

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE

MINUTES

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 10 MARCH 2008**

DEVELOPMENT SERVICES COMMITTEE

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DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6.02 pm.

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

Cr Jack Walsh (Presiding Member)

Cr Jay Birnbrauer

Cr Greg Boland

Cr Jo Dawkins

Cr Victor Strzina (from 6.10 pm)

Cr Ian Woodhill

Mr Andrew Jackson Manager Planning & Development Services

Mr Ed Drewett Senior Planning Officer

Mr Lance Collison Planning Officer

Ms Georgina Cooper Planning Services Secretary

Observer

Cr Daniel Cunningham

Apologies

Nil

Leave of Absence (previously approved)

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Walsh, seconded Cr Dawkins

Cr Woodhill be granted leave of absence for the Development Services Committee meetings in April, May and June 2008.

Carried 5/0

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Dawkins, seconded Cr Woodhill

The Minutes of the Ordinary Meeting of the Development Services Committee held on Thursday, 28 February 2008 be confirmed.

Carried 5/0

ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

PUBLIC STATEMENT TIMEItem 1.3 – Mr Howard Read – 10 Deane Street

Has lived in Cottesloe for over 8 years and enjoys the neighbourly community. Has supported several concessions in the proposal, however, he is also has to look after his own interests.

The main point is the height of the ground floor which is 1m above natural ground level (NGL) and he would like this reduced by half a metre. Also the roof of the proposal should be considered as a flat roof and comply with the height limits accordingly.

Item 1.3 – Mr David Caddy – The Planning Group acting on behalf of Mr Howard Read of No. 10 Deane Street

Referred to their two submissions and the RDC aspects involved. Requested reduction of the ground floor level from RL13.0 to RL12.5, as it is more pronounced on the western boundary and lowering it by half a metre would alleviate the concern.

Disagrees that the roof should be considered as a traditional pitched roof as it exceeds the 7m height limit for a flat roof, whereby lowering the overall building by half a metre would alleviate the impact of the height, but did not specifically request that.

Seeks that the following conditions be added:

- (a) Reduce the ground floor level to RL12.5; and
- (b) A dilapidation report be carried out on the adjoining property at No. 10 Deane Street.

Item 1.3 – Mr Tim Wright – Architect for the Proposal

From the beginning actively sought the neighbours' comments and received a favourable response from No. 14 Deane Street. The plans have already been amended to address the concerns raised by The Planning Group. Overlooking has been addressed and the ground floor windows with screening will look directly into the lap pool only.

There is a desire to capture views rather than affect privacy. The site is sloping and reducing the height of the ground floor by half a metre would cause more excavation and expense, impact on the adjoining properties due to the lowered basement. The

height of a floor level within a complying wall height of building envelope is regulated and a reduction of half a metre would actually not make that much difference provided privacy is protected which it is.

The shape of the roof is not a true flat of concealed form and therefore should not have to comply with the 7m height standard. The roof form is curved and this is becoming iconic to many houses in Cottesloe and complies with and is actually less than the main height requirement.

Item 1.2 – Ms Anna-Maree Farris – Owner

Seeking a relatively minor concession on the front setback which will be reduced to 3.2m on the ground floor as this will not impact on the streetscape and the adjoining property owners have not made any objections to this – it is consistent with the new corner dwelling.

The dual single crossovers are required for the carports as a double crossover would result in having a large double garage which would definitely impact on the streetscape and the overall appearance of the dwelling.

Accepts the recommend conditions and requests approval as proposed.

PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

REPORTS OF COMMITTEES AND OFFICERS**1 PLANNING****1.1 NO. 25 (LOTS 18 & 82) CONGDON STREET – DOUBLE CARPORT & FRONT FENCE ALTERATION**

File No:	1393
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Submission from applicant Photos Plans
Report Date:	28 February, 2008
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr & Mrs Richards
Applicant:	Phil & Robynne Richards
Date of Application:	15 February, 2008
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	535 & 266m²
M.R.S. Reservation:	N/A

SUMMARY

A double carport is proposed in the front setback. The front fence will also be altered to allow for the carport. This is an architect-designed solution to the constraints of the site in order to be in keeping with the dwelling and streetscape.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The proposed double carport is setback 1.5m from the front boundary and nil from the southern boundary. The carport has a 2.4m high solid wall on the southern boundary, abuts the house to the west and is open on the northern and eastern side boundaries. The carport is 5m deep by 5.5m wide and is 4.5m high at the top of the roof ridge. The applicant suggests the carport cannot be further setback due to the well established residence on site.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory N/A
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy

Policy	Required	Provided
TPSP 003 Garages and Carports in Front Setback Area	4.5m setback for carports where vehicles are parked at right angles to the primary street alignment	1.5m setback, vehicles parked at right angles to primary street alignment

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The two applicable side neighbours have signed the plans in support of the proposal. This satisfies Council's requirements.

BACKGROUND

The original house was built in 1924. Since that time the house has been significantly added to. In 1984, a rear storage shed and rear house extension was approved and erected. This storage shed can park two cars. In 1993, a second storey rear addition

was approved and built. The current owners park their cars in the driveway which is unprotected from the elements.

STAFF COMMENT

Carport

The carport is proposed to have a 1.5m setback from the front boundary. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment.

Variation to this setback requirement may be allowed subject to meeting the following criteria:

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

The Council shall also have regard to:

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

View lines to the southern neighbouring property are not ideal from the proposal. The carport is a semi-open structure with a 2.4m high wall on the southern side boundary, and would still afford a restricted view line toward the driveway of the adjacent southern property as it is setback 1.5m from the front boundary. It should be noted the 2.4m high wall on the southern edge of the carport cannot be removed from the design due to the Building Code of Australia requirements for fire rating. The existing fencing within 1.5m of the front boundary on the southern boundary is open aspect except for a pier on the front boundary. It is noted the southern neighbour has supported this plan and the new wall will abut the existing fence on the neighbour's property.

The view line to the north is satisfactory. The proposal includes modification to the front fence; which will remain open aspect immediately to the north of the carport apart from a 1500mm wide pier parallel to the carport. This pier should not significantly reduce sight lines.

The proposal shall maintain adequate maneuvering space for the safe ingress and egress of motor vehicles. The crossover is being increased in width to meet this criterion.

The carport somewhat meet the objectives of the RDC. The RDC specify "*that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent*".

The carport is 5.5m (31.1%) wide of a 17.7m frontage and complies. The RDC also require two spaces per single house and that the design meets standard bay dimensions. This application partially meets the criteria. A standard carport depth is a

minimum of 5.5m and the proposed carport depth is only 4.56-5m. Because of this it may not be possible to fit a large sized car under the roof of the carport. The owners of the property are satisfied with the carport length and do not propose to put a door to the carport.

The RDC also have a preference to have any walls and fences reduced to no higher than 0.75m within 1.5m of where a driveway meets a public street. The proposal complies apart from the pier on the neighbouring property's front boundary and this is seen to be satisfactory.

It can be argued that the carport also meets the criterion "*the effect of such variation on the amenity of any adjoining lot*" The carport should not provide any adverse amenity impact onto the neighbours. This is because any shadow from the carport will fall onto the neighbour's driveway and should not affect this driveways function.

The application also meets "*the existing and potential future use and development of any adjoining lots*" criterion. The location of the carport in the front setback should not have any significant impact on the southern neighbour's opportunity to redevelop their property if they choose to do so.

However, the application does not meet the final criterion being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport having a 1.5m setback from the front boundary is well in front of the southern and northern neighbouring properties which are setback between 4.5 to 6m from the front boundary. The carport being setback 1.5m to the front boundary is a large projection and interrupts the streetscape.

This is not desirable and alternative solutions should be explored if physically possible. In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 6.06m from the front boundary and cannot setback the carport further at its proposed location.

It is also acknowledged the property has a rear, freestanding garage/shed which is capable of storing 2 cars. A paved single width driveway is located along the southern side of the property to this shed. The applicant claims the shed is used for storage and is not easy or convenient to park vehicles. This is because of the angled, slight incline and the long length of driveway to reverse out of the shed to Congdon Street. The applicants claim is noted. Also at only 2.75m wide this side access is sub-standard.

The applicant does not wish to relocate the carport to the northern side of the front boundary setback area due to the design of the home and the landscaping present. If relocated here, the applicant would potentially lose the crossover at the southern edge of the property as it is unlikely permission would be granted for a single and a double width crossover for the property. For this same reason, relocating the carport 0.9m to the north from its proposed location, so that the carport will no longer need the 2.4m high wall for fire rating, is not seen as practical as the carport pier would block any future vehicle access to the rear of the property.

In terms of streetscape, the carports' roof design is complimentary to the residence which lessens the impact of the setback concession. The carport is a relatively low key addition to the streetscape and in keeping with its character of the dwelling and street. The carport sits well below the roof lines of the residence and has a matching roof pitch and gable treatment, which represents good urban design for the site and streetscape.

Front fence alterations

Part of the existing open aspect front fence shall be removed to make way for the double carport. The new fencing includes a 1.5m wide, 1.8m high solid pier and an open aspect side gate. The 1.5m wide solid pier does not meet the Fencing Local Law but it is not considered detrimental to the streetscape and is consistent with other recently approved front fence applications. The remainder of the front boundary fence will remain open-aspect.

CONCLUSION

It is recommended that the application be approved subject to conditions. The 1.5m front setback proposed is supported as the carport cannot be pushed back further due to the existing residence behind it. No other alternative solution is recommended due to the existing constraints of the site. Overall the proposal makes sense to the design of the dwelling and streetscape, including the interrelationship with the similar southern neighbouring dwelling.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee briefly discussed whether another forward carport was appropriate and the general streetscape and precedent considerations raised. Mr Jackson mentioned that as reported there is no rear lane access, the side driveway is too narrow and the RDC support on-site parking; adding that while the streetscape would change the architect's design is sympathetic and the structure would fit-in against the solid side boundary wall and neighbouring dwelling.

1.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Woodhill

That Council GRANT its Approval to Commence Development of a Double Carport and Front Fence Alteration at No. 25 (Lots 18 & 82) Congdon Street, Cottesloe, in accordance with the plans submitted on 15 February 2008, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (b) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**

- (c) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the 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) The applicant applying to the Town of Cottesloe for approval to modify the existing a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (f) The carport shall not be enclosed on any of the open sides as approved and shall not have any solid gates or door.

Carried 4/2

1.2 NO. 1 (LOT 125) PRINCES STREET – TWO-STOREY RESIDENCE

File No: 1378
Author: Mr Lance Collison
Author Disclosure of Interest: Nil
Attachments: Location Plan
Correspondence from Applicant (3)
Submissions (1)
Photos
Plans
Report Date: 26 February, 2008
Senior Officer: Mr Andrew Jackson
Property Owner: Anna & Ron Farris
Applicant: Donaldson & Warn Architects
Date of Application: 23 January, 2008
Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 347m²
M.R.S. Reservation: N/A

SUMMARY

A two storey residence is proposed on the subject lot. The design is integral to the smaller lot resulting from subdivision and the built form is compatible with the other recently-approved dwellings on the other lots and adjacent.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

On the ground floor two single carports and two porches are proposed externally. A low retaining wall and rainwater tank is also found. Internally a foyer, living, bath, laundry and two bedrooms are proposed.

On the upper floor, a porch, bedroom, bathroom, WIR is proposed. A living/kitchen area opens up to the balcony at the front of the residence. A staircase links the two floors.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory N/A
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Council Resolution

Resolution	Required	Provided
TP128a October 2002	6m front setback for residential development in the district; however, it is noted the RDC allow a 1.5-2.5m setback in this circumstance.	1.5m front setback for balcony, with main building a minimum of 2.7m.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – Boundary Setbacks	Upper east wall - 1.2m	1m	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	Upper west wall - 1.2m	1m	Clause 3.3.1 – P1
No 8 – Privacy	Bed 3 – 4.5m	3.85m line of sight facing west, 4m facing south-east & south-west	Clause 3.8.1 – P1
No 8 – Privacy	Living 2 - 6m	3.5m line of sight	Clause 3.8.1 – P1
No 8 – Privacy	Kitchen - 6m	5m line of sight	Clause 3.8.1 – P1
No 8 – Privacy	1 st floor Porch - 7.5m	3.85m line of sight	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes.

The advertising consisted of a Letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There was 1 submission received, of which was an objection. Details of the submissions received are set out below:

Stephen O' Mahony of 56A Marine Parade, Cottesloe

- *Request conditions to west-facing windows and porches that overlook his property*
- *This includes windows and the porches to areas nominated as living 2, porch 3 and bed 3*

BACKGROUND

An original two level brick and iron residence was demolished to make way for a 3 lot green title subdivision on the corner of Marine Parade and Princes Street. Two of the lots front Marine Parade and the other faces Princes Street. This subdivision was given approval by the WAPC in 2003 and all conditions were completed in 2005.

Since that time a two storey residence at 56 Marine Parade (corner of Princes Street) has been erected while the newly created property at 56A Marine Parade has gained planning approval for a two storey residence. 1 Princes Street is the last of the three created lots to seek planning approval.

It should also be noted the neighbouring eastern property, 1A Princes Street gained a planning approval for two by two storey grouped dwellings at the Ordinary Council Meeting in November 2007 with a 3.5m front setback. The redevelopment of 1/3 Princes Street at the Ordinary Council Meeting in May 2007 was approved with a 3.97m front setback. Hence the proposal fits in with this pattern.

STAFF COMMENTNatural Ground Level

The natural ground level at the centre of the site is determined to be RL 10.1. This was determined in March 2005 through a preliminary assessment in relation to the subdivision in order to set levels for each of the three lots as a precursor to development applications. This appears to be a fair level and the site survey re-confirms this level. This is an attachment with the report. This level allows a staggered arrangement of dwellings in the streetscape.

Building Height

The applicant proposes a flat roof designed house with a 7m (RL 17.1) overall height. This is compliant with the Residential Design Codes for flat roofed residences and fits in with the adjacent roof designs.

Front Setback – Streetscape Implications

The front balcony is proposing to be setback 1.5m and the main dwelling a minimum of 2.7m from the front boundary for the living room 2 on the upper floor and 3.2m to the living room on the ground floor. This lot was created as part of a subdivision and the RDC do allow a reduced front setback as per Clause 3.2.1 as shown below:

A1 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;*

This lot faces Princes Street which is considered to be a secondary street, the other two remaining lots which were created from the subdivision face Marine Parade.

However, it is also noted that Council has adopted a resolution requiring a preferred 6m front setback for residential development (which is the R20 and not the R30 standard in the RDC) for the district generally. As this proposal is a departure from this resolution, the impact on the streetscape should be assessed.

The proposal has both a “reduced” setback and a lightweight-open look. The height is consistent with the design standard for flat roofs and the setback should not interrupt the streetscape. The adjacent buildings to the east along Princes Street have approved setbacks of 3.5m at 1A Princes Street and 3.97m at 1/3 Princes Street. The western neighbouring property faces Marine Parade and therefore has a 1.5m setback to Princes Street, being its secondary street. The proposed 1.5m for the balcony and a minimum 2.7m setback for the main dwelling should compliment the staggered setbacks in the streetscape and it can be seen that this is suitable for this lower section of the street.

The proposed setbacks are recommended for approval.

Boundary Setbacks

The following side boundary setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The setback variations are therefore required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper East wall	Kitchen	7m	8.5m	No	1.2m	1m
Upper west wall	Living 2	7m	8.5m	No	1.2m	1m

3.3.1 – Buildings Set back from the Boundary

P1 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 an appurtenant open spaces;
- Assist with the 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 proposal is to have a 1m setback to the upper floor west wall. This is usually required to be setback 1.2m from the boundary. The setback meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate and that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The proposal meets the amelioration of bulk criterion as this section of wall is only 8.5m long and the remaining upper floor wall is setback 3.8m. The wall does not create any privacy concerns and this is a minor variation of 0.2m. The proposed setback is recommended for approval.

The proposal is to have a 1m setback to the upper floor east wall. This is usually required to be setback 1.2m from the boundary. The setback meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate and that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The proposal meets the amelioration of bulk criterion as this section of wall is only 8.5m long and the remaining upper floor wall is setback 3.8m. The wall does not create any privacy concerns and this is a minor variation of 0.2m. The proposed setback is recommended for approval.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC which are also below:

Window of room or Open habitable space	Required	Provided
Bedroom 3	4.5m setback	3.85m setback facing west, 4m facing south-east (east window) & south-west (west window)
Living 2	6m setback	3.5m setback
Kitchen	6m setback	5m setback
Porch 3	7.5m setback	3.85m setback

Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening; and*
- *the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

The proposal asks for variations to bedroom 3's cone of vision setbacks. The proposal partially complies with the Performance Criteria of the RDC. In relation to the west facing window, the setback to the western boundary is 3.85m to the west and 4m to the southern property on a 45 degree angle. While the possible overlooking to the southern property is on an acute angle, the overlooking to the west is of concern. The window faces the neighbour and could overlook habitable rooms of the neighbouring property. It is recommended that this window is partially fixed and obscured or screened to prevent overlooking to the western neighbour.

In regards to the eastern facing window, this is a variation to the southern neighbour. This window on a 45 degree angle is a 4m setback to the southern boundary. As the cone of vision is very limited to this southern neighbour, and the window meets the privacy requirements when looking to the east, the window is recommended for approval.

The proposal asks for a variation to the living 2 room's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. In relation to the south facing window, the setback to the western boundary is 3.5m on a 45 degree angle. A screen jutting out from the side wall is proposed to remove much of this overlooking, however, there remains a variation. As the cone of vision is on an acute angle only to this neighbour, and the window meets the privacy requirements when looking to the south, the window with the screening provided is recommended for approval.

The proposal asks for a variation to the kitchen's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. In relation to the south facing window, the setback to the eastern boundary is 3.5m on a 45 degree angle. A screen jutting out from the side wall is proposed to remove much of this overlooking, however, there remains a variation. As the cone of vision is on an acute angle only to this neighbour, and the window meets the privacy requirements when looking to the south, the window with the screening provided is recommended for approval.

Porch 3 also asks for a variation to the cone of vision setbacks. The proposal does not comply with the Performance Criteria of the RDC. The porch is setback 3.85 to the western boundary. Balustrade is provided to a height of 1m above finished floor level. The porch could overlook habitable rooms of the neighbouring property. It is recommended that the porch be screened to a height of 1.65m to prevent overlooking to the western neighbour.

Perforated Screens

The applicant proposes two perforated screens. One is located on the entire eastern edge of the kitchen and the other on the entire western edge of living room 2. There are window openings in the walls behind each of these screens. The applicant advises that the sill height of two of the three windows is above 1.6m from finished floor level and the sill height of the third window (from the kitchen facing east) is 1.1m above FFL and that fixed translucent glazing will be installed. However, as this is not entirely clear from the plans condition is recommended to control the detail.

Two Crossovers

It is noted the design requires two crossovers. The Town Of Cottesloe generally only allow one crossover per property which may be up to a double car width. In this circumstance the two crossovers will be of single car width each.

The two carports and associated crossovers are not considered to the detriment of the streetscape due to the unique design of the proposed dwelling and the crossovers are recommended for approval. Also the street is quiet whereby traffic safety is not a concern.

Retaining wall

A low retaining wall is proposed at the front boundary up to a height of 0.55m. While this is in excess of the maximum 0.5m allowed for in the RDC, this allows for a level lawn court area and does not detract from the streetscape. This low retaining wall is recommended for approval.

CONCLUSION

The proposed design of the residence compliments the recent development of the Princes Street/Marine Parade streetscape. The residence does not present a bulk issue and is a lightweight-looking building with largely compliant setbacks and does not feature any boundary walls. The privacy variations either meet the performance criteria and some variations will be controlled by conditions.

The proposed front setback meets the Residential Design Code provisions and will compliment the staggered setback with the other residences in the street. The application is recommended for approval subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee sought clarification regarding any garage doors and the screens in relation to the side setbacks. Officers explained that the carports would be open as approved on the plans and that the feature / privacy screens would function appropriately. Committee also discussed the front setback situation in relation to the adjoining row of dwelling approvals and on balance felt that the staggered pattern of setbacks would work well. Mr Jackson reinforced this in explaining that the setbacks essentially complied and enabled shared ocean views along the street at this lower end.

1.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Dawkins, seconded Cr Birnbrauer

- (1) GRANT its Approval to Commence Development of a two-storey residence at No. 1 (Lot 125) Princes Street, Cottesloe, in accordance with the plans submitted on 24 January 2008, subject to the following conditions:**

- (a) All construction work being 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 not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (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 proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The applicant applying to the Town of Cottesloe for approval to construct the two single-width crossovers, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (g) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) The west-facing window to bedroom 3 being modified to prevent overlooking into the adjoining property by having a minimum sill height of 1650mm above the FFL or fixed obscure glazing or screening to a minimum height of 1650mm above the finished floor level;
 - (ii) Porch 3 being modified to prevent overlooking into the adjoining property by a screen on the western edge to a minimum height of 1650mm above the finished floor level; and
 - (iii) The east-facing window from the kitchen being modified to prevent overlooking into the adjoining property by being fixed obscure glazing or screening to a minimum height of 1650mm above the finished floor level.
- (2) Advise the submitters of Council's decision.

Carried 5/1

1.3 NO. 12 (LOT 20) DEANE STREET – TWO-STOREY RESIDENCE WITH BASEMENT & SWIMMING POOL

File No:	1379
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission from applicant Submission from consultant (1) Photos Plans
Report Date:	29 February 2008
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr D Jagger
Applicant:	Wrightfeldhusen
Date of Application:	24 January 2008
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	569m²
M.R.S. Reservation:	N/A

SUMMARY

A two storey residence with basement and swimming pool is proposed.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

A four car garage, cellar, storage, store and pool plant and equipment rooms are proposed in the basement.

On the ground floor, three bedrooms, bath, ensuite, study, laundry, entry area and a theatre/living open area is proposed. Externally an entry court, front and rear terraces and lap pool is proposed.

On the upper floor, a master bedroom, WIR, ensuite, pantry, powder and a lounge/dining/kitchen/bar open-plan area is proposed.

In terms of urban design appreciation the proposal is assessed as a good example of addressing the site and surrounds. The front setback at 7.32m exceeds the usual 6m and the design affords side and rear setbacks rather than imposing any boundary parapet walls – the pool is also setback rather than being built to any boundary as sometimes proposed. It can be seen that the streamlined long-house design will sit in the streetscape as an elegant expression and an effective transition between the different styles of dwellings either side. In this context there is a designed-in approach to privacy control which has been improved in response to neighbour

consultation. In summary, the combination of a modulated and cohesive building is a relatively low-key architectural aesthetic in its setting and reflects the comparatively high standard of dwelling design proposed in Cottesloe.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory N/A
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.8m setback – study & bath wall	1.5m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.1m setback - Terrace to powder wall	1.5m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1.6m setback – Ensuite to balcony wall	1.5m setback	Clause 3.3.1 – P1
No 8 – Privacy	4.5m setback, Bedrooms 2,3 and 4	3.1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m setback Theatre/ Living	3.1m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m setback – ground floor rear terrace	7.2m to west	Clause 3.8.1 – P1
No 8 – Privacy	7.5m setback – ground floor rear terrace	3m to west, 1.5m to the east	Clause 3.8.1 – P1
No 8 – Privacy	7.5m setback – Front balcony	7m to west, 1.5m to east	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes.

The advertising consisted of Letter to Adjoining Property Owners.

Submissions

There were 7 letters sent out. There was 1 submission received, which was an objection. The objection below relates to the original, superseded plans so is now somewhat redundant. The applicant architects have met with the planning consultants who made the submission to discuss the proposed design and their concerns. The architects have responded constructively with revised plans to better address privacy and so on. The architects have also provided the revised plans to the planning consultants for information or any further comment. The Town has liaised with the planning consultants for any more comment, which is understood to be pending the planning consultants liaising with their client. Details of the initial submission received are set out below and the matters raised are addressed in the remainder of this report.

The Planning Group on behalf of Howard Reid of 10 Deane Street, Cottesloe

- *Note the determined floor level of the residence is at RL 12 and not 11.96 which is the 4 corner average of the site*
- *The house exceeds the 7m maximum standard by 1.5m*
- *Claim the Town has the right to vary the height requirements in certain circumstances. They note the topography is not extreme as it slopes 1.24m across the site and this is not a reason to vary height*
- *Claim there is filling on the site so that the ground floor level is up to 1.65m above the real ground level*
- *Consider the establishment of the ground level at RL13.0, 1m higher than natural ground level, is a significant barrier to achieving a development that does not negatively impact on the neighbouring residence*

- *The follow on effects from the elevated ground floor level is increase in bulk and greater privacy issues*
- *Concerned regarding overlooking from rear pool deck*
- *Claim the areas raised 0.5m above natural ground level is not open space and the open space provision is inadequate*
- *Object to the western wall side setback variation*
- *Consider the upper 2.5 metres of the house being not “all roof” and part of this should be considered when calculating the wall height*
- *The side setback variation significantly increases the impact of building bulk on the adjoining property*
- *Note the lower level rear terrace does not comply with the 7.5m privacy setback*
- *The bedrooms and living areas overlook the whole of the neighbouring property*
- *Vegetation screening in isolation is not a solution and it can be ineffective*
- *Council must have regard to the likely impact on privacy enjoyed by neighbouring developments and may place conditions on the locations of large viewing windows to ensure neighbours privacy is protected*
- *Say all the privacy variations should not be supported given the rear garden, bbq and alfresco area at 10 Deane Street will be negatively affected by the variations*
- *Object to the noise generated from the pool*
- *Construction of a new boundary fence may be problematic as the property at 10 Deane Street has a bbq structure on the eastern boundary. This parapet wall should be retained.*

BACKGROUND

The well established residence from the 1920s was added to in 1975 with a new carport. The property had single storey additions approved in 1986. In 1996 a second storey addition, garage and deck was approved.

In regards to the current application, the applicant has met with the neighbours regarding the development proposal. During the formal advertising period an objection was lodged by The Planning Group on behalf of the western side neighbour. The applicant has discussed the objection with the owners and TPG which resulted in revised plans with increased compliance with planning requirements.

STAFF COMMENT

Natural Ground Level

A well established residence currently lies on the centre of the property. The survey provided did not show contours running through the centre of the site. As a result a 4 corner average was used to determine natural ground level. The Town's data indicates the RL 12 contour line runs north-south through the property and the RL 13 contour intersects the property at the southeast corner. This GIS data and the site survey information confirm there is a slight slope from the southeast down to the northwest corner of the site. The centre of the site is determined to be an RL 11.96.

Storeys

The residence features a basement, a ground floor and an upper floor. The upper floor is designed within the roof form-space, which might otherwise be designed as a conventional storey/roof form. The upper floor is therefore considered a storey and the basement is not considered a storey as it meets the criterion in relation to its level. Hence the proposed residence is assessed as two-storey, similar to other such designs with an undercroft or basement and two floors above.

Building Height

The application is closer to a traditional pitched roof than a concealed/flat roof and should be assessed against the 6m wall and 8.5m overall building height of TPS2 rather than the 7m concealed roof standard in the RDC.

The maximum wall height on the western elevation is RL 16.9 and RL 17.96 on the eastern elevation. The wall on the eastern elevation is 6m above natural ground level at the centre of the site. Both walls are in compliance with TPS2. The roof then curves up from these walls to a height of RL 20.3 which is 8.34m above natural ground level at the centre of the site and is also in compliance with TPS2. It is considered that both the western and eastern elevation walls meet Figure 2B of the RDC regarding irregular shaped roofs which measure the wall height to the point where it curves into a roof.

In reference to the northern and southern side elevations, the walls are of a gable-styled design and as a result are not assessed against the 6m wall requirement.

Privacy

The following privacy (cone of vision) setback of the proposed residence seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are also below:

Window of room or Open habitable space	Required	Provided
Bedroom 2	4.5m setback from window	3.1m setback
Bedroom 3	4.5m setback from window	3.1m setback
Bedroom 4	4.5m setback from window	3.1m setback
Theatre/Living	6m setback from window	3.1m setback
Front balcony	7.5m setback from balcony edge	7m setback facing west, 1m facing east
Rear ground floor terrace	7.5m setback from terrace edge	7.2m setback
Front ground floor terrace	7.5m setback from terrace edge	3m setback to the west, 1.5m setback to the east

Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *The positioning of windows to habitable rooms on the development site and the adjoining property.*
- *The provision of effective screening.*
- *The lesser need to prevent overlooking of extensive back gardens, front gardens or*
- *Areas visible from the street.*

In regards to the ground floor bedroom 2, 3 and 4 west windows these are setback 3.1m from the boundary where a 4.5m setback is required for the bedrooms. The floor levels of these rooms are over 500mm above natural ground level and are assessed against the privacy standards of the RDC. It is assessed the proposal meets the Acceptable Development standards of the RDC. Teak panelling (screening) will remove a majority of the overlooking opportunity to the west neighbour. The teak screening is proposed against the windows from a height of 1m above finished floor level to the ceiling level. Where the screening is proposed, the sight line to the west within a 4.5m cone of vision will be limited to see the reflection of the pool and the boundary fence.

However, at the south-west corner of Bedroom 2 and 4 and the north east corner of Bedroom 3 there is no teak screening proposed. The windows are full height from floor to ceiling. It is observed, however, that these windows do not overlook any major openings of the western neighbouring residence. The windows face an ensuite, bathroom, WC and staircase windows of the western neighbour. It is also noted the applicant will plant continuous hedges along this boundary. No conditions are proposed to control privacy to these rooms.

In regards to the theatre/living room west windows these are setback 3.1m while it should be setback 6m. In this case the proposed teak screening will remove the overlooking opportunity to the west neighbour. The teak screening is proposed against the window from a height of 1m above finished floor level to the ceiling level. Where screening is proposed, the sight line to the west within a 4.5m cone of vision will be limited to see the reflection of the pool, the hedge planting and the boundary fence. This meets the performance criteria of the RDC.

The first floor front balcony complies with the Performance Criteria of the RDC. The balcony is setback from the western boundary 7m and to the east 1.5m where a 7.5m setback is required. It is assessed that the view to the west will overlook a blank wall of the house and the roof of a garage, while to the development to the east will overlook an open front yard and porch. This is considered acceptable.

Similarly, the ground floor front terrace complies with the Performance Criteria of the RDC. The terrace is setback from the western boundary 3m and 1.5m to the east where a 7.5m setback is required. It is assessed that the view to the west will overlook a blank wall of the house and the roof of a garage, while to the east the development will overlook an open front yard/porch. This is considered acceptable and is similar to the existing front verandah of the property which is also elevated above natural ground level.

In regards to the ground floor rear terrace, this is setback 7.2m from the western boundary where 7.5m is usually required. The setback partially meets the performance criteria due to a new 1.8m high boundary fence and hedge planting which will reduce the line of sight into the western neighbouring property. It is noted that, while the RDC accept vegetative screening, the hedge planting may not adequately protect privacy initially. It is also unclear from where the 1800mm high fence will be measured, hence it is recommended that the side boundary fence be a minimum of 1.65m above the terrace finished floor level (RL 14.56) to prevent overlooking into the western neighbour's rear garden.

Any overlooking to the east from the rear terrace is prevented by the staircase and from in front of the staircase to the east is prevented by a high existing limestone wall on the boundary.

The upper floor rear terrace is screened by the roof overhang, preventing overlooking to the west and east. A screen to 1650mm above finished floor level prevents overlooking to the north.

Boundary Setbacks

The following side boundary setbacks of the proposed dwelling don't readily comply with the Acceptable Development standards of the RDC. Therefore, they are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground East Wall	Study – Bath	4m	9m	Yes	1.8m setback	1.5m setback
Upper East Wall	Terrace Powder	6m	17.6m	No	2.1m setback	1.5m setback
Upper East Wall	Ensuite Balcony	6m	12.48m	No	1.6m setback	1.5m setback

3.3.1 – Buildings Set back from the Boundary

P1 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 an appurtenant open spaces;*
- *Assist with the 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 ground floor east wall has a boundary setback of 1.5m, where 1.8m is usually required. The setback provides adequate sun and ventilation to adjoining properties. The proposal is part of the eastern elevation which has staggered setbacks which ameliorates the impact of bulk. The wall is not considered to be a privacy issue. This setback is supported.

This proposal is to have a 1.5m setback to the side boundary for the upper east wall from the terrace to the powder, where a 2.1m setback is usually required. It should be noted the wall stops a metre above finished floor level on this elevation and above this is the angled roof, which is not subject to side setback calculations. The setback provides direct sun to the adjoining property. It provides for adequate ventilation to this property and the neighbour. The proposal is part of the eastern elevation which has staggered setbacks which ameliorates the impact of bulk. Also, the wall is not considered to be a privacy issue. The eastern neighbour has no objection to the revised plans and on balance, this setback is supported.

The ensuite to front balcony on the upper floors eastern elevation is setback 1.5m where 1.6m is usually required. It should be noted the wall stops a metre above finished floor level on this elevation and above this is the angled roof, of which is not subject to side setback calculations. The balcony is not considered to be a major opening in this calculation as the balustrade is the same height as the top of the remaining wall height of the elevation. The setback provides direct sun to the adjoining property. It provides for adequate ventilation to this property and the neighbour. The proposal is part of the eastern elevation which has staggered setbacks which ameliorates the impact of bulk. The potential overlooking from the balcony is considered previously in the report and only affects the front setback area. The eastern neighbour has no objection to the revised plans and on balance, this setback is supported.

Open Space

The application is considered to meet the open space requirement. The RDC states that open space are "*Generally that area of a lot which is not occupied by any building and includes:*"

- *open areas of accessible and useable flat roofs and outdoor living areas above natural ground level;*
- *areas beneath eaves overhangs, verandahs or patios not more than 0.5m above natural ground level, unenclosed on at least two sides and covering no more than 10 per cent of the site area or 50sqm whichever is the lesser;*
- *pergolas;*
- *uncovered driveways (including access aisles in parking areas) and uncovered carbays;*

but excludes:

- *non-accessible roofs, verandahs and balconies over 0.5m above natural ground level;*
- *covered car-parking bays and walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.*

In this circumstance this residence has almost no eaves and the uncovered, external passageways which in some cases are exceeding 0.5m above natural ground level are considered open space. The front and rear terraces are also considered open space as they are open outdoor living areas above natural ground level. All of the front yard including the driveway, the proposed hedges to the west of the pool and a majority of the swimming pool itself is considered open space. Part of the pool and the area under the entry court which is under the built envelope of the first floor is not technically calculated towards open space, yet effectively performs as is.

The application proposes 60.5% open space, which significantly exceeds the 45% minimum of the total site area required.

Fill

It is noted that the eastern side external passageway of the house from the front to the rear terrace is approximately 0.7m above natural ground level. However, this fill will be retained by the existing 2.5m high retaining wall on the eastern boundary which will continue to serve as a boundary fence, hence this is considered acceptable. The levels in the remainder of the property outside of the built envelope are not raised in excess of 500mm above natural ground level. The driveway will be cut into the site to allow for a sloping gradient into the basement garage.

Swimming Pool

The pool is setback from the boundaries of the property. The walls of the pool are at an RL of 12.91, which is 1200mm above the surrounding ground levels to meet Australian Standards for pool safety. At the terrace a separate pool fence and gate are proposed.

In regards to the concern of noise coming from the pool there is no planning regulation regarding people enjoying themselves in a pool or private open space. The pool plant and equipment is ideally located in the basement so as to not present any noise to neighbours.

Western boundary fence

The western neighbour is concerned about the 1800mm high boundary wall proposed at the northern end of this boundary. As indicated previously, it is recommended that the fence in this section of the boundary be increased to RL 14.56 to improve privacy.

The neighbour has also expressed concern regarding their barbeque structure which has been built adjacent to where this wall is proposed. To ensure this existing structure is protected a condition is proposed requiring any new fencing to be built within the property of 12 Deane Street or on the boundary in agreement with the neighbour.

CONCLUSION

The proposal is compliant with the main height parameters and the curved roof design is becoming quite common within the Town. The simple contemporary design of the dwelling is considered in scale and harmony with the streetscape. The design approach to privacy variations largely meets the Performance Criteria with supplementary conditions where necessary. All side boundary setbacks meet the Performance Criteria of the RDC. Overall, it is concluded that the proposal can be supported.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Victor Strzina declared a proximity interest in Item 1.3 due to residing across the road and left the room at 6.10pm

COMMITTEE COMMENT

Committee took the opportunity to discuss the aspects of floor heights, building heights and roof forms generally in considering this proposal, given a number of similar such proposals in recent times. It was felt that the design approach to the first floor level and roof form had implications in relation to wall and building height and bulk and privacy implications. The matters of a dilapidation report and fixed screens were also queried.

Mr Jackson advised, firstly, that a dilapidation condition would be appropriate and could be satisfied as a matter of course. He also confirmed the privacy screens would be fixed as designed. Secondly, regarding the main concerns, Mr Jackson commented that, while the points made about the height / design interrelationship were acknowledged, certain factors ought to be taken into account, as follows:

- There was basic agreement as to the natural ground level, but not regarding where the first floor level should be; however, there is no specific planning regulation as to the placement of floor levels, subject to privacy being addressed. Due to the sloping site across the lot the eastern side of the dwelling enjoys a normal level while the western side becomes elevated, yet is quite well setback and privacy has been improved by the revised plans.
- As strictly-speaking TPS3 has no flat or concealed roof provision, the 8.5m standard applies and the 7m standard under the RDC serves as a guide only. Also, by technical definition the proposed roof is not flat or concealed and is a combination of pitched-skillion and curved, so it merits being assessed against the Scheme standard. In this respect it is "under-height" and given the good setbacks all around, including the increased front setback, the effect of bulk and scale was not assessed as excessive.

Committee was mindful of lowering the ground floor level, requiring a dilapidation report and fixed screens, as well as imposing the 7m roof standard, as set out in the following amendments moved for additional conditions. Mr Jackson undertook to ensure that the wording is appropriate.

Moved Cr Walsh, seconded Cr Woodhill

(m) The ground floor level shall be built at RL12.5m.

Carried 5/0

Moved Cr Walsh, seconded Cr Woodhill

(n) The owner shall at his cost carry out a dilapidation report for 10 Deane Street as part of the construction process.

Carried 5/0

Moved Cr Walsh, seconded Cr Woodhill

(o) All screening to the western elevation shall be fixed-type.

Carried 4/1

Moved Cr Walsh, seconded Cr Woodhill

- (p) **The dwelling shall be redesigned to comply with the 7m maximum building height standard for a concealed roof dwelling under the Residential Design Codes. Revised plans showing this and the requirements of the other conditions of approval shall be submitted at building licence stage to the satisfaction of the Manager Development Services.**

Carried 3/2

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Development Application for the two-storey dwelling with basement and swimming pool at No. 12 (Lot 20) Deane Street, Cottesloe, in accordance with the revised plans submitted on 29 February 2008, subject to the following conditions:
- (a) All construction work being 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 not being discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings submitted for a building licence.
 - (c) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (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 proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (g) The existing redundant crossover in Deane Street being removed, and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.

- (h) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (i) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on and disposed of into adequate soakwells.
 - (j) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (k) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (l) Revised plans being submitted at building licence stage to the satisfaction of the Manager Development Services, showing the western boundary fence wall, for its northern-most 8.3m length, being built to a height of RL 14.56 and entirely within the subject property (or alternatively on the common boundary by agreement with that abutting neighbour).
- (2) Advise submitters of the decision.

1.3 COMMITTEE RECOMMENDATION

Moved Cr Woodhill, seconded Cr Birnbrauer

That Council:

- (1) **GRANT its Approval to Commence Development for the Development Application for the two-storey dwelling with basement and swimming pool at No. 12 (Lot 20) Deane Street, Cottesloe, in accordance with the revised plans submitted on 29 February 2008, subject to the following conditions:**
- (a) **All construction work being 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 not being discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings submitted for a building licence.**
 - (c) **The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**

- (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 proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (g) The existing redundant crossover in Deane Street being removed, and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (h) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on and disposed of into adequate soakwells.
- (j) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (k) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
- (l) Revised plans being submitted at building licence stage to the satisfaction of the Manager Development Services, showing the western boundary fence wall, for its northern-most 8.3m length, being built to a height of RL 14.56 and entirely within the subject property (or alternatively on the common boundary by agreement with that abutting neighbour).
- (m) The ground floor level shall be built at RL12.5m.
- (n) The owner shall at his cost carry out a dilapidation report for 10 Deane Street as part of the construction process.
- (o) All screening to the western elevation shall be fixed-type.
- (p) The dwelling shall be redesigned to comply with the 7m maximum building height standard for a concealed roof dwelling under the Residential Design Codes. Revised plans showing this and the requirements of the other conditions of approval shall be

submitted at building licence stage to the satisfaction of the Development Services.

(2) Advise submitters of the decision.

Carried 5/0

Cr Strzina returned to the meeting at 6.50pm

1.4 ADOPTION OF LIQUOR LICENCE POLICY

File No: Sub/362
Author: Ms Delia Neglie
Author Disclosure of Interest: Nil
Attachment: Nil
Report Date: 6 March 2008
Senior Officer: Mr Andrew Jackson

SUMMARY

Council endorsed a draft policy for advertising regarding the control of liquor licenced premises in July 2007. The policy was advertised in August 2007 and as no objections were received, it is recommended that the policy be adopted.

The actual proposed policy document is set out at the end of this report and has been formatted consistent with other adopted Council policies.

BACKGROUND

At its meeting on 28 May 2007, Council considered for the first time, an extended trading permit (ETP) under the 2007 reforms of the Liquor Act (for the Blue Waters restaurant). Council resolved to agree to the proposed ETP and to *Request staff to prepare a policy on the consumption of alcohol in restaurant and alfresco dining areas for the consideration of Council in June, 2007.*

A draft policy was subsequently endorsed by Council at its meeting on 23 July 2007 when it resolved:

That Council:

- (1) Endorse the attached draft Liquor Licence Policy.*
- (2) Advertise the draft policy in accordance with Clause 7.7 of Town Planning Scheme No. 2 and Council's Community Consultation policy.*
- (3) Consult with relevant interest groups (such as SOS and Procott) and the Director of Liquor Licensing as part of the advertising process.*

STATUTORY ENVIRONMENT

Local Government Certification

Under the *Liquor Control Act 1988*, an application for a liquor licence to the Department of Racing, Gaming and Liquor (DRGL) is required to be accompanied by certificates from the relevant local government regarding the compliance or non-compliance of the premises that are the subject of the application.

Section 39 Certificates relate to the compliance (or non-compliance) of premises with the provisions of the *Health Act 1911*, the *Local Government (Miscellaneous Provisions) Act 1960*, the *Local Government Act 1995* and associated local laws. The DRGL may, where it is satisfied that it is desirable to do so, impose a condition on a licence relating to the submission, or further submission, to the DRGL of a local government certificate. For example, conditions may be imposed requiring that music not be amplified over a specified level.

Section 40 Certificates relate to the compliance (or non-compliance) of premises with the provisions of the Council's town planning scheme. The DRGL may, where it is satisfied that it is desirable to do so, impose a condition on a licence relating to the submission, or further submission, to the DRGL of a local government certificate relating to planning issues. For example, restrictions on noise levels or hours of operation can be placed on the licence in order to meet local planning requirements.

Other Legislation

Under the *Health Act 1911*, the Town of Cottesloe has an *Eating Houses* local law in place which requires the registration and licensing of eating houses which includes restaurants; dining rooms and take-away food premises. The local law enables the administration of health requirements.

Under the *Local Government Act 1995*, the Town of Cottesloe has an *Activities on Thoroughfares and Trading in Thoroughfares and Public Places* local law that requires a permit for the use of road reserve areas for an outdoor eating facility or establishment, in order to control appropriate use of public places and road reserves.

Under *Town Planning Scheme No. 2* planning approval is required for any changes of use. Council is able to impose conditions that may affect the operation of premises. Planning approval is not required for a new (or a change to a) liquor licence permit unless this would constitute a change of use.

POLICY IMPLICATIONS

A new policy is proposed which provides guidelines for the issue of Section 39 and Section 40 certificates under the *Liquor Control Act 1988*.

STRATEGIC IMPLICATIONS

Objective 1 of the Future Plan is to '*Protect and enhance the lifestyle of residents*'. The issue of liquor licences and the number of licensed outlets is seen as a challenge in pursuing this objective.

The *Future Direction* of this objective is as follows:

The Council is open to a number of interrelated strategies to maintain and enhance the lifestyle of residents by engaging the community in ownership of solutions to problems caused by visitors attracted to the beach and hotels and to augment the existing outdoor recreational lifestyle with opportunities for more cultural formal events and activities.

FINANCIAL IMPLICATIONS

Nil.

STAFF COMMENT

The proposed policy was advertised in August 2007 for a period of four weeks and community groups consulted by letter. No objections or comments have been received. The policy includes:

- An introduction and background.

- The operation of the policy - which would cover any planning approval for premises likely to be licensed and any licence or permit referred to Council by the DRGL, including the new liquor without a meal ETP for restaurants, and the small bar licence.
- Policy objectives - which are to guide Council, inform applicants and protect amenity.
- Policy measures - including such matters as location criteria, hours of operation, complaints and so on.

The benefits to Council of adopting the policy are to:

1. Guide Council in its consideration of applications for planning approval for uses that may involve liquor licensing.
2. Guide Council in its consideration of the different types of licences referred by the Department of Racing, Gaming and Liquor, particularly as they relate to planning and health requirements under Council's town planning scheme and local laws.
3. Help manage the potential impacts of such premises on the amenity of localities.
4. Provide information, to applicants, licensees and the general public of Council's considerations and requirements.

It is recommended that the policy be adopted.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee recommended that the policy be amended to reflect the following, and similar refinements have also been suggested by Cr Garmichael.

Aim and Objectives:

- Consistency with the objectives of the Community Crime Prevention Committee.
- Provision of facilities and services consistent with the aspirations of Cottesloe residents and businesses.

Policy:

- (a)(ii) Reference to specific hours of operation.
- (a)(ix) Reference to payment of cash-in-lieu if a shortfall in parking.
- (c) Reference to traffic / travel management plans.

Appropriate changes are shown shaded in the final recommended version of the policy below.

OFFICER RECOMMENDATION

That Council adopt the attached Liquor Licence Policy.

LIQUOR (LICENSED PREMISES) POLICY

(1) BACKGROUND

The Town of Cottesloe is a very attractive location to relax and dine in. As a result population pressures are likely to increase the demand for licensed premises.

The potential nature and range of liquor outlets has increased with amendments made in 2007 to the *Liquor Control Act 1988* relating to restaurants serving alcohol without a meal and 'small bar' licences.

These changes may have significant impacts on Cottesloe's local amenity.

Whilst the Town is open to a number of interrelated strategies to maintain and enhance the lifestyle of residents and visitors alike, the Town recognises that the nature and number of licensed liquor outlets requires effective management in order to minimise adverse impacts on nearby residential areas and the environment.

The Town therefore has a responsibility to;

- ensure that licensed venues are operated in such a way so as to minimise the inconvenience or nuisance to residents, businesses and the general public, and
- ensure that a diversity of entertainment is encouraged in particular localities through a mix of appropriate uses including licensed premises.

(2) AIM

To properly manage the impacts of licensed premises on the community and the environment.

(3) OBJECTIVES

To provide guidelines to:

- assist Council with the assessment of liquor licence applications when issuing Section 39 and 40 certificates under the *Liquor Control Act 1988*;
- make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications;
- assist Council in their consideration of applications for planning approval of development which may involve a liquor licence;
- foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities; and
- protect the character and amenity of adjacent residential localities.

(4) POLICY APPLICATION

Council will have regard to this policy when:

- (a) Assessing applications made to Council for:
 - Section 39 and 40 certificates made under the *Liquor Control Act 1988*.

- Planning approval made under the Town Planning Scheme for development which may involve a liquor licence.
- Eating house licence applications made under Council's *Eating Houses* local law that may involve a liquor licence.
- Alfresco dining applications made under Council's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* that may involve a liquor licence.

- (b) Considering a request to intervene or raise objections to any licensed premises operating under the requirements of the *Liquor Control Act 1988*.

Note: The types of Liquor Licences and Extended Trading Permits issued by the Director of Liquor Licensing that Council shall be concerned with and to which this policy shall apply include:

Type of Licences:	Extended Trading Permits:
Restaurant	Extended hours
Nightclub	Liquor without a meal (restaurant)
Hotel	Alfresco
Hotel restricted	Dining area
Tavern	Permits for one-off events
Small bar	
Club	
Occasional	
Special Facility	

(5) POLICY

- (a) Liquor Licence and Development Applications
Council will have regard to the following matters when considering liquor licence and development applications. If the proposal is supported relevant conditions may be imposed accordingly.
- (i) Number of premises within a locality and their distribution
A concentration of licensed premises has the potential to prejudice the amenity of a locality. It is intended to achieve a mix in the types of premises to contribute to a vibrant atmosphere of the commercial localities whilst minimising the potential for anti-social behaviour in public spaces and impacts on any neighbouring residential properties.
- (ii) Hours of operation
This is particularly relevant to hotel, tavern, nightclub and small bar licences, extended trading permits for on-going hours and liquor without a meal (restaurants or alfresco). Late operating hours may contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers. When considering a proposal for premises which would be licensed or an extended trading permit, Council is unlikely to recommend support for those licensed premises which cause disturbance and inconvenience to residents or businesses located in the vicinity of licensed premises.

- (iii) Number of patrons
This is particularly relevant to hotel, tavern and nightclub licences, where, when combined with the long hours of operation, can cause the amenity of a locality to be detrimentally affected.
- (iv) Floor area
The establishment of large venues will not be supported in proximity to residential properties. Such proposals must also demonstrate that the size of the facility will not detrimentally affect the amenity of the locality in general by virtue of its parking facilities, entertainment, number of patrons, and so on.
- (v) Noise
To address certain types of noise impacts from licensed premises Council may require that an applicant submit an acoustic engineering report indicating sound attenuation measures to be undertaken.
- (vi) Entertainment
Entertainment in licensed premises should contribute positively to and not detract from the amenity of the locality. Restaurants are expected to be operated and advertised as restaurants only. Licensees are expected to use their best endeavours (including the closing of doors and windows) to ensure that any entertainment provided on the licensed premises does not produce excessive noise likely to disturb, annoy or inconvenience nearby residents, other business proprietors and other users of the locality.
- (vii) Public safety
Where considered warranted, Council may request that additional crowd controllers, security personnel or security patrol services be provided for premises trading past midnight and/or have entertainment to patrol the external grounds and where appropriate the neighbouring streets or public spaces / recreational areas of the licensed premises and monitor the behaviour of persons arriving at and departing from the licensed premises.
- (viii) Location
The location of premises generally and the location of outdoor areas and parking facilities will not be favoured in proximity to residential properties.
- (ix) Parking
The number of parking bays required by the town planning scheme is required to be provided.

The impact of vehicles parking either in car parking areas or surrounding streets will also be considered particularly in locations adjacent to residential properties. A spill-over into the surrounding area may occur if the capacity of premises is much greater than its car parking provision, resulting in considerable disturbance and inconvenience to residents, especially when patrons are departing from the area late at night or in the early hours of the morning.

Therefore, the hours of operation for premises may be based on the availability of parking and the likely impact on the surrounding residential area.

- (b) Managing Complaints / Advocacy
Should complaints be received or Council otherwise become aware of issues, Council will undertake an assessment of the situation and determine if intervention is required. Intervention may include:

- Conducting discussions with the licensee;
- Referring the matter to the Western Accord; or
- Lodging an intervention or objection with the Director of Liquor Licensing.

- (c) Management Plans

These are required under the Director of Liquor Licensing's *Harm Minimisation Policy*. Where considered warranted, Council may require the management plan to be submitted to Council for approval, particularly as part of a proposal for a hotel, tavern or nightclub or an extended trading permit. In addition to the Director's requirements, Council may require the plan to address issues such as:

- security on the site,
- lighting in and around the site,
- security of patrons on leaving the venue,
- sale of packaged alcohol,
- specific methods of patron control (including training and surveillance),
- assistance in departure from the venue (i.e. availability of a direct telephone link to a taxi service or courtesy bus)
- noise; and
- compliance and commitment to an Accord

- (d) Western Accord

The Town of Cottesloe is a member of the Western Accord, which comprises local licensed premises operators, the Western Australian Police Service, the Towns of Cambridge, Claremont, Cottesloe, Mosman Park, and Vincent, the Shire of Peppermint Grove, the Cities of Nedlands and Subiaco, the Department of Health, Western Australia, Liquor Licensing Division representatives, other relevant agencies and the community. It provides a code of conduct for licensed premises within the Western Accord and is a beneficial forum for the consideration of liquor license issues.

Such liquor accords are approved by the Director of Liquor Licensing and entered into by two or more local licensees in a local community, Council, licensing authority representative, and other stakeholders such as the police.

Accords are intended to develop a safe and well-managed local environment as part of an overall strategy aimed at fostering a responsible drinking culture, ensuring safety in the local community and promoting effective communication and problem solving between licensees and key stakeholders.

RESOLUTION NO: TBA

ADOPTION: TBA

REVIEW: TBA

1.4 COMMITTEE RECOMMENDATION

Moved Cr Dawkins, seconded Cr Strzina

That Council adopt the attached Liquor Licence Policy.

LIQUOR (LICENSED PREMISES) POLICY

(1) BACKGROUND

The Town of Cottesloe is a very attractive location to relax and dine in. As a result population pressures are likely to increase the demand for licensed premises.

The potential nature and range of liquor outlets has increased with amendments made in 2007 to the *Liquor Control Act 1988* relating to restaurants serving alcohol without a meal and 'small bar' licences.

These changes may have significant impacts on Cottesloe's local amenity.

Whilst the Town is open to a number of interrelated strategies to maintain and enhance the lifestyle of residents and visitors alike, the Town recognises that the nature and number of licensed liquor outlets requires effective management in order to minimise adverse impacts on nearby residential areas and the environment.

The Town therefore has a responsibility to;

- ensure that licensed venues are operated in such a way so as to minimise the inconvenience or nuisance to residents, businesses and the general public, and
- ensure that a diversity of entertainment is encouraged in particular localities through a mix of appropriate uses including licensed premises.

(2) AIM

To properly manage the impacts of licensed premises on the Cottesloe residential and business community, and the environment.

(3) OBJECTIVES

- provide for facilities and services which are compatible with the aspirations of the Cottesloe residential and business community;
- provide a framework to assist Council with the assessment of liquor licence applications, including when issuing Section 39 and 40 certificates under the Liquor Control Act 1988;
- make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications;
- assist Council in their consideration of applications for planning approval of development which may involve a liquor licence;
- foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities and contribute to an integrated and positive sense of community;
- protect the character and amenity of adjacent residential localities;

- support the objectives of the Community Crime Prevention Committee.

(4) POLICY APPLICATION

Council will have regard to this policy when:

- (a) Assessing applications made to Council for:
- Section 39 and 40 certificates made under the *Liquor Control Act 1988*.
 - Planning approval made under the Town Planning Scheme for development which may involve a liquor licence.
 - Eating house licence applications made under Council's *Eating Houses* local law that may involve a liquor licence.
 - Alfresco dining applications made under Council's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* that may involve a liquor licence.
- (b) Considering a request to intervene or raise objections to any licensed premises operating under the requirements of the *Liquor Control Act 1988*.

Note: The types of Liquor Licences and Extended Trading Permits issued by the Director of Liquor Licensing that Council shall be concerned with and to which this policy shall apply include:

Type of Licences:

Restaurant
Nightclub
Hotel
Hotel restricted
Tavern
Small bar
Club
Occasional
Special Facility

Extended Trading Permits:

Extended hours
Liquor without a meal (restaurant)
Alfresco
Dining area
Permits for one-off events

(5) POLICY

(a) Liquor Licence and Development Applications

Council will have regard to the following matters when considering liquor licence and development applications. If the proposal is supported relevant conditions may be imposed accordingly.

- (i) **Number of premises within a locality and their distribution**
A concentration of licensed premises has the potential to prejudice the amenity of a locality. It is intended to achieve a mix in the types of premises to contribute to a vibrant atmosphere of the commercial localities whilst minimising the potential for anti-social behaviour in public spaces and impacts on any neighbouring residential properties.
- (ii) **Hours of operation**
This is particularly relevant to hotel, tavern, nightclub and small bar licences, extended trading permits for on-going hours and liquor without a meal (restaurants or alfresco).

Late operating hours may contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers.

When considering a proposal for premises which would be licensed or an extended trading permit, Council is unlikely to recommend support for those licensed premises which cause disturbance and inconvenience to residents or businesses located in the vicinity of licensed premises.

Council will consider opening and closing hours during the week and weekends having regard to the proximity of the licensed premises to residences and businesses and subject to consideration of the details and merits of each proposal.

- (iii) **Number of patrons**
This is particularly relevant to hotel, tavern and nightclub licences, where, when combined with the long hours of operation, can cause the amenity of a locality to be detrimentally affected.
- (iv) **Floor area**
The establishment of large venues will not be supported in proximity to residential properties. Such proposals must also demonstrate that the size of the facility will not detrimentally affect the amenity of the locality in general by virtue of its parking facilities, entertainment, number of patrons, and so on.
- (v) **Noise**
To address certain types of noise impacts from licensed premises Council may require that an applicant submit an acoustic engineering report indicating sound attenuation measures to be undertaken.
- (vi) **Entertainment**
Entertainment in licensed premises should contribute positively to and not detract from the amenity of the locality. Restaurants are expected to be operated and advertised as restaurants only. Licensees are expected to use their best endeavours (including the closing of doors and windows) to ensure that any entertainment provided on the licensed premises does not produce excessive noise likely to disturb, annoy or inconvenience nearby residents, other business proprietors and other users of the locality.
- (vii) **Public safety**
Where considered warranted, Council may request that additional crowd controllers, security personnel or security patrol services be provided for premises trading past midnight and/or have entertainment to patrol the external grounds and where appropriate the neighbouring streets or public spaces / recreational areas of the licensed premises and monitor the behaviour of persons arriving at and departing from the licensed premises.
- (viii) **Location**

The location of premises generally and the location of outdoor areas and parking facilities will not be favoured in proximity to residential properties.

(ix) **Parking**

The number of parking bays required by the town planning scheme is required to be provided, however, Council may consider cash in-lieu of car parking bays in accordance with the provisions of the scheme and any policy.

The impact of vehicles parking either in car parking areas or surrounding streets will also be considered particularly in locations adjacent to residential properties. A spill-over into the surrounding area may occur if the capacity of premises is much greater than its car parking provision, resulting in considerable disturbance and inconvenience to residents, especially when patrons are departing from the area late at night or in the early hours of the morning.

Therefore, the hours of operation for premises may be based on the availability of parking and the likely impact on the surrounding residential area.

(b) **Managing Complaints / Advocacy**

Should complaints be received or Council otherwise become aware of issues, Council will undertake an assessment of the situation and determine if intervention is required. Intervention may include:

- Conducting discussions with the licensee;
- Referring the matter to the Western Accord; or
- Lodging an intervention or objection with the Director of Liquor Licensing.

(c) **Management Plans**

These are required under the Director of Liquor Licensing's *Harm Minimisation Policy*. Where considered warranted, Council may require the management plan to be submitted to Council for approval, particularly as part of a proposal for a hotel, tavern or nightclub or an extended trading permit. In addition to the Director's requirements, Council may require the plan to address issues such as:

- hours of operation,
- security on the site,
- lighting in and around the site,
- security of patrons on leaving the venue,
- sale of packaged alcohol,
- specific methods of patron control (including training and surveillance),
- a traffic and travel mode management plan, including assistance in departure from the venue (i.e. availability of a direct telephone link to a taxi service or courtesy bus)
- noise; and
- compliance and commitment to an Accord.

(d) **Western Accord**

The Town of Cottesloe is a member of the Western Accord, which comprises local licensed premises operators, the Western Australian Police Service, the Towns of Cambridge, Claremont, Cottesloe, Mosman Park, and Vincent, the Shire of Peppermint Grove, the Cities of Nedlands and Subiaco, the Department of Health, Western Australia, Liquor Licensing Division representatives, other relevant agencies and the community. It provides a code of conduct for licensed premises within the Western Accord and is a beneficial forum for the consideration of liquor license issues.

Such liquor accords are approved by the Director of Liquor Licensing and entered into by two or more local licensees in a local community, Council, licensing authority representative, and other stakeholders such as the police.

Accords are intended to develop a safe and well-managed local environment as part of an overall strategy aimed at fostering a responsible drinking culture, ensuring safety in the local community and promoting effective communication and problem solving between licensees and key stakeholders.

RESOLUTION NO: TBA
ADOPTION: TBA
REVIEW: TBA

Carried 6/0

1.5 PLANNING FOR FUTURE CURTIN AVENUE – UPDATE REPORT & NEXT STEPS

File No: SUB/440
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil
Report Date: 7 March 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

- This report updates Council regarding progress towards a solution for future Curtin Avenue.
- It overviews the recent consideration of design options for parts of the route and outlines a suggested approach for Council to pursue a preferred outcome.
- It is a basis for discussion and does not provide any detailed technical analysis at this stage, which may be the subject of further reporting in the coming months.
- The purpose is to make Council aware of the overall situation and to obtain any direction for continuing action.

STATUTORY ENVIRONMENT

- The current Metropolitan Region Scheme (MRS) Primary Regional Road (PRR) reservation for Curtin Avenue represents a major constraint to planning for the district and land use and development in the vicinity of the route.
- The uncertainty and potential impacts are impediments to solving regional and local traffic movements and providing for a Town Centre activity node consistent with the State Government's Network City planning strategy.
- In this respect Council's proposed Local Planning Scheme No. 3 is under an expectation to respond to regional requirements, but is affected by the future of Curtin Avenue.
- Once a realigned and minimised road reservation is defined, the MRS and Council's Scheme can be amended to clarify the route for Curtin Avenue and free-up the surplus land west of the railway for structure planning under the proposed Development Zone.
- This statutory implementation will be a major step forward to the long-term benefit of the transport system and urban development characterising the district.
- Because the amendment processes will involve public consultation, it is important that Council give consideration to informing and engaging the community during the present formulation phase, which the intended enquiry-by-design exercise would facilitate.

POLICY IMPLICATIONS

- This matter does not relate directly to any specific Council policy about Curtin Avenue, however, it is clear that regional and local transport and planning policies cannot be realised until Curtin Avenue is resolved.

STRATEGIC IMPLICATIONS

- Curtin Avenue is probably the key strategic issue facing the district, which for several decades has remained uncertain, contributing to local traffic problems, urban blight and loss of amenity.
- The growth of Perth has increased pressures on the regional road network and resultant impacts on local communities.
- A responsible approach is needed to finalise a preferred alignment and design for Curtin Avenue through Cottesloe.
- Council's Future Plan and Action Plan identify reaching agreement with the State Government on a solution for Curtin Avenue as a vital strategic issue needing to be addressed.

FINANCIAL IMPLICATIONS

- Construction of a realigned Curtin Avenue would be an MRWA cost.
- Council will incur future costs in addressing the related local road system and land use planning for the surrounding area.
- Community consultation and advertising regarding preliminary solutions for the route may involve consultants and other costs in the order of \$20,000 or more depending on the scope.

BACKGROUND

- Council last received a status report on Curtin Avenue at its 24 September 2007 meeting (copy attached), which drew together its collaborative planning with the Department for Planning and Infrastructure (DPI) and Main Roads Western Australia (MRWA) on this matter.
- Council's resolution at that juncture was quite specific in giving direction to the matter, as follows:

That Council:

- (1) *Notes the resolution of the Sustainable Transport Committee of the WAPC and seeks an explanation of the rationale for excluding Option 1 and including Option 2 together with a copy of any reports to the STC on both options.*
- (2) *Advises the Government agencies that a one-way-pair as per Options 3 and 4 are not acceptable to Council.*
- (3) *Requests consideration of a new Option 5 with Curtin Avenue and the railway line both being lowered to go under Jarrad Street.*
- (4) *Seeks three-dimensional illustrations from MRWA for Options 1 and 2 only, upon which it will give further consideration to the following in order to provide feedback to the Government agencies towards a solution for Curtin Avenue:*
 - (i) *The pros and cons of the options for the alignment and design of Curtin Avenue through Cottesloe;*
 - (ii) *The implications for land use, urban development and transport connectivity affecting the district;*
 - (iii) *The particular implications for the Town Centre and railway land*

areas in light of Council's planning for these areas; and

- (iv) *A course of action, including community consultation and ongoing liaison, to reach agreement on the matter.*

- The DPI Director of Urban Transport Systems responded by letter dated 31 November 2007 (copy attached). The thrust of the advice is recognition that any one-way-pair or bifurcated options should be dismissed, that any trenching options would be costly and that Options 1 and 2 would be examined and depicted for a briefing to Council.
- Subsequently a Council briefing session was held on 25 February 2008 where the DPI and MRWA presented technical information exploring the feasibilities in relation to Options 1 and 2. This included the following documentation, which was made available to Councillors and officers on a computer disc:
 - Consultant's report *Curtin Avenue Realignment Cottesloe, Option 1 – Trench Construction: Engineering Feasibility Study*.
 - Consultant's report *Noise Impact Assessment Curtin Avenue / Jarrad Street Intersection "Subway Option" (Option 2)*.
 - MRWA *Road Network Options Report* regarding the overall matter and above reports, including three-dimensional photo / computer-graphics images illustrating the built form of Options 1 and 2.
- These reports favour the Jarrad Street subway Option 2 on the basis of functionality, engineering and cost. Council and officers were requested to give consideration to the briefing and material provided for feedback to the DPI and MRWA – ongoing liaison and resolutions are envisaged to reach agreement on the matter.

OFFICER COMMENT

- Valuable progress is being made by the key stakeholder responsible authorities in this matter, in an endeavour to reconcile their overlapping regional and local transport and land use / development objectives. While these agencies lead the process, the Public Transport Authority (PTA) and Western Power will need to be brought into the picture in due course.
- Significant agreement in-principle has been reached to focus primarily on Options 1 and 2, while Option 5 remains a valid vision in terms of an ideal scenario looking long-term for the Town Centre.
- The preoccupation with the Curtin Avenue / railway / Jarrad Street intersection and the associated studies so far has served to investigate and demonstrate various aspects to be taken into consideration, and to firm-up those concepts. It must be cautioned, however, that while the technical feasibilities are necessary ingredients to decision-making, at present the planning exercise is fundamentally strategic and multi-faceted. This entails:
 - Ultimately settling the route and design for the entire Curtin Avenue affecting Cottesloe. The cumulative impact of Curtin Avenue as it passes through the district, and the heavily-engineered designs for several intersections / connections with the local and sub-regional road network (eg Eric Steet), will substantially alter the experience of infrastructure, movement, urban design and amenity for the length of the route and the surrounding areas.
 - Marrying transport imperatives with land use and development imperatives to achieve the highest possible quality of movement systems (in all modes) and

- urban environments, especially to ensure that pure functionality does not unduly impact on built form and amenity.
- Involving other stakeholders and the community in formulating a more comprehensive and integrated broad plan for the Town Centre, railway / Curtin Avenue and developable land to the west – an enquiry-by-design is the intended vehicle for this, which would embrace the notion of a transit-orientated development (TOD) precinct.
 - This outlook echoes that expressed in Council's Future Plan as follows:

The Town's Future Plan highlights dynamic priority areas requiring attention over the next three years. One of these dynamic priorities is to: *Proactively pursue solutions for Curtin Avenue and the railway*. The Future Plan also has a number of Objectives and Strategies. Objective 2 is: *Connectivity – To achieve connectivity between east and west Cottesloe*. The Strategies for this Objective are to:

- 2.1. *Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links and Town Centre integration.*
- 2.2. *Produce visual material that demonstrates housing densities and forms for vacant Crown land.*
- 2.3. *Plan a consultation program that involves the community and government agencies.*
- 2.4. *Promote an engineering and financial feasibility study into the preferred solution.*
- 2.5. *Play a leadership role by continually focusing on a 'win-win' approach to the engineering, financial and social challenges this project will face.*

- It is noted that the Future Plan statement reflects sinking the railway, yet even if not, the overarching objective and strategies are promoting that all aspects be addressed. Furthermore, that effective Town Centre / TOD place-making ensures that transport planning, while inevitably influencing built form and function, does not in a sense dictate it at the expense of the affected localities or activity centres.
- In his respect it is emphasised that Council's initial Town Centre Study and concept plan were premised on lowering Curtin Avenue alongside the railway line and creating much-needed east-west pedestrian connectivity linking the town centre over the railway station to the developable land and westward.
- Council's aim is to solve the problem of Curtin Avenue in this wider context. In the Town Centre vicinity an enquiry-by-design process would help to knit-together a preliminary structure plan addressing all aspects. Both the Town Centre study process and the Scheme Review process anticipate stakeholder and community consultation by this and other means. In other words, Curtin Avenue would be a part of, but not the sole topic of, an enquiry-by-design for the Town Centre.
- The WAPC and MRWA appear to have interpreted that an enquiry-by-design would concentrate on Curtin Avenue and limit the options to be examined. While it is appropriate that practical and preferred options be narrowed-down and examined in some depth, to enable a workable enquiry-by-design, Council would wish to retain an open mind in the matter for a holistic solution.

NEXT STEPS

- Having regard to Council's September 2007 resolution, point (4) saw the need to better understand the pros, cons and implications of the options for Curtin Avenue in order to consider a course of action including community consultation and provide further feedback to the Government agencies.
- Offices plan to report again to Council on the detail of the reports provided by the DPI and MRWA.
- Officers also plan to devise and report to Council on an enquiry-by-design exercise for the Town Centre, incorporating Curtin Avenue, in liaison with the Government agencies.
- Council may also consider whether at some stage it would like to obtain independent consultant reports on any of the technical information provided or on any additional aspect it may identify for examination.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed this matter at some length and Cr Cunningham was granted permission by the Chairperson to participate.

Committee was strongly of the view that both the road and railway must be addressed to fulfil Council's objectives for connectivity, Town Centre revitalisation and optimisation of the development zoning to the west. Council's vision is long term and for a holistic and integrated solution to foster an activity centre with transit-orientated development. Sinking the railway should not be dismissed and would generate significant advantages in terms of transit, connectivity, urban design and development potential.

Committee saw the need for and benefits of consultants to assist Council in assessing the planning, engineering, urban design and feasibility aspects of the options, opportunities and constraints, including guided liaison with the State agencies.

Mr Jackson commented on the need for better coordination and consolidation of the range of statements of intent, resolutions and actions by Council towards planning for the area, as to be further discussed at the Strategic Planning Committee this week, This includes an enquiry-by-design for the Town Centre in relation to Local Planning Scheme No. 3 and the role of structure planning. He suggested that the process Council wishes to follow requires clarification in order to achieve the desired product and outcome.

1.5 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Woodhill, seconded Cr Dawkins

That Council:

1. **Note this update report, provide any direction to officers for ongoing work on the matter as it sees fit, and await a detailed report from officers at the April meeting.**

2. **Determine any interim or more definitive feedback that it may wish to provide to the Government agencies at this stage.**

Carried 6/0

ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 8.05 pm.

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