

# TOWN OF COTTESLOE



## DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
6.00 PM, MONDAY, 17 FEBRUARY 2014

**CARL ASKEW**  
Chief Executive Officer

18 February 2014

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# DEVELOPMENT SERVICES COMMITTEE

## TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	3
2	DISCLAIMER .....	3
3	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....	3
4	PUBLIC QUESTION TIME .....	3
	4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	3
	4.2 PUBLIC QUESTIONS .....	3
5	PUBLIC STATEMENT TIME.....	3
6	ATTENDANCE .....	3
	6.1 APOLOGIES .....	4
	6.2 APPROVED LEAVE OF ABSENCE .....	4
	6.3 APPLICATIONS FOR LEAVE OF ABSENCE .....	4
7	DECLARATION OF INTERESTS.....	4
8	CONFIRMATION OF MINUTES.....	4
9	PRESENTATIONS .....	4
	9.1 PETITIONS.....	4
	9.2 PRESENTATIONS .....	4
	9.3 DEPUTATIONS .....	5
10	REPORTS .....	6
	10.1 PLANNING .....	6
	10.1.1 NO. 219 (LOT 34) BROOME STREET - ALTERATIONS AND ADDITIONS TO THREE UNITS	6
	10.1.2 INDIANA RESTAURANT - PROPOSED TAVERN RESTRICTED LIQUOR LICENCE - FURTHER REPORT	17
11	ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	22
12	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:.....	22
	12.1 ELECTED MEMBERS.....	22

	12.2	OFFICERS .....	22
13		MEETING CLOSED TO PUBLIC .....	22
	13.1	MATTERS FOR WHICH THE MEETING MAY BE CLOSED ....	22
	13.2	PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC.....	22
14		MEETING CLOSURE.....	22

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

The Presiding Member announced the meeting opened at 6:01 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**

Nil.

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

Nil.

**4.2 PUBLIC QUESTIONS**

Nil.

**5 PUBLIC STATEMENT TIME**

Mr David Caddy planning consultant for item 10.1.1, 219 Broome Street

Mr Caddy referred to the previous consideration and liaison leading to revised plans, outlining the changes made to satisfy amenity, privacy, parking and verge aspects. He also commented on the relatively minor variations sought, while accepting that the recommended conditions could be accommodated. Mr Caddy thanked Committee in anticipation of support and invited any questions of himself or the architect.

Mrs Carol Knowles of 217 Broome Street re item 10.1.1, 219 Broome Street

Mrs Knowles emphasised her remaining concern about the side terrace to unit two in relation to her property and the need for adequate privacy screening or side fencing.

**6 ATTENDANCE****Present**

Cr Peter Jeanes	Presiding Member
Cr Katrina Downes	
Mayor Jo Dawkins	
Cr Philip Angers	
Cr Jack Walsh	
Cr Rob Rowell	Deputy

**Officers Present**

Mr Carl Askew	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Ed Drewett	Senior Planning Officer
Mr Ronald Boswell	Planning Officer
Mrs Liz Yates	Development Services Administration Officer

**6.1 APOLOGIES****Member Apologies**

Cr Helen Burke

**Officer Apologies**

Nil.

**6.2 APPROVED LEAVE OF ABSENCE**

Cr Walsh had an approved leave of absence but was able to attend.

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 DECLARATION OF INTERESTS**

Cr Downes declared an impartiality interest in item 10.1.1 due to personally knowing Mrs Carol Knowles and Mr and Mrs Law who have made submissions, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matter on its merits and vote accordingly.

**8 CONFIRMATION OF MINUTES**

**Moved Mayor Dawkins, seconded Cr Walsh**

[Minutes December 09 2013 Development Services Committee.docx](#)

**The Minutes of the Ordinary meeting of the Development Services Committee, held on 9 December 2013 be confirmed.**

**Carried 6/0**

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

Nil.

**9.2 PRESENTATIONS**

Nil.

**9.3 DEPUTATIONS**

Nil.

*Cr Downes declared an impartiality interest in Item 10.1.1 due to personally knowing Mrs Carol Knowles and Mr and Mrs Law who have made submissions, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matter on its merits and vote accordingly.*

## **10 REPORTS**

### **10.1 PLANNING**

#### **10.1.1 NO. 219 (LOT 34) BROOME STREET - ALTERATIONS AND ADDITIONS TO THREE UNITS**

**File Ref:** 2765  
**Attachments:**  
**Attachments:** [Aerial](#)  
[Property Photos](#)  
[Revised Plans](#)  
[Previous Council Minutes](#)  
[Superseded Plans](#)

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

**Author:** Ronald Boswell, Planning Officer  
Andrew Jackson,  
Manager Development Services

**Proposed Meeting Date:** 17 February 2014

**Author Disclosure of Interest:** Nil

**Property Owner:** David Sharp

**Applicant:** The Planning Group

**Date of Application:** 17 September 2013

**Zoning:** Residential R20

**Lot Area:** 742m<sup>2</sup>

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## **SUMMARY**

This proposal was first considered by the Development Services Committee and Council late last year. Given concerns raised, Committee deliberations and officer advice, Council at its 16 December 2013 meeting resolved:

*That the item be deferred for further liaison between the applicant and the Town, with a view to further revised plans and another report to Council for determination of the proposal.*

Following review of the aspects identified and a design response to address them, especially the roof terrace and parking, revised plans were submitted on the 30 January 2014.

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

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- Building height (units 1 and 2).
- Setback to southern boundary.
- Visual privacy.
- Overshadow.

These aspects have been discussed in the report to Council dated 16 December 2013 (see attachments) and are summarised in this report, which also makes reference to the revised plans received on 30 January 2014.

While certain aspects of the proposal don't routinely comply with TPS 2 and the RDC, the proposal does comply with Council's Fencing Local Law and retains the existing dwellings.

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

## **PROPOSAL**

This development application is for alterations and additions to three older triplex units and entails:

### Unit 1:

- Extension to the front.
- Enclose existing sleep-out.
- Decks to the front and rear; rear screened.
- Front carport.
- External storage space/bin space.
- Semi-permeable front fencing and screen fence to carport.
- Light scoop/highlight window to top of roof.
- Internal fit-out/layout.

### Unit 2:

- Enclose existing sleep-out.
- Deck to the rear, screened.
- Carport at rear of unit 3.
- External storage space/bin space.
- Light scoop/highlight window to top of roof.
- Extension to living room to include daybed.
- Internal fit-out/layout.

### Unit 3:

- Extension to rear including carport and second storey with balcony.
- Store/workshop to rear with boundary wall.
- External storage space/bin space.
- Internal fit-out/layout.

### Buildings to be demolished:

- External laundry.
- Shed to the rear.

## BACKGROUND

The existing triplex building is of relatively modest footprint and scale, consistent with the single storey height regime of TPS 2, whereby ground floor extensions and a partial second storey would be essentially compatible with the streetscape context of larger dwellings and the trend towards two-storeys – subject to the degree of compliance with planning requirements and the effects of the design, as assessed below.

Following discussions between the Town, the applicant and the owners, the applicant has submitted revised plans addressing the design and appearance of the units for proposed improvements to better satisfy neighbour concerns, TPS 2 and the RDC. The main changes that are presented in this application include:

- Deletion of the roof terrace.
- Four car parking bays to the rear via the ROW.
- 1.5m clearance from the base of the street tree.
- Improved visual privacy screening to neighbouring properties to the north and west.

## FINANCIAL IMPLICATIONS

Nil.

## STATUTORY ENVIRONMENT

- TPS2
- RDC
- Fencing Local Law

## PROPOSED LOCAL PLANNING SCHEME NO. 3

No change is proposed to the zoning or density of this lot.

## HERITAGE LISTING

N/A

## APPLICATION ASSESMENT

### Areas of non-compliance:

#### TPS 2

<i>Building Height</i>	<i>Permitted</i>	<i>Proposed</i>
	<u>Single storey:</u> Max height: 6m (ie to crown of roof).	Unit 1 – 6.45m – light scoop.  Unit 2 – 6.35m – light scoop.

**RDC**

<i>Design Element</i>	<i>Deemed-to-comply</i>	<i>Proposed</i>	<i>Design Principles</i>
5.1.3 Lot boundary setback.	1.5m  1.3m	0.89m – unit 1 southern wall.  1m – unit 3 wall to stairwell.	Clause P3.1 Buildings set back from lot boundaries.
5.4.1 Visual privacy.	4.5m  6m  7.5m	3.96m – master bedroom eastern window.  4.86m – upper floor western window.  5.91m – balcony, northern elevation.	P1.2 Maximum visual privacy to side and rear boundaries.
5.4.2 Solar access for adjoining sites.	25% overshadow.	27.9% overshadow.	P2.1 Effective solar access for proposed development and protection of solar access.
TPS2 Policy 3 front carports.	6m	1.2m	Clause 4 (b).

**ADVERTISING OF PROPOSAL**

This application was originally advertised by the Town to the neighbours who made submissions as previously reported. After the 16 December 2013 Council meeting three follow-up submissions have been received. The main comments are summarised below:

T & C Knowles, 217 Broome Street

- The revised plans do not limit the extent or bulk and scale of the proposed redevelopment in reference to the rear addition of unit three. It will severely affect their back yard amenity.
- The proposal was described by the Mayor as an R60 type of development in an R20 zone.
- The objections in this submission to the Town received on 31 October 2013 remain unchanged.
- Objects that units one and two have raised terraces. Unit two's terrace extends past the corner of the family room and is adjacent to their outdoor BBQ and meals area.
- The units have insufficient parking for three units and objects to vehicles driving across the front verge.

C & G Somas, 24 Ozone Parade

- Objects to the increased traffic four car parking bays would create in the ROW.

- Concerns over safety as children play in the ROW.
- Believes that the front two units should use Broome Street as the primary vehicle access to the units.

P & K Law, 26 Ozone Parade

- Objects to the increased traffic four car parking bays would create in the ROW. The master bedroom is adjacent to the ROW and the increased use of vehicles would adversely affect the amenity of their dwelling at the rear.
- Concerns over safety as children play in the ROW.
- Believes that the front two units should use Broome Street as the primary vehicle access to the units.

These comments echo the initial submissions, with an emphasis on the parking solution.

Upon receipt of the revised plans the Town has informed these neighbours and invited them to view the plans and comment further if they wish. A letter on behalf of the neighbours at 217 Broome Street has been received from a firm of planning consultants, and is intended to be circulated to elected members by them for information. The letter makes a number of comments about the proposal, both broad and technical, based on the previous report and plans, and reinforces the neighbours' underlying objection. It is apparent that the neighbours remain concerned about the prospect and potential impacts of adjacent development (eg privacy, solar access), as summarised and assessed in the officer report in presenting the revised proposal for consideration.

### **APPLICANT'S JUSTIFICATION**

The applicant's justification for the proposal is contained in the previous report and has been elaborated upon in presentations to Committee and Council. The revised plans are a response to the aspects identified for review.

### **OFFICER'S COMMENT**

The following technical assessment is made regarding the revised plans:

#### Boundary Setbacks

The proposal involves setback variations for the southern elevation. They are assessed as satisfying the RDC design principles.

The Setback variation sought for unit one remains unchanged as reported to Council on 16 December 2013.

For unit three, the rear stairwell addition to the southern side boundary has a setback requirement of 1.3m whereas 1m is proposed. The 0.3m reduction could be considered acceptable given that this wall is a relatively minor protrusion from the rest of the dwelling and the window is to be obscure-glazed, plus the roof terrace has been deleted so the stairwell is now contained within the two-storey height of the dwelling. However, the previous report supported an additional setback of 0.3m to

comply, which could be achieved by internal design adjustments, and this is again recommended.

The variation being sought for the upper-level western wall remains unchanged as previously reported and is supported.

### Building Height

The height of the units complies with TPS2 in terms of overall wall height and the main roof height, except for:

Units one and two, to the front and middle of the lot, are over-height due to the addition of their light scoop/highlight window roof forms, which at their apex only are 0.35m and 0.45m above the 6m height standard for a single-storey dwelling.

These may be considered as an architectural feature under the design principles of the RDC, which state:

*Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:*

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

However, whilst the purpose of the light scoops/highlight windows can be supported, their form appears discordant and adds to the mass of the overall roofscape. It was previously discussed by the architect that the light scoops could not be reduced in height as it would affect the overall roof profile. To address this, their redesign to follow the existing roof pitch and not exceed the height standard is conditioned accordingly in the recommendation.

Alternatively, now that the roof terrace level has been deleted, Council could consider allowing the essentially marginal height variation confined to the two pinnacles of the light scoops/highlight windows.

Unit three at the rear has seen the deletion of the roof terrace and now complies with the 7m wall and flat/concealed roof height standard of the RDC. Deletion of the roof terrace has removed visual privacy issues and improved amenity for the neighbouring properties. This results in a significant reduction of height, bulk and scale and removes the overlooking concern altogether.

It is noted that the lift has been retained, albeit that the roof terrace has been deleted and there is no basement, whereby the lift would serve the residents in terms of “ageing in place” in a two-storey dwelling. While this is to be supported rather than denied, an advice note states that inclusion of the lift should not be taken as an opportunity to seek a roof terrace in the future, in light of Council’s concerns, neighbour objections and the owners/applicant having voluntarily deleted the roof terrace from the proposal in the context of seeking approval to the balance of the overall design.

### Visual Privacy

Privacy aspects do not pertain to single-storey units one and two, due to a compliant design and supplementary screening. Units one and two include raised terraces to 0.5m, which have been a concern to the southern neighbour. This is compliant with the RDC, whereby 1.6m visual privacy screens have been included to prevent overlooking into the southern neighbouring dwelling, hence there is no basis to not support the terraces, as explained to the neighbour. There is a small terrace to unit two, midway along the southern neighbours' dwelling. Unit three has a larger terrace, towards the rear of the southern neighbours' dwelling but not directly adjacent to their outdoor area or backyard, whereby the interface with the neighbours' dwelling is to a highlight window and blank brick wall, separated by the dividing fence, which is considered acceptable.

The introduction of a rear second storey has given rise to privacy considerations. The setbacks to windows and the balcony are less than the RDC deemed-to-comply-standards, whereby the cones of vision affect adjacent properties and this is of some concern to neighbours.

The western window overlooks mainly the rear lane and the cone of vision falls to the roof or the dwelling opposite, which has an obscure-glazed window. In the revised plans the applicant has provided widow box type screens to this window to reduce the field of view. This privacy interrelationship is considered acceptable.

The northern balcony is setback 6m in lieu of 7.5m, with full height solid screening to its eastern and western ends, which restricts the cone of vision. The privacy intrusion extends into the northern property, falling between the boundary fence and a two-storey rear outbuilding (ground floor garage and upper floor ancillary accommodation, which has one window looking towards the subject property. This privacy interrelationship can be considered reasonable, as the balcony is not deep and the interface between the neighbouring buildings is fairly discrete. This arrangement of locating habitable rooms on the southern side of a lot, with openings gaining northern exposure, and overlooking private open space before reaching a northern adjacent property, is a sound design approach. The applicant intends to provide a 0.8m high privacy screen above the existing fence that will improve privacy to the northern neighbour.

### Overshadow

The additions, in particular to the rear unit, create 27.9% overshadow onto the southern property, which is a fractionally reduced from the first proposal at 28%. Overshadow is in excess of the RDC standard of 25%; however, two-storey proposals on east-west orientated lots typically cause overshadowing, often exceeding the standard, which design may address to some extent. This extra overshadow could be allowed under the design principles of the RDC.

### Vehicle parking

At present there is no on-site parking and occupants park on the verge, which is unsightly and has caused neighbour concern. The proposal addresses this by providing six parking bays on the lot. The parking arrangement comprises:

- Two open-aspect double carports. One in the front setback for unit one, setback 1.2m, and one at the rear off of the ROW for unit three.
- Two parking bays at the rear for unit two.
- The previous pair of parking bays on the verge has been deleted from the revised plans and the crossover has been amended to provide a 1.5m clearance distance from the base of the street tree.

While a single R20 lot supports a minimum of two car parking bays, this development application is for six car parking bays on private property, in order to satisfy the RDC requirement of two parking bays per dwelling. Council can support the front carport under its planning policy for such, as approved next door at 217 Broome Street.

Parking is a basic development requirement and as explained the RDC require two on-site bays (minimum) for each dwelling, while today's modern families in large dwellings can often have more than two cars and use the verge or street as well. Hence the revised plans to provide the full on-site parking provision for the three units as a major improvement over the existing situation, as encouraged by officers. The design of the rear parking has wider bays to assist turning and is considered acceptable by the Manager Engineering Services. It is observed that numerous single dwellings, grouped dwellings and multiple dwellings in the district have rear parking via a right of way. Vehicular access is the historical and legal purpose of lanes (rather than play areas for children, albeit that safety concern) whereby it is difficult to deny such.

## **CONCLUSION**

This application is to upgrade the traditional triplex and can be supported. Although the existing number of dwellings is over-density, the footprint and massing of the additions and alterations as one overall built form reflects modern large single dwellings in the locality and the emergent two-storey norm.

The proposal is technically compliant in many respects and several of the variations sought can be supported where they have little effect. The applicant has worked with the Town to produce revised plans that respond to what was discussed by Council.

Building height complies for unit three which is two-storey, with minor variations being sought for the units one and two light scoops, but while they are a novel design element the height could be addressed by design modification.

In conclusion, the basic intent to upgrade the dwellings and the design concept is supported, conditional upon further revisions to address the aspects identified in order to deliver appropriate aesthetics and amenity.

## **COMMITTEE COMMENT**

Committee expressed mixed views on the proposal and sought clarification on particular aspects. The Manager Development Services explained that the existing triplex is considered to be a conforming residential use but does not comply with today's density code. He outlined how at this stage under TPS2 only a new single dwelling could replace the triplex; however, proposed LPS3 provides for the redevelopment of existing multi-dwellings up to their same excess density, subject to assessment criteria and Council support. He confirmed that the current proposal still

satisfies the R20 site cover requirement. Committee also discussed the southern neighbours' concern regarding the side terrace to unit two, including with those neighbours and the architect. The Manager Development Services explained the proposed compliant deck and privacy screen heights, and suggested that all parties could meet to agree upon a design solution for this interface between the properties, in time for the Council meeting – note: this liaison has subsequently occurred leading to further revised plans. Committee then debated alternative amendments to the officer recommendation for approval, as set out below, culminating in referring the matter to full Council for determination, with the benefit of further revised plans responding to the recommended conditions and Committee deliberations.

## **VOTING**

Simple Majority

## **OFFICER RECOMMENDATION**

### **Moved Cr Jeanes, seconded Mayor Dawkins**

THAT Council GRANT conditional approval to commence development for Alterations and Additions to Three Units, Including Second Storey to Rear Unit, Carports, Decks, Storage/bin Spaces and Front Fencing, at 219 (Lot 34) Broome Street, Cottesloe, in accordance with the plans received on 30 January 2014 , subject to the following conditions:

- (1) At building permit stage, revised plans shall be submitted for approval to the satisfaction of the Manager Development Services addressing the following:
  - (a) the light scoop/highlight window roof forms shall be reduced in height to not exceed 6m and modified to follow the existing roof pitch; and
  - (b) the stairwell shall be setback a minimum of 1.3m from the southern boundary.
- (2) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (3) 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.
- (4) Air-conditioning plant and equipment shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary, to ensure that sound levels do not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (5) Where climatic and soil conditions allow for the effective retention of stormwater on-site, all water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site.
- (6) 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.



- (7) The finish and colour of the boundary walls facing the southern neighbour and the ROW shall be to the satisfaction of the Manager Development Services.
- (8) All fencing in the 6 metre front setback area of the site shall be of open-aspect design in accordance with the Town's *Fencing Local Law*, with compliance to be clearly shown on the drawings submitted at building permit stage.
- (9) Existing street trees shall be retained and protected during building works by barriers around the bases of the trees, to the satisfaction of the Town's Works Supervisor.
- (10) A separate application for a new or reconstructed crossover meeting the Town's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer. The precise location and width of the crossover shall protect the street tree, to the satisfaction of the Town.
- (11) The right of way located adjacent to the property at the rear being paved and drained to the nearest sealed right of way to the satisfaction of the Manager Engineering Services, with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works. Please note that this condition is being reviewed by Council and has the potential to change.

Advice Notes:

- (1) The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely with the subject property.
- (2) The owner/applicant is responsible to apply to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development. Proper and accurate scaled, dimensioned and annotated construction plans are required for that purpose.
- (3) The owner/applicant is advised that this development approval shall not be construed as any indication that the Town may support a subsequent survey strata subdivision application for the property. The Town and the Western Australian Planning Commission may not be able to support such an application, irrespective of this development approval.
- (4) The owner/applicant is advised that in granting this approval Council is not inclined to favourably consider any roof terrace addition to the property that may be proposed in the future, despite retention of a lift in the design of the two-storey dwelling, in light of Council's concerns, neighbour objections and the owners/applicant having voluntarily deleted the roof terrace in seeking approval to the balance of the overall design.

**AMENDMENT**

Moved Cr Walsh, seconded \_\_\_\_\_

That the proposal not be supported due to it not conforming to the relevant planning requirements.

The motion lapsed for want of a seconder.

**AMENDMENT**

Moved Cr Jeanes, seconded Mayor Dawkins

That the officer recommendation be supported, adding the following after the words *That Council:* ,subject to further conditions being presented by Officers to Council at its forthcoming meeting, . . .

Lost 2/4

**AMENDMENT**

Moved Cr Rowell, seconded Cr Walsh

That the proposal be refused – no reasons given.

No vote was taken as Committee reverted to a preference to refer the matter to full Council with additional information.

**COMMITTEE RECOMMENDATION**

Moved Cr Jeanes, seconded Cr Walsh

That the item be referred to full Council on 24 February 2014 for determination, allowing for further revised plans to be submitted reflecting the recommended conditions and aspects discussed at Committee, together with additional comment from officers.

Carried 6/0

**10.1.2 INDIANA RESTAURANT - PROPOSED TAVERN RESTRICTED LIQUOR LICENCE - FURTHER REPORT**

**File Ref:** PUB/11  
**Attachments:** [Minutes September 2012 Submission to DRGL](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 17 February 2014  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

In September 2012 Council considered a preliminary report on this proposal and resolved to advise Indiana that it is supportive in-principle of the proposed Tavern Restricted Licence (TRL), subject to:

1. *Consideration by Council of a formal application referral from the Department of Racing, Gaming and Liquor (DRGL).*
2. *Consideration in due course by the Town of the associated Liquor Control Act Sections 39 and 40 Certificates.*
3. *That application process including adequate public consultation in accordance with the Department's requirements.*
4. *Appropriate conditions being imposed on the licence in relation to the service of liquor and the availability of food, liquor management strategies and any other relevant aspect.*
5. *Any consequential amendment to the Lease between the Town and Indiana being made to the satisfaction of the Town and the full cost being paid by Indiana, within an agreed timeframe.*

The previous report providing the details is attached. The Town's role relates to being lessor of the premises and to officers providing Section 39 (health compliance) and Section 40 (planning compliance) certificates, whilst having regard to Council's Liquor Licensed Premises Policy.

Indiana now wishes to proceed and this report presents its formal proposal to Council as part of Indiana submitting an application to the DRGL. Qualified support is recommended.

**BACKGROUND**

The previous report outlines the proposal, licensed premises trends and the liquor control context. On advice from the DRGL, Indiana seeks to change from a Restaurant Licence to a TRL to overcome the limitations of an Extended Trading Permit and to keep abreast of industry changes, whilst retaining its primary food-service base.

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A TRL permits drinking without a meal and excludes the sale of liquor to take away. This provides for people to stand, move around or sit to drink, with bar as well as table service, and where food is readily available although not mandatory.

Patron numbers are to remain the same: the original planning approval allows 240 maximum for the restaurant, kiosk and alfresco areas, while the lease limits the restaurant portion to 170. Previously Indiana had stated trading hours would remain the same, but now seeks an extension.

Indiana has provided a Public Interest Assessment (PIA) as part of its DRGL application, copy attached, which is essentially a justification statement for the public advertising phase in accordance with the DRGL's requirements (which entails a notice at the premises, newspaper advertisement, letter-drop to businesses/residents within 200 metres and notices to community groups).

Council is being asked to comment to the DRGL on the proposal and to provide the S39 and S40 certificates under that process. Effectively, this process responds to Council's previous resolution, whereby it can now confirm its support or otherwise and recommend any limitations or conditions.

### **STRATEGIC IMPLICATIONS**

Consistent with beachfront activity and development incorporating controlled liquor practices.

### **POLICY IMPLICATIONS**

Correlates with Council's Liquor (Licensed 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 liquor licensing advertising procedure is not considered necessary.

### **ASSESSMENT**

The previous report concluded that the proposal was generically supportable subject to specific considerations. Based on the nature and scale of the food and beverage business, parking demand and amenity were seen as manageable.

The PIA informs of the evolved style of venue intended, with no physical expansion or increase in maximum number of patrons proposed. It attests to the good track record of the applicant based on extensive experience with several high-quality establishments, including Indiana for the past eight years and minimal complaints.

The only operational change proposed is to increase Sunday trading hours to be consistent with the rest of the week, ie from currently 10am-10pm to 6am-12pm. This is to allow for Sunday breakfasts and night-time patrons/functions in response to consumer demand, which has been highlighted in recent press coverage about liquor licence reforms offering greater flexibility and less red-tape.

It can be seen that there is a wide range and significant number of licensed premises in the district, including hotels, taverns, restaurants, a small bar, clubs and liquor stores. A distinguishing factor between Indiana and the true hotels/taverns in the locality is that Indiana is permitted a much smaller maximum number of patrons.

Under a TRL Indiana would also retain its primary food emphasis yet cater to today's drinking/socialising mode. It is noted that the Cottesloe Beach Hotel, which has a hotel licence and is permitted a much larger number of patrons, has shifted to a stronger food service in keeping with consumer trends and a more responsible supply of liquor.

The information relating to demographics, tourism, crime and harm minimisation (including management policies/practices and staff training) indicate that Indiana is not a problem establishment and is capable of continuing well under a TRL. This translates into an acceptable degree of amenity generally having regard to the type of operation, the actual premises/setting and appropriate operational measures.

As previously assessed, the proposal for a TRL is seen as suitable for Indiana when considered alone as well as in relation to the composition of licensed premises in the locality.

The increase in Sunday trading hours was not anticipated before, but reflects present-day attitudes and trends across the community, industry and regulators. Sunday breakfasts/brunches are a popular pastime at both licensed (eg Barcetta) and unlicensed (eg Beaches Café) premises along the beachfront. Sunday night trading is also characteristic of the locality encompassing different sizes and styles of establishments with varying closing times. Sunday closing times for hotels are limited to 10pm to assist crowd control, whereas restaurants being smaller are normally able to trade until late and after midnight.

Council has, however, had to deal with a mixed history of circumstances associated with licensed premises, particularly regarding the two beachfront hotels, while other establishments have traded successfully with few incidents. The main impacts from the hotels have been anti-social behaviour and noise, due to the nature, size and location of those premises.

Comparatively, Indiana in being located west of Marine Parade is somewhat further away from residences and thoroughfares, and a smaller-scale business with a low incidence of amenity issues or complaints – past noise concerns have been about mechanical equipment rather than patrons and have been addressed.

Despite this assessment distinguishing a TRL from mainstream taverns or hotels and Indiana's individual mode of operation, the proposed extension of Sunday trading hours is of concern in considering the overall climate and control of licensed

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premises in the locality. While earlier Sunday morning hours are not seen as a concern, there is the risk of Indiana attracting patrons from the hotels after their 10pm closing time, who continue drinking until midnight then take some time to leave the area, with associated amenity impacts.

Even though Indiana has much less patron capacity, serves food and has experienced management, this situation could become problematic, and possibly conflict/compound with functions also taking place at Indiana. Were the business/liquor licence to change hands in the future, a new operator may not have the same aspirations for the venue or approach to the responsible service of alcohol under the TRL – this is not to be confused with a change of licence (eg to a normal tavern) which would require another application to the DRGL altogether, as well as Council approval under the lease.

In addition to the Town's concern, advertising of the TRL proposal by the applicant as guided by the DRGL will gauge the public's attitude to the change of licence and longer Sunday trading, whereby objections from the community, wider public and maybe other local licensed venue competitors may be anticipated, particularly in terms of night-time hours. In this regard it is noted that last year the Town and several other parties lodged objections to the DRGL in response to a proposal by the Cottesloe Beach Hotel to extend its Sunday night hours after 10pm, which has been placed on-hold.

In view of the above, it is concluded that Council should not support Sunday night trading beyond 10pm. Alternatively, Council could support extended Sunday night hours for pre-booked functions only; ie with closure of the venue to the public at 10pm, whereby at that time general patrons present must depart and no new ones would be permitted to enter the premises. This would be controlled by a specific condition on the liquor licence from the DRGL. If so, 11pm is considered preferable to midnight, as patrons leaving functions can still take a while to clear and create disturbance due to activity and revelry.

## **CONCLUSION**

The TRL proposal by Indiana has previously received in-principle support from Council. The previous and this present report have explained the proposal and assessed it as essentially acceptable, except for extended Sunday night trading.

Indiana is to follow-through with the full application process to the DRGL, which will include wide public advertising. Council's conditional indication of support to the proposal is recommended.

## **COMMITTEE COMMENT**

Committee briefly discussed the proposal, with the Manager Development Services clarifying the nature of the change of liquor licence. Committee also queried the aspects raised by a nearby resident, which the Manager Development Services undertook to provide advice about for the Council meeting.

## **VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Walsh, seconded Mayor Dawkins

**THAT Council:**

Advise the Department of Racing, Gaming and Liquor and Indiana and that it is supportive of the proposed Tavern Restricted Licence, subject to:

1. No extension of Sunday night trading hours beyond 10pm, except for pre-booked functions only until 11pm; that is, with closure to the public at 10pm, whereby at that time general patrons present must depart and no new ones are be permitted to enter the premises. This arrangement shall be controlled by a specific condition imposed on the liquor licence.
2. Officers issuing the requisite Sections 39 and Section 40 certificates, with restricted extended Sunday night trading as specified in condition 1 above.
3. Appropriate conditions being imposed on the licence in relation to the service of liquor and the availability of food, liquor management strategies and any other relevant aspect.
4. Consideration by Council of any consequential amendment to the Lease between the Town and Indiana, which is to be made to the satisfaction of the Town at the full cost of Indiana, within an agreed timeframe.

**Carried 6/0**

**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 7:15 PM.

CONFIRMED MINUTES OF 17 February 2014 PAGES 1 – 22 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

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