

# TOWN OF COTTESLOE



## DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
6.00 PM, MONDAY, 15 JULY 2013

**CARL ASKEW**  
Chief Executive Officer

17 July 2013

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# DEVELOPMENT SERVICES COMMITTEE

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

The Presiding Member announced the meeting opened at 6:03 PM.

**2 DISCLAIMER**

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

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil.

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4.2 PUBLIC QUESTIONS**

Nil.

**5 PUBLIC STATEMENT TIME**

Nil.

**6 ATTENDANCE****Present**

Cr Jack Walsh	Presiding Member
Cr Yvonne Hart	
Cr Peter Jeanes	
Cr Victor Strzina	Arrived 6:04 PM
Cr Robert Rowell	Deputy Member

**Officers Present**

Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Ms Liz Yates	Development Services Administration Officer

**6.1 APOLOGIES**

Cr Katrina Downes

**Officer Apologies**

Mr Carl Askew	Chief Executive Officer
Mr Ronald Boswell	Planning Officer

**6.2 APPROVED LEAVE OF ABSENCE**

Cr Greg Boland

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 DECLARATION OF INTERESTS**

Nil.

**8 CONFIRMATION OF MINUTES****AMENDMENT**

Moved Cr Hart, seconded Cr Walsh

Cr Boland, who was absent, had provided amendments to the Minutes of the June meeting in relation to Part 7 Declarations of Interest, as follows:

*In paragraph 1 remove: "and potentially other Committee members".*

*At the end of paragraph 2 add: "Accordingly the interest would not be a 'financial interest' within the meaning of s.560A."*

*Delete paragraph 3 and replace it with "Each councillor made an impartiality declaration".*

*In paragraphs 4,5,6 delete: "impartiality" in the first line.*

Carried 5/0

[Minutes June 17 2013 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee held on 17 June 2013, amended as above, be confirmed.

**9 PRESENTATIONS****9.1 PETITIONS**

Nil.

**9.2 PRESENTATIONS**

Nil.

**9.3 DEPUTATIONS**

Nil.

## 10 REPORTS

### 10.1 PLANNING

#### 10.1.1 NO. 14 (LOT 101) WENTWORTH STREET - ALTERATIONS AND ADDITIONS, INCLUDING A FIRST-FLOOR ADDITION, DOUBLE CARPORT, FENCING AND A POOL

<b>File Ref:</b>	<b>2604</b>
<b>Attachments:</b>	<a href="#">Aerial Photo 14 Wentworth Street</a> <a href="#">Photographs Front Elevation</a> <a href="#">Site Plans</a>
<b>Responsible Officer:</b>	<b>Carl Askew</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Ed Drewett</b> <b>Senior Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>15 July 2013</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Property Owner:</b>	<b>Yolanda Brent-White</b>
<b>Applicant:</b>	<b>Anthony Michael Design</b>
<b>Date of Application:</b>	<b>23 January 2013</b>
<b>Zoning:</b>	<b>Residential R20</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Lot Area:</b>	<b>468.5m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Not applicable.</b>

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## SUMMARY

This application is seeking the following variations to Council's Town Planning Scheme (TPS 2), Fencing Local Law and the Residential Design Codes (RDC):

- Front setback
- Side setback
- Solid (side) fencing in front setback.

Each of these aspects is discussed in this report and refers to plans received on 6 June 2013.

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

## PROPOSAL

This application is for alterations and additions to an existing dwelling, incorporating a new double carport, laundry and store on the ground floor and a bedroom, ensuite, WC and retreat above. A new pool and fencing is also proposed within the front setback area.

## STATUTORY ENVIRONMENT

- Town Planning Scheme No.2

- Residential Design Codes

## POLICY IMPLICATIONS

Fencing Local Law

## PROPOSED LOCAL PLANNING SCHEME NO.3

No change is proposed to the existing coding of this lot.

## HERITAGE LISTING

Not applicable.

## APPLICATION ASSESSMENT

### AREAS OF NON-COMPLIANCE

#### Residential Design Codes

Design Element	Acceptable development	Proposed	Performance criteria
6.2 – Streetscape	Wall in front setback areas above 1.2m to be visually permeable.	1.8m solid walls along side boundaries in the front setback.	Clause 6.2.5 – P5
6.3 – Boundary setback	Minimum 1.8m from upper floor to western boundary.	1.53-1.7m.	Clause 6.3.1 – P1
	Walls built up to a boundary behind the front setback.	Carport proposed in front setback.	Clause 6.3.2 – P2

### Council Policy/Resolution

	Permitted	Proposed
Streetscape	6m front setback (Council resolution 28/10/02).	3.229m.
Garages and Carports in Front Setback Areas	6m, but may be reduced to 4.5m or less where perpendicular to the street and if satisfies policy criteria.	3.299m.
Fencing in Front setback	Open-aspect design above 0.9m to maximum 1.8m height.	1.8m solid side walls in front setback.

## ADVERTISING OF PROPOSAL

The application was advertised in accordance with TPS 2 and consisted of a letter to three adjoining property owners. Advertising closed on 24 June 2013 and there were no submissions.



**BACKGROUND**

An initial assessment of the application revealed a number of areas of non-compliance with Council requirements, including the location of a new double garage and roofed gateway/covered path in the front setback area, the removal of a street tree, the height of retaining walls, walls on boundaries, visual privacy and solid fencing.

The application has subsequently been substantially amended to overcome many of the planning concerns initially identified by Council Officers.

**PLANNING COMMENT**

The following technical assessment is made in respect to the proposed development:

Front setback

In 2002 Council resolved to generally require a 6m front setback for residential development (for the preservation of streetscape, view corridors and amenity). The acceptable development standards of the RDC also require a minimum 6m front setback in an R20 zone, although this may be reduced to 3m providing it averages 6m across the lot, or where a reduced setback corresponds with the average of the setback of existing dwellings on each side.

The proposed double carport on the western side of the lot and bedroom 1 above have a 3.299m front setback. However, the remainder of the existing single-storey dwelling has front setbacks varying between approximately 7.3m (to the verandah) and 9.2m to achieve a 6m average front setback and therefore making it compliant with the acceptable development standards of the RDC.

Furthermore, with the exception of this dwelling and the neighbouring dwelling on its eastern side, the remainder of dwellings on this side of the street all have their frontages to Boreham Street, rather than to Wentworth Street. These other dwellings have been mostly developed with rear, secondary street setbacks of 1.5m or less to Wentworth Street (compliant with the RDC) with garages, sheds and solid rear fences being dominant features in the street. Even the dwelling on the eastern side of the lot (which appears to have frontages to both Boreham Street and Wentworth Street) has a solid front wall and a double carport in the front setback area and does not appear to contribute to the streetscape.

The dwellings on the southern side of the street comprise of both older and newer dwellings with front setbacks ranging from approximately 3m to 6m and which generally create a more traditional open streetscape than on the northern side. However, these lots are generally smaller and narrower than the lots on the northern side and are proposed to be re-zoned from R20 to R35 under LPS 3, which will allow front setbacks of minimum 2m, average 4m, under the acceptable development standards of the RDC.

Wentworth Street is a no-through road which does not attract high vehicular or pedestrian traffic volumes along it. Properties along this stretch of road would have limited exposure to the public and attempts to achieve a more traditional streetscape

with greater front setbacks would be difficult in view of the orientation of the majority of the dwellings on the northern side towards Boreham Street.

#### Setback of carport

The proposed double carport replaces an existing carport on the same side of the lot and is proposed to have a 3.299m front setback.

The acceptable development standards of the RDC permits carports within the street setback area provided that the width of the carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and the street, which is the situation in this case.

Council Policy *Garages and Carports in Front Setback Area* (Policy TPSP 003) generally requires carports (and garages) to be positioned behind the 6m front setback line, although the policy does also allow for carports to be constructed up to the street alignment where the following criteria has been considered:

- *materials, design and appearance being in character with the dwelling and surrounding streetscape;*
- *consideration of view lines from adjoining properties;*
- *provision of adequate manoeuvring space;*
- *relevant objectives of the RDC;*
- *the effect of such variation on the amenity of any adjoining lot;*
- *the existing and potential future use and development of any adjoining lots; and*
- *existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.*

The proposed carport will comprise of a steel-framed, open-sided structure, which will be integrated with the proposed upper floor. It will be abutting the rear of the western neighbour's property and is well-setback from the eastern adjoining property so will not obstruct view lines from either property. It will also have direct access to the street, will not affect existing and potential future uses and development of adjoining lots, and will have a greater setback than most carports and garages that already exist along this side of the street and consequently is unlikely to have any significant visual impact on the streetscape.

#### Wall on boundaries

The proposed double carport will be supported by columns along the western boundary that are partially within the 6m front setback area and therefore the location of the carport is required to be considered under performance criteria of the RDC which state:

*Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:*

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*

- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The location of the proposed carport on the western boundary makes effective use of space, freeing up the remainder of the frontage for a new swimming pool and deck area. It will also be adjoining an existing garage located in the rear of the lot on the western side and is proposed to be only 2.7m in height and 6.3m in length so is unlikely to have any significant adverse effect on the amenity of the adjoining property above the proposed boundary fence, or effect direct sun to major openings and outdoor living areas. The adjoining owner has not objected to the proposal and has previously agreed to a two-storey wall to be built along the boundary, although that plan has been subsequently superseded by this current proposal.

#### Side setbacks

The proposed upper floor (bedroom 1 - corridor) has a setback of between 1.533m and 1.7m from the western boundary, in lieu of a 1.8m setback required under the acceptable development standards of the RDC. This variation can be considered under performance criteria, which state:

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

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

The proposed variation is relatively minor and is partly necessary to compensate for a slight angle along the lot boundary. The proposed setback variation will not have any significant impact on direct northern sun and ventilation to the dwelling or the adjoining property on the western side or to appurtenant open spaces. The western elevation will also be partially recessed at the rear which will assist in ameliorating the impacts of building bulk on the adjoining property and only high-level windows are proposed to assist in protecting privacy.

#### Fencing in front setback area

The existing solid side fences within the front setback area are proposed to be replaced with solid 1.8m high rendered brick walls which do not satisfy the acceptable development standards of the RDC or Council's Local Law, but they may be considered under performance criteria of the RDC and as a guide to variation of the local law.

The relevant performance criteria of the RDC state:

*Front walls and fences to promote surveillance and enhance streetscape, taking account of:*

- *the need to provide protection from noise and headlight glare where roads are designated as Primary or District Distributors or Integrator Arterials; or*
- *the need to provide screening to the front setback area;*
- *the need to provide privacy to north facing outdoor living areas.*

Council's Fencing Local Law (gazetted 2001) also provides discretion and states:

*Side boundary and secondary street boundary fences that fall within the front setback areas must comply with the requirements of front setback fencing (ie: no greater than 900mm unless of an open-aspect design).*

*Council may consent in exceptional circumstances to new fences which do not comply with the local law with consideration as to whether the proposed fence would have an adverse effect on:*

- *the safe and convenient use of land;*
- *the safety or convenience of any person and;*
- *the impact of the fence on the streetscape.*

The proposed solid fencing along the western boundary is needed to maintain privacy to the rear of the adjoining property which fronts Boreham Street and the solid fencing along the eastern boundary is required to maintain privacy to the front paved driveway area of the adjoining dwelling from the proposed pool and deck area. The fences will not affect the safe and convenient use of the land, the safety or convenience of any person or the overall streetscape due to the proximity of existing solid fences on both adjoining lots. Furthermore, the remainder of the proposed fencing along the front boundary will replace an existing solid fence and will be compliant with the RDC and Fencing Local Law requirements as it will comprise 1.3m high metal vertical bars with 50mm spacing above a 0.5m high solid wall, with complementary piers and open-aspect gates to match.

## **CONCLUSION**

The proposed alterations and additions can be supported with the front and side setback and fencing variations sought, as the proposal satisfies the relevant performance criteria of the RDC and represents acceptable variations to Council's policy pertaining to garages and carports in front setback areas and its Fencing Local Law. Furthermore, no submissions have been received from adjoining owners during advertising and the applicant has agreed to marginally reduce the wall heights to the rear portion of the two-storey addition to ensure that the development is fully compliant with the building height requirements of TPS 2 and this has been conditioned accordingly.

## **VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee briefly discussed the proposal in relation to the front setbacks but on balance considered that they were acceptable in the context of the streetscape.

**Moved Cr Rowell, seconded Cr Walsh**

**That Council GRANT its approval to Commence Development for the proposed alterations and additions, including a first-floor addition, double carport, fencing and a pool at 14 (Lot 101) Wentworth Street, Cottesloe in accordance with the plans received 6 June 2013, subject to the following conditions:**

- 1. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
- 2. The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.**
- 3. Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged into the street reserve or adjoining properties and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a Building Permit.**
- 4. Air-conditioning plant and equipment shall be located closer to the existing dwelling than the adjoining dwellings, and housed or treated to ensure compliance with the Environmental Protection (Noise) Regulations.**
- 5. The applicant applying to the Town for approval to modify the crossover in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.**
- 6. The crossover shall be located to ensure retention of the existing street tree(s), with the Works Supervisor determining the distance that the crossover shall be located away from the base of the tree(s).**
- 7. The pool pump and filter shall be suitably housed or treated 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.**
- 8. Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.**
- 9. 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.
10. Wastewater or backwash water shall not be disposed of into the Town's street drainage system or the Water Corporation's sewer.
  11. The finish and colour of the columns on the boundary facing the western neighbour shall be to the satisfaction of the Manager Development Services.
  12. Wall heights shall not exceed RL: 15.79. Details are to be submitted for approval at Building Permit stage.
  13. In accordance with Council's Fencing Local Law, the proposed fencing along the front boundary shall have an "open aspect" in that the palings shall be spaced to ensure the width between each paling is at least equal to the width of the paling, with a minimum space of 50mm and a minimum open aspect of 50% of the infill panel, and the piers shall not exceed 2.1m in height from Natural Ground Level.

**Advice Note:**

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

Carried 5/0

**10.1.2 NORTH COTTESLOE SURF LIFE SAVING CLUB - PROPOSED CLUB LIQUOR LICENCE**

**File Ref:** PR54385-02  
**Attachments:** [Aerial Photo North Cottesloe Surf Life Saving Club](#)  
[Application for Liquor Licence](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 15 July 2013  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

North Cottesloe Surf Life Saving Club (NCSLSC) is applying to the Department of Racing, Gaming and Liquor (DRGL) for a Club Licence to govern the service of alcohol at the premises.

As part of the application process to the DRGL, the Club has requested support from the Town, as well as associated Sections 39 and 40 Certificates signifying health and planning compliance. A covering letter and Public Interest Assessment statement from the application are attached for more information.

This report to Council presents the Club's request, which is recommended.

**BACKGROUND**

Somewhat surprisingly, NCSLSC has operated for many years without a (liquor) Club Licence, instead applying to the DRGL to license occasional events, which have been granted. NCSLSC wishes to provide bar service in a social setting to members/guests which is readily available after training or patrol session, surf carnivals and for club-related events such as fund-raising, awards, etc. NCSLSC will not be making the premises available for any (non-member) private functions to occur there; ie it will not be a public function centre for commercial gain.

Cottesloe has several sports clubs, including the Cottesloe Surf Life Saving Club (CSLSC), tennis, golf and rugby clubs, all of which have held liquor licences for many years. Specifically:

- CSLSC, tennis and rugby clubs – Club Restricted Licences.
- Golf club – Special Facility Licence (ie unique to premises), which in addition to club liquor licencing allows the sale of packaged liquor for consumption on the golf course.

All of these are understood to operate successfully with few if any complaints, and the clubs have been responsible in applying to the DRGL for permission for any variations or special events from time to time.

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**STRATEGIC IMPLICATIONS**

Consistent with Council's approach to control of liquor practices.

**POLICY IMPLICATIONS**

Correlates with Council's Liquor (Licenced Premises) Policy.

**STATUTORY ENVIRONMENT**

Liquor Control Act and Regulations 1988.

**FINANCIAL IMPLICATIONS**

Nil.

**SUSTAINABILITY IMPLICATIONS**

Nil.

**CONSULTATION**

Community consultation by the Town additional to the DRGL is not required.

**TYPES OF CLUB LICENCE**

A Club Licence allows liquor to be supplied to a member, or guest in the company of a member, for consumption on and off the premises. This is the more common type of Club Licence, with the sale of liquor for consumption off the premises allowing events such as wine tasting/promotions. Note that *consumption off the premises* means taking the packaged liquor home – it does not permit drinking it in a public place, which is prohibited.

Clubs may be of many types, not just sports clubs, hence pursuant to the Liquor Control Act the standard (maximum) trading hours for a Club Licence are:

Day	When		General Conditions
	Open	Close	
Monday to Friday	6.00am	midnight	
Monday to Friday	6.00am	12.30am Saturday	(ancillary to a meal only)
Saturday	6.00am	1.00am Sunday	
Sunday	10.00am	10.00pm	
New Year's Eve (Monday - Saturday)	6.00am	2.00am	
New Year's Eve (Sunday)	Until 12.30am New Years Eve morning; then, 10.00am	2.00am New Years Day	
Good Friday	No permitted trading hours after 12.30am Good Friday morning		
Christmas Day	Until 12.30am Christmas morning; then,		(ancillary to a meal only)



	12 noon	10.00pm	(ancillary
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In practice individual clubs will seek hours suitable to their purpose. The NCSLSC proposes as set out below. It anticipates the main hours of bar use being Friday to Sunday, with the option of some low-key use during the week.

Monday - Friday	noon - midnight
Saturday	11am - midnight
Sunday	11am - 10pm
Christmas Day, New Year's Eve, Good Friday & Anzac Day	Nil

A Club Restricted Licence differs from a Club Licence only in that it doesn't permit the sale of packaged liquor and the licensee only has access to the premises during certain hours of the day; eg a dance club that rents a hall once a fortnight. Trading hours are determined in each case by the Director of Liquor Licensing.

For clubs with their own permanent premises, full-time club activities and a larger membership, a Club Licence would seem appropriate. In this respect NCSLSC has identified a Club Licence as suitable given that its main wine supplier offers discounts to members to purchase to take away, but has advised that the sale of liquor for consumption off the premises could be excluded if considered necessary.

The range of hours allowed under the Act for clubs to serve liquor is extensive and excessive for a sport/community club, and service beyond midnight would be unacceptable except for festive dates. The hours proposed by the Club are considered acceptable, especially 10pm closing on Sundays.

## ASSESSMENT

The liquor licensing process involves NCSLSC making a comprehensive application to the DRGL, including all details (licensee integrity checks, training and management plans, and so on) and a public interest test, as well as a 28-day public advertising period, all focused on ensuring effective liquor controls.

As mentioned this includes obtaining from the Town a S39 Certificate for health compliance (adequacy of toilets, kitchen facilities, etc) and a S40 Certificate for planning compliance (use permitted, buildings approved, etc).

Council's Liquor (Licenced Premises) Policy echoes the DRGL assessment framework, with an emphasis on amenity, safety, operational implications and where relevant parking requirements. The policy is a reference when dealing with liquor licence applications. Its relevant objectives are to:

- *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.*

- *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 Safety and Crime Prevention Committee.*

Sports clubs liquor licences are lower-key than liquor licences for drinking and eating businesses or other establishments open to the public for various forms of leisure and entertainment. As the liquor licence is secondary to the purpose of a club, and as a club is bound by its constitution, membership rules and liquor service accords (as guided by the Liquor Control Act) this class of liquor licence is normally not contentious.

The submitted Public Interest Assessment statement attests to this, with salient aspects being:

- As a sport/community service club that is the primary activity, with the availability of liquor a secondary consideration.
- Although the Club has a large membership, many are not of drinking age and most engage predominantly in Club activities other than simply social drinking.
- The number of members or guests attending an occasion involving liquor will be limited by the floor-space capacity and conducted entirely within the Club's premises.
- The Club has very little on-site parking apart from management and loading spaces, relying on public domain parking for members or visitors. The advent of a liquor Club Licence will not alter this situation.
- Several liquor-licenced establishments exist in the immediate vicinity, including restaurants and the Ocean Beach Hotel, which have significantly more potential to impact on amenity and wellbeing than the Surf Club.

In this instance the Town's assessment is that the proposed Club Licence (unrestricted) satisfies Council's policy parameters and would be unlikely to be detrimental to the public interest or the amenity of the locality.

## **CONCLUSION**

Cottesloe's sports clubs are significant community organisations offering recreational pursuits and social interaction. The two surf clubs also provide a vital life saving service and have attracted large memberships. Most clubs or diverse types enjoy a liquor licence, as do all the other sports clubs in the district. A Club Licence is considered acceptable for the NCSLSC and is not seen to need to be restricted.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Cr Hart expressed concern that a sport club with many young members and a health focus was seeking a liquor licence, also noting the wide hours proposed and the proximity of two licenced restaurants and a hotel. Cr Rowell commented that from experience the Club held a few licenced events over time, which had not been a

problem, and in that respect Cr Jeanes commented that quiz nights were a good example of such activities. Cr Walsh referred to the table showing the regulated liquor licence hours for clubs and queried in relation to the Club whether for Monday to Friday service of liquor a meal would need to be provided. Cr Strzina queried the floorspace capacity involved.

The Manager Development Services explained that the licenced area was to be confined to the main rooms, balcony and courtyard at the Marine Parade upper level of the Club's premises within its lease area. He also advised that the general liquor control condition of serving liquor ancillary to a meal at certain times was not necessarily relevant to a sport club and that the kitchen facilities were not normally staffed, stocked and operating to serve meals on a constant basis as at a hotel, small bar or licenced café/restaurant. He would seek clarification from the Club regarding these aspects.

### **OFFICER RECOMMENDATION**

#### **Moved Cr Rowell, seconded Cr Jeanes**

THAT Council:

1. Advise North Cottesloe Surf Life Saving Club that it supports the proposed liquor Club Licence, as an unrestricted version, subject to the hours applied for, being:
  - Monday to Friday – noon to midnight.
  - Saturday – 11am to midnight.
  - Sunday – 11am to 10pm.
  - Christmas Day, New Year's Eve, Good Friday and Anzac Day – nil.

Council does not support the maximum, wide hours of liquor service for clubs that may be permitted under the Liquor Control Act, for the needs of the Surf Club.

2. Authorise the Town's staff to issue the associated Liquor Control Act Sections 39 and 40 Certificates to the Club in support of the liquor licence application, subject to checks and inspections as required.

### **AMENDMENT**

#### **Moved Cr Walsh, seconded Cr Hart**

**That the item be deferred to full Council on Monday 21 July 2013 to enable the Town to clarify the floor area to be licenced and whether the service of meals was intended or would be required.**

**Lost 2/3**

### **OFFICER & COMMITTEE RECOMMENDATION**

#### **Moved Cr Walsh, seconded Cr Rowell**

**THAT Council:**

3. Advise North Cottesloe Surf Life Saving Club that it supports the proposed liquor Club Licence, as an unrestricted version, subject to the hours applied for, being:

- Monday to Friday – noon to midnight.
- Saturday – 11am to midnight.
- Sunday – 11am to 10pm.
- Christmas Day, New Year's Eve, Good Friday and Anzac Day – nil.

Council does not support the maximum, wide hours of liquor service for clubs that may be permitted under the Liquor Control Act, for the needs of the Surf Club.

4. Authorise the Town's staff to issue the associated Liquor Control Act Sections 39 and 40 Certificates to the Club in support of the liquor licence application, subject to checks and inspections as required.

Carried 3/2

### 10.1.3 SUBDIVISION AND SALE OF FORMER DEPOT SITE - PROGRESS REPORT

**File Ref:** SUB/962  
**Attachments:** [Depot Site Plan](#)  
**Responsible Officer:** Carl Askew  
**Chief Executive Officer**  
**Author:** Andrew Jackson  
**Manager Development Services**

**Proposed Meeting Date:** 15 July 2013  
**Author Disclosure of Interest:** Nil

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#### SUMMARY

This report updates Council regarding the proposed subdivision and sale of the Town's former depot site. The disposal strategy was endorsed by Council in April 2013 and entails:

- Obtaining subdivision approval prior to sale – underway.
- Preparing design guidelines to supplement the subdivision – drafted.
- Seeking expressions of interest to purchase the site – completed.
- Calling for tenders to purchase the site and subdivide it in accordance with the approval – future step.

The progress of each of these items is provided below.

#### STRATEGIC IMPLICATIONS

Selling the depot site to provide substantial income and foster infill development is a key strategy to generate funds for the district, supply housing lots and improve neighbourhood amenity.

#### POLICY IMPLICATIONS

The project reflects Council's strategic and procedural policy framework.

#### STATUTORY ENVIRONMENT

Planning Act for subdivision process.  
Local Government Act for disposal process.

#### FINANCIAL IMPLICATIONS

Ongoing project costs are able to be met by the current budget.

#### SUSTAINABILITY IMPLICATIONS

Residential development of the old depot site supports urban consolidation and enhances the area in realising an asset value, to improve overall sustainability for the district.

## CONSULTATION

The Town consulted owners/residents surrounding the site in formulating the subdivision design, which took into account their comments regarding particular details.

As the prospect of two more lots (refer below) would not alter the basic layout, components or function of the estate, there is no requirement for any follow-up consultation.

## SUBDIVISION PROPOSAL

A comprehensive subdivision application based on the design endorsed by Council was submitted to the Western Australian Planning Commission (WAPC) in early June. The WAPC has 90 days to process and determine the proposal, including a 42 day referral period to utility service authorities. Responses are being received by the WAPC and indications are that the proposal is supported subject to relevant conditions. The Town is also providing recommended conditions to the WAPC reflecting the land development intent for the site and the design guidelines.

The subdivision approval will be valid for three years and transferred to the purchaser of the site, to be implemented in accordance with the Tender and legally-binding contract of sale. The subdivider is to develop the new housing estate by undertaking engineering works to fill the site, provide all utility services, construct the access road and upgrade the lanes, install the public open space (POS) treatments, survey the finished lots and create them on certificates of title to be sold.

## TREES

Council requested that the subdivision design considers the identification and retention where possible of existing significant trees within or adjacent to the site. To address this, a report from an arboricultural consultant was commissioned. The study identified and assessed 28 larger trees in and around the site in terms of their species, significance, health structure and potential to survive or be transplanted. It found that:

- There are no trees considered significant in terms of heritage, stature, rarity, etc having regard to relevant criteria.
- A mixture of ten species was found, the most numerous being WA weeping peppermint (9) and Aleppo pine (5).
- Ten trees are easily replaceable with fast-growing semi-mature nursery stock of the same species.
- Five trees have good health and structure and could be transplanted.
- Thirteen trees have poorer health or structure, or are in limestone outcrops, hence are not suitable for retention.
- The subdivision survey and works will dictate whether any tree may be retained and protected.
- High quality, advanced nursery-grown trees can be planted – semi-mature eucalypts reach several metres height in two-three years.
- The option of transplanting ideally entails a lead-time for tree preparation/conditioning, requires access for machinery, is costly and may not succeed.

- Unless existing trees can be unaffected by and protected from subdivision works, they are likely to be compromised or lost.

The existing trees in and around the site are either remnant or introduced by wind-blown seeds and are randomly distributed. They have remained due to being peripheral to the depot operations and contribute to the vegetation of the landscape. However, they tend to be not well located in relation to the intended subdivision, which involves fill, an access road, making all of the perimeter lanes trafficable and smaller lots.

Pragmatically, most if not all of the trees will be removed; however, replacement vegetation is to be introduced to the central POS and on residential lots. Transplanting the five trees identified could be attempted, but is unlikely to be an attractive proposition to a tenderer/subdivider.

Design guidelines may include specific trees to be preserved, but only when they have recognised *special significance* and therefore have been deliberately incorporated into a design, which is not the case here. Nonetheless, the Town's response to the referral from the WAPC of the subdivision proposal for technical comment has included advice regarding the efficacy of tree replacement and possible transplanting as a consideration.

## **DESIGN GUIDELINES**

The purpose of design guidelines is to augment a subdivision layout in addressing basic development parameters for the residential lots as well as the public domain (roads/lanes, POS). They assist in achieving consistency and setting the standard of development for an estate. Design guidelines are an extra layer of control further to the Local Planning Scheme and the Residential Design Codes (RDC). They tend to be broad in terms of a few key aspects to be followed, with the detailed design of individual dwellings being governed by the Scheme and Codes.

A draft of the design guidelines is attached, comprising:

- A plan of the estate showing particular development requirements.
- A POS design brief, to guide landscaping treatments.
- An urban design brief, to guide the treatments for access road, lanes and infrastructure (eg lighting, any bollards, etc).

Council has resolved that such design guidelines be prepared and form part of the contract of sale with the successful tenderer / subdivider, as well as with the ultimate purchasers of the lots, so that they are disseminated and adhered to.

Planning-wise, the design guidelines are to be given substance through being adopted by Council as a policy under the Local Planning Scheme, whereby Council will have regard to the policy in applying the design guidelines as an adjunct to the Scheme.

A local planning policy is made pursuant to the Scheme. The procedure involves:

- Adoption of draft by Council.
- Community advertising – 21 days.
- Consideration of submissions.

- Any revision and final adoption by Council.

A Local Planning Scheme policy then serves to support the Scheme's provisions for Council to take into account in considering development applications or infrastructure works, at the same time embodying discretion enabling sufficient flexibility to accommodate reasonable variations.

### **EXPRESSION OF INTEREST**

As a first step towards sale of the site the Town has called for Expressions of Interest (EoI) to purchase and subdivide the site. Four enquiries were initially received and three potentially interested parties attended a site inspection with the Town.

At the closing date to register interest, one formal EoI was received. This does not necessarily suggest little interest in the site and more interest can be expected upon tendering, with the benefit of the subdivision approval and additional overall information.

### **FUTURE TENDERING**

Subject to subdivision approval the next disposal steps involve calling for tenders and entering into a contract of sale with the successful party. Acceptance of a tender confirms the intention to sell the site, while the contract of sale and any associated deed of agreement secures the purchaser's obligation and commitment to develop the subdivision and apply the design guidelines.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Cr Jeanes queried the annotations in the draft design guidelines indicating designated and preferred garage locations, as well as the prospect of larger garages for more than two cars. The Manager Development Services explained that the fixed positions were selected in relation to development opposite. He also advised that the guidelines would not prevent the consideration of a larger garage pursuant to a development application.

### **OFFICER & COMMITTEE RECOMMENDATION**

**Moved Cr Strzina, seconded Rowell  
THAT Council:**

- 1. Notes the status of the subdivision application.**
- 2. Endorses in-principle the draft design guidelines for the subdivision, for the purpose of advertising as an intended town planning scheme policy.**
- 3. Notes the outcome of the Expression of Interest process and informs the submitter that the Expression of Interest will not result in a restricted Tender (submission declined), but that they would be welcome to submit a Tender in any open Tender process that may eventuate for the sale of the site.**

**Carried 5/0**



**10.1.4 CHANGES TO STATE PLANNING POLICY 3.1 – RESIDENTIAL DESIGN CODES (AND DEVELOPMENT CONTROL POLICY 2.2 – RESIDENTIAL SUBDIVISION)**

**File Ref:** SUB/326  
**Attachments:** [Officer Report October 2011](#)  
[Planning Bulletin](#)  
[Schedule of Amendments](#)  
[Presentation](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer  
**Proposed Meeting Date:** 15 July 2013

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**SUMMARY**

This report provides Council with an overview of changes to the Residential Design Codes (RDC) and Development Control Policy 2.2 (DC 2.2) that have been made by the Western Australian Planning Commission (WAPC) and which will take effect on **Friday 2 August 2013**.

A copy of the RDC and DC 2.2 is available on the WAPC's website: [www.planning.wa.gov.au](http://www.planning.wa.gov.au).

**BACKGROUND**

The RDC provide a comprehensive basis for the control of residential development in Western Australia.

They were last modified on 22 November 2010 to introduce the Multi-Unit Housing Codes for multiple dwellings in areas coded R30 or greater and for mixed use development, which was reported to Council at that time and remains generally unchanged in the current review.

The new changes that are now being introduced were initially reported to Council on 31 October 2011 during the public consultation period and the following resolution was made:

*That Council notes this update report regarding the review of State Planning Policy 3.1 – Residential Design Codes.*

A copy of this previous report is attached and should be read in conjunction with this report as only changes that were not previously reported are addressed.

**SUMMARY OF CHANGES**

A summary schedule of the amendments to the RDC has been produced by the WAPC and is attached for information.

The main changes, not previously reported to Council, are as follows:

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## Part 1 - General objectives

The general objectives of the Codes have been modified to read as follows:

### Objectives for residential development

- (a) To provide residential development of an appropriate design for the intended residential purpose, density, context of place and scheme objectives.*
- (b) To encourage design consideration of the social, environmental and economic opportunities possible from new housing and an appropriate response to local amenity and place.*
- (c) To encourage design which considers and respects heritage and local culture.*
- (d) To facilitate residential development which offers future residents the opportunities for better living choices and affordability.*

### Objectives for the planning governance and development process

- (a) To encourage design which is responsive to site, size and geometry of the development site.*
- (b) To allow variety and diversity as appropriate where it can be demonstrated this better reflects context or scheme objectives.*
- (c) To ensure clear scope for scheme objectives to influence the assessment of proposals.*
- (d) To ensure certainty in timely assessment and determination of proposals applied consistently across State and local government.*

### Application of objectives

This has been modified to read as follows:

*In assessing and determining proposals for residential (including residential component of mixed use development and activity centres), the decision-maker shall have regard to the above general objectives, and any objectives provided in the R-Codes and the scheme.*

### Application of the R-Codes

This section has been modified to reflect the new sections in the RDC and reads as follows:

*The R-Codes apply throughout Western Australia.*

*Parts 1 to 4 and 7 of the R-Codes apply to all residential development (including residential components of mixed use development and activity centres).*

*Part 5 and associated tables and figures apply to:*

- *all single houses;*
- *all grouped dwellings; and*
- *multiple dwellings in areas with a coding of less than R30.*

*Part 6 and associated tables and figures apply to:*

- *multiple dwellings in areas with a coding of R30 or greater; and*
- *mixed use development and activity centres.*

*Part 7 applies to the local planning framework.*

## **Part 2 – Codes approval process**

This section has been modified and defines when planning approval is required for single dwellings. However, where a Scheme requires an application to be lodged for single dwellings, as under Town Planning Scheme No 2 (TPS 2) and proposed Local Planning Scheme No 3 (LPS 3), then the Scheme requirements shall prevail.

## **Part 3 – Accompanying information**

New information requirements for planning applications have been incorporated in an application information matrix for simplicity. Supporting information is also required where an existing heritage place is proposed to be demolished or its external appearance is significantly altered.

## **Part 4 – Neighbour consultation**

This clarifies when neighbour notification is required and was discussed in the previous Council report.

## **Part 5 – Design elements for all single house(s) and grouped dwellings, and multiple dwellings in areas coded less than R30 (formally Part 6)**

This section introduces four sub-headings comprising Context, Streetscape, Site Planning, and Design. The terms *acceptable development* and *performance criteria* have also been re-named to *deemed-to-comply* and *design principles*.

### Average lot sizes

The following changes are made to the average lot sizes for single and grouped dwellings in Table 1:

<b>Coding</b>	<b>Existing required average lot size</b>	<b>New required average lot size</b>
R20	500m <sup>2</sup>	450m <sup>2</sup>
R60	180m <sup>2</sup>	150m <sup>2</sup>
R80	180m <sup>2</sup>	120m <sup>2</sup>

The following changes are made to the average lot sizes for multiple dwellings with a coding of less than R30 in Table 1:

Coding	Existing required lot size	New required lot size
R20	500m <sup>2</sup>	450m <sup>2</sup>
R25	400m <sup>2</sup>	350m <sup>2</sup>

The following changes are made to the minimum lot sizes required for rear battleaxe lots in Table 1:

Coding	Existing required lot size	New required lot size
R20	540m <sup>2</sup>	450m <sup>2</sup>
R25	445m <sup>2</sup>	425m <sup>2</sup>
R30	420m <sup>2</sup>	410m <sup>2</sup>
R35	410m <sup>2</sup>	395m <sup>2</sup>
R40/R50/R60/R80	400m <sup>2</sup>	380m <sup>2</sup>

### Streetscape

This section has been re-formatted but is similar to existing requirements.

### Boundary setbacks

This section is similar to existing requirements but the height and length of walls that are *deemed-to-comply* on a lot boundary in R20 and R25 areas has changed from maximum 3m height, average 2.7m and up to 9m length, to a maximum 3.5m height, average 3m and up to one-third the length of the balance of the lot boundary behind the front setback.

### Open space

The *design principles* for open space have been expanded.

### Access and parking

Changes have been made to the *deemed-to-comply* provisions to reduce the minimum required number of on-site car bays. For example, a two-or-more bedroom dwelling within 800m of a train station or 250m of a high frequency bus route now only requires one car bay instead of two. The *design solutions* have also been expanded to give more options.

### Site work requirements

This section has been slightly re-worded but no significant changes have been made.

### Building height

This section remain unchanged and does not override Council's Scheme provisions.

### Privacy

This section has been modified to incorporate reduced visual privacy controls in areas coded higher than R50 and requires that screening devices should be at least 1.65m in height.

#### Solar access

The *deemed-to-comply* section has been modified to include additional restrictions where more than one lot abuts a single lot along its northern boundary and to take account of existing roof-mounted solar collectors and north-facing major openings on adjoining properties. The *design principles* have also been expanded to include consideration of north-facing openings, north and west-facing roof areas and existing solar collectors.

#### Incidental development (outbuildings, external fixtures)

This section has been re-worded slightly although its content remains largely unchanged.

#### Special purpose dwellings: Ancillary dwellings (formally granny flats), aged or dependent persons accommodation and single bedroom dwellings.

The changes to this section are generally as discussed in the previous Council report. However, the *deemed-to-comply* maximum plot ratio requirements for aged and dependent persons dwellings have been retained rather than being replaced by maximum floor areas; the parking requirements for single bedroom dwellings are now reduced from 1 bay to 0 bays where located in close proximity of a train station or high frequency bus route; and the outdoor living area requirements are reduced by one-third, which is proportionate to the reduced site area that applies to these type of developments.

### **Part 6 – Design elements for multiple dwellings in areas with a coding of R30 or greater and within mixed use development and activity centres.**

This section remains largely unchanged although some wording and terminology has been updated for consistency with the new Part 5.

### **Part 7 – Local planning framework**

This section remains largely unchanged although has been expanded in parts. It advises the circumstances where local planning policies, local development plans, local structure plans and activity centre plans may amend or replace various parts of the *deemed-to-comply* provisions and advises that the RDC prevail over previously adopted local planning policies (unless adopted under a Town Planning Scheme).

#### **Definitions**

Appendix 1 in the RDC is retained and contains definitions of terminology used throughout the RDC. The following changes have been made to this section:

Definitions that have been amended include: active habitable space; garage; open space; pergola; height, building; outdoor living area; plot ratio; activity centre; local

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planning policy; parent lot; plot ratio area; ancillary dwelling; policy; patio; visually permeable; battleaxe lot; lot; cone of vision.

Definitions that have been deleted include: acceptable development; effective lot area; performance criteria; storey; formed driveway; street alignment; council; ground floor area; serviced apartment; tandem parking; detailed area plan; model scheme text; special control area; dwelling size.

New definitions that have been added include: activity centre plan; external fixtures; local planning framework; residential development; decision-maker; heritage place; deemed-to-comply; high frequency bus; lot boundary; solar collectors; design principles; high frequency rail route; porch; special purpose dwelling; enclosed; internal walls; local planning strategy; street boundary; local development plan; local structure plan; unenclosed.

## **Figures**

More figures have been included in the RDC and these have been updated for clarity and accuracy.

## **CONCLUSION**

The changes to the RDC are important to the assessment of planning applications for all residential developments within the Town. The updated version aims to provide a more comprehensive set of development standards that are user-friendly and provide clearer direction for decision-makers and the development industry than the soon-to-be superseded version.

It is anticipated that some refinements may still be necessary once the RDC are put into use and it is noted that some additional changes have been introduced which were not proposed during advertising, as highlighted in this report.

The complimentary changes to DC 2.2 are necessary as a result of the modifications to the RDC where such amendments relate to subdivision standards, such as changes to minimum and average lot areas and for residential development on small lots.

TPS 2 and local planning policies adopted under the Scheme still remain relevant considerations when assessing planning applications for residential development within the Town. However, proposed LPS 3 is more closely affiliated to the modified RDC and to avoid contradictions with the current Scheme it may sometimes be appropriate to use LPS 3 as a reference source for practical purposes (ie: allowing a relaxation of occupancy requirements for ancillary dwellings as permitted under the RDC but currently restricted under TPS 2). Furthermore, once LPS 3 has been gazetted then existing local planning policies will become redundant and will need to be adopted under the new Scheme or deleted altogether. In any event, it is becoming increasingly important that the existing local planning policies are further reviewed to ensure that they accord with Part 7 of the RDC, are updated to reference new specific clause numbers, and that they remain appropriate in providing parameters for the exercise of discretion under the relevant design principles of the RDC.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee noted the report and briefly queried the implications of the revised codes including in relation to lot size reductions, performance criteria and design solutions. The Senior Planning Officer provided clarification in these respects, explaining that the changes to the codes were now finalised.

**OFFICER & COMMITTEE RECOMMENDATION**

**Moved Cr Strzina, seconded Rowell**

**That Council notes the changes to State Planning Policy 3.1 – Residential Design Codes and to Development Control Policy 2.2 – Residential Subdivision that will be gazetted on 2 August 2013.**

**Carried 5/0**

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

Nil.

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

**12.1 ELECTED MEMBERS**

Nil.

**12.2 OFFICERS**

Nil.

**13 MEETING CLOSED TO PUBLIC**

**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil.

**13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC**

Nil.

**14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 6:38 PM.

CONFIRMED MINUTES OF 18 July 2013 PAGES 1 – 30 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

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DATE: ..... / ..... / .....