

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE

MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 16 MARCH 2009

DEVELOPMENT SERVICES COMMITTEE

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Officer announced the meeting opened at 6:05pm.

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

Cr Jack Walsh	Presiding Member
Cr Ian Woodhill	
Cr Jay Birnbrauer	
Cr Jo Dawkins	
Cr Greg Boland	
Cr Victor Strzina	(6:10pm)

Officers Present

Mr Carl Askew	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Mr William Schaefer	Planning Officer
Ms Pauline Dyer	Development Services Secretary

Apologies

Nil

Officer Apologies

Nil

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIME**Item 10.1.1 – North Cottesloe Surf Life Saving Club development proposal**

Mr Brett Endersby for the Club responded to the points made in the report, including: the proportion of the premises occupied by the Blue Duck restaurant

and how that rental income was important to the Club; how the proposal tidies-up the street façade; that noise was well-managed; and that views would be not so affected.

Mr Craig Smith-Gander for the Club expressed appreciation for the reconsideration process and stated that the Club is committed to improve the eastern side of the premises in any case. He also elaborated on the community service and activities aspects of the Club, in seeking support for the proposal to provide better facilities.

Item 10.1.3 – 573-575 Stirling Highway development proposal

Ms Claire Richards from Greg Rowe & Associates the planning consultants for the proposal mentioned they had not seen the confidential report and referred to the un-zoned land situation. In maintaining that the proposal has merit Ms Richards referred to how it was considered to contribute to the area and to reflect regional planning aspects which ought to be taken into account.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Dawkins, seconded Cr Birnbrauer

[Minutes February 16 2009 Development Services Committee.doc](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 16 February 2009 be confirmed.

Carried 6/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS**10.1 PLANNING****10.1.1 NO. 151 MARINE PARADE – PROPOSED ALTERATIONS AND ADDITIONS TO NORTH COTTESLOE SURF LIFE SAVING CLUB – FURTHER REPORT**

File No:	1622
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Andrew Jackson Manager Development Services
Proposed Meeting Date:	16-Mar-2009
Author Disclosure of Interest	Nil
Property Owner	Crown Land (Leased to NCSLSC)
Zoning:	N/A
Use:	N/A
Density:	N/A
M.R.S. Reservation:	Parks and Recreation

BACKGROUND

This application was considered by Council on 23 February 2009 whereby it was resolved:

That Council defers consideration of the item to its March meeting to enable further reporting on the proposal to ensure that Council is as fully informed as possible in relation to the Club's needs and intentions and the strategic, policy and planning aspects to be taken into account; and that Council advises the WAPC accordingly and seeks a corresponding extension of time to make a recommendation on the application.

The Development Services Committee previously expressed appreciation of the club's activities and needs but also concerns about the issues associated with progressive developments within the foreshore and the resultant implications, as well as overall planning for the area. Committee clarified through the Manager Development Services that the WAPC was the decision-maker, subject to a detailed recommendation from the Council on local planning considerations. Committee agreed that point 1 (iii) of the recommendation should have some rewording.

A copy of the previous report is attached and should be read for the full background. This further report expands on the matter to enable Council to determine its advice on the proposal.

ADDITIONAL INFORMATION FROM CLUB

Since the Council meeting the Club has been invited to submit any additional information and has provided a letter and photo-montages in support of the application. The main points made are summarised below:

- In respect of Council's Beachfront Development Objectives (adopted December 2004) which were previously quoted as stating: *To encourage the innovative reuse of existing structures on the beachfront while not permitting any further built structures for commercial use (west of Marine Parade)*, the modest nature and innovative integration of the proposal and the fact that it is not for commercial use is in-keeping with the spirit of the Town of Cottesloe's aspirations for the beach front.
- The nature of the Club's activities and delivering this community service in the most efficient manner possible necessitates a location adjacent to the beachfront. This was recognised by the State Government when it issued the Club with a ground-lease for the purpose of *Surf Club and Supporting Activities*. The proposal is consistent with this purpose and that as a not-for-profit incorporated body the Club does not fit into the category of a commercial activity.
- The proposal is consistent with the fabric of the existing building and tidies-up the street façade. The façade currently consists of a wall and a large shade sail which is actually higher than the proposed works. The addition will clean up the existing untidy and disjointed nature of the view from over the road which currently looks down into the courtyard.
- The proposal has been designed to help shield neighbours from any noise that social activities may produce and directs noise westwards. It also increases the area under cover and decreases the area of open courtyard.
- During the design process the Club was mindful of neighbours in terms of views. The plans have been superimposed onto photographs to allow Council to obtain a more accurate picture of what is proposed.
- The proposal is modest in nature and in keeping with the Town's and the community's aspirations for the beachfront.

COMMENT ON ADDITIONAL INFORMATION

In response to these points the following observations are made:

- The point that the Club should be allowed to extend at the Marine Parade level as it is not for commercial use and would therefore not conflict with the Council's Beachfront Development Objectives is acknowledged, albeit that some 60% of the premises are presently sub-leased for a restaurant which could otherwise accommodate the Club.
- As the shade sail in the courtyard is to remain, is higher than the proposed development and will continue to be visible to properties in Marine Parade, it is difficult to conclude that the proposal would make much difference to the existing disjointed nature of the view.

- The suggestion that noise from social activities at the Club would be shielded from residential properties by the proposed addition appears inconsistent with proper planning for the area as noise should be managed by the Club rather than being reliant on Council approving development.
- The appearance of the proposed addition was discussed in the original report to Council and was not supported as it was considered that it would have a significant impact on the visual amenity currently enjoyed by residents living directly opposite the Club (most of whom objected) due to it partially inhibiting their existing ocean views and being detrimental to their general outlook, as well as it not contributing to the streetscape. The applicant has produced two photo-montages of the proposal before and after, however, these images do not show the view from residential properties located directly opposite the Club (Nos 156 & 158 Marine Parade) which would potentially be most affected.

STRATEGIC, POLICY & PLANNING CONSIDERATIONS

It is appropriate that the proposal has been assessed on planning grounds as the basis for a decision, rather than the Club's emphasis on its role and activities, although the Club has endeavoured to address the planning concerns identified. At the same time the purpose of the Club is consistent with the foreshore/beach recreation reservation whereby the use may be supported in-principle, however, that is not a right to develop (and neither is the lease). The conclusion from the local area planning assessment was that development should be limited in the interests of orderly and proper planning and amenity.

This site-specific assessment was also cognisant of the overall context of Council's strategic and policy framework for the beachfront and foreshore areas. The thrust of all of these instruments is to limit the extent of development affecting the foreshore. Council has been consistently cautious in considering proposals accordingly. The recent Enquiry-by-Design has supported this approach, including recognition of protecting access to views as a desirable objective.

Therefore, while from the broad regional planning perspective of the Metropolitan Region Scheme Parks & Recreation Reservation the proposal may be seen as sound, in terms of the more detailed local area planning considerations the proposal has been found to be less straightforward. That aside, Council could consider the proposal at the Marine Parade level as essentially infill and effective use of space designed to be relatively low-key as a sympathetic extension.

CONCLUSION

Should Council continue to be concerned about the particular implications of the proposal and the general issue of incremental expansion of developments in the foreshore against the grain of its strategic and policy direction, then the previous recommendation for partial support and partial non-support can be adopted.

Alternatively, should Council consider that the proposal may be accepted as a relatively minor development, then a recommendation for complete approval is provided and can be adopted; together with a qualification regarding any future development or lease area proposals.

Both recommendations are provided below for Council consideration and determination, as follows:

That Council, with respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, advise the WAPC that:

1. The proposed location of the new first aid training room and office in the northern courtyard is not supported, for the following reasons:
 - (i) The proposed addition extends well beyond the walls of the existing building footprint and comprises a further built structure west of Marine Parade, contrary to Council's adopted Beach Policy, Beachfront Development Objectives and Future Plan;
 - (ii) The proposed addition would have a detrimental impact on the visual amenity of nearby residential properties, would detract from their views and would not contribute to the desired streetscape along Marine Parade; and
 - (iii) The proposed addition would be an undesirable addition contrary to the orderly and proper planning of the land reserved for Parks and Recreation under the Metropolitan Region Scheme.

2. The proposed alterations and additions to the lower ground level and to the store, kitchen, training room, external stairs and balcony extension at the Marine Parade level within the current lease boundary be supported, subject to the following conditions:
 - (i) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites;
 - (ii) 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 approval of the Council and the WAPC;
 - (iii) No development shall take place outside the existing lease boundaries;
 - (iv) The Building Licence plans and supporting documentation shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services and shall include:
 - a) The deletion of the proposed first aid training room and office within the northern courtyard;

- b) Compliance with the Health (Public Building) Regulations;
- c) Where the kitchen is to be used for catering to the public or members it is required to meet the standards for a Class 1 or Class 3 Food Premises in accordance with the Food Hygiene Regulations;
- d) Access to and within new toilets for those with disabilities to comply with AS 1428.1; and
- e) No development shall obstruct the existing dual use paths.

OR:

That Council:

1. Advise the WAPC that it supports the proposed alterations and additions within the existing lease boundary to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, subject to the following conditions:
 - (i) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites;
 - (ii) 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 approval of the Council and the WAPC;
 - (iii) No development shall take place outside the existing lease boundaries;
 - (iv) The Building Licence plans and supporting documentation shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services and shall include:
 - a) Compliance with the Health (Public Building) Regulations;
 - b) Where the kitchen is to be used for catering to the public or members it is required to meet the standards for a Class 1 or Class 3 Food Premises in accordance with the Food Hygiene Regulations;
 - c) Access to and within new toilets for those with disabilities to comply with AS 1428.1;
 - d) The external materials and finishes of the alterations and additions matching the existing building; and

- e) No development shall obstruct the existing dual-use paths.
2. Advise the WAPC and NCSLSC that its support for this proposal should not be taken to imply its likely support for any further development of the premises either within or involving any expansion of the existing lease area.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council, with respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, advise the WAPC that:

1. The proposed location of the new first aid training room and office in the northern courtyard is not supported, for the following reasons:
 - (i) The proposed addition extends well beyond the walls of the existing building footprint and comprises a further built structure west of Marine Parade, contrary to Council's adopted Beach Policy, Beachfront Development Objectives and Future Plan;
 - (ii) The proposed addition would have a detrimental impact on the visual amenity of nearby residential properties, would detract from their views and would not contribute to the desired streetscape along Marine Parade; and
 - (iii) The proposed addition would be an undesirable addition contrary to the orderly and proper planning of the land reserved for Parks and Recreation under the Metropolitan Region Scheme.
2. The proposed alterations and additions to the lower ground level and to the store, kitchen, training room, external stairs and balcony extension at the Marine Parade level within the current lease boundary be supported, subject to the following conditions:
 - (i) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites;
 - (ii) 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 approval of the Council and the WAPC;
 - (iii) No development shall take place outside the existing lease boundaries;

- (iv) The Building Licence plans and supporting documentation shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services and shall include:
 - a) The deletion of the proposed first aid training room and office within the northern courtyard;
 - b) Compliance with the Health (Public Building) Regulations;
 - c) Where the kitchen is to be used for catering to the public or members it is required to meet the standards for a Class 1 or Class 3 Food Premises in accordance with the Food Hygiene Regulations;
 - d) Access to and within new toilets for those with disabilities to comply with AS 1428.1; and
 - e) No development shall obstruct the existing dual use paths.

COMMITTEE COMMENT

Committee discussed the report in detail after which they resolved to replace the officer recommendation with the alternative officer recommendation in support of the proposed alterations and additions.

COMMITTEE RECOMMENDATION

Moved Cr Birnbrauer, seconded Cr Dawkins

That Council:

1. **Advise the WAPC that it supports the proposed alterations and additions within the existing lease boundary to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, subject to the following conditions:**
 - (i) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites;**
 - (ii) **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 approval of the Council and the WAPC;**
 - (iii) **No development shall take place outside the existing lease boundaries;**
 - (iv) **The Building Licence plans and supporting documentation shall be formulated in consultation**

with the Town of Cottesloe and to the satisfaction of the Manager Development Services and shall include:

- f) Compliance with the Health (Public Building) Regulations;
 - g) Where the kitchen is to be used for catering to the public or members it is required to meet the standards for a Class 1 or Class 3 Food Premises in accordance with the Food Hygiene Regulations;
 - h) Access to and within new toilets for those with disabilities to comply with AS 1428.1;
 - i) The external materials and finishes of the alterations and additions matching the existing building; and
 - j) No development shall obstruct the existing dual-use paths.
2. Advise the WAPC and NCSLSC that its support for this proposal should not be taken to imply its likely support for any further development of the premises either within or involving any expansion of the existing lease area.

Carried 4/2

10.1.2 TOWN PLANNING SCHEME NO. 2 AMENDMENT NO. 44 – UNZONED LAND SOUTH OF JARRAD STREET – DECISION OF MINISTER AS TO FINAL APPROVAL – FOR CONSIDERATION

File No: SUB/653
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 16-Mar-2009
Author Disclosure of Interest Nil

SUMMARY

- This report presents the decision of the Minister for Planning as to final approval of the amendment.
- The Minister has required modification of the original amendment proposal and that it is re-advertised.
- These requirements have a number of implications, which Council needs to be informed about and may wish to respond to.

BACKGROUND

- Council in July 2007 initiated the amendment to ensure that unzoned land south of Jarrad Street be zoned Town Centre R100, in order to have effective development control.
 - The amendment report (extract attached) explained that this is a statutory requirement and is consistent with proposed Local Planning Scheme No. 3 (LPS3); in zoning land which was previously classified as a Metropolitan Region Scheme (MRS) Primary Regional Road (PRR) reservation for Stirling Highway, for a possible future road widening that had been deleted.
 - The amendment was advertised for 42 days during September to November 2007 and no submissions were received.
 - Council in December 2007 adopted the amendment and forwarded it to the Western Australian Planning Commission (WAPC) for presentation to the then Minister for Planning & Infrastructure for final approval.
 - The amendment remained with the Department for Planning & Infrastructure (DPI) and WAPC for a year, despite follow-up by the Town, and was delayed due to consideration in relation to the Stirling Highway Activity Corridor Study (SHACS) and the moratorium on decisions brought about by the State Election.
 - Meanwhile a substantial development proposal within the amendment area was lodged, which is now before the State Administrative Tribunal (SAT) and is affected by the absence of local zoning and development requirements – as such the application is to be determined under the MRS (ie Urban Zone).
 - In January 2009 the WAPC advised the Town of the decision of the new Minister for Planning regarding final approval of the amendment (attached).
 - Council's task is to accept the Minister's decision or to take-up the matter.
-

MINISTER'S DECISION

The WAPC letter conveys the Minister's decision as summarised below – the key words are underlined:

- *As the amendment is considered to pre-empt the possible outcome of the SHACS, final approval is withheld until the amendment is modified to reflect possible road widening and other site requirements.*
- *A modification to Special Use Zone classification (ie rather than Town Centre Zone) permitting development (ie use and development requirements) as per the Town Centre Zone (ie see last dot-point), and a residential density code of R100.*
- *A condition (ie provision) that prior to any approval for development or subdivision/strata subdivision, an overall Detailed Area Plan (DAP) for the street block be adopted by Council.*
- *A condition (ie provision) that development have a setback from Stirling Highway of 5m minimum, or less as determined by the SHACS, with the setback area (ie land) to be ceded free of cost to the Crown and to be level with the existing verge.*
- *A condition (ie provision) of no permitted access to Stirling Highway and provision for overall coordinated vehicle access from the site.*
- *A directive to re-advertise the modified amendment.*
- *Advice that (re)advertising should be on the basis of the proposed LPS3 provisions for the Town Centre Zone (ie not those of TPS2).*

To sum-up, the decision seeks to provide for possible future regional road widening, an overall plan for the area, controlled vehicular access and LPS3 development requirements. Importantly, it includes advertising of this modified planning regime, none of which was contained in the original proposal, so that interested parties can become aware and may make submissions.

It is noted that the Minister is empowered to direct a local government to comply with requirements to modify an amendment, readvertise, consider any submissions and so on, hence Council is obliged to carry-out the decision, however, it is at liberty to request reconsideration for sound reasons.

LIAISON WITH DPI

As what was a minor although necessary technical amendment became delayed and caught-up in the SHACS, prior to the Minister's decision the Town had liaised with the DPI and expressed the following points:

- *The situation that the amendment be modified by the Minister at the last minute seems problematic for a number of reasons.*
- *The proper means to impose a regional road requirement is via a MRS regional road reservation or Planning Control Area based on prior study and in accordance with statutory processes.*
- *The MRS was previously amended to reduce and accurately define the regional road reservation, with no widening requirement.*

- *A road widening setback is unrelated to the purpose of the amendment, which is to zone land and set a density code for local land use and development control.*
- *Council, the landowners and the local community or general public have no knowledge of any contemplated road widening setback and it has not been advertised as part of the amendment.*
- *An absence of consultation about the notion of road widening and of due planning process – no right of reply for affected landowners.*
- *No rationale has been provided for road widening, no detail quantified or qualified, and there is uncertainty as to how much and when.*
- *The question of compensation.*
- *It pre-empted the SHACS.*
- *The Town Planning Regulations for amendments with no submissions are geared towards the WAPC endorsing the documents and the Minister granting final approval accordingly, rather than there being a basis for imposing changes by virtue of submissions or modifications supported by Council.*
- *Re-advertising with a substantial modification would not be supported without a sound basis for the change and the consent of Council.*
- *It is urged that the amendment be finalised as proposed and as a priority.*

Subsequent to the Minister's decision the Town has again liaised with the DPI, as it is apparent that the modifications ought to be more carefully constructed because the decision as conveyed raises the following aspects:

- **SHACS** – *as previously emphasised, there is a procedural issue as to whether an incomplete study should interfere with a necessary amendment and which has precedence – this appears to have been overlooked and it may be regarded that there is inadequate justification for such an approach.*
- **Special Use Zone** – *TPS2 doesn't have one, so this would need to be introduced generically then applied to the subject area. Alternative mechanisms are the Special Development Zone (not preferred) or Clause 3.4.11 Special Development Standards and Requirements in association with Schedule 5 (preferred). The latter would preserve the basic Town Centre Zone, which is desirable rather than fragmenting the town centre with different zonings. It is understood that the intent of the decision is to set out the special requirements, which is what Schedule 5 would do, and the Town would devise this.*
- **Detailed Area Plan** – *this would mean that nothing could occur in the area until there is a DAP, which would be onerous and is arguably excessive, especially as primarily for the purpose of uncertain road widening and variable access control. It does not mention amalgamation. It affects all lots fronting the highway covered by the amendment (not simply the present appeal site).*
- **5m setback** – *how this is meant to be defined and the ceding to occur has not been specified. It would be impractical to specify a possible lesser setback as per an indeterminate study. Presumably "Level with the existing verge" means parallel? As previously argued, this is a de facto*

MRS reservation and there is the question of proper process entailing the rights of submissions and compensation.

- **Vehicular access** – is denial of access to the highway and coordinated access from the site intended, ie so vehicles cannot exit but can enter?; or is the intent no ingress or egress via the highway and alternative ingress and egress? Also this refers to the site yet the amendment relates to a street block, so it needs to be clarified. Moreover, some lots have their only legal access via the highway, so it cannot be denied but only planned for to be alternative if achievable under a DAP over time – is that the intent?
- **LPS3 Town Centre Zone provisions** – this further advice is pre-emptive and unclear – is it saying that this is optional, and why should LPS3 be applied to this area ahead of that scheme? And if so why not call it a Town Centre Zone after all? It would mean reconstructing TPS2 to embody LPS3 for the area.
- The modifications indicated have implications in terms of proper planning process, equity to those affected and their efficacy.
- It would be more logical and fair to consider such changes via LPS3 in a comprehensive and coordinated manner for the Town Centre under that overall process and given progress of the SHACS or other relevant considerations.

The DPI has advised as follows:

- The position adopted by the WAPC is a holding one pending the completion of the SHACS and the clear objective is to avoid making decisions relating to development of land along Stirling Highway which could pre-empt a potentially good planning outcome along the highway.
- Agreed that Clause 3.4.11 and Schedule 5 would provide the opportunity to achieve the required modification. The only reason for creating a Special Zone was to permit the imposition of conditions – if this can be done for the Town Centre under this clause, a Town Centre zoning would be appropriate.
- The requirement for a Detailed Area Plan arises if the lots are in different ownership and there is a need to provide for suitable access from the rear which involves access over adjoining properties. It also provides the opportunity to consider the design and relationship of buildings and open spaces. The consultants for the land the subject of the appeal have prepared an overall concept plan including properties on Jarrad Street in recognition of the need for this coordinated approach to development.
- The setback would be measured from the existing property boundary until finally determined by the SHACS. The inclusion of this provision in the amendment is to provide for the interim situation pending the final alignment. The requirement for requiring the setback to be level with the verge is to avoid expensive construction works if road widening occurs and levels are significantly different.
- The term “access” relates to both ingress to and egress from the site and no such access is to be provided via Stirling Highway – the site refers to all the land the subject of the amendment and not just the current development site. Clearly the intention of the DAP is to ensure

coordinated vehicle access from the site onto Brixton Street when the land is redeveloped. Provision could be made for temporary access arrangements until all lots are redeveloped.

- *The intent of the Minister's determination was to allow the more generous development control provisions for the Town Centre Zone in LPS3 given that the Scheme has been advertised, rather than re-advertising with the current restricted provisions.*
- *Can see no reason to volunteer revisiting this issue with the WAPC and the Minister, as reasonable modifications can achieve the intent of the decision. If Council decides to request reconsideration, DPI will put the request and justification to the Commission and the Minister.*

CONCLUSION

- On the one hand there is a statutory imperative to provide a local zoning and related development controls, whereby the objective is to finalise the amendment as originally proposed as soon as possible. As an aside, this would inform the SAT review (appeal) sooner rather than later.
- On the other hand there is a view to more comprehensive planning for the area, taking into account both regional and local initiatives, whereby the objective is to modify the amendment and re-advertise it, then consider submissions and continue the process for final approval. This would require re-drafting of the amendment and would not provide planning control until completed. As an aside, this would inform the SAT review (appeal) later rather than sooner.
- In terms of re-drafting, the DPI has clarified some aspects and supported the Town's suggestions, however, the details are yet to be examined and devised. While the DPI has advised that a Town Centre zoning would be acceptable after all, the LPS3 standards are favoured and the detailed planning mechanisms are still required (which would more closely guide but also constrain development).
- However, the differences between TPS2 and LPS3 as they relate to the area should be examined, as well as the specifics of the new provisions.
- It seems unlikely that the DPI, WAPC and Minister would agree to revert to the original amendment proposal, notwithstanding the basic need nor the development proposal before the SAT.
- Therefore, a modified amendment must be prepared for endorsement by Council in order to carry-out the re-advertising and ongoing statutory process.
- A recommendation is made accordingly, however, should Council wish to settle the matter with the Minister, an alternative resolution would have to be passed.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, Seconded Cr Dawkins

That Council:

- 1. Agrees to modify proposed Amendment No. 44 for the purpose of re-advertising in order to gauge landowner and community comment for further consideration by Council towards finalisation of the amendment.**
- 2. Supports a Town Centre Zone instead of a Special Use Zone and otherwise agrees in-principle to the other modifications for the purpose of advertising, subject to examination of the differences between TPS2 and LPS3, as well as the specifics of the new provisions.**
- 3. Requests staff to report on a draft modified amendment to the next available Council meeting for endorsement prior to the re-advertising.**

Carried 6/0

10.1.3 NOS 573-575 (LOTS 16-18) STIRLING HIGHWAY – PROPOSED THREE & FOUR STOREY OFFICE/RETAIL DEVELOPMENT – COUNCIL CONSIDERATION**CONFIDENTIAL ITEM**

File No: 1502
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 16-Mar-2009

Author Disclosure of Interest: Nil
Property Owner: Wellard Estates Pty Ltd
Applicant: Greg Rowe & Associates
Date of Application: 27 June 2008
Zoning: MRS Urban (TPS unzoned)
Use: Approvable under MRS
Lot Area: 1122sqm (approx.)
MRS Reservation: Primary Regional Road abuts (Stirling Hwy)

Attachments: Development Application report June 08
Additional Information letter 24 Sept 08
Transport Assessment report Sept 08
MRWA letter 9 Mar 09
Revised plans
Supplementary plans 13 Feb 09
Additional images from original plans

SUMMARY

- This item is confidential as the development proposal is currently before the State Administrative Tribunal (SAT) on review (appeal).
- Council is being asked to consider its position on the application for advice to the SAT.
- The officer report and attachments provided to elected members give the full detail, including a recommendation for Council to determine.
- Accordingly the Council discussion on the matter is to be held behind closed doors.

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

Nil

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

Nil

13 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 6:55pm.

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