

# TOWN OF COTTESLOE



## DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
6.00 PM, MONDAY, 19 JULY 2010

**CARL ASKEW**  
Chief Executive Officer

21 July 2010



## DEVELOPMENT SERVICES COMMITTEE

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

The Presiding Officer announced the meeting opened at 6:04pm.

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

Present Cr Jack Walsh	Presiding Member
Cr Jo Dawkins	
Cr Ian Woodhill	
Cr Jay Birnbrauer	
Cr Victor Strzina	(from 6:15)
Cr Patricia Carmichael	
Cr Davina Goldthorpe	
Cr Greg Boland	(observer)
Cr Rob Rowell	(observer)

**Officers Present**

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

**Apologies**

Nil

**Officer Apologies**

Nil

**Leave of Absence (previously approved)**

Nil

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 PUBLIC STATEMENT TIME**

Fiona Pinardi re item 10.1.1 – 68 Railway St

Ms Pinardi explained how the interface of the proposed side driveway and rear parking area would impact on the amenity of her adjacent home and

emphasised that the proposal was not suitable for an established residential area.

John Salmon re item 10.1.1 – 68 Railway St

Dr Salmon (the applicant) described that he has a specialised, low-key practice. There would be some 5-10 traffic movements a day and patients would be given instructions about parking. He also highlighted that he serves the local community, which should be taken into account, and that other local doctors have supported his proposal.

Stephen Dew re item 10.1.1 – 68 Railway St

Mr Dew questioned the likely traffic patterns associated with the proposal and felt that there would be increased conflicts. He also thought that the internal space allocations indicated a potentially larger practice could occur.

Jenny Bosich re item 10.1.1 – 68 Railway St

Ms Bosich commented that the changing information about the proposal was confusing whereby it could not be relied upon and that setting an undesirable precedent should be avoided. She also noted that the plans do not show a kitchen or bathroom, which is at odds with the applicant's suggestion that the premises could be readily converted back to a dwelling in future.

Bruce Gregory re item 10.1.1 – 68 Railway St

Mr Gregory echoed the concerns voiced by other neighbours and pointed-out they had all settled into this residential locality with the expectation of that amenity and value being preserved. He also referred to traffic issues inherent in the proposal.

Lisa Corser re item 10.1.5 – 2A Reginald St

Ms Corser briefly described the small lot and home designed to suit it and looked forward to support for the proposal.

Meagan White re item 10.1.4 – 217 Marmion St

Ms White referred to the topographical constraint affecting the proposed rear extension and noted that the design was nonetheless considerate to neighbouring properties, while the traditional front streetscape was maintained.

Rob Rowell re item 10.1.2 – 1 Station St

Cr Rowell advocated that new developments in the Town Centre be levied cash in lieu at commercial rates to help fund supplementary public parking such as the Council sites. He urged that the standard cost per bay should not be set too low and should be more in line with other councils.

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Strzina, seconded Cr Woodhill

[Minutes June 21 2010 Development Services Committee.doc](#)

**The Minutes of the Ordinary meeting of the Development Services Committee, held on 21 June 2010 be confirmed.**

Carried 7/0

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**10 REPORTS OF COMMITTEES AND OFFICERS**

**10.1 PLANNING**

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**10.1.1 NO. 68 RAILWAY STREET – CHANGE OF USE FROM RESIDENTIAL DWELLING TO CONSULTING ROOMS / PROFESSIONAL OFFICE**

<b>File No:</b>	<b>1978</b>
<b>Attachments:</b>	<a href="#">68RailwayNeighbour Comments.pdf</a> <a href="#">68RailwayStPlans.pdf</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Ed Drewett</b> <b>Senior Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>19 July 2010</b>
<b>Author Disclosure of Interest</b>	<b>Nil</b>
<b>Property Owner</b>	<b>R Graaug</b>
<b>Applicant</b>	<b>Dr John Salmon</b>
<b>Date of Application</b>	<b>14 June 2010</b>
<b>Zoning:</b>	<b>Residential R20</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Lot Area:</b>	<b>632m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Not applicable</b>

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**SUMMARY**

This report discusses the statutory provisions and assessment criteria relevant to this change of use proposal and refers to plans received on 14 June 2010, as well as to the applicant's and neighbours' submissions.

Given the assessment that has been undertaken, the recommendation is to refuse the application as contrary to the strategic intent and specific requirements of Council's planning Scheme and related Policy.

**PROPOSAL**

This application is seeking consideration of a change of use of an existing dwelling to consulting rooms for the treatment of chronic pain. The applicant wishes to purchase the property subject to approval in order to relocate from the Town Centre zone. The proposal also involves significant alterations and additions to the existing building including:

- Removal of existing carport and lean-to;
- Removal of a predominantly flat-roofed extension at the rear of the dwelling and replacement with a new rear addition of similar footprint and a pitched roof to match the existing roofline;
- New rear verandah addition;
- Two additional rooms at mezzanine level with new internal stairs and 2 south-facing dormer windows and an east-facing window in a new gable end;
- Removal of existing kitchenette and replacement with new sink and cabinets;
- Removal of existing bathroom and replacement with new staff toilet;
- Provision of a new room for a separate disabled toilet;



- Middle portion of existing dwelling to be remodelled including removal of internal walls/doors to accommodate new facilities;
- Realignment and construction of new driveway along southern side of lot;
- Existing backyard to be cleared of sheds, fences, retaining walls, steps, paths and small trees to make provision for new parking area for 4 cars;
- Provision of 1 new disabled bay at front of premises; and
- Existing solid 1.8m high wall along front boundary and existing crossover to remain.

The proposed consulting rooms (based on submitted plans) will comprise of 2 consulting rooms, a storeroom, reception/waiting room, tea room, staff toilet, disabled toilet, staff room/retreat, patient education room, two archive rooms at mezzanine level as well as the new parking areas and driveway referred to above.

### **POLICY IMPLICATIONS**

Professional Offices in a Residential Zone.

### **STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2 (TPS2).

### **PROPOSED LOCAL PLANNING SCHEME NO. 3**

Proposed LPS3 maintains the Residential zoning of this lot and locality, but no longer contains provisions for professional offices, while consulting rooms continue as a discretionary use. This framework reflects firmer control over commercial uses in residential areas, ie to avoid impaction on amenity.

### **CONSULTATION**

The application was advertised as per Town Planning Scheme No. 2. The advertising consisted of letters to 5 adjoining properties. Four objections were received which are summarised below:

#### Lyne Woodland & David Ellwood, 70 Railway Street

- Would like to see the property improved but have concerns about increased vehicle traffic as Railway Street is a busy street and getting in and out of our driveway can be hazardous at certain times.
- More cars stopping on the road or verge and pulling in and out of No. 68 would increase this hazard and there is a strong possibility that any overflow will be illegally parked on the railway verge opposite.
- We question the need to bring commercial operations into this residential area.
- There are no nearby services such as other professional offices or coffee shops etc. Our first-hand knowledge of patients or indeed the person who transports them is often left with a considerable wait and the desire to access other facilities. These are not available close-by and we would not like to see additional people loitering around the area.
- Although the applicant has agreed to construct a new boundary wall beside our property we are not convinced this will be sufficient to avoid privacy and safety issues caused by parking and visitors at the rear of the property.

- This type of use is much better located in properly zoned areas where other common commercial uses occur.

Jenny Bosich, 64 Railway Street

- Totally against the proposal.
- Built own house on the understanding it was in a residential zone.
- Once approved the property will always be offices. As stated by the applicant there is a shortage of medical rooms in the area. The law is governed by precedents and statutes.
- There will be very little improvement to the exterior of the existing building (painting, removal of lean-to, hard surface for parking and driveway).
- There will be future parking problems:
  - 2 x consulting rooms = 2 cars
  - 2 x patients = 2 cars
  - 2 x patients in waiting room
  - 1 x receptionist = 1 car
  - Total = 7 cars.
- Proposed store room could easily be converted into another consulting room to increase revenue.
- The only available parking is outside my house which will make it more difficult for myself or my visitors to access my property.
- The 'Pain Clinic' will send a message to the 'drug underground' even though no drugs will be kept on the premises. Desperate people will not know that and will create security and safety problems.
- The premises will be empty every night and all weekend bringing nothing positive to the area.
- The doctor has indicated this will be a very expensive development and I can see there being more than one consultant in attendance as he has stated medical rooms are difficult to get in the area.
- There is no kitchen or bathroom shown on the plans and so it would never be sold as a residence.
- There are few medical consulting rooms in the area because it is zoned a residential area and they should be in zoned localities, eg: Subiaco and Nedlands which are both very close to major hospitals.

Bruce & Heidi Gregory, 2 Boreham Street

- Do not support proposal.
- We purchased our home with the view of raising our young children in a neighbourhood surrounded by other homes, not commercial properties.
- The proposal is adjoining our backyard and will decrease the value of our property.
- There may be increased security risk – dark, vacant property every night with easy access off Railway Street into the driveway then straight over the wall into our property. People may think there are narcotics (ie burglars, thief's addicts, etc).
- Parking issues are likely which will result in parking in Boreham Street and outside our home.
- There will be an increase in traffic flow as people/patients trying to locate the clinic heading south on Railway Street may pass the premises and then try to turn in Boreham Street.

- Traffic already flies through with people trying to avoid the traffic build-up at the Eric Street roundabout.
- We don't believe the property will ever be reverted back to a residential use and it will remain a commercial property.

Fiona Pinardi, 6 Boreham Street

- Strongly opposed to proposal.
- A proposed vacant carpark directly adjoining my property is an open-invitation for undesirables to congregate at night. The carpark won't be visible at night from Railway Street so anyone could loiter there.
- A person desperate to get drugs will try regardless of any signage on the premises, and if unsuccessful could jump the eastern fence into my backyard.
- There will be insufficient parking on the site for staff and visitors and cars will spill over into Boreham Street.
- The existing practice at 2/89 Forrest Street has ample on-street parking on both sides of Forrest Street for the sole purpose of patients. It is a dual-carriage street which allows for a large turnover of cars parking. Boreham Street is zoned residential and hence should remain that way without the prospect of patients parking their cars to attend the medical practice.

**APPLICANT'S JUSTIFICATION**

The main points put forward by the applicant in support of the proposal are summarised below:

- The current residence is a dilapidated building divided into two low-value rental properties.
- The existing building will be completely renovated and painted.
- The existing rear extension will be demolished and rebuilt with a mezzanine floor for two new rooms, south and east-facing windows and a new roofline level with the building.
- The lean-to the building on the south side will be demolished to make provision for a 4m wide driveway to the rear where there will be a paved courtyard with parking spaces for four cars. There is also space at the front of the building for up to two cars.
- The proposed medical practice is for pain medicine (chronic pain management). It will comprise of two consulting rooms, a storeroom and reception/waiting area, with toilet and refreshment facilities. There will also be patient education and staff retreat rooms. The proposed mezzanine area will be for storage/archives.
- The renovation will be structured so that the house can be easily restored to a family residence if a subsequent owner so wished.
- The two specialists will be part-time and operate in aggregate for no more than 40 hours a week.
- There will be 1 receptionist/secretary.
- Patients will attend for booked appointments only and between 9am to 5pm Monday to Friday.
- The number of patients on the premises will not exceed four persons at any one time and the number of patients per day will not exceed 12.
- There will be no opiate medications or potential street drugs kept on the premises.

- The pain medicine practice has been established in the Cottesloe/Claremont area for the last 16 years. Current rooms are at 2/89 Forrest Street, Cottesloe with procedures performed at Bethesda hospital. It is the State's leading centre for implanted neuro-stimulation.
- Provision of a potentially permanent medical specialist practice site in Cottesloe will ensure that important medical services to the community are maintained in the future.
- There are very few suitable buildings for medical rooms in the Cottesloe area and failure to realise this opportunity will likely drive this practice to another suburb.

Additional comments provided by the applicant on 5 July 2010 in response to concerns raised by the Town regarding the proposed change of use are summarised below:

- Initial discussions with the Town suggested that my application appeared to fulfil the necessary criteria for professional offices in a Residential zone.
- My original proposal was for combined residential and office but I was advised by the Town that the application should be for offices only. Because of the space availability in the property I included another specialist working part-time in my rooms to cover the period that I do not work there.
- The reality is that there is no likelihood of another specialist working there and I can provide an assurance that the proposed use will be my current practice which has been essentially the same for the last 15 years and is not going to change over the next 10 years or so prior to my retirement.
- My established practice is to see patients from 11.30am to 5pm two days a week and on other days I generally will see patients for 3 hours in the middle of the day.
- New patients have a one hour appointment and follow-up patients have 30 minutes. The rest of the working week I am doing procedures at Bethesda and Hollywood hospitals.
- Therefore on two days a week 8-10 patients pass through my rooms over a 5-hour period and on other days it is generally less than 6 patients a day over a 3-4 hour period.
- I have discussed my initial application with all 5 neighbours and 3 out of the 5 indicated they were reasonably happy with my plans. The two neighbours that had concerns about a commercial use of the property will realise that there will be virtually no disturbance to them from the use of my property.
- My planned renovation is to allow return of the building to residential use with minimal alterations. It is not my intention that the building will remain a commercial building after my retirement.
- The appearance of the building will be much improved and will remain entirely as a residential/family home in appearance.
- The car parking provision at the rear of the property can be expanded to allow use of the whole area for turning to ensure that forward-driving exit from the site is guaranteed from all bays.
- The rear of the site will be a pleasant courtyard rather than a carpark in appearance. The surface shall be recycled brick/limestone concrete with maintenance of trees and shrubs lining the walls which will surround the parking area.

- The south boundary wall can be increased in height if the neighbours desire and I have agreed with the northern neighbour to build a wall separating the rear of his property from mine.
- Patient flow during the week will occur outside peak traffic congestion time and therefore there should be no concerns about traffic turning out of my property.
- I will not be parking on-site as I ride a bicycle to work.
- Concerns about building regulations can be resolved by simple design alterations.
- My Cottesloe patients have indicated strong support for me staying in the area, my practice is well-utilised by the local community and supported by local GPs.
- I do not have security of ongoing use in my current rented premises and I cannot afford to buy in the commercial zone.
- Consideration should now be given to my original plan which was to combine residential with office.

### **PLANNING COMMENT**

The existing single dwelling is located on the eastern side of Railway Street between Eric Street and Boreham Street, close to the Primary School and busy Eric Street roundabout/bridge. Access to the site is via a single crossover off Railway Street (there is no lane).

### **Land Use**

Land use in the locality is predominantly residential, although there is a liquor store at 24 Railway Street and a Naturopath at 10 Railway Street. These are both long-established uses occupying corner sites located closer to the Town Centre and have been limited in terms of scale of operation and parking.

Under TPS2 Consulting Rooms and Professional Offices are 'AA' uses in the zoning table for the Residential Zone; that is, uses which are *not permitted* unless special permission is granted by Council and following advertising. The presumption is not in favour of the use; however, Council may exercise discretion to allow it, subject to consideration of submissions and having regard to its Scheme and Policy provisions.

### **Statutory Provisions**

Certain general provisions of TPS2 apply to non-residential development in the district, including parking, signage and other "matters to have regard to". These also form part of the framework for assessment of the development proposal in the context of surrounding residential land use and amenity.

Council should therefore determine the proposed change of use from a local planning perspective having regard to TPS2 and proposed LPS3, which both support low density residential development in the area.

### **TPS2**

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

### 3.4 Zone Provisions

#### 3.4.1 Residential Zone

- (a) *The purpose and intent of the Residential Zone is to promote a residential environment in any particular locality compatible with the maximum residential density permissible in that locality and with the desire of the inhabitants for Cottesloe to retain its quiet residential character. Development will be guided and controlled by the Development Guide Map, the Residential Planning Codes and the variations thereto as well as the amenity provisions contained in Part V - General Provisions of the Scheme.*

#### 5.1.2 Council shall have regard to:

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

The tenor of these Scheme provisions is a common theme of promoting residential amenity for the wellbeing of residents and to ensure that any proposals are consistent with this purpose. The Scheme does not involve any express provisions to facilitate the location of non-residential uses in residential areas, nor to manage the development of premises or conversion of dwellings for the purpose.

### **Proposed LPS3**

Proposed LPS3 is modelled on TPS2 and echoes the land use intent and development control regime relating to this area. It strengthens the importance of zoning regulation, land use control and development requirements/standards, including residential amenity.

In other words, LPS3 supports the continuation of residential use and development in the vicinity and the proper location of non-residential uses in other appropriate zones or centres (ie business / commercial areas). Additionally, LPS3 is aimed at securing and strengthening the character and amenity of established residential neighbourhoods.

LPS3 has advanced to the final approval phase whereby it can be had regard to by Council as a seriously entertained planning proposal in ascertaining the planning intent and outlook for a locality.

### **Local Planning Policies**

There is no local planning policy which deals specifically with consulting rooms; however, Council's *Home Occupations & Professional Offices Policy* provides a guide to considering and regulating non-residential uses in the Residential zone.

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

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

- *No more than 3 staff members shall operate from the business at any one time.*
- *Trading hours are to be restricted to 9-5pm weekdays only.*
- *No more than 10 vehicle trips per day shall be generated by the business.*
- *The number of clientele shall not exceed 4 persons at any one time.*
- *Parking shall be provided at the rate of 1 car space to every 40m<sup>2</sup> of gross floor area with a minimum of 4 spaces.*

The thrust of this Policy is to preserve the integrity of residential areas and to contemplate only those low-impact, non-residential Professional Office uses that are compatible with the preservation of residential amenity.

Although the proposed use may generally meet these assessment criteria, it is doubtful that such a proposal would not prejudicially affect the amenity of the neighbourhood, in particular due to the increased number of cars and visitors that would frequent the site, an issue that has also been highlighted by the adjoining residents.

### **Previous Decisions**

For many years TPS2 had been successful in coordinating development to separate residential and incompatible non-residential uses, by directing commercial and professional activities to defined business centres and suitable premises, where urban amenity aspects such as transport, vehicular access and parking, hours of operation, plant/equipment noise, light-spill and signage can be addressed. The Town Centre, adjacent offices area and two local centres have performed well in this respect and have attracted dedicated medical and professional office-based buildings to satisfy the demand for local services and businesses.

As a measure of this planning strategy, Stirling Highway and the distributor roads in the district have not suffered encroachment and impacts by non-residential uses to erode residential use, character and amenity. For example, Council in consistently applying the Scheme refused change of use proposals for 463 Stirling Highway in both 1995 (chiropractic consulting rooms) and 2007 (psychiatry consulting rooms); and on appeal the latter was likewise refused by the SAT. Council also refused a similar proposal for Professional Offices (Natural Therapy Clinic) at 10 Railway Street. These refusals were essentially based on concerns regarding the amenity and traffic implications of land use changes and their associated physical development affecting established residential areas intended to be preserved and protected.

Part of Council's reasoning for this approach is that non-residential uses in residential areas can tend to get out of hand in terms of parking, hours of operation, intensity of activity and all the associated impacts, which can lead to complaints from residents

whose amenity is compromised. Sometimes uses can further change without approval so become compliance matters

### **Parking and Access**

The Manager Engineering Services is not supportive of the proposed use as it is likely to generate more demand for on-site parking for visitors and staff than that proposed, particularly as in reality patients often arrive early or have to wait for appointments and/or may have to be driven by others to the consulting rooms, thus further increasing the potential for more people to be at the premises at any one time than that suggested.

It may also result in cars illegally parking on the reserve land opposite or in Boreham Street and for traffic movements to and from the site to increase, creating traffic safety issues on Railway Street, which can be very busy as a key distributor road serving the Town Centre, Primary School and residences along the railway line. Furthermore, based on the submitted plan, not all the proposed car bays have sufficient turning and manoeuvring area to safely exit the site in forward gear, which would further increase the probability of difficulties arising as a result of the proposed use.

Although the applicant has advised that the parking area could be modified to meet Council requirements, it remains doubtful that it would provide a suitable and safe environment for patients (in potentially chronic pain) to access all the bays, without deletion of the proposed landscaping at the rear.

Even based on the suggestion that only one specialist would operate at the premises instead of two, the hours would still be to 5pm, which would conflict with peak school and worker traffic along Railway Street between 3pm to 5pm.

It should be further noted that although the applicant has advised there would be a 4m wide driveway to the rear parking area, the submitted plans refer to an only 3.6m wide driveway, which would be relatively narrow for the proposed use. The angle of the driveway and crossover off Railway Street and the proximity of the existing solid wall along the front boundary will further restrict safe access to the lot.

Overall, the absence of clearly-visible and readily-accessible parking bays and turning space for all patients ideally at the front of the property, with only staff parking at the rear (which is a typical arrangement for convenient and safe access and parking) means that the activity would not function efficiently in this regard.

### **Amenity Issues**

Up to 4 adjoining residential properties to the south and east of the subject lot have their rear outdoor living areas directly abutting the proposed rear parking area or driveway and therefore it is highly likely that the use would have detrimental impact on the amenity of these homes due to the increased activity and vehicle noise. This would be contrary to the Scheme provisions which, as mentioned above, promote quietude for the well-being of residents. Again, this illustrates why front parking is preferable, rather than interfacing the parking or service areas of non-residential uses with adjacent dwellings.



## **Building Regulations**

The Town's Principal Building Surveyor has also reviewed the proposal and advises that:

- Access and egress would have to comply with AS1428.1 for those with disabilities).
- An external wall of a Class 5 building less than 1.5m from a boundary requires a fire resistance level of 90/90/90, which cannot be achieved with the 4 existing windows on the northern elevation (it also does not meet R-Code provisions).
- The proposal requires compliance with Part J: Energy Efficiency provisions.

Although the applicant has responded that these matters may be addressed by design alterations, it is observed that often such important building or health requirements render particular properties or proposals undesirable or unviable.

## **CONCLUSION**

The proposed change of use and development is assessed as difficult to support from the strategic and statutory or planning viewpoints given that:

- The proposed use is contrary to the intent of the Scheme which promotes residential amenity, character and quietude for the well-being of residents in the Residential zone.
- Various amenity impacts are likely to arise.
- Vehicular parking, manoeuvring and safety are unsatisfactory.
- There are objections from all surrounding neighbours.
- The degree of alterations necessary indicates that the dwelling premises are not well-suited for the purpose.

The town and local centre zones areas are where commercial activities are directed to locate and this policy has proven successful for the protection of residential amenity and the management of activity centres in Cottesloe. For example, currently two vacancies have been observed in the medical centre on Stirling Highway, the Swanbourne Chambers building is being renovated for professional offices, the Eric Street local shopping centre is also being renovated for altered tenancies and new commercial premises proposals are being examined for the Town Centre.

While the applicant has suggested that a residential use could be combined with the consulting rooms, the residential component would not be occupied by the applicant but would be rented. Such usage would not constitute a Home Occupation under TPS 2 so would require an additional 2 car bays, bringing the total number required on-site to 6, which is more than proposed or feasible.

## **VOTING**

Simple Majority.

## **COMMITTEE COMMENT**

Committee noted the updated plans and supporting information provided, including officer advice to amend condition (e). In discussing the matter Committee

acknowledged the neighbour objections and was strongly of the view that the locality should remain residential, amenity should be protected and that non-residential vehicle access would be problematic.

### OFFICER RECOMMENDATION

1. That Council REFUSE the proposed Consulting Rooms / Professional Offices at Nos. 68 Railway Street, Cottesloe, based on the applicant's submissions and as shown on the plans submitted on 15 July 2010, for the following reasons:
  - a) the proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality;
  - b) the proposal is contrary to the intent of Council's current and proposed Local Planning Schemes for the Residential Zone;
  - c) the district provides a town centre, adjacent office area and two local centres as established locations appropriately zoned and developed to accommodate consulting rooms, professional offices and other businesses in defined, accessible and serviced hubs with public parking and associated facilities, without causing undue adverse amenity impacts on residential areas;
  - d) the degree of alteration required to adapt the premises and property from a dwelling to consulting rooms/professional offices demonstrates that it is not well-suited for the purpose and will lose its existing residential character and amenity;
  - e) the proposed vehicular access, parking and movement arrangements are unsatisfactory in terms of convenience, safety and amenity; and
  - f) the proposal would adversely impact directly on the amenity of the adjoining dwellings, the occupants all of whom have objected to such.
2. Advise the submitters of this decision.

### AMENDMENT

Moved Cr Strzina, seconded Cr Dawkins

That condition (e) is amended to read: *the proposed traffic generation, vehicular access, parking and movement arrangements are unsatisfactory in terms of convenience, safety and amenity;*

Carried 7/0

### COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Dawkins

1. That Council REFUSE the proposed Consulting Rooms / Professional Offices at Nos. 68 Railway Street, Cottesloe, based on the applicant's

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- a) the proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality;
  - b) the proposal is contrary to the intent of Council's current and proposed Local Planning Schemes for the Residential Zone;
  - c) the district provides a town centre, adjacent office area and two local centres as established locations appropriately zoned and developed to accommodate consulting rooms, professional offices and other businesses in defined, accessible and serviced hubs with public parking and associated facilities, without causing undue adverse amenity impacts on residential areas;
  - d) the degree of alteration required to adapt the premises and property from a dwelling to consulting rooms/professional offices demonstrates that it is not well-suited for the purpose and will lose its existing residential character and amenity;
  - e) the proposed vehicular access, parking and movement arrangements are unsatisfactory in terms of convenience, safety and amenity; and
  - f) the proposal would adversely impact directly on the amenity of the adjoining dwellings, the occupants all of whom have objected to such.
2. Advise the submitters of this decision.

Carried 7/0

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**10.1.2 NO.1 STATION STREET - CHANGE OF USE OF AN APPROVED MIXED-USE DEVELOPMENT FROM 'OFFICES AND RESIDENTIAL' TO 'OFFICES AND SHOP (CAFÉ)'**

<b>File No:</b>	<b>1985</b>
<b>Attachments:</b>	<a href="#">1 StationStChange of Use.pdf</a> <a href="#">1StationStPlans.pdf</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Ed Drewett</b> <b>Senior Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>19 July 2010</b>
<b>Author Disclosure of Interest</b>	<b>Nil</b>
<b>Property Owner</b>	<b>Onyx Investments Pty Ltd</b>
<b>Applicant</b>	<b>Onyx Investments Pty Ltd</b>
<b>Date of Application</b>	<b>25 June 2010 (Amended 9 July 2010)</b>
<b>Zoning:</b>	<b>Town Centre</b>
<b>Density:</b>	<b>R100</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Lot Area:</b>	<b>417m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Not applicable.</b>

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**SUMMARY**

This application is seeking the following variations to Council's Town Planning Scheme No. 2 (TPS 2):

- Parking
- Plot Ratio (Subject to Amendment 45)

Both of these aspects are discussed in this report and refer to amended plans received on 9 July 2010.

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

**PROPOSAL**

To consider a change-of-use of an approved (and partially constructed) three-storey mixed-use development from 'Offices and Residential' to 'Offices and Shop (café)'. The applicant has arrived at this preferred arrangement in order to accommodate their professional office needs as well as to achieve a street-front shop (potentially the desired café previously intended).

**STRATEGIC IMPLICATIONS**

A vibrant Town Centre is one of Council's aims for the district and TPS 2 seeks to foster this end, while proposed Local Planning Scheme No. 3 shares this outlook. An integrated Town Centre Plan is also being developed to improve all aspects of the

infrastructure of the Town Centre. The proposed uses are consistent with the objectives of both TPS 2 and LPS 3.

### **POLICY IMPLICATIONS**

Vehicle Parking Requirements

### **FINANCIAL IMPLICATIONS**

No financial resource impact on Council, subject to an appropriate amount of cash-in-lieu being received to allow for the future provision of parking bays in the locality.

### **STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No 2

### **PROPOSED LOCAL PLANNING SCHEME NO 3**

No changes are proposed to the zoning of the lot. LPS 3 permits offices and shops in the Town Centre.

### **CONSULTATION**

An office and shop use was previously advertised for this lot prior to the existing mixed-use development being approved by Council. As such, re-advertising of the same uses is not considered necessary. Two main concerns were previously raised during advertising, one being from the adjoining eastern owner who requested that the proposed development should provide all on-site parking rather than taking away from existing public bays, and one was from the owner of a shop across the laneway at the rear who expressed concern regarding adequate turning and manoeuvring for vehicles accessing the rear laneway. The approach to parking is reassessed in this report and the vehicular access has been approved as satisfactory.

### **BACKGROUND**

These premises have a lengthy planning history which is summarised below:

- 25 February 2008 (Ref: 1342)

Approval granted for a mixed-use development incorporating parking and a shop/café on the ground floor, offices on the 1<sup>st</sup> floor and one 2-bed residential unit above.

- 7 November 2008

*Town Planning Scheme No.2 - Amendment 45* – Allowed maximum plot ratio to be increased from 1:1.0 to 1:1.5 and permitted boundary wall heights to be increased from 6m to 6.5m providing that Council, when considering an application for development is guided by any Indicative Development Plan that it has supported in-principle.

- 30 June 2009 (1703)

Approval granted for a mixed-use development, incorporating parking and a shop/café on the ground floor, offices on the 1<sup>st</sup> floor and two 2-bed residential apartments above.

- 23 March 2010

Approval granted for a mixed-use development, incorporating parking and an office on the ground floor, offices on the 1<sup>st</sup> floor and one multiple dwelling above.

- 25 June 2010

Current application – Proposes change of use of the previously approved ground floor Office to 'Shop' (café) and a change of use of the 2<sup>nd</sup> floor from Multiple Dwelling to 'Office' (above approved offices on the 1<sup>st</sup> floor which are to remain).

## APPLICATION ASSESSMENT

### Town Planning Scheme/Policies

Aspect	Required	Proposed
Table 2- Vehicle Parking requirements	21.75 bays (rounded up to 22 bays)	12 (10 bay shortfall; or 8 if previous concession for 2 bays allowed).
Plot Ratio	1:1.5 (providing Council accepts the proposed development is similar to the approved Indicative Development Plan)	1:1.36 (complies).

Policy	Required	Proposed
Town Centre Zone - Vehicle Parking requirements	<p>At least half of required parking spaces must be provided on or adjacent to the development site and arrangements made with Council for the provision of off-street parking in the vicinity of the site for the balance of such spaces still then required.</p> <p>Any cash-in-lieu payment which may be agreed in accordance with Clause 3.4.2 (c)(ii) of the Scheme.</p>	<p>55% of required bays will be provided on-site.</p> <p>Four bays are available immediately adjoining the lot in Railway Street</p> <p>Payment of cash-in-lieu for shortfall of bays may be acceptable.</p>

## APPLICANT'S JUSTIFICATION

Following liaison with the Town's planning staff to examine the efficacy of the present application, the applicant has explained the reasons for the amended proposal.

- Due to a lack of demand for the originally approved residential unit on the upper level we request a change of use to offices.
- The proposed offices on both the 1<sup>st</sup> and 2<sup>nd</sup> floors will be occupied by Egerton/Warburton and RBA Architects. These are the same entities that are currently occupying 575 Stirling Highway with a total number of users being 25 persons and having 9 dedicated on-site bays.
- Whilst we are confident that the shortfall of bays will not practically be an issue, we are willing to contribute a cash-in-lieu payment for the shortfall. We do however ask that you consider the planning values and urban improvement realised from this change of use when calculating the cash-in-lieu value.
- The proposed retail shop on the ground floor will activate this strategic corner tenancy and contribute positively to the streetscape and town centre.

## PLANNING COMMENT

The proposed uses may be approved by Council on this lot under TPS 2, subject to consideration of the following issues:

### Parking

Clause 3.4.2(c) of TPS2 as a starting point requires the proposed development to comply with the provisions of Table 2 – Vehicle Parking Requirements. The number of bays required is as follows:

<b>Criterion</b>	<b>Bays</b>
<b>Proposed shop (café) ground floor (51.5m<sup>2</sup>):</b>	3.34 bays (6.5 bays per 100m <sup>2</sup> GFA)
<b>Proposed offices 1<sup>st</sup> &amp; 2<sup>nd</sup> floors + ground floor lobby/toilets (736.4m<sup>2</sup>):</b>	18.41 bays (one bay per 40m <sup>2</sup> GFA)
Total bays required:	21.75 bays
Bays proposed:	12 bays
<b>Shortfall of bays:</b>	<b>9.75 bays (rounded up to 10 bays)</b>

The reason for the shortfall is that the full complement of bays cannot be obtained from the site. In view of this situation, Council may consider a shortfall of parking for developments within the Town Centre based on the provisions in TPS2.

While on-site or nearby parking is the first preference, particularly for new developments, cash-in-lieu is provided for and often utilised for changes of use or smaller properties with limited space. Previously with this building where there was an approval of uses requiring 14 bays and 12 can be supplied on site, Council granted a concession of 2 bays as a negligible shortfall for the mixed-use development and compensated by parking on-street and opposite.

Clause 3.4.2c (ii):

*In assessing the number of parking bays required for a development containing multiple uses, the Council may have regard to the likely use pattern of the various components of the development, in particular the likely maximum use of the development at any time, and reduce the number of parking bays accordingly.*

This is a practical provision where mixed-use developments are desirable yet may not be able to deliver all on-site parking, or may not warrant such owing to the walkable Town Centre, public transport and shared public parking; which mean that a shortfall is unlikely to make a proposal dysfunctional, although it may impact on general parking.

In this consideration, the boutique-office nature of this development as a private company HQ, rather than it being a commercial office with many customers or office space leased to a busy tenant(s) should be noted, albeit that the applicant still advises that the existing offices have 25 employees and there is no guarantee that the proposed occupants will not change in the future. A planning condition restricting numbers of occupants would be difficult to enforce.

The small ground floor tenancy, as a shop or café, is likely to attract customers already parked in the Town Centre (i.e. workers or visitors for multiple purposes), whereby less additional parking demand should arise.

Council may also have regard to Clause 5.5.4 of the TPS 2 which states:

*Where land is proposed for development for a use which may be permitted in the Town Centre...Council may approve the development without the number of parking spaces being provided on or (in Council's opinion) sufficiently near to the land, subject to the applicant making arrangements satisfactory to Council for the provision of off-street parking in the vicinity. In this regard Council may accept cash-in-lieu subject to the following –*

- *The cash in lieu payment shall not be less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme plus the value as estimated by the Council of that area of land which would have been occupied by those parking spaces;*
- *Before the Council agrees to accept a cash payment in lieu of the provision of parking spaces the Council must either have approved a public parking station nearby or must have proposals for providing a public parking station nearby; and*
- *Payment made under this clause shall be paid into a special fund to be used to provide public parking stations anywhere in the district.*

This is also a practical provision, which again recognises that full on-site parking cannot always be achieved, and that alternative arrangements may still satisfy the additional demand generated by a development. For example, off-site supplementary parking (i.e. a separate parking site owned or leased by the



developer/occupier) is one such solution. Cash-in-lieu is another useful method, although it can be encumbered in terms of the dollar value and Council's plans for parking supply. The trend has been for Council to apply cash-in-lieu of parking where on-site provision is limited, shortfalls are considered significant or the additional demand is likely to be relatively high; and to set realistic payment amounts (which may even be staged). As the applicant has offered to accept cash-in-lieu this would be a fair requirement in the circumstances, as one way of addressing the shortfall.

Were cash-in-lieu approved, a strict interpretation of the Scheme provisions suggests that Council should determine where the money would be spent for additional parking.

The Manager Engineering Services has advised of three potential locations where additional public parking could be physically provided:

- (i) *Immediately south of the sealed section of Brixton Street on PTA land, behind the vet;*
- (ii) *Immediately north of the new parking area opposite Vera Street, on the western verge of Railway Street; and*
- (iii) *On the western side of the railway line, on PTA land, accessible via the overpass (which could be affected by future development that area).*

In addition, the Station Street studies being pursued by Council's Working Group are exploring possible decked car parking for the Town's surface car park and the sump site; while the Enquiry by Design preliminary structure plan for the railway lands also provides a framework for the formalised provision of more public parking in that location in the longer term. Council will need to be satisfied that cash-in-lieu for the proposed not-insignificant shortfall of parking is acceptable in these circumstances.

For the development under construction, alternatives such as reducing the gross floor area by deleting the proposed Shop (café) on the ground floor, or reverting that to Office use, would require less parking but would not achieve street activation, while reduction in floor area of the 1<sup>st</sup> or 2<sup>nd</sup> floor offices would not suit the applicant's specific needs.

Planning Policy TPSP001 for Town Centre development provides that:

*...at least half of the total number of required spaces must be provided on, or adjacent to, the development site and arrangements made with the Council for the provision of off-street parking in the vicinity of the site for the balance of such spaces still then required.*

In this respect, it is noted that parking *adjacent to* the development site is not defined in the policy so might be considered to include kerbside street bays such as the four bays that are next to the site along Railway Street. It can therefore be appreciated that operationally there will be some convenient parking adjacent to the development site.

The Scheme is otherwise clear that the aim is for on-site rather than on-street parking. However, the existence of on-street parking adjacent to and nearby the site in Railway and Station Streets would supply public parking generally available to the development (eg for business visitors attending the premises) in competition with other uses and developments in the Town Centre. There is also the 54-bay Council-owned public car park directly opposite the site on Station Street. The time-limitation of this general parking is a factor to be taken into account as it assists a turnover of parking as well as restricts longer-term parking. Nonetheless, it is observed that parking in the vicinity is heavily utilised and often fully-occupied by workers and customers in the Town Centre.

The provision of parking in the Town Centre is therefore important due to it being at a premium and this demand is due largely to the diversity and popularity of the activity centre, both during the week and on weekends

It is apparent that there is some basis for Council to again waive 2 bays in view of the adjoining parking in Railway Street and the mixed-use proposed (consistent with a previous approval for this development) and accepting cash in lieu for the remaining shortfall of 8 bays. Council has in recent times been prepared to nominate an amount per parking bay on a case-by-case basis in the vicinity of \$15,000, albeit this being a heavily discounted amount and reliant on the Scheme for discretion. In summary regarding the parking outcome this is recommended.

#### Plot ratio

The maximum plot ratio allowed in this part of the Town Centre is 1:1.0. However, Town Planning Scheme Amendment 45 prescribed a plot ratio of 1:1.5 for 1 Station Street, providing that Council, when considering an application for development, is guided by any Indicative Development Plan for the site that it has supported in-principle.

The only Indicative Development Plan considered by Council showed the proposed development having a café on the ground floor, Offices on the 1st floor and two residential apartments on the 2<sup>nd</sup> floor. The current proposed uses differ from that originally considered but overall the building itself remain similar in scale and appearance and therefore it does not seem unreasonable to allow the increased plot ratio to still apply. Furthermore, proposed LPS 3 will allow a plot ratio of 1:1.5 in Station Street, once gazetted. The proposed development, as amended on 9 July 2010, has a plot ratio of 1:1.36 which is compliant with Amendment 45 and proposed LPS 3.

#### **CONCLUSION**

The development proposal for this property has undergone a series of design and use changes initiated by the applicant to suit evolving needs and circumstances. A high-quality building is finally taking shape as part of the Town Centre and provides 12 on-site parking bays. The latest mix of uses can be supported subject to an appropriate amount of cash-in-lieu for parking. This would facilitate completion of the development, a commercial street tenancy (ideally a café) and funds towards supplementary public parking.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee broadly discussed the overall parking situation in the Town Centre and the approach to on-site as well as cash in lieu provision, and considered that realistic amounts of cash in lieu were necessary to balance demand and supply of parking while still attracting development. In this respect Mr Jackson gave some guidance in relation to current TPS2 and the outlook under proposed LPS3. It was concluded that the subject development should deliver the full complement of parking by a combination of on-site bays (as approved/constructed) and cash in lieu at an increased amount per bay.

**OFFICER RECOMMENDATION**

Moved Cr Birnbrauer, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the proposed change-of-use of the three-storey Mixed-Use Development (currently under construction) at No. 1 Station Street, Cottesloe, to permit Offices on the 2<sup>nd</sup> floor (in addition to the Offices previously approved on the 1<sup>st</sup> floor) and a 'Shop (café)' use on the ground floor, in accordance with the amended plans submitted on 9 July 2010, 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;
- (ii) No external signage shall be permitted without the approval of a separate signage application and any associated sign licence;
- (iii) No additional uses or further change-of-use shall be permitted without the approval of a separate planning application and any associated building licence or health applications;
- (iv) Prior to occupation of the building, the applicant/owner shall pay to the Town a contribution of \$120,000, being cash-in-lieu for eight parking bays.
- (v) The owner/occupier shall encourage and facilitate staff to use alternative transport to limit car parking demand, including walking, cycling, bus, train, taxi and car-pool travel.

**AMENDMENT**

Moved Cr Strzina, seconded Cr Goldthorpe

That condition (iv) be amended to \$200,000 cash in lieu for ten bays.

Carried 6/1

**COMMITTEE RECOMMENDATION**

That Council GRANT its Approval to Commence Development for the proposed change-of-use of the three-storey Mixed-Use Development (currently under construction) at No. 1 Station Street, Cottesloe, to permit Offices on the 2<sup>nd</sup> floor (in addition to the Offices previously approved on the 1<sup>st</sup> floor) and a 'Shop (café)' use on the ground floor, in accordance with the amended plans submitted on 9 July 2010, 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;
- (ii) No external signage shall be permitted without the approval of a separate signage application and any associated sign licence;
- (iii) No additional uses or further change-of-use shall be permitted without the approval of a separate planning application and any associated building licence or health applications;
- (iv) Prior to occupation of the building, the applicant/owner shall pay to the Town a contribution of \$200,000, being cash-in-lieu for ten parking bays.
- (v) The owner/occupier shall encourage and facilitate staff to use alternative transport to limit car parking demand, including walking, cycling, bus, train, taxi and car-pool travel.

Carried 6/1

**10.1.3 NO 52 JOHN STREET - SINGLE STOREY ALTERATIONS AND ADDITIONS**

<b>File No:</b>	<b>1971</b>
<b>Attachments:</b>	<a href="#">52 John Aerial Photos.pdf</a> <a href="#">52 John Appl Justif.pdf</a> <a href="#">52 John Plans.pdf</a> <a href="#">52 John Applicant Site Photos.pdf</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>William Schaefer</b> <b>Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>19 July 2010</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Property Owner:</b>	<b>Mrs C Green</b>
<b>Applicant:</b>	<b>Nuspace Developments</b>
<b>Date of Application:</b>	<b>2 June 2010</b>
<b>Zoning:</b>	<b>Residential – R20</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Lot Area:</b>	<b>592m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

This application is seeking the following variations to Council's Scheme, Policies, Local Laws or the Residential Design Codes:

- Single Storey Building Height;
- Privacy.

Each of these aspects is discussed in this report and refers to plans received on 02 June 2010.

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

**PROPOSAL**

The existing brick and iron dwelling dates from the 1920s. It is proposed to modernise the family/meals room, study, bedroom and decking at the rear whilst retaining the overall character of the home.

All of the works except for a new portion of the deck are proposed for within the footprint of the existing building and will not be visible from the street. Despite the modest scale of the proposal, the need to match sections of new roof to the existing roof has resulted in a building height variation being sought.

**STRATEGIC IMPLICATIONS**

N/A

**POLICY IMPLICATIONS**

- Building height

**FINANCIAL IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

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

**SUSTAINABILITY IMPLICATIONS**

Nil

**PROPOSED LOCAL PLANNING SCHEME NO 3**

No changes are proposed to the zoning of this lot under LPS3.

**HERITAGE LISTING**

N/A

**MUNICIPAL INVENTORY**

N/A

**NATIONAL TRUST**

N/A

**VARIATIONS**

<b>Statutory Non-Compliance</b>	<b>Standard</b>	<b>Proposed</b>
TPS 2 Clause 5.1.1 (c) - Building Height	6.0m max ridge height for single storey buildings	6.98m
<b>RDC Provisions</b>	<b>Discretionary</b>	<b>Required</b>
6.8.1 A1 Privacy – Overlooking from deck to east	7.5m setback	5.8m setback

**APPLICANT'S JUSTIFICATION**

The applicant has submitted written justification for the variations. The main points of the justification are summarised as follows:

- The proposed alterations/additions occur mostly within the footprint of the existing building and have little impact on the streetscape or amenity of neighbours;

- Every effort has been made to match the character, form, materials and details of the existing home;
- It has been especially difficult to connect areas of new roof with existing roof. The least expensive and most aesthetically sensible proposal is to follow the current roofline, which will ensure that pitch and plate level match;
- It is important to utilise existing floors, walls and ceiling levels. Lowering the existing floor, sub-floor and west wall would be contrary to the spirit and budget of a low-impact renovation. Lowering the ceiling height would necessitate lowering the entire roof, which would have construction detail implications;
- The privacy of neighbours to the west will not be compromised as the deck will replace an existing deck. Moreover the existing dividing fence is sufficiently high above the Finished Floor Level of the deck to prevent overlooking; and
- The privacy of the neighbour to the east will be upheld by the substantial mature tree on the premises. The neighbour also intends to construct a garage in the rear of his property which will prevent overlooking of the yard.

### **Advertising**

Under Clause 7.1.5 of TPS 2, single storey proposals/extensions are not automatically required to be advertised, although the Town tends to recommend that an applicant consults neighbours during the assessment process. In this instance as the neighbours at 50 and 54 John Street are overseas their comment/consent has not been obtained; however, as the height variation is relatively minor and compatible, and the deck satisfies the RDC Performance Criterion for privacy, the proposal is considered sufficiently well-designed and low-impact so as not to be a neighbour concern.

### **PLANNING COMMENT**

#### **Building Height**

It is proposed to have a new roof above the refurbished rear of the dwelling that is 6.98m above NGL, whilst for single storey buildings Clause 5.1.1 (c) of TPS 2 sets a standard maximum height of 6.0m.

Clause 5.1.1 (c) contemplates allowing relaxations to the height standards in cases of extensions to existing buildings. The proposed additions qualify as extensions to a substantial existing dwelling and may therefore be considered as allowable.

At 4.8m in length, the overheight section of ridge will only occupy approximately 10% of the 41.22m-long property. The overheight element will have little impact on the amenity of the surrounding area as it is screened from the street by the existing transverse ridge. As the midwinter shadow from the additions would fall entirely on the subject lot and road reserve, the additions would have little adverse impact on neighbouring properties. The additions do not affect views of significance to the neighbours and have been sensitively designed to complement the existing building.

**Privacy**

A section of raised decking at the rear of the building is proposed to be set back 5.8m from the property at 54 John Street, whereas Acceptable Development Standard 6.8.1 A1 of the RDC requires a 7.5m setback to be observed.

It is therefore necessary to assess the overlooking according to the relevant Performance Criterion, which states:

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

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

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

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

In this instance it is an area of garden at the very rear of the neighbouring property, as distinct from a major opening or an active habitable space that is proposed to be overlooked. The applicant has suggested that the substantial mature tree that occurs between the proposed deck and the yard at 54 John Street will ameliorate the effects of overlooking. It is also submitted by the applicant that the privacy of this neighbour will be further ensured when the recently-approved garage is constructed in the backyard of 54 John Street.

The overlooking is considered consistent with that allowable under the RDC.

**CONCLUSION**

The proposed alterations and additions are expected to perform with no impact on amenity and may be supported under the Scheme. No other planning issues are associated with the remainder of the proposal.

Approval is recommended.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Strzina, seconded Cr Dawkins

**THAT Council GRANT its Approval to Commence Development for the proposed alterations and additions to single storey dwelling Lot 340 (No 52)**



John Street, Cottesloe, in accordance with the plans submitted on 2 June 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from any portion of the site shall not be discharged onto the street reserve, ROW or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The 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.
- (e) Air-conditioning plant and equipment shall be located closer to the dwelling than the adjoining dwellings, and housed or treated to ensure that sound emissions do not exceed the limits prescribed in the *Environmental Protection (Noise) Regulations 1997*.
- (f) Any future fencing and gating to the site within the front setback area shall be of an open-aspect design in accordance with the Town's *Fencing Local Law* and the subject of a separate application to Council.

**Advice Note:**

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

Carried 7/0

**NO 217 MARMION STREET - SWIMMING POOL, ALTERATIONS AND SECOND STOREY ADDITIONS TO DWELLING**

**File No:** 1961  
**Attachments:** [217 Marmion Aerial Photo.pdf](#)  
[217 Marmion Appl Justif and Site Photos.pdf](#)  
[217 Marmion Neighbours Signatures.pdf](#)  
[217 Marmion Plans.pdf](#)

**Responsible Officer:** Carl Askew  
Chief Executive Officer

**Author:** William Schaefer  
Planning Officer

**Proposed Meeting Date:** 19 July 2010

**Author Disclosure of Interest:** Nil

**Property Owner:** Mr D R White

**Applicant:** Meaghan White Architect

**Date of Application:** 25 May 2010

**Zoning:** Residential – R20

**Use:** P - A use that is permitted under this Scheme

**Lot Area:** 597m<sup>2</sup>

**M.R.S. Reservation:** N/A

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**SUMMARY**

This application is seeking the following variations to Council's Scheme, Policies, Local Laws or the Residential Design Codes:

- Building Height;
- Side Setbacks;
- Vehicle Manoeuvring Space;
- Privacy.

Each of these aspects is discussed in this report and refers to revised plans received on 23 June 2010.

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

**PROPOSAL**

This application is for a swimming pool, minor alterations to the existing dwelling, ground floor additions and a second storey addition to the existing garage, all to the rear of the property.

It is intended to retain the existing dwelling. The new two storey element will be set back 34.0m from the front boundary and will not affect the streetscape.

There is currently a swimming pool on the property. It is intended to fill the pool in and construct a new pool in a different location.

### **STRATEGIC IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

- Building height

### **FINANCIAL IMPLICATIONS**

Nil

### **STATUTORY ENVIRONMENT**

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

### **SUSTAINABILITY IMPLICATIONS**

Nil

### **PROPOSED LOCAL PLANNING SCHEME NO 3**

### **MUNICIPAL INVENTORY**

N/A

### **NATIONAL TRUST**

N/A

### **HERITAGE LISTING**

N/A

### **CONSULTATION**

#### **Advertising**

- The application was advertised as per the Town of Cottesloe Town Planning Scheme No 2;
- The advertising consisted of letters from the Town to adjoining property owners, as well as applicant consultation with adjoining property owners;
- Two adjoining landowners have signed plans in support of the proposal. No written submission was received from the other owner.

### **VARIATIONS**

<b>Statutory Non-Compliance</b>	<b>Standard</b>	<b>Proposed</b>
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TPS 2 Clause 5.1.1 (c) - Building Height and RDC Acceptable Development Standard 6.7.1 A1	7.0m max (subject to Performance Criterion)	8.18m
<b>RDC Discretionary Provisions</b>	<b>Required</b>	<b>Proposed</b>
6.3.1 A1 - Setback South Ground Wall	1.7m	1.0m
6.3.1 A1 - Setback South Upper Wall	1.2m	1.0m
6.3.1 A1 - Setback West Upper Wall	1.65m [incl ROW discount]	Nil [stair]/1.0m
6.2.3 A3.2 - Vehicle Manoeuvre Space	6.0m from far side of ROW	3.7m from far side of ROW
6.8.1 A1 - Privacy - Overlooking from study window to west	4.5m	3.7m

### APPLICANT'S JUSTIFICATION

The applicant submitted a detailed report with the application and has further supplied a substantial written response to the preliminary assessment feedback of Council's Planning Staff (refer attachments).

The main points of the applicant's justification are as follows:

- The topography of the site is difficult to work with. The site slopes from 21.75m AHD in the northwest corner down some 5.0m to 16.72m AHD in the south-east corner, with the levels dropping across a series of terraces;
- The overheight element is the result of working with existing terrace levels. Working with the existing levels minimizes the impact on neighbours by eliminating the need to construct additional retaining walls;
- The neighbours have signed support for the proposal;
- The upper floor element has been setback 1.0m from the southern neighbour and does not create building bulk;
- The two storey element is approximately 50m<sup>2</sup>, occupying less than 10% of the 597m<sup>2</sup> subject lot;
- 80% of the dwelling is single storey and has little impact in the way of shadow, bulk or privacy;
- The proposed reduced setback of the south ground wall does not increase the area of neighbouring lot in shadow;
- The three windows to the south ground elevation of the additions will be screened from neighbours by the existing brick dividing fence;
- The windows are necessary for cross-ventilation of the additions, which will lessen dependence on air-conditioning;

- The proposal is supported by the affected neighbours;
- The proposed reduced setback to the western elevation enables recycling of the existing garage structure which presently has a nil setback to the ROW. Re-use of the garage enables off-street parking, which retains the quality of streetscape;
- Adjoining landowners have signed support for the proposal;
- The turning circles have been verified as appropriate by qualified traffic engineers;
- Overlooking from the study window occurs predominantly in the ROW, which is presently under-surveilled. The neighbour has supported the variation.

## **PLANNING COMMENT**

### **Building Height**

It is proposed to construct a flat-roofed second storey studio addition above the existing garage. The wall height of the studio addition is 8.18m above NGL, whereas the RDC basic standard is for a wall-height maximum of 7.0m above the NGL. The overheight walls must therefore be assessed under RDC Performance Criterion 6.7.1 P1, which allows for:

*Building height consistent with the desired height of buildings for the locality, and to recognise the need to protect the amenities of the adjoining properties, including, where appropriate:*

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance.*

The proposed overheight walls are considered to satisfy the above criterion. Located at the far western end of the lot, the winter shadow cast by the studio would not fall on the neighbouring dwelling or its appurtenant open spaces.

The proportions of the proposed two storey addition are relatively modest at only 7.2m wide from north to south and 6.2m long from east to west. The overheight element occupies less than 10% of the site. Situated approximately 13.0m from the neighbouring dwelling, and no closer than 34.0m to the Marmion Street boundary, the second storey will not present building bulk to the neighbours or streetscape.

The upper floor element is set back 1.0m from the southern neighbour and 3.7m from the western neighbour. Both neighbours have signed support for the proposal.

As the immediate area occurs on the lee side of a rise, none of the surrounding properties is afforded a view of the ocean and thus no views of significance appear to be compromised by the proposed height variation.

With the two storey element thus unlikely to generate amenity issues for neighbouring areas, it remains to be established that the variation can be supported by Council under Clause 5.1.1 (c) of TPS 2.

Clause 5.1.1 (c) allows for variations to be approved in circumstances where the topography is difficult and also in the cases of extensions to existing buildings.

In this instance, the 5.03m drop in ground levels over the 42.55m west to east length of the property has made a compliant design difficult to achieve. The second storey addition is more than 1.0m above the height standard, even with its relatively small floor-to-ceiling height of 2.8m.

In conclusion, the overheight element meets the variation requirements of TPS 2 by being an extension to an existing building on natural ground forms that indicate a variation is warranted. Adjoining landowners have supported the proposal and in terms of the RDC Performance Criterion the amenity of the neighbouring area will not be impacted.

### **Side setbacks**

#### SETBACKS FROM SOUTH BOUNDARY

The proposed south ground wall and south upper wall have 1.0m setbacks from the southern boundary in lieu of the 1.7m and 1.2m setbacks required by the RDC. The upper western wall is proposed to be setback 1.0m from the ROW in lieu of the 1.65m required by the RDC. It is therefore necessary to assess the proposed walls under RDC Performance Criterion 6.3.1 P1, which contemplates:

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

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

The ample windows facing north ensure that sufficient sunlight and ventilation will be provided to the building. The predominantly single-storey design would not generate building bulk, and not hinder the passage of sunlight or ventilation to the neighbouring properties. In any event, the property to the south is overshadowed by less than the 25% permitted as-of-right by the RDC.

The two storey element is proposed to be situated at the rear of the lot, distant from the outdoor living areas and major openings associated with the neighbouring dwellings. At 6.2m wide (north to south) and 7.2 in length (east to west), the

proposed two storey element is also considered unlikely to generate building bulk concerns.

There are no privacy concerns with the proposal, which meets the relevant Acceptable Development Standards of the RDC in respect of 215 Marmion Street, and satisfies the Performance Criterion of the RDC with regard to 71 John Street.

#### SETBACK FROM WESTERN BOUNDARY (ROW)

The western upper wall is proposed to be set back from the ROW boundary. As the ROW is 2.7m wide, the wall will be set back 3.7m from the neighbour's boundary, where it would be unlikely to have an impact on the amenity of the property. As the wall is intended to be situated to the east of 71 John Street, the provision of northern light and south-westerly sea breezes will not be compromised.

Both adjoining landowners have signed plans stating support for the proposal.

#### **Vehicle Manoeuvring Space**

It is proposed to have vehicle manoeuvre space of 3.7m in front of the garage, whereas RDC Acceptable Development Standard 6.2.3 A3.2 (and Council's Engineering Policy) requires 6.0m of vehicle manoeuvre space to be available.

In this instance there is no practical alternative to using the existing garage. Locating a garage or carport at the front of the dwelling would disrupt the streetscape and necessitate the construction of a 17.0m long crossover. Setting a new structure further back from the ROW is difficult given the 1.0m drop in levels approximately 8.0m east of the garage.

Engineer-certified vehicle turning circles show that safe entry and egress from the garage is feasible (refer attachment). Similar proposals have recently been approved by Council at 31D Curtin Avenue and 223 Marmion Street, the latter of which has been completed and appears to be functioning well.

Council's Works Department has supported the turning circles and the variation may be approved on this basis.

Council's Works Department also considers the section of ROW behind 215 Marmion Street to be untrafficable due to its steepness (refer Council's 2005 ROW Report). The proposed reduced turning circles would thus not compromise northbound traffic.

Approving the proposal would see the ROW sealed and drained at the applicant's cost all the way from the subject lot to John Street. The ROW upgrade would benefit several other properties and modernise a ROW that is recognised by the Town as being in poor condition.

#### **Privacy**

It is proposed to have a west-facing study window that is setback 3.7m from the boundary of the property at 71 John Street, whereas the Acceptable Development Standards of the RDC require study windows to be setback 4.5m.

It is therefore necessary to assess the window according to the relevant Performance Criterion, which states:

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

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

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

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

In this instance it is an area of garden, rather than a major opening or an active habitable space that is proposed to be overlooked. The neighbours have signed support for the variation.

## **CONCLUSION**

The proposal is for mostly-single storey additions which will have little impact on the streetscape or neighbours as they will occur at the rear of the property. The steep topography and acute terracing of the site have imposed design constraints and several variations from the planning standards are sought, with the height of the two small storey element and the vehicle turning space from the garage being most crucial. All variations have been assessed as supportable.

Approval is recommended.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee was satisfied regarding the rear height variation given the difficult topography, good design and that streetscape would not be affected.

## **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Strzina, seconded Cr Dawkins

**THAT Council GRANT its Approval to Commence Development for the proposed swimming pool, alterations and second storey additions to dwelling on Lot 111 (No. 217) Marmion Street, Cottesloe, as per the revised plans dated 23 June 2010, subject to the following conditions:**

- (a) **All construction work shall be carried out in accordance with the *Environmental Protections (Noise) Regulations 1997, Regulation 13 – Construction Sites.***



- (b) The external profile of the development as shown of the approved plans shall not be changed, whether by addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (c) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged into the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings.
- (d) 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.
- (e) Prior to the issue of a Building Licence, the applicant shall arrange with the Manager Engineering Services for the Right-of-Way at the rear of the development to be paved and drained to John Street at the applicant's expense and in accordance with Council guidelines and specifications.
- (f) The applicant shall comply with the Town of Cottesloe's *Policies and Procedures for Street Trees, February 2005* where development requires the removal, replacement, protection or pruning of street trees.
- (e) Air conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and housed or treated to ensure that sound emissions do not exceed the levels prescribed in the *Environmental Protection (Noise) Regulations 1997*.
- (f) Any future modifications to the front setback area fencing shall be of an open- aspect design in accordance with Council's *Fencing Local Law* and the subject of a separate application to the Town.
- (g) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and housed or treated to ensure that sound emissions do not exceed the levels prescribed in the *Environmental Protection (Noise) Regulations 1997*.
- (h) Wastewater or backwash water from swimming pool filtration systems shall be disposed of into adequate soakwells and contained within the boundary of the property.
- (i) A soakwell system having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary shall be installed to the satisfaction of the Environmental Health Officer.
- (j) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.

**Advice Note:**

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

Carried 7/0

**10.1.4 NO 2A REGINALD STREET - TWO STOREY DWELLING**

<b>File No:</b>	<b>1968</b>
<b>Attachments:</b>	<a href="#">2a ReginaldAerial.pdf</a> <a href="#">2a Reginald Site Photos.pdf</a> <a href="#">2a ReginaldApplic Justif.pdf</a> <a href="#">2a Reginald.Neighbours Comment.pdf</a> <a href="#">2A Reginald Plans.pdf</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>William Schaefer</b> <b>Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>19 July 2010</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Property Owner:</b>	<b>L Corser</b>
<b>Applicant:</b>	<b>Webb &amp; Brown-Neaves</b>
<b>Date of Application:</b>	<b>1 June 2010</b>
<b>Zoning:</b>	<b>Residential – R20</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Lot Area:</b>	<b>376m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

This application is seeking the following variations to Council's Scheme, Policies, Local Laws or the Residential Design Codes:

- Front setback;
- Wall on boundary.

Each of these aspects is discussed in this report and refers to revised plans received on 23 June 2010.

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

**PROPOSAL**

It is proposed to demolish the existing dwelling and construct a new two storey brick and tile dwelling.

The subject lot is small at 376m<sup>2</sup>, having been created during the subdivision of 38 Broome Street in the 1970s. The small lot size has imposed constraints on the design of the dwelling and a variation from Council's 6.0m preferred setback resolution is sought.

The dwelling is of a traditional pitched roof design which is expected to complement the pattern of development along the street.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Council Resolution TP128A – October 2002: Front Setbacks

**FINANCIAL IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

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

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION****Advertising**

The proposal was advertised in accordance with TPS 2 and included consultation with the owner of 38 Broome Street. One submission was received. In addition, the plans and a letter were signed by the owner of 38 Broome Street in support.

Mr P and Mrs R Davidson, 2 Reginald Street, Cottesloe

- Objection to proposed 4.0m front setback on basis that dwelling at 2 Reginald was required to comply with 6.0m requirement when constructed;
- Request for obscure glazing to upper east bathroom window.

L Taranaki, 38 Broome Street, Cottesloe

- No objection to the proposed reduced setback or wall on boundary.

**PROPOSED LOCAL PLANNING SCHEME NO 3**

This property is proposed to be rezoned to Residential - R30 under LPS3.

**HERITAGE LISTING**

N/A

**MUNICIPAL INVENTORY**

N/A

**NATIONAL TRUST**

N/A

**VARIATIONS**

<b>Resolution/ RDC Acceptable Development Standard</b>	<b>Required</b>	<b>Proposed</b>
Council Resolution TP128A – October 2002	6.0m preferred front setback with no averaging	4.0m
Wall on West Boundary – RDC Acceptable Development Standard 6.3.2 A2	Max height 3.0m	Max height 4.1m

**APPLICANT'S JUSTIFICATION**

The applicant has submitted written justification for the proposed variations. The main points are summarised as follows:

- The setback of the existing dwelling from Reginald Street is 5.0m;
- The Reginald Street setback of the garage at 38 Broome Street is nil. This garage presents a large mass to Reginald Street and also occurs along the boundary of the subject lot. The effect of the proposed reduced setback to the dwelling will be somewhat ameliorated by the presence of the garage and will provide a suitable transition to the 6.0m setbacks further east along Reginald Street;
- The garage for the property at 36 Broome Street also has a nil setback from Reginald Street (note – the setback of this garage has been established by Council's Planning Staff as 0.5m, not nil as claimed by the applicant);
- There are other examples of reduced setbacks to dwellings and garages along Reginald Street;
- The small size of the subject lot (376m<sup>2</sup> in lieu of the 440m<sup>2</sup> standard minimum for R20 areas) constrains the potential for development of a standard suitable for Cottesloe;
- The proposed reduced front setback will not hinder the safe manoeuvring of vehicles;
- The proposed reduced front setback facilitates the location of private open space at the rear of the dwelling, away from the street;
- The proposed reduced front setbacks do not impact on service corridors or clearances for easements;
- The small size of the lot has necessitated the location of one wall on the boundary. This wall enables the effective use of space and ensures site coverage is less than 50%;
- The wall on boundary does not feature windows or balconies and this enhances privacy for the neighbours. This wall will also protect the neighbour's privacy by preventing people from using space near the swimming pool at 38 Broome Street;

- The two storey dwelling at 2 Reginald Street also has a high garage wall on the boundary;
- The owners of 38 Broome Street have signed plans stating no objection to the proposal.

## PLANNING COMMENT

### Front Setback

It is proposed to have a front setback to the dwelling of between 4.0m (for a 7.8m-wide section of dwelling and porch) and 5.895m (for the remainder of the dwelling), whereas by resolution Council prefers front setbacks of 6.0m, with no averaging.

The 7.8m-wide section of dwelling that is proposed to be setback 4.0m is partly comprised of a 2.8m-wide, unenclosed porch that presents little mass to the 18.7m-long streetscape.

It should be noted that the subject lot was created by the subdivision of the original lot for 38 Broome Street. Under such circumstances, aesthetically undesirable gaps in the streetscape can result if full setbacks are insisted upon, and RDC Acceptable Development Standard 6.2.1 A1.1 (ii) allows for front setbacks to be reduced to 2.5m:

*Buildings other than carports and garages set back from the primary street in accordance with Table 1: or*

*ii. in the case of areas coded R15 or higher, where:*

*a single house results from subdivision of an original corner lot and has its frontage to the original secondary street;*

*the street setback may be reduced to 2.5m, or 1.5m to a porch, verandah, balcony or the equivalent.*

The explanatory guidelines of the RDC pertaining to this standard further advise:

*Different streetscapes usually occur on secondary or side streets, with the street alignments formed by the long side boundaries of corner lots. These are characterised by side fences or walls rather than open gardens, and a small setback to the dwelling.*

*In many cases these streetscapes are being altered by subdivision of corner lots, creating new frontages to the side street. Where this happens, similar consideration to those for setbacks to frontage streets should be open, but with a reduced setback, for practical and streetscape reasons.*

The proposed reduced setback of 4.0m thus satisfies the requirements of the RDC.

In this instance the reduced setback of 4.0m is arguably preferable to the standard setback of 6.0m as the reduced setback represents a transition from the nil secondary street setback (ie Reginald Street) for the garage at 38 Broome Street to the residence at 2 Reginald Street. The applicant has observed that the Reginald Street streetscape itself has examples of dwellings forward of the 6.0m setback line.

Site inspection by Council's Planning Staff has confirmed these reduced setbacks at Numbers 18 and 20 Reginald Street.

A written objection to the proposed 4.0m setback was received from the owners of 2 Reginald Street (refer attached letter). The basis for the objection appears to be a matter of principle, rather than of a perceived negative effect on amenity. The submitter is likely unaware of the difference between the lot at No. 2 Reginald Street, which is a normal residential lot with frontage to one street, and the undersized lot at No. 2A Reginald Street, which was created following subdivision of 38 Broome Street and now has frontage to the original secondary street as per the RDC provisions.

Council has previously approved a number of reduced front setbacks in situations where corner lots have been subdivided and new frontages to original secondary streets have been created. 1 Princes Street, 13 Florence Street, 43 Hawkstone Street, 18 Grant Street, 22 Grant Street, Rear 48 & 50 North Street and 7 Knowles Street are relatively recent examples.

In conclusion, the proposed reduced setback of 4.0m is expected to facilitate a staggered transition from the secondary street setback of the garage at 38 Broome Street to the 6.0m setback of the residence at 2 Reginald Street. The proposed setback meets the Acceptable Development Standards of the RDC, which were specifically designed to facilitate setback-transitions and thus preserve streetscapes. Council has previously approved other reduced setbacks in similar circumstances and there are examples of reduced setbacks along Reginald Street.

### **Wall on Boundary**

It is proposed to construct a wall of 9.05m in length and up to 4.2m in height along the western boundary, whereas in residential areas with density codings of R20, RDC Acceptable Development Standard 6.3.2 A2 allows for walls of up to 9.0m in length and up to 3.0m in height.

It is therefore necessary to consider the proposed wall on boundary under RDC Performance Criterion 6.3.2 P2, which contemplates:

*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;*
- *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 is not restricted.*

At least 400mm of the wall is intended to protect the neighbours from overflow from the box gutter. From the Finished Floor Level of the garage/laundry to the ceiling, the wall is 3.0m in height, with the balance being the result of retaining underneath. The

applicant is thus proposing a floor-to-ceiling height that is consistent with the walls-on-boundary contemplated by the RDC.

In this instance the applicant has argued that the wall will make effective use of space on a small lot, ensuring that the open space minimum is satisfied.

The amenity of the neighbouring property is preserved by the absence of windows or balconies on the wall, and even enhanced by the manner in which it would prevent people from occupying the space adjacent to the pool at 38 Broome Street. Moreover, the affected neighbours have signed plans stating no objection.

The situation of the wall on the western boundary does not prevent the passage of northern light to major openings or habitable rooms on any property.

In conclusion, the proposed wall on boundary satisfies the relevant Performance Criterion and should be allowed.

### **CONCLUSION**

In general the proposal is considerate of the streetscape and may be deemed a thoughtful solution to the constraints of a small lot.

The proposed 4.0m setback exceeds the requirements of the RDC and is consistent with previous approvals for similarly subdivided lots. The wall on boundary satisfies the relevant Performance Criterion and is supported by the affected neighbours.

No significant adverse effects on neighbours are expected.

Approval is recommended.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Committee noted the setback arrangement as supportable having regard to the RDC and Council approvals on similar subdivided lots, and commented that this context was explained well in the report.

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Birnbrauer, seconded Cr Strzina

### **THAT COUNCIL:**

1. **GRANT its Approval to Commence Development for the proposed two storey dwelling on Lot 101 (No. 2A) Reginald Street, Cottesloe, in accordance with the Revised Plans submitted on 23 June 2010, subject to the following conditions:**
  - (a) **All construction work shall be carried out in accordance with the *Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.***

- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The finish and colour of the boundary wall facing the neighbour shall be to the satisfaction of the Manager Development Services.
- (e) The existing redundant crossover being removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (f) A separate application for a new crossover meeting Council's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer.
- (g) The proposed crossover shall be located at least 1.5m from the base of the existing street tree, as determined by Council's Works Supervisor.
- (h) The applicant shall comply with the Town of Cottesloe's *Policies and Procedures for Street Trees, February 2005* where development requires the removal, replacement, protection or pruning of street trees.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and housed or treated as may be necessary to ensure that sound levels emitted shall not exceed those outlined in the *Environmental Protection (Noise) Regulations 1997*.
- (j) Any future fencing to the site within the front setback area shall be of an open-aspect design in accordance with Council's *Fencing Local Law* and the subject of a separate application to the Town.
- (k) The window to the bathroom on the eastern elevation of the upper floor shall have full obscure glazing or a minimum sill height of 1650mm above the Finished Floor Level.

**Advice Note:**

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

2. ADVISE the submitters of its decision.

Carried 7/0



**10.1.5 GOVERNMENT REQUEST FOR SURPLUS LAND INFORMATION**

**File No:** SUB/36  
**Attachments:** [PremierLetter.pdf](#)  
**Responsible Officer:** Carl Askew  
**Chief Executive Officer**  
**Author:** Andrew Jackson  
**Manager Development Services**  
**Proposed Meeting Date:** 19 July 2010

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**INTRODUCTION**

The Premier has written to all Local Governments, letter dated 17 June 2010 attached, seeking assistance to identify surplus public land or properties to stimulate housing land supply and development in the state.

The focus is on Government Crown land and that vested in Local Governments, as well as land owned outright by councils. The information is requested to be forwarded to the Minister for Planning and ideally within 30 days.

An acknowledgment has been sent advising that as the letter was not received until 1 July it will be replied to following consideration at this month's Council meeting.

This report addresses the situation to define Council's feedback.

**BACKGROUND**

The letter represents a high-level approach in relation to managing the affects of economic growth, as a supplement to established arrangements for administering the provision of land and housing. As such there is no formal compulsion to respond, and it is noted that the request is very broad without specific guidance. Neither is there any elaboration of what's intended to be done with the information, in terms of land acquisition, planning mechanisms, development outcomes and financial implications.

The Government through its diverse planning, property, housing and development agencies should already have a good grasp of public land availability to this end. In addition its vast transport, education, health, utility and other organisations are major holders of public land assets with potential for rationalisation and urban/housing development.

Local Governments participate in the overall land and housing supply process through a suite of planning activities. This includes strategic and structure planning, town planning schemes/amendments (covering zoning, land usage, residential densities and development control), policies, studies, projects, subdivision regulation and live developments. These vary depending on the location, size and characteristics of local districts, particularly between older and newer areas. They are also influenced by the interface with regional infrastructure, planning and development.

Inner municipalities such as Cottesloe are typically predominantly developed, with limited available land and a measure of heritage constraints. Yet some government landholdings may lie idle or be recycled over time, while opportunities for urban redevelopment can occur as suburbs age and commercial centres evolve. These may take the shape of small infill developments or large-scale complete redevelopment projects.

### **COTTESLOE PROFILE**

Like other councils, in recent years the Town has been involved in land and housing supply-related planning activities via several initiatives, as follows.

#### **Regional Planning**

The Town's interest in regional planning matters such as the Stirling Highway Activity Corridor Study and the Activity Centres policy review contributes indirectly to future land and housing supply. This depends on the implementation of these proposals, entailing land-banking, rezoning/recoding, detailed planning and redevelopment. Being long-term propositions they do not extend to land availability at this early stage.

#### **DoP Population & Housing Targets**

The Department of Planning (DoP) is the lead agency responsible for population and land/housing supply research and coordination, although a range of agencies are interrelated in this regard. As the DoP is the chief source of that information for the Government and for advice to the Minister for Planning accordingly, it seems surprising that Local Governments have been contacted independently to nominate land.

For the past few years all Perth councils have been part of the DoP's *Network City*-originated ongoing program of preparing scenarios for containment and consolidation of the metropolitan region. This looks at both private and public sites, as well as new urban regeneration methods (eg transit-orientated development (TOD)).

This program has canvassed where and how more land/housing could be created in Cottesloe progressively. It is not premised on automatic availability of sites and recognises that the whole land assembly, infrastructure, planning, design and development chain would prevail. Community consultation, project feasibilities and market forces would all have a bearing.

It is understood that this work is moving towards a regional staging plan earmarking precincts for more intensive urban development and facilitating Government agencies, Local Governments and the private sector to pursue detailed planning and projects.

#### **WESROC Population Forecasts**

The Town is included in the WESROC demographic database which provides comprehensive information about population growth and complexion for the member councils. This is useful in relation to planning for land and housing supply, however, it is not based on identified parcels of land. Its value is as indicators of demand for

housing amounts and types, by way of rates of change, age and income brackets, etc.

### **Density Study**

In 2008 a *Study of Land Use Patterns and Residential Densities in the Western Suburbs* was finalised for WESROC plus the City of Fremantle and Town of Cambridge. This looked at the capabilities of these councils to accommodate urban growth in relation to their morphology and socio-economic trends.

The study examined the urban form and function of these municipalities and the meeting of regional and local planning to enable urban redevelopment. In summary it found that these councils are embracing their fair-share of housing supply and choice, notably well-designed with attractive amenity. It emphasised an historical presence of Government landholdings associated with the railway line and institutional uses that offer scope for future residential redevelopment.

In Cottesloe the sites suggested include the depot, Wearne and Deaf Institute sites and railway lands, each of which is owned differently.

Currently Cottesloe enjoys approximately 38% non-single dwellings, ie more than a third of its housing stock, as duplexes, villas, townhouses, flats, apartments and aged or special-purpose housing.

### **LPS3**

Given the above general directions, proposed Local Planning Scheme No. 3 (LPS3) is the vehicle for Council to map and make provisions for urban redevelopment sites in the district. This is a definitive tool, affording clarity and a degree of certainty by virtue of zones and development parameters, which require particular procedures to be followed (eg structure planning).

A series of Development Zones delineate Council's depot site, the railway lands, Wearne site and Deaf Institute site as candidates for residential development, subject to becoming available and the necessary structure planning then subdivision/development approvals.

In relation to LPS3, the Enquiry by Design exercise produced a preliminary structure plan for the railway lands, having regard to a solution for Curtin Avenue, east-west connectivity, Town Centre integration and a train-station TOD. Council is currently planning to relocate its depot and release the site for residential redevelopment.

### **IDENTIFIABLE LAND**

The request is to find surplus land or properties rather than committed Government or Local Government sites. Because Cottesloe is almost fully- developed it does not have a stockpile of vacant or redundant sites automatically suitable for housing development. This situation is explained below.

### **Government Crown land**

Strategically Council has an objective to manage development pressures which includes consideration of undeveloped Government-owned land for higher density development provided there is both public support and benefit for the Cottesloe community.

The railway lands are the most immediate source of supply for significant housing land and development in the district. Considerable pre-planning has been performed and could be continued, which Council aims to do.

Several educational and other institutions occupy Crown land properties in Cottesloe, including the primary school, school for the deaf, kindergarten/toy library, Wanslea and former Cable Station operations, so these are actively used rather than being fallow. These are all important community facilities, some of which such as the primary school and Wanslea are presently undergoing intensification of development and planning for further uses.

The old Scout Hall site is one which has not been effectively used for many years and appears appropriate for residential subdivision/development. This would need rezoning and a replacement venue to preserve the Scout's community service.

### **Vested Crown land**

While the Town is the custodian of much coastal regional recreational Crown land, this is set aside or protected for dedicated purposes so is not really surplus. It is held as Crown reserves (including Class A) for environmental, social and heritage purposes.

Similarly, a handful of local Public Open Spaces exist as a result of subdivision so are required to be retained for that purpose, especially as the district has comparatively little accessible local open space for passive recreation.

### **Town-owned land/property**

The Town does not own much property apart from the Civic Centre and depot, having disposed of its sumps in recent years. The depot is already earmarked for residential redevelopment which Council is acting on. The two Station Street sites in the town centre are used and planned for parking, with development concepts that may yield some apartments (not housing lots). A coupe of portions of formalised recreational areas are held freehold by the Town and as such are not predisposed to residential development.

### **CONCLUSION**

Cottesloe as an inner, older suburb is almost fully developed with a relative diversity of housing stock which is in good condition, as opposed to being an outer metropolitan growth area of new residential subdivisions or a run-down locality ripe for urban renewal.

Council's is, however, through proposed LPS3 and related actions planning for a number of future residential redevelopment prospects, including several Government landholdings, to provide additional and more diverse housing in the district.

While Council is the custodian of extensive coastal recreational land, it is not an owner of any significant holdings available for easy residential development.

### **VOTING**

Simple Majority

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Strzina, seconded Cr Dawkins

### **THAT COUNCIL:**

**Notes the request from the Premier for information on potential housing land and advises the Minister for Planning as follows:**

- 1. The Department of Planning is the main source of housing land supply information for the Government and Local Governments are actively engaged in that process.**
- 2. Cottesloe as an established inner suburb is almost fully developed and offers a mix of housing types in good condition, rather than being an outer metropolitan growth area of residential subdivisions or an older locality suitable for urban renewal.**
- 3. Council is, however, through proposed Local Planning Scheme No. 3 (LPS3) and associated actions planning for a number of future residential redevelopment prospects, including several Government landholdings, to provide additional and more diverse housing in the district.**
- 4. The railway lands locality including the accommodation of Curtin Avenue west of the Town Centre is the primary opportunity which in recent years Council has been examining in conjunction with Government agencies and is keen to progress. Under LPS3 this is provided for as a Development Zone and a preliminary structure plan has been prepared as part of the related Enquiry by Design consultative exercise.**
- 5. While Council is the custodian of extensive coastal recreational land, it is not an owner of any significant holdings readily available for residential development.**

Carried 7/0

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

Nil

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**

Nil

**13 MEETING CLOSURE**

The Presiding Member announced the closure meeting at 7:15pm.