Technically, the verge bays do not form part of this planning application as the car parking area is not under private ownership. However, because the parking constitutes part of the overall use it is appropriate to consider it at the same time. Planning does have a role, nonetheless, in relation to streetscape and amenity, and this is where the application helps coordinate the matter and allows it to be considered in relation to the proposed use of the premises as well as the public domain. In this respect it is observed that Napier Street enjoys wide, grassed verges, predominantly serving residential properties.

Council does not have a specific policy in respect to verge parking for non-residential uses, however, as this proposal is predominantly in a residential-zoned area (ie: for the remainder of Napier Street) it is appropriate to refer to Council's Policy 'Parking – Residential' for guidance.

This Policy states that Council will consider an application for the construction of a verge parking area as a temporary measure in the following circumstances only:

- (a) where the applicant acknowledges that the verge parking area is to be totally removed at no cost to the Council if the property is redeveloped, or if removal is required by Council;
- (b) where vehicle access onto private property cannot be reasonably gained by a conventional vehicle crossover, or from a trafficable right of way;

- (c) where a vehicle cannot be accommodated on-site due to insufficient area, or major variation of natural ground levels, or where access to available space on-site is an unreasonable expectation, or
- (d) where on-site parking, with turn-around space on a busy road cannot be reasonably achieved, and
- (e) where a vehicle may be safely accommodated on the verge without adversely affecting the sight distance.

The application was referred to the Manager Engineering Services who provided the following comments in respect to the proposed parking arrangement:

- *The verge is currently grey disturbed sand and will get worse with greater use unless sealed. Sealing, kerbing and linemarking is reluctantly agreed to in the position proposed, if Council approves the expanded use;*
- *The reluctance comes from the close proximity of the parking area to Stirling Highway, with an increase intensity of use generating increased safety concerns from traffic entering and exiting the site;*
- *The precedent to be established with similar properties in similar circumstances requesting similar parking areas;*
- *More verge parking is against Council's attitudes. They require extra maintenance on verges vested in Council. Liability remains with Council; and*
- *Future expansion of the highway could impact on this verge area.*

Under TPS 2 there are no specific vehicle parking requirements for Consulting Rooms, however, commercial and professional offices require a minimum 1 bay per 40m² gross floor area which equates to 4 on-site bays in this case. The Scheme also advises that parking for other uses may be determined by Council having regard to a range of factors including the nature of the use, the number of people moving to or from the site, and the likelihood or otherwise of congestion or traffic on any road or in other public places in the vicinity.

Based on the applicant's submission and field observations the existing on-site sealed car bays are inadequate, hence the request to formalise verge parking.

Up to 8 practitioners work at the premises but only 2 people are full time and one is on 12 months study leave. That leaves up to 7 staff working at the premises each day with varying hours of attendance that accumulate to approximately 120hours per 6 day week or 20 hrs/day (averaging 2.8hrs for each practitioner/day).

Due to the overlap of appointment times on-site staff and visitor parking has become a problem, particularly in the mornings. This would be further exacerbated if staff were all present at the same time on some days.

Site visits to the premises reveal that the on-site parking area is occupied most week days and up to 9 cars are parked on the verge some days, averaging around 4 cars most mornings. Occasionally cars were also observed parked on the verge opposite and on Napier Street, although these may be associated with the dentist business opposite.

CONCLUSION

The proposal for a change of use from Professional Office to Consulting Rooms (Sports Physiotherapy) is assessed as difficult to justify in the context of the strategic land use direction of Council's local planning and development control – the overall intent is for the retention of residential use rather than the introduction or expansion of non-residential uses in the locality and piecemeal change of use along this section of Stirling Highway is not encouraged. Furthermore, the necessity to provide permanent verge parking for staff and visitors would be contrary to Council's 'Parking – Residential' Policy and is undesirable due to safety issues, the cost of maintenance, liability, setting a precedent and general visual amenity issues.

Notwithstanding this, it is acknowledged that the use of these premises for Professional Offices has previously been approved by Council, albeit on a relatively small scale, and the current use has been operating for approximately the past 5 years without complaints being received by the Town or following the most recent advertising. Furthermore, the proposed physiotherapy consulting rooms are obviously well-attended and presumably address a demand for this type of service to be provided in the locality. The proposal also utilises the existing premises rather than being a purpose-built facility and appears relatively low-key and localised in nature.

Council's decision in 2009 to approve a second-storey extension to an existing Professional Office at 459 Stirling Highway, Cottesloe (for the Icon Group) is also further indication that it may be prepared to consider this application for approval, albeit that had adequate on-site parking and did not affect the verge or street.

On this basis, subject to no objection from the DoP, the use could be supported by Council, although it may be preferable if it were conditioned to require the applicant to introduce a more effective staffing and visitor roster whereby there was minimal overlap of visitors to the premises at any one time and verge parking was thereby reduced to say 4 bays, rather than 7 bays. These bays would be required to be constructed and maintained at the applicant's cost and could be based on reinforced grass to ensure a green aspect to the verge and capacity for drainage water to soak away without overflowing onto the street surface.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee queried what would happen to the verge parking were the property sold and it was pointed-out that condition (g) addressed this. Committee also asked if the applicant was happy with 4 constructed bays and he indicated that 7 would probably be better. Mr Jackson commented that more than 4 cars (ie typically up to 7 or more) had been observed over a period of time, including Saturday mornings which tended

to be busy. However, there was a balance to be struck between managing parking and the operation of the business in terms of staff and visitors. He suggested that 4 bays could be trialled and the whole of the verge upgraded for amenity and possible additional bays. Overall, Committee decided to adopt the officer recommendation.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Dawkins

That, subject to no objection being received from the Department of Planning, Council GRANT its Retrospective Approval to Commence Development for the proposed Change of Use from a Professional Office to Consulting Rooms (Sports Physiotherapy), including the provision of verge parking, in accordance with the plans submitted on 10 December 2009, subject to the following conditions:

- (a) The hours of operation being between 7.00am to 7.00pm Monday to Friday and 8.00am to 12.00 noon on Saturday only;
- (b) The external profile of the development as shown on the approved plans not being changed whether by addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council;
- (c) Any new signage shall require the approval of a separate signage application and shall be in accordance with Council's Signage By-law;
- (d) No goods or materials shall be stored either temporarily or permanently in the parking areas. All goods are to be stored elsewhere within the building.
- (e) All construction work shall be carried out in accordance with the Environmental Protection (noise) regulations 1997, Regulation 13 – Construction sites.
- (f) The applicant applying to the Town of Cottesloe for approval to construct 4 car parking bays and an adequate crossover/driveway on the Napier Street verge, at the applicant's cost, based on reinforced grass to the specification and satisfaction of the Town as approved by the Manager Engineering Services or an authorised Officer;
- (g) The verge parking is to be totally removed at the applicant's expense if there is an approved change of use not utilising that parking, the property is redeveloped, or if removal is required by Council at any time, and the verge shall be rehabilitated at the applicant's cost to the specification and satisfaction of the Manager Engineering Services or an authorised Officer;
- (h) The number of visitors to the Consulting Rooms at any one time being limited so as to avoid unnecessary parking demand for additional verge parking. Details of an appropriate staff and visitor management plan addressing this shall be submitted to the Town to the satisfaction of the Manager Development Services; and

- (i) **Compliance with any relevant Health and Building requirements to the specification and satisfaction of the Town.**

Carried 6/0

NO. 2 (LOT 5) CHAMBERLAIN STREET – ALTERATIONS AND SECOND STOREY ADDITIONS

File No: 1683
Responsible Officer: Carl Askew
Chief Executive Officer
Author: William Schaefer
Planning Officer

Proposed Meeting Date: 15 February 2010

Author Disclosure of Interest: Nil
Property Owner: Ms D Sinitsyna
Applicant: Lawrence J Scanlan & Associates, Architects
Zoning: Residential R20
Use: P – A use that is permitted under this Scheme
Lot Area: 637 sq m

SUMMARY

Application for alterations and second storey additions to the existing two storey residence at the above address. The proposed works comprise a newly-designed second storey addition and also alterations and additions originally approved by Council in June 2005, then again on 4 October 2007.

The works previously approved by Council include alterations to the basement, ground and first floors, and the addition of balustrading to the front and northern side elevations of the dwelling. Whilst the 2008 Residential Design Codes (RDC) have changed slightly since the previous approvals, the relevant Acceptable Development Standards remain the same and it is appropriate to approve the previously-approved alterations and additions again.

For the second storey addition, variations are sought under Town Planning Scheme No. 2 (TPS2) with regard to building height where discretion is permitted for extensions to existing dwellings and the RDC in respect of a wall set back from the boundary. It is the second storey addition that forms the focus of this report.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Building height variation as allowed for extension of an existing dwelling.

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION**Advertising**

Following assessment of the application, letters were sent to the five adjoining landowners as per the requirements of TPS2. One written submission was received from the owners of No. 2 Clarendon Street (attached). Following assessment of the revised plans submitted 31 July 2009, the owners of No. 2 Clarendon Street were contacted by letter and invited to view the plans again. One more written submission was received (attached). The main points raised in the submissions are as follows:

Ms Jenny Bourke, 2 Clarendon Street

- Concern with privacy impact of southern upper balcony in particular and windows in general. Suggestion made for 2.0m high, visually obscure screen to face of balcony; and
- Concern with overshadowing of outdoor living area.

Both concerns are addressed in the *Building Setback from Boundary* sub-section of this report.

APPLICATION ASSESSMENT

Concessions are sought for the following items:

<i>Non-compliance with TPS2</i>	<i>Min/Required</i>	<i>Proposed</i>
Height of wall beneath pitched roof	6.0m above NGL	6.7m above NGL
<i>Discretionary Provisions</i>	<i>Min/Required</i>	<i>Proposed</i>
Setback of south upper wall	1.9m	1.5m

APPLICANT'S JUSTIFICATION

Under guidance from Council's Planning staff, two revised designs and two letters of justification with supporting drawings (attached) have been submitted by the applicant architects. Justification from various portions of the letters and drawings has been included in the *Staff Comment* section of this report.

STAFF COMMENT

With regard to the plans dated 21 January 2010, the following comments are made:

Building Height

It is intended to construct walls of 6.7m in height beneath a pitched roof in lieu of the basic 6.0m permitted by TPS2. Under Clause 5.1.1 (c) of TPS2 there is provision to

vary from this requirement in the case of extensions to existing buildings provided that the amenity of surrounding areas is not unreasonably diminished. The ridge height of the roof above the walls complies with the requirements of TPS2.

An average Natural Ground Level (NGL) of 29.3m was arrived at by a comparison of existing floor levels with a four corner average for the lot. It should be noted that in the 2007 assessment, a combination of the four corner average and GIS contours were used to determine an NGL of 28.9m. However as the source of GIS contour data is unverified it can be difficult to justify NGL calculations based on these contours and Council's preference is now to use alternative methods as often as possible. It has therefore been considered prudent to rely on the more accurate figure of 29.3m.

The applicant considers that the amenity of the neighbouring lots will not be compromised as the walls are well set back from the boundary. Whilst there is an increase in overshadowing of the southern neighbours' property, the attached diagram demonstrates that the increase in overshadowing is not the function of the overheight walls or even the roof above them. In any event, the overshadowing figure remains less than that prescribed by the RDC. It should also be noted that at an RL of 36.0m, the height of the walls are significantly lower than the 37.39m high walls that already exist along the southern elevation of the dwelling.

It should be noted that the section of overheight wall is less than 4.0m in length from west to east. As the surveyed length of the lot from west to east is 40.23m, the section of proposed overheight wall will be less than 10% of the total lot length.

The northernmost overheight wall is well set back 5.6m from the boundary and does not create overshadowing or building bulk issues. The presence of a ROW between No. 2 Chamberlain Street and Nos. 34 and 45 Eric Street will further mitigate the effects of the wall. There has been no written objection to the height of the wall from the landowners to the north.

The proposed overheight walls are to be situated more than 14.0m from the eastern boundary and are considered to not impact the amenity of the neighbouring property as they greatly exceed the setback-relevant Acceptable Development Standards of the RDC. No written submission has been received from the adjacent landowner.

Lastly, the overheight walls are intended for the rear of the existing dwelling. From here they will not be visible from the street and will therefore not impact on the amenity of the streetscape.

In conclusion, the overheight walls may be supported on the basis that they qualify as extensions to an existing building that do not unreasonably diminish the amenity of neighbouring areas.

Buildings Setback from Boundary

A difference of up to approximately 2.0m separates the ground levels of No. 2 Chamberlain Street and No. 2 Clarendon Street, with No. 2 Clarendon Street being the higher in the area affected by the new wall.

A 9.3m long section of new wall up to 5.5m in height (from the neighbouring ground level) is proposed for the southern elevation of the dwelling. The total length of wall to be assessed is thus a 5.5m high wall 16.7m in length.

According to the Acceptable Development Standards of the RDC, the wall is required to be set back 1.9m. Setbacks of 2.2m and 1.5m are provided. It is therefore necessary to assess the reduced-setback sections of wall under the RDC Performance Criterion 6.3.1 P1, which contemplates:

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*

As the new section of wall is proposed for the southern side of the existing dwelling, and sunlight and ventilation are captured from the north and south-west respectively, it is clear that the provision of adequate direct sun and ventilation to the building will not be compromised by the reduced setback. Similarly, all major appurtenant open spaces occur to the west, north and east of the proposed works, where direct sunlight will not be affected.

The wall's location does not compromise the passage of south-westerly ventilation to the affected property. The neighbours have lodged a written objection to the overshadowing of their pool and outdoor living space, however, the total area proposed to be overshadowed is 20%, which remains less than the RDC Acceptable Development Standard of 25% and is considered appropriate to approve.

It is considered that the height difference between the additional and existing walls reduces the effects of building bulk. The presence of the non-habitable gallery balcony (which has an obscure-glass screen set back in accordance with the Acceptable Development Standards) along the southern elevation is expected to break up the effect of wall mass and thus further ameliorate the effects of building bulk on the neighbouring property.

The southern neighbour has twice expressed concerns about the potential privacy impact of the gallery and its appurtenant terrace. For two reasons, it is not considered that the submission can be supported. Firstly, under the RDC the gallery is not regarded as a habitable room and is therefore exempt from standard privacy requirements. The same exemptions from privacy requirements extend to the terrace as it is not accessible from a habitable room. In any event, foot traffic in the gallery is likely to be light as the passageway leads to two rooms only (a home theatre and a bathroom). Secondly, the applicant has proposed a 1.2m obscure-glass screen to be installed on the terrace. The screen, although technically unnecessary, is expected to preserve the privacy of the neighbours by almost entirely eliminating the possibility of overlooking from inside the gallery.

With regard to the terrace itself, it is stated by the applicant that the terrace is intended to permit planters to be situated next to the gallery, rather than for use as a

habitable space. The non-habitable nature of the gallery and the availability of more suitable, north-facing outdoor living areas associated with other areas of the dwelling support this.

On balance, the wall with the proposed reduced setback meets the relevant Performance Criterion and may be supported.

CONCLUSION

Due to the overheight nature of the existing building it is considered unlikely that even a small second-storey addition could be proposed without requiring a variation from Council's height standard. The proposed second storey is regarded as relatively modest, comprising two rooms plus a passageway/gallery and a terrace, and is expected to perform without unreasonable impact on the amenity of neighbouring properties. No new planning issues have arisen from the previously approved component of this application.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee was satisfied with this proposal having regard to the previous approval.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Walsh

That Council:

1. **GRANT its Approval to Commence Development for the proposed alterations and second-storey additions to No. 2 (Lot 5) Chamberlain Street, Cottesloe, in accordance with the revised plans submitted on 21 January 2010, subject to the following conditions:**
 - (a) **All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Storm-water runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of storm-water 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) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling 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.**

- (e) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (f) The proposed gallery terrace shall not to be accessed or used for any purpose other than occasional servicing of the planters.

Advice Note:

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

2. **ADVISE** the submitter of this decision.

Carried 6/0

10.1.5 NO. 38 (STRATA LOTS 1-6) MARINE PARADE – SUBDIVISION PROPOSAL

File No: N/A
Responsible Officer: Carl Askew
Chief Executive Officer
Author: William Schaefer
Planning Officer

Proposed Meeting Date: 15 February 2010

Author Disclosure of Interest: Nil
Property Owner: Woolstores Pty Ltd
Zoning: Residential
Use: P – A use that is permitted under this Scheme
Density: R30
Lot Area: 2137 sq m

SUMMARY

This report concerns a referral from the Western Australian Planning Commission (WAPC) regarding the subdivision of the above lot into 7 Freehold (Green Title) lots for single dwellings.

There is a recent history of development proposals for this prominent address, all of which are now superseded by the current subdivision application. The purpose of the report is to bring to Council's attention the latest intentions regarding this site prior to staff making comment to the WAPC.

Although this essentially complying proposal could be processed under delegation, multi-lot subdivisions occur infrequently in Cottesloe and it was therefore considered desirable to inform Council of the application and its implications for future residential development.

The subdivision proposal complies with the relevant WAPC policies and is consistent with the density desired for the locality. It is recommended that Council advise the WAPC that the proposal is supported with conditions.

A response to the WAPC is required within a statutory timeframe. The response can be achieved within the current reporting cycle.

PROPOSAL

The existing block of 6 units is ageing and in need of either major alteration or demolition and replacement.

It is intended to demolish the block of 6 units and subdivided the parent lot into 7 freehold lots, which will be sold to new owners.

The proposed lots meet the minimum lot sizes for areas coded Residential R30 and have frontages consistent with many other lots in the South Cottesloe section of Marine Parade.

STRATEGIC IMPLICATIONS

Land/housing supply satisfied.

POLICY IMPLICATIONS

Guided by RDC and WAPC policy.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2
- Residential Design Codes
- WAPC Policy 2.3 Subdivision

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Effective use of land.

CONSULTATION

As no physical development of the site is proposed at this stage the proposal has not been advertised and advertising is not a statutory requirement of the WAPC in any case, with the Local Governments response taking into account the community interest and amenity of the locality.

STAFF COMMENTLot Size

With a parent lot size of 2137 sq m, the site is potentially subdivisible into 7 lots, none of which may be less than 270 sq m.

In this proposal, Lots 1-6 meet the minimum requirements. The effective area of the battleaxe-shaped Lot 7 is given as 320 sq m – which is below the 336 sq m required for battleaxe lots. Nevertheless, it appears that lot could meet this requirement if the effective area is re-calculated to incorporate the truncated portion of driveway.

It is expected that the WAPC will address this minor matter during the approval process, consistent with the provisions of the RDC and its subdivision policy.

Lot Frontages

Under the RDC, there is no minimum frontage required for lots in Residential R30 areas. Nevertheless, the frontages of approximately 10.0m would have the effect of presenting a more densely developed mass to the Marine Parade streetscape than presently occurs on the site, and staff have been obliged to assess the potential impact accordingly.

When viewed from the front, the existing building is a solid mass that stretches almost from north boundary to south boundary. While future development would be further set forward on average, new dwellings would be built on separate lots with separation distances as per the RDC, and would thus present less solid mass to the street.

Given the existing pattern of development along Marine Parade, 10.0m frontages are considered acceptable. Such frontages occur at 32, 30, 28A, 28 and 24 Marine Parade. Along Warton Street, the two lots with frontage are proposed to be slightly wider, at 11.5m each. Similar frontages occur at No. 7 and No. 9 Warton Street.

Overall, the proposed lot frontages are consistent with the existing amenity of the area and the principles of orderly and proper planning, and can be supported.

Future Development

The question of how the lots will be developed is important. Technically, once the lot sizes meet R30 requirements, future development is simply guided by normal Scheme/RDC requirements. Therefore there is no absolute need for a Development Application (DA) at subdivision stage, even if it would assist Council in its assessment of how the subdivision would affect the locality.

The Town has previously recommended DAs or concept plans in similar situations but it is not intended to for this proposal. As the applicants' intention is to sell rather than develop the lots it could not be reasonably expected that the applicant could predict the development plans of purchasers. Also, experience has shown that requests for DAs at the early stage of a subdivision tend to result in hastily-prepared submissions that satisfy Council's requirements but do not end up being constructed. The result can be a wasteful and confusing exercise in assessment/ neighbour consultation that has no bearing on the ultimate development of the sites.

In a preliminary meeting with Council's Planning Staff, the developer has indicated that the 4 lots fronting Marine Parade are likely to be amalgamated into 2 lots, which would result in potentially less impact on the streetscape.

Site Works/Engineering

The subject lot is relatively flat, but is elevated and retained above the Marine Parade footpath level by approximately 500mm (refer photographs).

The Town's Engineer has applied the standard subdivision condition regarding post-demolition site levelling and stabilising, and has requested the upgrade of footpaths to limestone-coloured concrete.

No details regarding crossovers have been submitted. The Manager Development Services and Manager Engineering Services have considered the implications of multiple new crossovers to Marine Parade and made a suggestion in the form of an advice note.

A standard condition relating to the protection of verge trees as also been applied, augmented in respect

It is normal to request a 3m x 3m truncation to be ceded to the Crown free of cost during subdivision of a corner lot. However, the Manager Engineering Services has suggested that the requirement may be waived in view of the exiting adequate sightlines, traffic control devices and wide verges. This would maximise the size of the corner lot.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted that some of the lots might be amalgamated for larger sites. It was also put that smaller lots in this R30 area should be allowed that front setback standard rather than Council's preferred 6m being the R20 standard.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Dawkins

THAT Council ADVISE the Western Australian Planning Commission that it supports the proposed Subdivision Plan (Application No. 141333) for Lot 1 (No. 38) Marine Parade, Cottesloe, dated-received by Council on 19 January 2010, subject the following conditions:

1. **The removal of all existing buildings, outbuildings and/or structures to the satisfaction of the Western Australian Planning Commission. A demolition planning application and approval and a demolition licence application and approval will be required from the Town of Cottesloe prior to any demolition.**
2. **The site being levelled and stabilised to the satisfaction of the Town of Cottesloe.**
3. **The applicant complying with the Town of Cottesloe's *Policies and Procedures for Street Trees, February 2005*, where subdivision requires the removal, replacement, protection or pruning of street trees. In this respect the subdivider shall liaise with the Town to ensure retention and protection of the three Norfolk Island Pine trees on the Warton Street verge during subdivision works. The future of these trees may be reviewed and determined by the Town upon subsequent development of the lots fronting that street, and the design of the dwellings shall maximise their retention and protection to the satisfaction of the Town.**
4. **To service the new lots, the footpath on Marine Parade shall be upgraded at the cost of the applicant to limestone-coloured, full width in-situ concrete to the specification and satisfaction of the Town of Cottesloe.**

Advice Notes:

- (1) **The applicant/owner is advised that future development of the proposed lots fronting Marine Parade and Warton Street requiring vehicular access will necessitate the construction of crossovers and rationalisation of the**

- existing kerb-side parking bays and crossover at the cost of the owners/developers to the specification and satisfaction of the Town of Cottesloe.
- (2) Given the wide verge and existing adequate sight lines and traffic control devices at the Warton Street/Marine Parade intersection, the Town is prepared to waive the usual corner truncation requirement.
- (3) The Town is aware that some of the proposed lots (eg fronting Marine Parade) are intended to be purchased as pairs and combined for development of a single dwelling/s, and may have been pre-sold off the proposed subdivision plan. If this is so, then the Town recommends that a revised subdivision plan be submitted for determination under the current application, in order to be accurate and to avoid any unnecessary amalgamation process.

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

Nil

13 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:07pm.

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