

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 26 OCTOBER 2015

MAT HUMFREY
Chief Executive Officer

22 October 2015

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

The Town of Cottesloe disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during council meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

The Town of Cottesloe wishes to advise that any plans or documents contained within the agenda or minutes may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of council being received.

Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au

DEVELOPMENT SERVICES COMMITTEE

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	3
2	APPOINTMENT OF PRESIDING MEMBER AND DEPUTY PRESIDING MEMBER.....	3
3	DISCLAIMER	3
4	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	4
5	PUBLIC QUESTION TIME	4
	5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	4
	5.2 PUBLIC QUESTIONS	4
6	PUBLIC STATEMENT TIME.....	4
7	ATTENDANCE	4
	7.1 APOLOGIES	4
	7.2 APPROVED LEAVE OF ABSENCE	4
	7.3 APPLICATIONS FOR LEAVE OF ABSENCE	5
8	DECLARATION OF INTERESTS.....	5
9	CONFIRMATION OF MINUTES.....	5
10	PRESENTATIONS	5
	10.1 PETITIONS.....	5
	10.2 PRESENTATIONS	5
	10.3 DEPUTATIONS	5
11	REPORTS	6
	11.1 PLANNING	6
	11.1.1 NO. 1 (LOT 19) ROSSER STREET - FRONT GARAGE WITH DECK, REAR SHED - REVISED PLANS	6
	11.1.2 NO. 17 NAPOLEON STREET - NAPOLEON STREET NEWSAGENCY - OUTDOOR TRADING PERMIT APPLICATION	13
	11.1.3 14 ATHELSTAN ROAD - REQUEST FOR HERITAGE RATE CONCESSION	17

- 11.1.4 LOCAL PLANNING SCHEME NO. 3 - AMENDMENT
NO. 4 - FINALISATION 22
- 11.1.5 ICTC MAINSTREET 2015 CONFERENCE - CR
SALLY PYVIS REPORT 27
- 12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE
HAS BEEN GIVEN 29
- 13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY
DECISION OF MEETING BY:..... 29
 - 13.1 ELECTED MEMBERS..... 29
 - 13.2 OFFICERS 29
- 14 MEETING CLOSED TO PUBLIC 29
 - 14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED 29
 - 14.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY
BE MADE PUBLIC..... 29
- 15 MEETING CLOSURE..... 29

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Manager Development Services announced the meeting opened at 6:00 PM.

2 APPOINTMENT OF PRESIDING MEMBER AND DEPUTY PRESIDING MEMBER

Section 5.12 of the *Local Government Act (1995)* provides that the members of a committee are to elect from amongst themselves a Presiding Member and Deputy Presiding Member.

The election is to be conducted by the CEO or his nominee and nominations for the office are to be given to the CEO in writing.

If a Councillor is nominated by another elected member, the CEO or his nominee cannot accept the nomination unless the nominee has advised the CEO orally or in writing that he or she is willing to be nominated for the office.

If there is more than one nomination, elected members are to vote on the matter by secret ballot as if they were electors voting at a **first past post** voting election. The votes cast are to be counted and the successful candidate determined, as if those votes were cast at an election – provided there is not an equality of votes. If there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and not more than 7 days later, a special meeting of the Council is to be held. Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.

Once nominations have been received and, if required a ballot is taken, the Presiding Member is then declared and the presiding member assumes responsibility for the meeting, including the nomination and election of the Deputy Presiding Member using the same approach as described above.

The CEO's representative, Mr Andrew Jackson, Manager Development Services, called for nominations for Presiding Member. Mayor Dawkins nominated Cr Downes, who accepted the nomination. Cr Birnbrauer nominated Cr Boulter, who accepted the nomination. Mr Jackson conducted a secret ballot and announced the voting in favour of Cr Downes.

The Presiding Member then called for nominations for Deputy Presiding Member. Cr Angers nominated Mayor Dawkins, who accepted the nomination. Cr Birnbrauer nominated Cr Boulter, who accepted the nomination. The Presiding Member requested that Mr Jackson conduct a secret ballot. He announced the voting in favour of Mayor Dawkins.

3 DISCLAIMER

The Presiding Member drew attention to the Town's disclaimer.

4 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

5 PUBLIC QUESTION TIME**5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

5.2 PUBLIC QUESTIONS

Nil.

6 PUBLIC STATEMENT TIME

Nil.

7 ATTENDANCE**Present**

Cr Katrina Downes	Presiding Member
Mayor Jo Dawkins	
Cr Philip Angers	
Cr Helen Burke	
Cr Jay Birnbrauer	
Cr Rob Thomas	
Cr Mark Rodda	

Officers Present

Mr Andrew Jackson	Manager Development Services
Mr Ronald Boswell	Planning Officer
Mrs Liz Yates	Development Services Administration Officer

7.1 APOLOGIES

Cr Sandra Boulter

Officer Apologies

Mr Mat Humfrey	Chief Executive Officer
Mr Ed Drewett	Senior Planning Officer

7.2 APPROVED LEAVE OF ABSENCE

Nil.

7.3 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Angers, seconded Cr Downes

That Cr Angers' request for leave of absence from the 16 November 2015 Development Services Committee meeting be granted.

Carried 7/0

8 DECLARATION OF INTERESTS

Nil.

9 CONFIRMATION OF MINUTES

Moved Mayor Dawkins, seconded Cr Burke

[Minutes September 21 2015 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee held on 21 September 2015 be confirmed.

Carried 7/0

10 PRESENTATIONS**10.1 PETITIONS**

Nil.

10.2 PRESENTATIONS

Nil.

10.3 DEPUTATIONS

Nil.

Note: The Presiding Member determined to consider item 11.1.2 (Napoleon Street Newsagency – Outdoor Trading Permit Application) firstly, and then return to the published order of the agenda.

11 REPORTS

11.1 PLANNING

11.1.1 NO. 1 (LOT 19) ROSSER STREET - FRONT GARAGE WITH DECK, REAR SHED - REVISED PLANS

File Ref:	3115
Attachments:	1 Rosser Aerial Image Revised Applicant Submission Revised Plans August Attachments
Responsible Officer:	Andrew Jackson Manager Development Services
Author:	Andrew Jackson Manager Development Services Ronald Boswell Planning Officer
Proposed Meeting Date:	26 October 2015
Author Disclosure of Interest:	Nil
Property Owner:	GL & FM Holman
Applicant:	Scanlan Architects
Date of Application:	2 February 2015
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Lot Area:	886m²
M.R.S. Reservation:	Not applicable

SUMMARY

Council first considered this proposal on 24 August 2015 and resolved to:

... defer determination of the development application for a front garage with rooftop deck and a rear shed at No. 1 (Lot 19) Rosser Street, Cottesloe, based on the plans received on 2 February, 5 June and 7 July 2015, to enable the applicant to liaise with the Town towards a more acceptable design solution taking into account relevant planning considerations as outlined in this report.

Whilst acknowledging the objective to provide covered parking on site, Council considered that the proposal required revision for a better outcome. Officers have since liaised with the architect to review the matter and this report presents the revised proposal received for determination.

STRATEGIC IMPLICATIONS

Relate to satisfying the requirements of the Scheme and Residential Design Codes (RDC) in a credible and consistent manner.

POLICY IMPLICATIONS

N/A.

STATUTORY ENVIRONMENT

LPS3 & RDC.

SCHEME FRAMEWORK

The proposal is required to be considered within the following framework.

The relevant aim of the Scheme is to: *sustain the amenity, character and streetscape quality of the Scheme area.*

The relevant objective of the Residential zone is to: *encourage residential development only which is compatible with the scale and amenity of the locality.*

Under LPS3 the relevant matters deemed that Council shall have due regard to include:

- *the aims and provisions of this Scheme ...;*
- *the requirements of orderly and proper planning ...;*
- *any approved State planning policy [ie the RDC];*
- *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- *the amenity of the locality including the ... the character of the locality;*
- *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- *the adequacy of:*
 - *the proposed means of access to and egress from the site; and*
 - *arrangements for the ... manoeuvring and parking of vehicles;*
- *the history of the site where the development is to be located;*
- *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- *any submissions received on the application; and*
- *any other planning consideration the local government considers appropriate.*

PREVIOUS AND REVISED PROPOSAL

The previous and revised plans are attached and the table below summarises the nature and degree of changes made.

Previous plans	Revised plans
Solid wall front setback 1.04m.	Unchanged.
Deck front setback 1.04m.	Increased by 0.47m to 1.51m.
Balustrade front setback 1.04m.	Increased by 1.96m to 3m.
Height to top of deck 2.71m.	Unchanged.
Height to top of balustrade 3.82m.	Unchanged.
Deck semi-enclosed by solid wall.	Deck with open balustrade.

Planters at front of garage	Unchanged.
Planter above deck floor level.	Planter below balustrade.
Planters on western elevation.	Unchanged.
Arbor extending to western boundary.	Unchanged.
Garage door.	No garage door (open-aspect).

As can be seen, the revised plans are conceptually the same with only relatively minor changes, whereby the layout, appearance, bulk and scale of the proposal have not been significantly altered to have a substantially lesser effect.

APPLICANT'S RATIONALE

The applicant has commented that there are numerous examples of garages built within nil to 1.5m setbacks from the front boundary and that the proposal has been improved by:

- Removing the planters from the northern edge of the garage roof.
- Reducing the height of the limestone planter box at the front of the garage.
- Setting back the deck balustrade 3m from the front boundary.
- Removing the steel gates (ie garage door) to increase the openness of the structure.
- Incorporating structural methodology for the roof and pergola to achieve visual outcomes that will minimise the perceived bulk and scale.
- Improving the safety of vehicular access.
- Designing to complement the topography of the land and architecture of the dwelling.
- Minimising impact on neighbour site-lines and amenity.

This describes the refinements made to the same basic design but does not respond to the planning concerns and considerations required to be addressed.

PLANNING ASSESSMENT

Front garage with rooftop deck

A double garage with rooftop deck is proposed to occupy the front setback area. Its location and design has undergone little change in the revised plans. The garage retains its parallel position to the street, with a tight turning circle. The rooftop deck is an unusual addition to a front garage. Planning principles prefer sensitively-located and lightweight-looking open-aspect structures affecting front setback areas, rather than introducing excessive bulk and scale to sites and streetscapes.

The revised proposal still does not satisfy the deemed-to-comply requirements of the RDC, as it is located within the primary street setback area and with only a 1m setback.

Therefore, to support such a development within a primary street setback Council needs to be satisfied that the proposal meets the design principles of the RDC, which state:

Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to, and are consistent with, an established streetscape;*

- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

Buildings mass and form that:

- *uses design features to affect the size and scale of the building;*
- *uses appropriate minor projections that do not detract from the character of the streetscape;*
- *minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and*
- *positively contributes to the prevailing development context and streetscape.*

In this respect the relevant explanatory guidelines of the RDC state:

Other than carports and garages (subject to clause 5.2.1) of the R-Codes, no substantial structures are allowed in street setback areas. Structures that may be allowed are:

- *low fences or walls, which are the subject of separate considerations;*
- *landscape or sculptural structures, ornamental features designed to enhance the relationship between street and dwelling; and*
- *appropriately-scaled archways or gateways, provided they are in character with the streetscape.*

The revised proposal still does not satisfy the design principles of the RDC in terms of setbacks and building mass and form. Further, the rooftop deck does not qualify as a permitted additional structure. The revised design does not contribute positively to the streetscape.

In terms of privacy, the rooftop deck causes elevated overlooking of the street and of adjacent properties (front of eastern property and rear of the western adjacent property) from the front setback area in an unusual manner.

The previous report elaborated on the planning implications of the design of the proposed garage and rooftop deck as a major structure in the front setback area, as reiterated below. The revised plans do not overcome the issues and impacts identified.

In detail, the difficulty with the proposed garage and rooftop deck is not only its forward position occupying the front setback area that would otherwise be open space visually and physically, but also that the nature and extent of the design is excessive.

The combination of the transverse garage presenting a blank wall, its continuation with the wide gates, the supporting beam structure and the deck balustrade and planter boxes, constitutes a substantial building inserted between the dwelling and the street, being over 11m wide (more than half the width of the frontage), over 3.8m

high, setback only 1m from the street boundary, and having a footprint of some 75sqm (the equivalent of ancillary accommodation).

This has the effect of a wide, high solid front wall, and substantially restricts the view into and out of the property. In comparison, a typical double carport or garage facing the street and with no or open-aspect gates is visually permeable, only 6-7m wide and located to one side of the lot; overall having less area (eg 35-40sqm), bulk and scale or visual impact.

The applicant has submitted examples of other forward-type developments in the street and elsewhere, which are not considered directly comparable. Whilst there are other less-than-desirable results, as then approved, the two new dwellings to the east are integrated designs, while the older flats dwelling to the west has its row of garages in line with the side street setback of the main building.

The subject dwelling is quite a grand character building with generous proportions in a prominent position, and already has built-up limestone walls occupying the front setback area. The proposal would add to this bulk and scale and detract from the streetscape by further compromising the degree to which the front setback area is open-aspect.

The proposed rooftop deck is also problematic in terms of overlooking and sense of privacy. Its use as private open space so close to the street in an elevated position is unlikely to be comfortable for either the occupants or neighbours. Neither is it necessary as a viewing platform to the ocean, as the dwelling already enjoys excellent views.

As a viable alternative, the raised nature of the dwelling with undercroft garage and high foundations favours a slimline, open-aspect carport nestled in the north-western portion of the front setback area. Such a design solution would read as logical, subtle and sensitive, being far less intrusive and allowing the dwelling attractive and functional on-site covered parking without detracting from the dwelling, its setting and the streetscape.

The proposed garage and rooftop deck in the front setback is not recommended for approval. A light-weight carport structure (ie flat or skillion-roofed design) may be a suitable alternative to provide adequate protection for vehicles whilst not detracting from the character of the dwelling or impacting detrimentally on the streetscape.

Rear shed

The proposed shed at the rear of the dwelling on the south-western side of the lot complies with LPS3 and satisfies the RDC design principles for the additional boundary walls. The shed would not be seen from the street and the neighbours have not objected to the boundary walls. Council can support this structure.

CONCLUSION

Deferral of the application for design revision has not resulted in a proposal capable of support when assessed against the framework of the Scheme and the RDC. It is apparent that there have been a few refinements, rather than the radical redesign

necessary to ensure a smaller, simpler, streamlined and subtler structure sitting softly in the landscape of front setback area.

Therefore, refusal of the proposal is appropriate, due to the considerations articulated in the previous and current report, which are encapsulated in the reasons contained in the recommendation.

COMMITTEE COMMENT

Committee supported the proposed rear shed. Committee discussed the issues associated with the proposed front garage and rooftop deck and supported the recommended refusal.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Note: The Presiding Member determined to consider the two points of the Officer Recommendation separately.

Moved Cr Downes, seconded Cr Angers

THAT Council:

- 1. GRANT planning approval for the proposed rear shed at No. 1 (Lot 19) Rosser Street, Cottesloe, as shown in the revised plans received on 29 September 2015, subject to the following conditions and advice notes:**

Conditions:

- a. 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 the Town.**
- b. The finish and colour of the boundary walls facing southern and western adjacent properties shall be to the satisfaction of the Town.**
- c. The roof surface shall be treated to reduce glare if following completion of the development the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours.**
- d. Where climatic and soil conditions allow for the effective retention of stormwater on-site, all water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site.**
- e. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.**

Advice notes:

- a. 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.
- b. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

Carried 7/0

Moved Cr Downes, seconded Cr Burke

THAT Council:

2. REFUSE planning approval for the proposed front garage with rooftop deck at No. 1 (Lot 19) Rosser Street, Cottesloe, based on the revised plans received on 29 September 2015, for the following reasons:
 - a. The proposal is contrary to the orderly and proper planning and the protection of the amenity of the locality.
 - b. The proposal does not satisfy the aims of the Scheme, the objectives of the Residential Zone and the development requirements of the Scheme including the Residential Design Codes.
 - c. Following Council's decision to defer determination of the application the revised plans submitted inadequately address the issues generated by the proposal and identified in the reports as necessary to be taken into account for an acceptable design solution.
 - d. Approval to the proposal would set an undesirable precedent for similar proposals in front setback areas which would individually and cumulatively adversely affect the properties, streets and localities in the district.

Carried 7/0

**11.1.2 NO. 17 NAPOLEON STREET - NAPOLEON STREET NEWSAGENCY -
OUTDOOR TRADING PERMIT APPLICATION**

File Ref: D31.2010.72
Attachments: [17 Napoleon St Aerial](#)
[17 Napoleon St Applicant Submission](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 26 October 2015
Author Disclosure of Interest: Nil

SUMMARY

This report presents an application from Napoleon Street Newsagency for a trader's permit to recommence footpath trading in a modified form. The recommendation is to conditionally support the proposal.

BACKGROUND

Council's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* in Part 5 governs permits for outdoor trading. Businesses can apply to use defined areas adjacent to their premises to display goods, at a periodic fee (typically annually) and subject to any conditions.

Such trading is fairly common but needs to be managed for convenience, safety and amenity. Traditionally it has occurred in the Cottesloe Town Centre on a limited basis. Council's recent improvements to Napoleon Street and current study of Station Street for similar works have been an impetus to consider these trading practices.

Over the years Napoleon Street Newsagency has conducted the most conspicuous and extensive trading on the footpath, tending to exceed the defined area(s) and causing physical and visual clutter, including affecting the new infrastructure installed. The previous annual permit has expired and the Town saw the need to review this trading. The Town wrote to the proprietor to cease the trading and remove the goods/furniture from the footpath. This has not been complied with and trading stands are still being placed outside, albeit immediately against the shopfront.

The proprietor has subsequently reapplied for a trading permit, for reduced areas, details attached. The application contains supporting comments and a petition signed by customers indicating support. Council is required to consider and determine the application.

Other approved trading in the street is limited to two clothing shops that place a rack outside their shopfronts. Occasionally some other shops indiscriminately place a rack or stand outside their shopfronts, such as at sale times.

Shops in Station Street in the two U-shaped buildings also feature some outdoor trading in the colonnades, but this is on private property and is not regulated.

LOCAL LAW

The Local Law requires such trading to have a permit and a permit may be refused, including due to a breach of the Local Law or other considerations, having regard to:

- any relevant policies of the local government;
- the desirability of the proposed activity;
- the location of the proposed activity;
- the principles set out in the Competition Principles Agreement; and
- such other matters as the local government may consider to be relevant in the circumstances of the case.

Permit conditions may address aspects including:

- the designated area, days and hours;
- the amount and type of furniture and its maintenance;
- the goods;
- restrictions on associated signs;
- public risk insurance; and
- the permit period.

Amongst other requirements a trader shall display the permit and shall not:

- place a box or basket containing goods on a thoroughfare so as to obstruct the movement of pedestrians or vehicles; or
- exceed the dimensions of the temporary structure / trading area specified in the permit.

The Town can vary or cancel a permit as well as enforce compliance with a permit by way of notices, removal and penalties for offences.

Currently fees per annum (or pro-rata thereof) are \$900 for up to 10sqm and an additional \$150/sqm above 10sqm.

STRATEGIC IMPLICATIONS

Outdoor trading can influence a street positively and negatively.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

FINANCIAL IMPLICATIONS

Revenue derived from trading permit fees.

STAFFING IMPLICATIONS

Staff administer and monitor outdoor trading.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Directly with proprietors applicants.

ASSESSMENT

The Local Law exists for good reason to provide for outdoor trading whilst regulating its operation, to ensure practical arrangements that avoid undue impacts. Like alfresco facilities, the furniture used needs to be kept within the approved areas.

Napoleon Street as a thoroughfare is characterised predominantly by parking, footpaths featuring alfresco facilities (which are increasing) and public domain infrastructure (trees, seats, bins, bike racks, etc). The streetscape improvements have streamlined and unified the built environment and enhanced the experience of the street.

Ease of pedestrian movement is important to the function of the street given the mix with vehicles and the activity generated by the many businesses premises. Outdoor trading has a place in the street provided it contributes to rather than diminishes the atmosphere of the street and operation of the footpaths.

The applicant's submission refers to a history of the Newsagency trading on the footpath, apparently without any direct complaint. In response to the Town's letter the proposal is to confine the outdoor trading to against the shopfront (ie no longer also on the kerb side of the footpath), which the proprietor states will be practical, aesthetic and less of an obstruction.

The submission also claims that outdoor trading is a valuable source of income for the business. The accompanying petition is cited as demonstrating a demand and support for outdoor trading by the newsagency and generally. The comments range from frivolous to encouraging shopping variety and street vibrancy that fosters business.

The proposal as shown on the plan is for two trading areas totalling 5.4sqm. The smaller area has a clearance of approximately 1.5m from the Dome café alfresco area, while the larger area has a clearance of 2.5m to a bench seat and bin. Ideally passage widths of 1.8-2m are required; however, the newsagency and café are a focal point of activity where a degree of congestion may be tolerated.

CONCLUSION

A permit is required for outdoor trading and the application seeks renewal yet for a reduced area, which will better suit the streetscape improvements and protect the integrity of the footpath thoroughfare.

COMMITTEE COMMENT

Committee clarified the area proposed and that there would be public liability insurance, also noting that the amenity of the street is important. The Manager Development Services advised that Cr Boulter had queried consultation, and while that was not required by the Local Law, he undertook to liaise with the next door businesses and Procott for Council's consideration.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Downes

THAT Council:

- 1. Note this officer report and the outdoor trading permit application by Napoleon Street Newsagency with supporting submission and petition.**
- 2. Approve of the permit application and request staff to issue the permit documentation with appropriate standard conditions.**

Carried 7/0

11.1.3 14 ATHELSTAN ROAD - REQUEST FOR HERITAGE RATE CONCESSION

File Ref: SUB/343
Attachments: [14 Athelstan Aerial Applicant Submission and City of Perth Policy](#)
[City of Swan Policy](#)

Responsible Officer: Mat Humfrey
Chief Executive Officer

Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 26 October 2015

Author Disclosure of Interest: Nil

SUMMARY

This report presents a request for reduced municipal rates for a particular property due to it being heritage-classified – submission attached. The report addresses the wider context of heritage incentives and rate concessions in advising upon a course of action for Council to consider generally.

BACKGROUND

Financial ways to foster heritage protection are known to have positive results. Examples such as grants, low-interest loans and rates relief, as may be operated by the various levels of governments and institutions involved are most common. Local government rate concessions are amongst these, at the discretion of each council.

At this stage the Town does not have a specific policy or other mechanism in this respect.

Local Planning Scheme No. 3 (LPS3) in Part 7 Heritage Protection, under Heritage Incentives, provides:

In applying the provisions of the Scheme to the operation of the heritage list, including any related Local Planning Policy, the local government shall give consideration to incentives for heritage conservation.

Hence Council may consider introducing a Scheme Policy for heritage incentives, such as rates relief, if it sees fit. In this regard, during the Scheme Review Council received several papers on heritage matters, including:

Draft Heritage Strategy – reported in 2001, this identified financial incentives as part of an overall approach to heritage.

Local Government Heritage Working Party Findings Regarding Local Heritage Protection System for WA – reported in 2005, this broadly scoped desirable heritage measures, including a range of financial incentives.

WESROC Heritage Study 2002 – this report discussed a variety of financial and non-financial heritage incentives and recommended that councils consider the full range available as applicable to their area.

Town of Cottesloe Heritage Incentives Report 2005 – this report focused on local government planning incentives and the degree to which they may be beneficial, including financial measures.

Indicative Heritage Development Control and Incentives Policy – in 2007 this was workshopped with Council in considering Scheme provisions and policies and included financial incentives.

These reports provide a framework for considering heritage incentives. Additional information about heritage incentives and rate concessions is available from other local governments and the Heritage Council of WA.

STRATEGIC IMPLICATIONS

- Heritage promotion and preservation of heritage places.
- Retention of streetscape character.

POLICY IMPLICATIONS

Possible new policy.

STATUTORY ENVIRONMENT

- Local Government Act 1995
- Rates and Charges (Rebates and Deferments) Act 1992
- Planning & Development Act 2005
- Heritage of WA Act 1990
- LPS3

FINANCIAL IMPLICATIONS

Reduced rates income.

STAFFING IMPLICATIONS

Managed by existing resources.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Any proposed policy or LPS3 provisions would entail public advertising and consideration of submissions.

STAFF COMMENT

Power to vary rates

As outlined, the planning and heritage legislation as well as LPS3 provide for heritage incentives. In addition, the Local Government Act enables rate concessions as follows:

6.47. Concessions

Subject to the *Rates and Charges (Rebates and Deferrals) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

** Absolute majority required.*

Rate variations would usually be determined as part of the annual budget process.

Benefits and costs

Rate concessions for heritage properties would have the benefit of fostering conservation via an incentive rather than a restriction. The annual saving to an owner may not be that significant in itself, depending on the quantum of the concession, but would be a gesture in acknowledgement and a tangible reward that is cumulative over time, offsetting the costs of maintenance or restoration works to the heritage property.

LPS3 refers to the Heritage List of higher-order places as the focus for a Scheme Policy, although that does prevent encompassing the Municipal Inventory (MI) of all places in applying heritage incentives.

Currently the Heritage List contains 71 places, representing a greater number of ownerships, as some places are multi-units. In comparison, the MI contains 411 places, representing an even larger number of ownerships. Nine civic or institutional heritage places are not rated.

The more heritage properties that receive rate concessions the greater the spread of that incentive. By the same token, the more properties that receive concessions the greater the reduction in rate revenue is. Applying concessions to fewer properties would allow a greater proportional waiver which may be of more benefit to higher-order places, whereas applying concessions to all properties may result in concessions of limited amount. At this stage these financial scenarios have not been calculated for Cottesloe.

Administration of heritage rate concessions would be an additional resource demand on the Town.

Specific request

The Flour Mill Apartments at 14 Athelstan Road are included on the State Heritage Register and the Town's Heritage List.

The submission mentions that the Cities of Perth and Swan operate heritage rate concessions and attaches the Perth policy. The submission emphasises the maintenance needs and costs of the Flour Mill Apartments and the impact of the

coastal climate on heritage fabric. It seeks a similar policy for Cottesloe, but does not venture any details.

The strata owners of this property are currently undertaking major maintenance/conservation works to the exterior fabric of the building, at cost of approximately \$240,000.

Other local governments

Review of several other metropolitan and country local governments with a substantial number of heritage places, including western suburbs councils, has found only one more, the City of Bunbury, offering heritage rate concessions, on a limited basis. However, as an alternative financial incentive, some councils offer funding assistance for heritage maintenance or conservation works.

The Perth and Swan policies are based on a range of common principles:

- Policy objectives and duration.
- Annual budget setting of concession by Council.
- Percentage amount (eg: Perth 10%; Swan 50%) and any dollar value limit.
- Eligibility / ineligibility of properties.
- Imperative to maintain properties.
- Prerequisites of building insurance and pest control.
- Timely payment of rates, with no debt.
- Combination with other rate concessions.
- Coordination with heritage agreements.
- Ability of local government to cancel.

These and any other relevant aspects discerned would be addressed in a proposed rate concession policy for the Town.

CONCLUSION

Heritage rate concessions can be a worthwhile incentive for owners in achieving the conservation of places, which in turn protects property values. Owners of larger, older and more complex heritage properties would especially be encouraged to spend on maintenance and restoration rather than allow them to deteriorate.

The cost of lost rate revenue for a council is regained by the community through the maintenance and conservation of heritage stock, resulting in benefits to heritage per se, streetscape character, the quality and amenity of the built environment and tourism.

For maximum benefits and equity, heritage rate concessions should be devised and applied on a collective rather than individual property basis – it would be premature to apply a concession to the property the subject of the submission at this stage.

There is scope to consider a heritage rate concession policy for Cottesloe. Subject to research, drafting consultation and adoption, it could be introduced as part of the next budget.

COMMITTEE COMMENT

Committee expressed support for a proposed policy to be prepared for Council's consideration.

VOTING

Simple Majority (Absolute Majority required at time of setting rate concession).

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Angers

THAT Council:

1. **Requests staff to undertake further research and report back on the feasibility of a policy, with a draft policy for consideration.**
2. **Request that staff advise the submitter in writing of this report and Council's resolution.**

Carried 7/0

11.1.4 LOCAL PLANNING SCHEME NO. 3 - AMENDMENT NO. 4 - FINALISATION

File Ref: SUB/2035
Attachments: [Amendment No 4 Documentation](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 26 October 2015
Author Disclosure of Interest: Nil

SUMMARY

On 27 July 2015 Council received a report on this proposed Scheme Amendment and resolved to adopt the Amendment for the purpose of advertising and to undertake the statutory procedures accordingly.

Advertising has been completed and no submissions were received. Council is now required to make a recommendation to the Western Australian Planning Commission (WAPC) on the outcome of the Amendment, which this report addresses.

BACKGROUND

Roof terraces have existed as a building design technique around the world for centuries, in response to topography, use of space, enjoyment of climate and views, site characteristics, built form and construction methods, and sustainability practices. In today's urban areas they are a trend influenced by competition for space and modern lifestyles – beyond being seen as a luxury they constitute logical, intelligent use of otherwise wasted space for these benefits.

Roof terraces occur in single, grouped and multiple dwellings, mixed-use buildings, and in tourism, commercial, institutional and civic developments. In non-residential buildings such as offices, hotels or educational establishments, roof terraces can create readily-accessible open space and amenity for the occupants that may not be available at ground level. Design-wise, roof terraces can be located atop a building or, where a building is stepped, atop a storey with the next storey opening onto it (ie as a large terrace or balcony).

In Cottesloe roof terraces may apply to residential, commercial centre and beachfront localities, having regard to topography, views, climate and built form (ie lot size, height and density of development). Over the years a number of roof terraces have been proposed and approved in various buildings and positions, although statistically they amount to only a handful a year. Council has considered them on merit, taking into account the planning implications and any submissions. Where within height limits and overlooking is controlled by setbacks or privacy screens, they have been supported, and few have proceeded to appeal.

LPS3 currently

LPS3 itself does not define or address roof terraces, so is silent on the matter in relation to any zone or type of development. It neither provides for and guides roof terraces nor restricts or prohibits them.

LPS3 does, however, take into account the Scheme aims, orderly and proper planning, amenity, compatibility of development, submissions, built form, scale and appearance, and views. It also requires that applications should address the nature and extent of any open space and landscaping proposed for a site. These parameters are reference points in considering roof terraces.

Residential Design Codes

The Residential Design Codes (RDC) are a State Planning Policy incorporated into local planning schemes by reference, and deal with residential development only. In relation to the RDC, LPS3 clause 5.3 *Special application of Residential Design Codes* provides for variations to the RDC for particular aspects, some being already contained in the Scheme.

Further variations may be made via a Scheme amendment, which would be required in order to alter how roof terraces are dealt with for residential development in Cottesloe. The proposal would require a sound basis on planning grounds for support by the community, Western Australian Planning Commission (WAPC) and Minister for Planning.

The RDC define *open space* as including *open areas of accessible and useable flat roofs*. The RDC Explanatory Guidelines in section 4.3 refer to roof decks as countable open space (subject to visual privacy controls); and state that *the RDC should not unduly constrain how open space is provided and that adequate open space should, however, be retained for the lifecycle of the dwelling*.

The RDC in Part 5 set out design elements for single, grouped and multiple dwellings with less than R30 density coding. The context identifies open space as important to managing amenity, built form, landscaping and streetscape. Sections 5.1.4 and 5.1.5 specify open space provision as either deemed-to-comply or as assessed under design principles (ie performance-based assessment criteria), whereby there is discretion to reduce open space. For R20 and R30 areas as in Cottesloe, for single or grouped dwellings the deemed minimum open space amount is 50% of the site area, with a minimum outdoor living area of 30sqm.

Interpretation of the RDC has been found to allow uncovered outdoor living areas that are more than 0.5m above natural ground level (eg a raised alfresco terrace or large entertainment balcony) to be allocated towards the provision of open space, thereby reducing ground level open space.

The RDC also define communal open space as shared recreational open space for the occupants of a group of dwellings. In Part 5 the deemed-to-comply standard permits common property communal open space for grouped dwellings to be partially credited towards open space provision, within defined limits – being a maximum 20%

reduction per dwelling, the total reduction not exceeding the area of communal open space, and no reduction of the outdoor living area for each dwellings.

The RDC in Part 6 set out design elements for multiple dwellings in areas of R30 or greater density coding, or in mixed-use developments or activity centres. Deemed-to-comply open space provision is specified, or it may be assessed under design principles. For R30 to R60 density-coded areas, as in Cottesloe, for multiple dwellings, the deemed minimum open space amount is 45% of the site area.

For R100 areas (eg Cottesloe Town Centre) open space provision is guided by area plans or similar mechanisms such as design guidelines, where applicable. For multiple dwellings in R100 areas, the RDC do not specify a deemed-to-comply percentage for open space and rely on a local structure plan or local development plan which contains development requirements – note: alternatively, a policy or design guidelines may address this. The intent is that the provision of open space (or not) responds to the needs of the occupants, the features of the site and is consistent with surrounding development and the desired future character of a locality (ie as governed by the density coding).

Non-residential development

Under LPS3, non-residential development, whether in a mixed residential/non-residential building or a purely non-residential building, there is no express open space requirement. In accordance with the various zones, commercial etc development does, however, have to satisfy plot ratio and maximum site cover requirements, as specified in Table 2, which may refer to design guidelines for certain areas. This applies to the Residential/Office, Town Centre, Local Centre, Foreshore Centre, Restricted Foreshore Centre, Hotel and Development zones.

If a roof terrace is proposed as amenity space for occupants of a non-residential building, the question becomes whether it should be included as plot ratio (ie habitable floor space), thereby influencing the size of the building and possibly the parking requirement. However, because such roof terraces are ancillary to the purpose of the building and do not increase its footprint, and are used by the occupants (eg office staff, patrons of hotel rooms), this is not considered to need any particular control in LPS3 in connection with the open space concern related to residential development. Also, potential amenity impacts associated with roof terraces are of less concern in non-residential areas, where there is greater activity in any case.

STRATEGIC IMPLICATIONS

A specific provision in this respect would avoid appeals against the Town not accepting roof terraces as open space.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

- Planning & Development Act.
- Planning & Development (Local Planning Scheme) Regulations 2015

- LPS3

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Following environmental clearance and notifying the WAPC as required, the Amendment was advertised for public comment for a period of 42 days by:

- Placing a copy of the notice in the *Post* newspaper, on the Town's noticeboard/s and website, and at the Library; and
- Placing a copy of the proposed amendment on display at the Town's office, on the Town's website and at the Library.

PROCEDURE

The new Planning and Development (Local Planning Scheme) Regulations 2015 apply. This prior-commenced Scheme Amendment may continue, but is required to be completed in accordance with the new Regulations. In this respect the Amendment is assessed to be a "standard" type amendment (rather than "basic" or "complex") which was advertised, and the remaining steps are:

- Council resolves whether to support the Amendment, with any modification, and if so submits the documentation to the WAPC.
- The WAPC assesses the proposal and provides its recommendation to the Minister for Planning.
- The Minister determines the outcome, ie to approve, modify, further advertise or refuse the proposal.
- If approved, the Amendment documents are endorsed by Council, the WAPC and Minister then published in the *Gazette* and local newspaper, whence it becomes effective.

CONCLUSION

The Amendment is in order for approval, which will facilitate proposals being formulated consistent with the Scheme and able to be considered by Council.

COMMITTEE COMMENT

The Manager Development Services advised that Cr Boulter had commented that the Amendment could perhaps be better drafted, and he undertook to clarify this for Council's consideration.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION**Moved Cr Angers, seconded Cr Downes****THAT Council:**

1. In pursuance of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3, to exclude roof terraces or the like from being counted as open space in developments, by amending the Scheme Text as follows:

In clause 5.3 *Special application of Residential Design Codes*, adding a new sub-clause entitled 5.3.7 *Roof terraces*, stating:

The provisions of the Residential Design Codes allowing roof terraces (ie including roof gardens, roof pools, viewing platforms or other roof-top recreational use and development) to the roof of the top storey, to be included towards the provision of open space, for the purposes of the Scheme are excluded from being counted towards the provision of open space.

2. Supports the Amendment, without modification.
3. Forwards the required documentation in relation to the proposed Amendment to the Western Australian Planning Commission for presentation to the Minister for Planning for determination.
 - a. Assuming approval, authorises the Mayor and Chief Executive Officer to endorse and return the Amendment documents for endorsement by the Commission and Minister then publication in the *Gazette* and a local newspaper.

Carried 7/0

11.1.5 ICTC MAINSTREET 2015 CONFERENCE - CR SALLY PYVIS REPORT

File Ref: SUB/1250
Attachments: [Report by Cr Pyvis](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 26 October 2015
Author Disclosure of Interest: Nil

SUMMARY

On 25 May 2015 Council resolved to:

APPROVE the attendance of Councillor Pyvis at the ICTC Conference Mainstreet 2015 in Wollongong on 22 July 2015, and request a report on the conference to be provided within two months of attending the event.

Cr Pyvis has since provided her report, attached, which this report now conveys to Council for noting.

BACKGROUND

Urban planning is a wide field and the dimensions of mainstreet and place-making are established approaches to achieving good outcomes.

The International Cities and Town Centres Mainstreet Conference this year in Wollongong was an excellent opportunity for elected member exposure to the latest thinking and practices.

STRATEGIC IMPLICATIONS

Acquisition of knowledge and ideas which may be useful to Cottesloe.

POLICY IMPLICATIONS

Responds to Conferences, Seminars and Training Policy.

STATUTORY ENVIRONMENT

Relates to town planning sphere.

FINANCIAL IMPLICATIONS

Conference cost and benefit.

SUSTAINABILITY IMPLICATIONS

Connects with sustainability framework.

STAFF COMMENT

Cr Pyvis' report summarises some of the sophisticated philosophies and diverse methods being utilised in today's world to create great mainstreets and places.

In this regard several themes persist as fundamental truisms, including putting people first, reclaiming streets as social spaces, creativity versus sterility and democratic processes. Such principles and practices are universally relevant and imperative to be translated into local area planning.

Mainstreets and place-making are very topical to Cottesloe in addressing our activity nodes such as the Town Centre and beachfront, whereby the conference report provides valuable insights into successful approaches.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Downes, seconded Cr Angers

THAT Council receive Cr Pyvis' report on the ICTC Conference Mainstreet 2015 and thank her for her participation and feedback.

Carried 7/0

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

Nil.

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

13.1 ELECTED MEMBERS

Nil.

13.2 OFFICERS

Nil.

14 MEETING CLOSED TO PUBLIC

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

14.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

Nil.

15 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:02 PM.

CONFIRMED MINUTES OF 26 October 2015 PAGES 1 – 29 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: / /