

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 19 NOVEMBER 2012

CARL ASKEW
Chief Executive Officer

23 November 2012

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DEVELOPMENT SERVICES COMMITTEE

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:00 pm.

2 DISCLAIMER

Nil

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

4 PUBLIC QUESTION TIME

Nil

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.2 PUBLIC QUESTIONS

Nil

5 PUBLIC STATEMENT TIME

Mr Paul Burnham re item 10.1.2 No. 31 Eric Street

Mr Burnham briefly outlined the design approach including the limitations of the site and responding to the RDC, and advised that the report and recommended conditions were acceptable as a basis for revised plans addressing the details identified.

6 ATTENDANCE**Present**

Cr Jack Walsh	Presiding Member
Cr Katrina Downes	
Cr Victor Strzina	Arrived 6:02 pm
Cr Yvonne Hart	
Cr Peter Jeanes	
Cr Rob Rowell	Deputy

Officers Present

Mr Carl Askew	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Mr Ronald Boswell	Planning Officer
Mrs Julie Ryan	Development Services Secretary

6.1 APOLOGIES

Nil

Officer Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Cr Boland

6.3 APPLICATIONS FOR LEAVE OF ABSENCE**Moved Cr Rowell, seconded Cr Jeanes**

That Cr Walsh be granted leave of absence for the December 2012 Development Services Committee meeting.

That Cr Strzina be granted leave of absence for the December 2012 Development Services Committee meeting.

Carried 6/0

7 DECLARATION OF INTERESTS

Cr Strzina declared a proximity interest in item 10.1.1, No. 2 Deane Street due to owning and residing in a dwelling opposite the subject site, and left the meeting for the duration of the item.

Cr Walsh declared an impartiality interest in item 10.1.1 No. 2 Deane Street being an acquaintance to the objector, Mr Lalor, and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he would consider the matter on its merits and vote accordingly.

8 CONFIRMATION OF MINUTES**Moved Cr Downes, seconded Cr Jeanes**

[Minutes October 15 2012 Development Services Committee.doc](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 15 October 2012 be confirmed.

Carried 6/0

9 PRESENTATIONS

Nil

9.1 PETITIONS

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

For the benefit of the members of the public present the Presiding Member determined to consider item 10.1.2 first.

DECLARATION OF INTERESTS

Cr Strzina declared a proximity interest in item 10.1.1, No. 2 Deane Street due to owning and residing in a dwelling opposite the subject site, and left the meeting at 6:30 pm for the duration of the item.

Cr Walsh declared an impartiality interest in item 10.1.1 No. 2 Deane Street being an acquaintance to the objector, Mr Lalor, and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he would consider the matter on its merits and vote accordingly.

10 REPORTS

10.1 PLANNING

10.1.1 NO. 2 DEANE STREET – TWO-STOREY DWELLING WITH UNDERCROFT GARAGE

File No:	2523
Attachments:	2 Deane St Nov 12.pdf
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	19 November 2012
Author Disclosure of Interest:	Nil
Property Owner:	H Stewart
Applicant:	Russell Stewart
Date of Application:	2 October 2012
Zoning:	Residential R30
Use:	P - A use that is permitted under this Scheme
Lot Area:	569.9m²
M.R.S. Reservation:	Not applicable

BACKGROUND

A previous application for a two-storey dwelling with an undercroft garage, roof-space third storey, and an elevated pool was refused by Council on 24 September 2012 for the following reasons:

- (1) *It is considered that the proposal does not sufficiently satisfy the provisions of the Scheme in relation to a third storey within the roof space of a dwelling; and*
- (2) *It is considered that the proposal does not sufficiently satisfy privacy requirements having regard to the Residential Design Codes.*

The applicant has since sought a review by the State Administration Tribunal and that matter is presently in mediation.

Following this refusal, as an alternative the applicant has submitted a new application which is of similar design to that previously considered but without the third storey within the roof-space and the elevated pool.

As a fresh application it is to be considered in its own right separate from the previous proposal.

Modifications have also been made at the first-floor level to increase the distance from the proposed rear balcony and dining area to the adjoining western right-of-way.

The proposal satisfies the general provisions of Town Planning Scheme No. 2 (TPS 2) and complies with the Acceptable Development standards of the Residential Design Codes (RDC), with the exception of the following:

- Boundary setback
- Visual privacy
- Removal of street tree

Each of these aspects is discussed in this report and refers to plans received on 2 October 2012.

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

PROPOSAL

This application is for a two-storey dwelling with an undercroft garage (in addition to a ground level garage).

The dwelling comprises of 4 bedrooms, 1 shared bathroom, 2 ensuites, family/games area, laundry, lift, cellar, TV room, dining area/kitchen, WIR, bar, front and rear balconies and retention of existing pool at ground level.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
- Residential Design Codes

PROPOSED LOCAL PLANNING SCHEME NO. 3

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

VARIATIONS

<i>Design Element</i>	<i>Permitted</i>	<i>Provided</i>	<i>Performance Criteria</i>
6.3 - Boundary Setbacks	2.8m from 1 st floor kitchen/pantry/robe to eastern	1.7m	Clause 6.3.1 - P1

	boundary.		
6.8 - Visual Privacy	7.5m from unenclosed outdoor active habitable space.	4m cone-of-vision from 1 st floor (west-facing) front/side balcony. 2.5m cone-of-vision from 1 st floor rear balcony to eastern boundary.	Clause 6.8.1 - P1
6.5 - Vehicular access	Driveways located so as to avoid street trees, or where this is unavoidable, the street tree being replaced by Council at the applicant's expense.	Removal of street tree to allow for additional crossover.	Clause 6.5.4 - P4

ADVERTISING OF PROPOSAL

This current application was advertised in accordance with TPS 2. Advertising consisted of a letter to 4 adjoining property owners (Body Corporate for flats at rear). Two submissions were received which are summarised below:

Slavin Architects (on behalf of Peter Lalor, 82 Marine Parade)

- Overlooking from the 1st floor balcony does not comply with Clause 6.8.1 - A1 (i) of the RDC.
- The proposed walls on the boundaries do not comply with Clause 6.3.2 - A2 (iii) of the RDC. Walls on boundaries can only be constructed on one boundary.
- The proposed wall height exceeds the 6m maximum wall height permitted under TPS2.
- The proposed carparking spaces and driveways do not comply with Australian Standard AS 2890.1 in accordance with the RDC.
- The proposed development is required to comply with all requirements of the RDC.
- Section AA is not a correct representation through the building. The section does not show the flat roof behind the parapet. Dimensions shown on the floor plans also don't correspond with wall lengths.

Baldo Lucaroni, 80 Marine Parade

- The development will result in overlooking and privacy issues for my property.
- The proposed setbacks do not appear to comply with requirements.

PLANNING COMMENT

The following assessment is made in respect of the current application and plans received 2 October 2012.

Side setback to eastern boundary

The proposed setback to the 1st floor recessed area (kitchen/pantry/robe) will be 1.7m from the eastern boundary, in lieu of 2.8m required under the Acceptable Development standards of the RDC.

This setback concession can be considered under the Performance Criteria, which state:

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

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

The reduced setback will still provide adequate direct sun and ventilation to the proposed dwelling and adjoining property due to the lot's north-south orientation which ensures that winter sun will not be unduly disrupted and south-westerly breezes will still prevail. The recess in the wall will also assist in ameliorating building bulk and as it has no major openings it won't impact on visual privacy. The adjoining owner at 4 Deane Street has sighted the plans and has verbally advised that he has no objection to the proposal.

Visual privacy

The proposed 1st floor (west-facing) front/side balcony and (north-facing) rear balcony have a 4m and 2.5m cone of vision respectively, in lieu of 7.5m required under the Acceptable Development standards of the RDC. These setback concessions can be considered under Performance Criteria, which state:

- *Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.*
- *Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass.*
- *Where they are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.*
- *Where opposite windows are offset from the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.*

1st floor (west-facing) front/side balcony

The applicant proposes a 1m high x 12m long solid screen wall along the front portion of the western boundary at 1st floor level to minimise any direct overlooking of the adjoining property's outdoor living area, which is located on the other side of a ROW and is shaded by a large pergola. A 1st floor window opposite is approximately 10.5m from the proposed balcony and whilst it has potential to be overlooked it is only 1m in height and forms part of a corner window that faces north-east so is unlikely to be significantly affected by the proposal.

Although a submission has been received from the owner of 80 Marine Parade this property is setback approximately 12m from the proposed development site (at its closest point) and will not be directly overlooked by the proposed development as it is separated by the existing ROW and 80A Marine Parade.

1st floor (north-facing) rear balcony

There will be no direct overlooking of major openings and outdoor active habitable spaces from the proposed rear balcony as, although there will be some overlooking over the rear of the eastern lot, the side of the balcony nearest the boundary will be screened to 1.65m and overlooking will be restricted to the roof of an existing garage on the neighbour's property.

Removal of street tree

The original submitted proposal for the lot showed access to a double garage from the adjoining western ROW, in addition to an undercroft garage with access from Deane Street. However, the ROW is privately owned by the Lalors and the applicant was unable to obtain approval from the owner to use it for access. As a result, the plans were amended to accommodate a double garage at ground floor level with access from Deane Street, requiring an additional crossover to the lot.

The crossover on the eastern side that will provide access to the undercroft area will necessitate the removal of a street tree. However, this has been supported by the Town's Works Department as the species is not of significance and should be replaced with a Norfolk Island pine. This has been conditioned accordingly.

Building height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of TPS 2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

Provision is made for Council to depart from the formula where the natural ground forms indicate that a variation is warranted provided that the amenity of the area is not unreasonably diminished. Such a height variation is not sought in this case.

The NGL at the centre of this lot has been determined to be RL: 10.75, based on a site survey plan submitted by the applicant and drawn by a licensed surveyor.

Given this NGL the maximum permitted external wall height is 6m (RL: 16.75) and the maximum permitted ridge height is 8.5m (RL: 19.25). The proposed development complies with these height requirements; although the proposed, centrally-located, 0.25m high lift shaft has not been included in this calculation as in accordance with the RDC it is considered a minor projection, similar to a chimney or the like. A non-accessible, flat roof section at the front and rear of the dwelling will have an overall height of 6.6m above the centre NGL, which is 0.4m below the maximum 7m height allowable under the RDC for flat or concealed roofs, and is supportable by Council.

Guttering at the base of the curved roof shown on Section AA adjoining the western ROW is considered appropriate to avoid stormwater runoff into the laneway. Details will however be required to be submitted at the building licence stage.

Design of parking spaces

The RDC require the provision of a minimum 2 carbays for a single dwelling to be designed in accordance with AS2890.1 and accessed via a minimum 3m wide driveway. The proposed undercroft garage satisfies this requirement and although additional bays and a separate driveway are also proposed for this development these are in addition to the minimum requirements necessary under the Codes and are not required to be assessed as satisfying all of these requirements.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed privacy controls in terms of any windows to the upper floor TV Room and the screen to the front balcony. Officers explained that there was a discrepancy in the plans which could be clarified by a condition for no windows, and that the balcony screen was assessed as satisfactory given that it is at the front of the dwelling to the street and the view is beyond adjacent dwellings to the ocean.

OFFICER RECOMMENDATION

Moved Cr Rowell, seconded Cr Downes

That Council GRANT its approval to commence development for the proposed two-storey dwelling with undercroft garage at No. 2 (Lot 25) Deane Street, Cottesloe, in accordance with the plans received 2 October 2012, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13: Construction sites.
- (2) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties,

and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the building permit plans.

- (4) 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 do not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (5) The applicant applying to the Town of Cottesloe for approval to construct the two new crossovers, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.
- (6) The existing redundant crossover is to be removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (7) The existing street tree shall be removed and replaced with a Norfolk Island pine tree to the satisfaction of the Town's Works Supervisor, at the applicant's cost.

Amendment

Moved Cr Rowell, seconded Cr Walsh

A condition be added that the first floor TV Room shall have no west-facing windows.

Carried 5/0

Amendment

Moved Cr Walsh, seconded _____

A condition be added that the screen along the western side of the front balcony be increased in height to 1.6m.

Lost for want of a seconder.

COMMITTEE RECOMMENDATION

Moved Cr Rowell, seconded Cr Downes

That Council GRANT its approval to commence development for the proposed two-storey dwelling with undercroft garage at No. 2 (Lot 25) Deane Street, Cottesloe, in accordance with the plans received 2 October 2012, subject to the following conditions:

- (1) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13: Construction sites.**

- (2) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the building permit plans.
- (4) 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 do not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (5) The applicant applying to the Town of Cottesloe for approval to construct the two new crossovers, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.
- (6) The existing redundant crossover is to be removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (7) The existing street tree shall be removed and replaced with a Norfolk Island pine tree to the satisfaction of the Town's Works Supervisor, at the applicant's cost.
- (8) The first floor TV Room shall have no west-facing windows.

AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 4/1

Cr Strzina returned to the meeting at 6.45pm.

10.1.2 NO. 31 ERIC STREET – TWO-STOREY DWELLING

File No:	2507
Attachments:	31 Eric Street Nov 12.pdf
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	19 November 2012
Author Disclosure of Interest:	Nil
Property Owner:	Mr & Mrs J Fisher
Applicant:	Paul Burnham Architects Pty Ltd
Date of Application:	5 September 2012
Zoning:	Residential R30
Use:	P - A use that is permitted under this Scheme
Lot Area:	338m²
M.R.S. Reservation:	Not applicable

SUMMARY

This application is for a two-storey dwelling on a green title lot that was created in 2008 following the subdivision of the corner property at 151 Broome Street. Both lots remain under the same ownership.

A previous application for a two-storey dwelling that included a pool and garage in the front setback was approved on this lot in August 2007. A number of similar setback concessions are sought for the current proposal although the design has changed.

The applicant is seeking the following variations to Council's Scheme, Policies, Local Laws and/or the Residential Design Codes:

- Front setback
- Side setback
- Visual privacy
- Building on boundaries
- Carport in Front Setback Area
- Front Fencing

Each of these aspects is discussed in this report and refers to plans received on 5 September 2012.

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

PROPOSAL

A two-storey dwelling is proposed comprising of 3 bedrooms, 1 bathroom, ensuite, WIR, laundry, living area/kitchen, sitting room, study, double carport and north-facing front balconies at 1st floor and roof-top level.

POLICY/LOCAL LAW IMPLICATIONS

- Garages and Carports in the Front Setback Area
- Fencing Local Law

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes (RDC)

PROPOSED LOCAL PLANNING SCHEME NO. 3

No changes are proposed to the zoning or density of this lot.

VARIATIONS

Town of Cottesloe Council Resolution

<i>Resolution</i>	<i>Required</i>	<i>Proposed</i>
TP128a	Generally insists on a 6m front setback which does not include averaging.	2.4m to 7.8m front setback.

Town Planning Scheme Policy

<i>Policy</i>	<i>Required</i>	<i>Proposed</i>
TPSP 003-Garages and Carports in the Front Setback Area.	Generally requires a 6m front setback but has discretion to allow a carport to be constructed up to the front boundary.	2.4m to carport.

Town of Cottesloe Fencing Local Law

<i>Local Law</i>	<i>Required</i>	<i>Proposed</i>
Fencing Local Law	Fence may be solid to 0.9m and open-aspect above.	Solid timberlap fence to 1.8m in height.

Residential Design Codes

<i>Design Element</i>	<i>Permitted</i>	<i>Provided</i>	<i>Performance Criteria</i>
6.3 – Boundary Setbacks	2m from 1 st floor balcony to western boundary.	1.8m setback	Clause 6.3.1 - P1

6.3 – Boundary Setbacks	3.3m from roof-top balcony to western boundary.	1.8m setback	Clause 6.3.1 - P1
6.3 – Boundary Setbacks	1m from carport to eastern boundary.	0.4m setback	Clause 6.3.1 - P1
6.3 – Boundary Setbacks	3m from 1 st floor balcony to eastern boundary.	1.35m setback	Clause 6.3.1 - P1
6.3 – Boundary Setbacks	4.3m from roof-top balcony to eastern boundary	1.35m	Clause 6.3.1 - P1
6.3 – Boundary Setbacks	1.1m from laundry to southern boundary.	0.8m setback	Clause 6.3.1 - P1
6.3 – Buildings on Boundary	Walls not higher than 3.5m with an average of 3m for 2/3 ^{rds} length of boundary.	4m height, average 3.95m.	Clause 6.3.2 - P2
6.8 – Visual Privacy	4.5m from bedrooms & studies.	4.3m cone of vision from bedroom 1 to western boundary; 3m cone of vision from study to eastern boundary.	Clause 6.8.1 - P1
6.8 – Visual Privacy	7.5m from unenclosed outdoor active habitable space.	1.3m & 1.8m cone-of-vision from balconies to eastern and western boundaries respectively.	Clause 6.8.1 - P1

ADVERTISING OF PROPOSAL

The application was advertised in accordance with TPS 2. Advertising consisted of a letter to 2 adjoining property owners. One submission was received which is summarised below:

MH Brown & EP O'Reilly, 29A Eric Street

- The proposed front balconies are too wide and long and will extend beyond the existing setback and have a significant impact on our privacy;
- The issue could be dealt with by decreasing both the width and length of the two balconies at the front of the proposed development.

PLANNING COMMENT

The following assessment is made in respect of the application and plans received 5 September 2012.

Front setback

Council generally requires a 6m front setback for residential development which does not include averaging, whilst the Residential Design Codes (RDC) permit a 4m averaged setback for a dwelling in an R30 coded area. However, where a single dwelling results from the subdivision of an original corner lot and has a frontage to the original secondary street, as in this instance, the front setback may be reduced to 2.5m or 1.5m to a porch, verandah, balcony or the equivalent under the RDC.

This proposal has a minimum setback of 2.4m from the front boundary to a double carport/entry. The proposed living room/kitchen area on the ground floor has a minimum setback of 5.4m with the remainder of ground floor setback at 7.8m. The ground floor, excluding the carport, therefore has an average front setback of 6.6m which exceeds the RDC and Council's setback requirements.

The proposed upper-floor study, sitting room and bedroom will be setback 7.8m from the front boundary and have direct access to a large balcony with a 4.2m front setback. A separate matching balcony is also proposed directly above with sole access from the balcony below.

Whilst a front boundary setback variation to the Council Resolution is not always supported, there is merit to this proposal. It has a large frontage and a shallow depth as a result of the subdivision. The irregular shaped lot has the dimensions of a 20.11m frontage, and a depth of only 16.76m. If a 6m front setback is applied, more than a third of the lot could not be built upon and make designing a house which has a backyard difficult.

The adjoining dwelling on the eastern side of the lot is situated on the corner of Eric and Broome Streets and has its primary frontage to Broome Street. As a result, it has a reduced setback to Eric Street which is typical of corner lots generally. This is similar to the front setback proposed to the double carport.

The previous approved dwelling on the subject lot had minimum front setbacks at ground and 1st floor level of between 2.3m to 4.2m, including to a garage, and an average setback of 5.2m, whereas the current proposal seeks similar setback concessions but has a carport and unenclosed balconies in the front setback area to retain a more open-aspect to the street.

Side setbacks

The proposed 1st floor and roof-top front balconies have 1.8m setbacks from the western boundary, in lieu of 2m and 3.3m required under the RDC, and a 1.35m setback from the eastern boundary, in lieu of 3m and 4.3m required under the RDC.

The proposed carport has a 0.4m setback from the eastern boundary, in lieu of 1m required under the RDC and the proposed laundry has a 0.8m setback from the southern boundary, in lieu of 1.1m required under the RDC.

These setback concessions can be considered under Performance Criteria, which state:

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

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

The proposed reduced side setbacks will still provide adequate direct sun and ventilation to the proposed dwelling and adjoining properties on the eastern and western sides due to the lot's north-south orientation which ensures that winter sun will not be unduly disrupted and south-westerly breezes will still prevail.

The open-aspect design of the carport and balconies and the short depth of the lot compared to the length of the adjoining lots will assist in ameliorating the impact of building bulk, and the location of the balconies are not within the cone of vision of the existing front balconies of the adjoining western property and are unlikely to significantly affect privacy, even though it may be preferable to provide some screening. It should also be noted that if the balconies were screened at the western end then the proposed side setbacks would be compliant with the RDC.

The previous application was approved with ground and upper floor setbacks of 1.3m and 1.65m to the western boundary, in lieu of 1.5m and 2.9m required under the RDC and similarly projected to 4.2m from the front boundary.

The proposed setback from the ground floor laundry to the southern boundary is 0.8m, in lieu of 1.1m required under the RDC. Although its length is only 2.6m, its height is approximately 3.8m above the existing ground level at the boundary and it will appear approximately 1.3m higher than the existing boundary wall. It is therefore recommended that this be setback the required 1.1m to ensure that there is no loss of amenity to the southern neighbour or alternatively it should be reduced in height to comply with the RDC.

Walls on Boundaries

Walls are proposed on both the east and west boundaries abutting existing walls of similar or greater dimension and are permitted "as-of-right" under the RDC. However, the proposed wall on the southern boundary does not abut an existing wall and it does not satisfy the RDC as it has a height ranging from 3.8m to 4m above the existing ground level at the boundary which exceeds the maximum 3.5m, average 3m required under the RDC. Its length will be 6.2m and it will project approximately 1.3m above the existing boundary wall and be visible from the rear of the adjoining property.

In order for the proposed wall to be supported under Performance Criteria it must satisfy the following:

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.*

It is not considered the proposed height of the wall on the southern boundary will avoid having any significant adverse effect on the amenity of the adjoining property and, notwithstanding that no submission was received from the affected neighbour, it would be difficult to support in its present form. However, there is no objection to supporting a lower height wall on the boundary, such as with a skillion roof, that satisfies the RDC requirements. This would also be more consistent with the previous planning approval that proposed only a 3m high wall along this boundary.

Visual Privacy

The proposed north-facing windows to the upper floor study and bedroom 1 have a 3m cone of vision to the eastern boundary and 4.3m cone of vision to the western boundary respectively, in lieu of 4.5m required under the RDC and the proposed 1st floor and roof-top balconies have a 1.3m and 1.8m cone of vision, in lieu of 7.5m required under the RDC.

These setback concessions may be considered under Performance Criteria which state:

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

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

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

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

The proposed north-facing window to bedroom 1 will partially overlook the front setback area and driveway of the adjoining western lot and will not result in direct overlooking of any active habitable spaces. Similarly the proposed north-facing study window will only partially overlook the roof of a verandah on the eastern neighbour's property which is owned by the applicant.

The proposed front balconies have greater potential for overlooking than from the study and bedroom windows and although are unlikely to result in significant direct overlooking of the balcony areas it is recommended that the western ends could be screened with 1.6m high angled louvers or the equivalent, to the satisfaction of the Manger Development Services, to minimise the likelihood of overlooking occurring directly into the neighbour's front living areas.

The eastern ends of the balconies are considered acceptable without screening as any potential overlooking will be restricted to the partially covered side area of the adjoining property which is under the same ownership.

Carport in Front Setback Area

The proposed double carport/entry is a flat-roofed, partially open-sided structure that has a 2.4m front setback and 0.4m setback from the eastern boundary.

Although it is the Council's general policy to require carports to be located behind a 6m front setback line, there is discretion under its policy to allow reduced setbacks where the following criteria of the policy are satisfied.

"The materials of construction, design and appearance of a carport or garage erected within the front setback area shall be in character with the residence upon the site and be in harmony with the surrounding streetscape.

Further, the location of the building:

- (a) shall not significantly affect view lines of adjacent properties, and*
- (b) shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.*

In consideration of variations to setback, Council shall also have regard to:

- (a) the objectives set out in the Residential Codes;*
- (b) the effect of such variation on the amenity of any adjoining lot;*
- (c) the existing and potential future use and development of any adjoining lots; and*
- (d) existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment."*

The proposed carport location has been assessed against the Policy criteria and is considered acceptable as it will form an integral part of the design being partially below the proposed front balconies, it will have a similar setback to the existing covered verandah on the adjoining eastern neighbour's property, it will not affect view lines and it satisfies the permitted setback requirements of the RDC for subdivided corner lots.

The proposed crossover will need to be slightly modified to ensure that there is a minimum 1.5m clearance from the existing Norfolk Island Pine street tree and this can be conditioned accordingly.

Council previously approved a double garage adjoining the eastern boundary with only a 2.3m front setback, so the current proposal would be consistent with this previous decision whilst potentially having less visual impact on the streetscape.

Front Fence

A solid timberlap fence up to 1.8m in height is proposed within the front setback area which does not satisfy the Council's Fencing Local Law, whereby it should not exceed 0.9m in height unless of an open-aspect design.

The proposed fence may assist the safe use of land and persons because it will provide a barrier against unwanted visitors. However, an open-aspect fence would also provide better surveillance to the street. It is observed that the public footpath is well-separated from the property by the wide verge, which provides for both physical security and a sense of distance in terms of private outdoor recreation (by choice in a front yard facing the street) and pedestrian movement. There is also a rear private courtyard as well as balconies, so the front yard is not the sole outdoor private open space.

The streetscape would not be enhanced as the non-complying front fence would create bulk to the front setback area and overall, there is a predominant pattern of open front yards along this side of the street heading west.

CONCLUSION

The proposed development is contemporary in design and maximises its northern aspect whilst fully complying with overshadowing requirements over the adjoining southern lot.

Its overall height does not exceed 7m above the natural ground level calculated at the centre of the lot, including the balustrade around the top balcony, although a minor adjustment of approx. 0.16m may be required to allow for a 1.6m high screen along the western end of the roof-top balcony if considered necessary. Alternatively, Council could decide that screening to the top balcony was not required due to the limited use it is likely to have as it is uncovered and has no direct access from a habitable room.

The front setback variation could be supported on the basis of the dwelling being the result of subdivision and the open balconies in the front setback not presenting a large bulk presence to the street. Furthermore, the setback variations are not dissimilar to that previous approved by Council for a two-storey dwelling on this lot.

Some minor changes to the rear of the dwelling are appropriate to minimise potential loss of amenity to the southern neighbour and the proposed front fencing should be amended to comply with the Fencing Local Law to ensure the existing predominantly open streetscape on this side of Eric Street is maintained. A minor adjustment to the crossover location is also necessary to ensure that adequate clearance is maintained to the existing street tree.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the design approach in the context of the constraints of the site and in relation to the streetscape. Officers explained the assessment in terms of boundary walls and privacy controls and referred to the condition for revised plans addressing these aspects, which the architect has accepted.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, seconded Cr Strzina

That Council GRANT its approval to commence development for the proposed two-storey dwelling at 31 (Lot 89) Eric Street, Cottesloe, in accordance with the plans received on 5 September 2012, subject to the following conditions:

- (i) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.
- (2) The external profile of the development as shown on the approved plans, not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the building permit plans.
- (4) 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.
- (5) 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.
- (6) The finish and colour of the boundary wall facing the southern neighbour shall be to the satisfaction of the Manager Development Services.
- (7) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer, with the Works Supervisor determining the minimum distance that the crossover shall be located away from the base of the street tree.
- (8) The existing redundant crossover in Eric Street is to be removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (9) Revised plans shall be submitted at building permit stage for approval by the Manager Development Services showing:
 - (a) the height of the boundary wall (bedroom 2) facing the southern neighbour being a maximum of 3.5m and average of 3m above the existing ground level on the boundary, in accordance with the Residential Design Codes;
 - (b) the laundry having a minimum 1.1m setback from the southern boundary, in accordance with the Residential Design Codes;
 - (c) the proposed fencing in the front setback area being modified to comply with the Council's Fencing Local Law. The fencing may be solid to a maximum height of 900mm and any proposed infill panels above shall have an "open aspect" in that the palings shall

be spaced to ensure the width between each paling is at least equal to the width of the paling, with a minimum space of 50mm and a minimum open aspect of 50% of the infill panel, and the piers shall not exceed 2.1m in height from Natural Ground Level; and

- (d) the western end of the two balconies being screened to prevent direct overlooking into the front living areas of the neighbouring dwelling. In this respect, the overall height of the proposed dwelling, including the rooftop balustrade, shall not exceed 7m above the calculated natural ground level measured at the centre of the lot (ie: max. RL: 27.74).

Carried 5/1

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

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

Cr Jeanes raised the matter of roof-top infrastructure to buildings such as air-conditioners, solar panels, etc, which tended to detract from aesthetics, and suggested that they be included in the plans of proposals, for control over their location and treatment. Mr Jackson outlined the general situation in this regard and undertook to provide further advice to Councillors on how the matter could be approached.

Cr Downes raised the matter of a range of indiscriminate or temporary signs, such as at the playing fields, being a visual blight. Mr Jackson advised that while some signage such as for events may be allowed, other unauthorised signs identified from time to time were usually attended to or removed by the Town.

12.1 ELECTED MEMBERS

Nil

12.2 OFFICERS

Nil

13 MEETING CLOSED TO PUBLIC

Nil

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

Nil

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 6:53 pm.

CONFIRMED: PRESIDING MEMBER: _____ DATE: _____