

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 21 JULY 2014

CARL ASKEW
Chief Executive Officer

22 July 2014

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DEVELOPMENT SERVICES COMMITTEE

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

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

Nil.

4.2 PUBLIC QUESTIONS

Nil.

5 PUBLIC STATEMENT TIME

Mr Nathan Steele (Steelehouse Architecture) re 10.1.1 – No. 18 Jarrad Street

Mr Steele as the architect explained how the proposed design suited the site and streetscape in terms of dimensions and massing with the benefit of the screening street trees, and was appreciative of the recommendation of support.

Mr Rhys Lloyd (Elba Cottlesloe) re 10.1.2 – No. 29 Napoleon Street

Mr Lloyd as the licensee overviewed the proposal for two additional night-time hours including liaison with the Department of Racing, Gaming and Liquor and the Town. He referred to patron support for this as well as to the intended further application to relax the provision of meals in the alfresco area.

Mr Chris Wiggins, 50 John Street, re 10.1.3 – Nos. 42-48 John Street

Mr Wiggins spoke for himself and his wife, who are the eastern neighbours, and advised that following consultation with the applicant and the Town they had no objection to the proposal.

6 ATTENDANCE**Present**

Cr Katrina Downes
Mayor Jo Dawkins
Cr Jack Walsh

Deputy Presiding Member

Cr Rob Rowell

Cr Sally Pyvis

(From 6:02 PM)

Officers Present

Mr Carl Askew

Mr Andrew Jackson

Mr Ed Drewett

Mrs Liz Yates

Chief Executive Officer

Manager Development Services

Senior Planning Officer

Development Services Administration Officer

6.1 APOLOGIES

Cr Helen Burke

Cr Philip Angers

Officer Apologies

Mr Ronald Boswell

Planning Officer

6.2 APPROVED LEAVE OF ABSENCE

Cr Peter Jeanes

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

7 DECLARATION OF INTERESTS

Cr Downes declared an impartiality interest re item 10.1.3, Nos. 42 & 48 John Street, as her husband is related to the property owner, 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 Cr Downes, seconded Mayor Dawkins

[Minutes June 16 2014 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 16 June 2014 be confirmed.

Carried 5/0

9 PRESENTATIONS

9.1 PETITIONS

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

10 REPORTS

10.1 PLANNING

10.1.1 NO. 18 (SURVEY LOT 1) JARRAD STREET - TWO STOREY ADDITION AND ALTERATIONS TO THE REAR OF AN EXISTING STRATA

File Ref:	2932
Attachments:	18 Jarrad Aerial 18 Jarrad Plans 18 Jarrad Property Photos
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ronald Boswell – Planning Officer Andrew Jackson – Manager Development Services
Proposed Meeting Date:	21 July 2014
Author Disclosure of Interest:	Nil
Property Owner:	Nick & Camilla Rea
Applicant:	Steelehouse Architecture
Date of Application:	8 May 2014
Zoning:	Residential R20
Lot Area:	870m²

SUMMARY

This application is seeking the following variations to the Council's Town Planning Scheme No. 2 (TPS2) and the Residential Design Codes (RDC):

- Reduced secondary street setback to Barsden St;
- Portion of additional height; and
- Visual privacy.

These aspects are discussed in this report and refer to plans received on 8 May 2014. The proposal otherwise complies with TPS2 and the RDC and retains the existing dwelling.

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

PROPOSAL

This application is for a second storey addition and alterations to the rear of a single-storey dwelling, comprising:

- Upper-storey addition of three bedrooms, bathroom and playroom; and
- Partial enclosure of ground floor verandah to enlarge living room.

The second storey addition is a modern and streamlined box-shaped extension that introduces a contrast between the old and the new in terms of form and finish.

BACKGROUND

The existing character dwelling is of modest size and was sensitively extended and upgraded at single-storey level in recent years, making better use of the limited yard area for on-site parking and private open space and improving the presentation to the streets.

The main opportunity to add rooms is now to create a second storey element, which is proposed to the rear where it will not dominate the streetscape.

The traditional limestone plinth and higher ground floor ceilings means that height compliance is difficult to achieve. The architects have proposed a simple low- skillion roofline exceeding of the 7m height standard for flat-type roofs but significantly less than the 8.5m height for pitched roofs.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2.
- Residential Design Codes.

PROPOSED LOCAL PLANNING SCHEME NO.3

No changes are proposed to the zoning or density of the lot.

APPLICATION ASSESMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme No. 2

<i>Design Element</i>	<i>Permitted</i>	<i>Proposed</i>
5.1.1 Building height	Max. wall/roof height: 7m (RDC standard)	Wall/roof height: 7.56m

Residential Design codes

<i>Design Element</i>	<i>Permitted</i>	<i>Proposed</i>	<i>Performance Criteria</i>
5.1 – Street setback	1.5m from a secondary street.	1m from secondary street.	Clause 5.1.2 – P2.1 and P2.2
5.4. – Visual privacy	6m cone of vision from habitable rooms other than bedrooms and studies.	4.75m cone of vision from ground floor living room windows to eastern boundary.	Clause 5.4.1 – P1.1 and P1.2

ADVERTISING OF PROPOSAL

The application was advertised in accordance with TPS2, undertaken by the architects who wrote and presented plans to four adjacent neighbours; all of whom are satisfied with the proposal and have signed the plans in support.

APPLICANT'S COMMENT

A summary of the architects' justification for the variations sought is as follows.

Building Height

- *In the design there is no distinction between wall and roof as there is no eaves line by which to determine compliance with the 6m wall height standard.*
- *The upper floor is established by the 3.52m ceiling height of the existing house on the ground floor level which is raised above NGL.*
- *TPS2 state that "Variations may be permitted in the case of extension to existing buildings".*
- *The wall height does not impact on privacy, views or the amenity of the area.*
- *The addition is well setback from Jarrad Street and is hidden by street trees on Barsden Street.*
- *The dwelling has the appearance of a two-storey dwelling and does not exceed the maximum height permitted of 8.5m.*

Street Setback

- *A row of established Peppermint trees constricts a much narrower street compared to the property's primary street, Jarrad Street, and screens roofs from view on both sides of the street, therefore the upper floor will be hidden from sight.*
- *One parapet wall on the western boundary already exists.*
- *Setting the upper floor back further from the secondary street would require a portion of roof over the existing kitchen, which would break the expression of the new form and the intended clear separation of old and new.*
- *This contemporary extension will become part of the modern context of Barsden Street, similar in treatment to the house recently built at No. 11, whereby the prominent hard-edged expression is appropriate to an area undergoing change.*

Visual Privacy

- *There is an existing verandah at present occupying the space which is to become the living room and as it is within 7.5m of the lot boundary overlooking currently exists.*
- *Enclosing the space will reduce the openings, therefore improving visual privacy.*
- *Since overlooking currently exists, the neighbouring dwelling has provided screens to help provide privacy.*
- *The affected neighbour has indicated support for the development by signing the plans.*
- *Maintaining the present boundary treatment provision is sufficient to meet the minimum-standard performance criteria in the RDC.*

OFFICER'S COMMENT

The following technical assessment is provided.

Building Height

The calculation of building height is determined in relation to natural ground level (NGL). Variations may be permitted in the case of topography or extensions to

existing buildings, recognising the need or desire to match existing levels and built form.

In this case the site survey plan NGL derived from the four corners of the built strata is RL 10.06m. The parapet wall/roof height for the upper-floor at its highest point exceeds the 7m standard by 0.56m. The architects and owners wish to have similar ceiling height on both levels and for the design to be in balance with the dwelling overall.

The height variation may be considered 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 direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance.*

Direct sunlight to open spaces, major openings and habitable rooms is not affected and views of significance are not restricted.

Jarrad and Barsden Streets contain a mix of single and two-storey dwellings with generally open frontages, and those on the western side of Barsden Street are elevated with more presence. In this context the rear of the existing dwelling is the appropriate location for a second storey addition where its height will tend to be absorbed into the streetscape.

Design-wise, it is assessed that although in plan-view the second storey element has a fairly bold mass, in reality it will be seen in perspective, whereby from the front it will be set well back and weighted by the existing dwelling which has a strong roof line, while at the rear it will be legible geometrically. From Jarrad Street the transverse extension will reflect and replace the transverse ridgeline of the adjacent northern strata dwelling.

Although technically the second storey could be designed to the 7m height with a flat roof and lower ceiling, that would result in a rudimentary design and squatter aesthetic. The alternative of a six metre two-storey wall height and 8.5m high pitched roof ridge would have a similar effect in terms of bulk and scale, also arranged transversely with the longer ridgeline visible from Jarrad Street and possibly gabled ends facing Barsden Street and to the eastern elevation.

It is considered that the half a metre of extra height for the low-pitched sloping roof wouldn't cause any significant impact and would afford a sense of relief to the addition in distinguishing it from the original dwelling. This is consistent with an architectural trend for cottage extensions that have a controlled degree of flair in order to contrast the new and old elements, with successful examples dotted around the inner suburbs.

Street Setback

The second storey has a reduced setback of 1m to Barsden Street as the secondary street, rather than the required setback of 1.5m. However, this reduced setback is to allow a design effectively flush with the existing ground floor setback, which performs satisfactorily in relation to the street and sunken site.

This variation may be considered under the Design Principles of the RDC, which state:

Building setback from street boundaries an appropriate distance to ensure they:

- *contribute to, and are consistent with, an established streetscape;*
- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

Buildings mass and form that:

- *uses design features to affect the size and scale of the building;*
- *uses appropriate minor projections that do not detract from the character of the streetscape;*
- *minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and*
- *Positively contributes to the prevailing development context and streetscape.*

Although second storeys are often indented, in this instance the upper level is not extensive and presents its narrower dimension of 7.9m to the side street, while the modern design would appear more logical as proposed rather than setback, with the bulk and scale being ameliorated by the adjoining northern property and screened by the dense street trees.

The proposal is compatible with the pattern of rear strata subdivision and development on both corners of Jarrad and Barsden Streets having reduced setbacks, and references other modern dwellings in the street. Also, the addition does not affect private open space provision or vehicular sight lines.

On this basis the side setback can be supported.

Visual Privacy

Overlooking from the ground floor living room extension created by enclosing part of the verandah is because the pre-existing cone of vision is less than the basic standard. However, as the raised verandah currently allows wide overlooking, the room enclosure will actually improve privacy from the new internal space with sections of wall and window.

This visual privacy variation may be considered under the Design Principles of the RDC, which state:

Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:

- *Building layout and location;*
- *Design of major openings;*
- *Landscape screening of outdoor active habitable spaces; and/or*
- *Location of screening devices.*

In this respect the design does not bring the building any closer to the eastern property and the upper level is cantilevered above to shield the lower section; whilst the affected neighbour has raised no objection and supports the application.

The second storey complies with privacy requirements through obscure glazing and direct outlooks only to the streets rather than neighbours.

CONCLUSION

The site and existing dwelling are relatively small and the four strata dwellings on the two corners have a tight-knit character. Renovations and extensions are common in Cottesloe to preserve existing dwellings yet provide more accommodation and facilities. Modern architect-designed additions to older-style dwellings are also common in order to preserve primary streetscapes whilst enhancing the amenity of the dwellings.

At the same time variations can be achieved to suit an existing dwelling and the use of its lot without unduly compromising planning parameters or affecting neighbouring properties.

In this case the setback concession is to a secondary street rather than adjacent to a neighbour and privacy on the ground floor is to be improved. The height proposed is technically non-compliant yet capable of being allowed and would appear reasonable in the streetscape as a rear element.

The proposal otherwise satisfies TPS2 and the RDC and is fully supported by surrounding neighbours. Overall, approval as proposed is recommended.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee being content with the officer report and comments by the architect supported the proposal as recommended.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, seconded Mayor Dawkins

THAT Council GRANT its Approval to Commence Development for the proposed second storey addition and alterations to the rear of an existing strata at 18 Jarrad Street, Cottesloe in accordance with the plans received 8 May 2014, subject to the following conditions:

1. All construction work being 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 not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
3. 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.
4. All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site where climatic and soil conditions allow for the effective retention of stormwater on-site.
5. 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.
6. The exterior cladding materials, patterns and colours, including window frames and glazing, shall be to the satisfaction of the Manager Development Services, and the details shall be included in the Building Permit application for approval.

Advice Notes:

1. 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.
2. The owner/applicant is reminded of their obligation under the Strata Titles Act which may require consent from the adjoining strata owners or Strata Company before commencing any work on site. This is separate from the planning approval process.

Carried 5/0

10.1.2 LOT 18 NO. 29 NAPOLEON STREET - EXTENSION OF SMALL BAR TRADING HOURS

File Ref: PUB/25
Attachments: [Applicant Justification](#)
[Minutes 2010](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 21 July 2014
Author Disclosure of Interest: Nil

SUMMARY

A development application has been received to extend certain hours of trading for Elba small bar in Napoleon Street, given that the original planning approval limited the hours of operation. This would apply to both inside the premises and the footpath alfresco licensed area.

The proposal is made in the context of the Liquor Control Act provisions for small bars. Copies of the supporting submissions from the proprietor are attached.

BACKGROUND

Council on 22 February 2010 granted planning approval for a change of use to allow a small bar at 19 Napoleon Street (Minutes attached). Particular conditions related to its operation, including:

- *The proposed development complying with the definition of a 'small bar' in accordance with the Liquor Control Act.*
- *The hours of operation being between 12.00pm to 12.00am, seven days a week only.*
- *No live or other amplified music is to be played from the premises.*
- *Food is to be available to patrons during trading hours.*

Elba has now been trading for four years and is a popular venue for mainly local clientele. The liquor licence permits up to 75 patrons inside and 20 in the alfresco area.

The liquor legislation provides for Extended Trading Permits (ETP) for occasional functions to enable longer trading, which Elba has taken advantage of from time-to-time. Elba now seeks ongoing planning and liquor licence approvals to trade one additional hour from midnight on Fridays and Saturdays only, whether for patrons generally or functions.

The Town has not been opposed *per se* to the extra two hours total of trading sought at weekends, and has raised no specific objection to each temporary ETP in itself, but has pointed out the inconsistency with the limit on hours of operation under the

planning approval, and suggested an amendment development application to address the matter.

STRATEGIC IMPLICATIONS

Council has supported small bar and food-based licensed premises as lower-key drinking establishments with reduced social impacts.

POLICY IMPLICATIONS

Council's Liquor Licence Policy promotes appropriate liquor controls.

STATUTORY ENVIRONMENT

- Metropolitan Region Scheme and Municipal Planning Scheme.
- Liquor Control Act.

FINANCIAL IMPLICATIONS

Nil.

CONSULTATION

In terms of this planning application further consultation has not been undertaken given:

- The consultation when initially assessing the proposed small bar and the positive feedback received.
- The testimonials cited in the current application.
- The limited nature of the change sought.
- The additional trading would occur when businesses are closed.
- The absence of complaints about night-time trading.
- The Department of Racing, Gaming & Liquor (DRGL) process to amend the liquor licence entails consultation with nearby properties and the public, which has apparently occurred with little or no objection.

STAFF COMMENT

Current ETP for Extended Hours

A small bar licence authorises the sale and supply of liquor for consumption on the premises only, ie there is no take-away liquor, and food is to be available at all times. The permitted trading hours are the same as for hotels and taverns, as below. Note that the planning approval for Elba limits opening to noon.

Day	When		General Conditions
	Open	Close	
Monday to Saturday	6.00am	midnight	
Sunday	10.00am	10.00pm	

New Year's Eve (Monday - Saturday)	6.00am	2.00am New Year's Day	
New Year's Eve (Sunday)	10.00am	2.00am New Year's Day	
Good Friday	12.00pm	10.00pm	(ancillary to a meal only)
Christmas Day	12.00pm	10.00pm	(ancillary to a meal only)
ANZAC Day	12.00pm	midnight	

The predominant trading hours for Elba are similar to other licensed premises in the Town Centre, including Lamonts and the Albion Hotel, which to date have not had a desire to trade after midnight. The additional hour on Fridays and Saturdays would not be mandatory, with trading until then being dependent on patronage, the weather and bookings for functions. The practical benefit is that it would provide flexibility without the necessity to apply for an individual ETP for each occasion.

Elba has operated essentially satisfactorily as a quality venue. Whilst there was some settling-in in relation to adjacent businesses during the day-time, there have not been complaints associated with night-time trading and the venue has added to the handful of evening licensed food and beverage establishments in the street.

Overall the small bar is well-managed and health requirements are adhered to. Parking is readily available at night in the Town Centre, with convenient access to taxi, bus and train services. There is CCTV in Napoleon Street.

When the applicant commenced the DRGL process for the extra trading, the timeframe for a response did not enable reporting to Council, however, the proposal was discussed informally by the Development Services Committee. Aspects considered included:

- Existing and future residential development in the Town Centre and the need to limit amenity impacts.
- Whether there is a demand for drinking beyond midnight in this local Town Centre, which is not a late-night entertainment precinct.

The Town therefore advised that it did not support the ETP application for the one hour longer trading every Friday and Saturday night, pending determination of a corresponding planning application.

It is now concluded that the development application can be supported by Council, and hence the associated ETP can be unopposed by the Town, as the nature and extent of the additional trading is relatively minor and low-risk.

The other conditions of the existing planning approval remain and compliance with the *Environmental Protection (Noise) Regulations 1997* is a standard requirement. A condition could be added to require clean-up of the public domain and private walkway at the end of every night.

As a safety net, under the liquor controls, should the early morning trading become problematic, complaints lodged by the Town or others may lead to review of the "permanent" ETP by the DRGL and its withdrawal, despite the planning approval.

Prospective ETP for Dining Variation

The applicant's submission also discusses proposed variation of the separate alfresco ETP to relax the requirement for serving alcohol only with a main meal. That proposal is yet to be formalised via the DRGL and referred to the Town with more information. It is considered premature to support this proposition and the Town's reservations are that:

- Allowing drinks to be served in a public place without a meal appears at odds with the efforts of the Federal and State Health Departments to reform Australia's drinking culture and reduce alcohol-related harm.
- The alfresco area could become a make-shift smoking area in a public thoroughfare.
- Potential impacts from patron noise/behaviour and smoking during daytime when businesses are open.

Hence at this juncture the Town should advise the applicant accordingly, whereby if the proposal is pursued it would be subject to further assessment with input from the applicant and the DRGL.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee considered that the marginally extended hours were acceptable and noted that parking was ample at night-time, hence was supportive of the proposal. In relation to the prospective application to relax the provision of meals in the alfresco area, Committee sought clarification about the food service rules, as well as smoking controls, to which the Manager Development Services and applicant responded. In conclusion Committee endorsed the recommendations.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rowell, seconded Mayor Dawkins

THAT Council, further to its development approval granted on 22 February 2010 for a small bar (trading as Elba) at 29 Napoleon Street, Cottesloe:

1. **GRANT its planning consent for the hours of operation to be amended to:**
 - (i) **between noon to midnight Monday to Thursday and Sunday; and**
 - (ii) **between noon on Friday to 1:00am Saturday and noon on Saturday to 1:00am Sunday.**
2. **Add the following condition to the approval:**

Upon closing time of the small bar each day, the proprietor shall ensure that the adjacent public domain area (ie footpath, roadway and shopfronts) and private walkway are cleaned of any litter, debris or spillages, including cigarette butts, to the satisfaction of the Town.

3. Advise the applicant that at this stage it is not in a position to support the prospective Extended Trading Permit to vary the alfresco dining controls to allow drinks without a main meal or food.

Carried 5/0

Cr Downes declared an impartiality interest re item 10.1.3 Nos. 42 & 48 John Street, as her husband is related to the property owner, 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.

NOS. 42 & 48 (LOTS 301, 31 & 32) JOHN STREET ('PINE LODGE' & 'NOVAS') – ALTERATIONS, ADDITIONS AND ASSOCIATED DEMOLITION

File Ref: 2721
Attachments: [Property Aerial](#)
[Confidential Plans 16 July 2014](#)
[Heritage Review of Novas](#)
[Neighbour Consultation by Applicant](#)
[Property Photos](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Proposed Meeting Date: 21 July 2014
Author Disclosure of Interest: Nil
Property Owner: Nicola Forrest
Applicant: Carrier & Postmus Architects
Date of Application: 19 July 2013 (amended 16/7/14)
Zoning: Residential
Use: P – A use that is permitted under this Scheme
Lot Area: 3106m² (following amalgamation)
M.R.S. Reservation: Not applicable

SUMMARY

This application has been assessed specifically in the context of the heritage significance of both affected properties in addition to relevant statutory planning provisions.

The documentation submitted has evolved following Council's decision to defer the application at its meeting on 26 August 2013 to enable the applicant to liaise with the Town towards a more acceptable design solution taking into account the heritage and planning considerations as outlined in the previous report.

The applicant has significantly amended the proposal and has received preliminary support from the Heritage Council of Western Australia (HCWA) which is required to consider whether the nature, extent and design of the proposal are appropriate for a property of such high heritage significance.

Given the assessment that has been undertaken, the recommendation is to conditionally approve the amended plans received on 16 July 2014.

PROPOSAL

A summary of the proposed works is as follows:

Demolition

- Demolition of a dwelling (excluding the carport) on Lot 32, 48 John Street, also known as 'Novas', which is listed on the Town's Municipal Inventory (Category 3);
- Demolition of the double carport on Lot 301, adjoining Pine Lodge;
- Demolition of the northern (1980s) addition and associated internal walls to Pine Lodge;
- Demolition of a portion of solid wall along the front boundary; and
- Removal of two crossovers.

Proposed construction

- New pavilion and terraces to northern portion of site;
- New covered entry/walkway and screen walls;
- New below-ground accommodation and parking area;
- New pool and deck;
- Reconfiguration of ground floor internal walls to existing kitchen, laundry and bedroom;
- Open-aspect fencing along front boundary;
- New pool pavilion and trellis;
- Extended lawn area on eastern side of dwelling;
- Extension to existing side boundary walls; and
- Landscaping.

STRATEGIC IMPLICATIONS

Heritage is recognised as a cornerstone of the character and amenity of Cottesloe, which Council aims to foster through the planning approvals process and related measures.

POLICY IMPLICATIONS

- WAPC SPP 3.5 Historic Heritage Conservation

STATUTORY ENVIRONMENT

- Heritage of Western Australia Act 1990
- Town Planning Scheme No. 2
- Residential Design Codes
- Fencing Local Law

PROPOSED LOCAL PLANNING SCHEME NO. 3

No change to the existing zoning or density coding is proposed.

HERITAGE LISTING

Pine Lodge

- State Register of Heritage Places
- TPS2 – Schedule 1
- Municipal Inventory (MHI) – Category 1
- Register of the National Estate
- National Trust Classification

Novas

- Municipal Inventory – Category 3

CONSULTATION

The applicant sent letters by registered post to 5 adjoining properties (Nos. 3,5,7,9 Loma Street and 50 John Street) in April 2014 and again in June 2014 for the amended proposal and has provided a summary of responses following the April consultation period.

Advertising closed on 14 July 2014. No written submissions have been received following notification of the current proposal, although the adjoining eastern neighbour has verbally advised that they have no objection to the construction of a new wall on the eastern boundary or to the proposed raised planters, retaining walls and privacy screens.

BACKGROUND

On 24 July 2013 planning approval and written consent for alterations and additions to the side and rear landscaped areas, modifications to the rear basement garage, relocation of the gazebo, new internal screen walls and modifications to the side and rear boundary walls was approved under delegation. These works were generally on the western side of the site, whereas the current application is for works predominantly on the eastern and northern sides.

On 26 August 2013 Council considered a further application for single and two-storey alterations and additions, landscaping, fencing and a pool, and resolved that:

Council DEFER determination of the development application for Pine Lodge at No. 42 (Lots 301 and 31) John Street, Cottesloe, based on plans received on 18 and 26 July and 13 August 2013, to enable the applicant to liaise with the Town towards a more acceptable design solution taking into account the heritage and planning considerations as outlined in the report.

The applicant subsequently purchased the adjoining eastern lot (48 John Street) which has been incorporated into the current proposal.

HERITAGE CONSIDERATIONS

The applicant has submitted an overview of the proposed development and a Heritage Impact Statement prepared by Griffiths Architects in support of the proposal. The latter is a brief statement which:

- summarises the heritage classifications and associated values of the places;
- identifies that the extent of demolition to Pine Lodge is to recent additions of no real heritage worth, with little impact on important heritage fabric; and
- identifies that the inclusion of 'Novas' (48 John Street) on the Town's MHI at Management Category 3 does not preclude demolition and that its removal (excluding carport) allows all of the new accommodation to be made relatively low impact and reveals much more of Pine Lodge in an enhanced setting.

Assessment framework

There is a well-defined planning and heritage framework for assessment of the proposal, which includes the HCWA. This framework guides consideration of the design approach to the heritage place. The Burra Charter is a further guide to the heritage dimension, including consideration of the most appropriate design approach to combining the old with the new.

Together with the planning technical assessment involved (ie development requirements or standards) the heritage values and classification of a property have a significant bearing on the consideration of a proposal and the extent to which it is acceptable or may warrant some design modifications or conditions of approval.

In this instance, there is a strong collection of heritage instruments and classifications relating to the place and they provide guidance on how the assessment of proposals should be approached and the values of the place to take into account.

Western Australian Planning Commission's (WAPC) Heritage Policy

The WAPC State Planning Policy (SPP) 3.5 Historic Heritage Conservation was gazetted in 2007. Its objectives are:

- to conserve places and areas of historic heritage significance;
- to ensure that development does not adversely affect the significance of heritage places and areas;
- to ensure that heritage significance at both the State and local levels is given due weight in planning decision-making; and
- to provide improved certainty to landowners and the community about the planning process for heritage identification, conservation and protection.

The Policy describes the existing statutory framework for heritage conservation and the relationship and responsibilities of the HCWA, the WAPC and local governments.

It also specifies policy measures and the means for their implementation and requires local governments to have regard to specific matters relating to heritage in considering applications for planning approval.

Those matters relevant to the proposed development include:

- the conservation and protection of any place or area that has been registered in the register of heritage places under the Heritage Act or is the subject of a conservation order under the Act, or which is included in the heritage list under a Scheme;
- whether the proposed development will adversely affect the significance of any heritage place or area, including any adverse effect resulting from the location, bulk, form or appearance of the proposed development;
- the level of heritage significance of the place, based on a relevant heritage assessment;

- measures proposed to conserve the heritage significance of the place and its setting; and
- the structural condition of the place, and whether the place is reasonably capable of conservation.

The Policy also requires that the following development control principles should be applied for alterations or extensions affecting a heritage place:

- development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric;
- alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it; and
- development should be in accordance with any local planning policies relating to heritage.

Local government has a role in applying and supporting the policy through ensuring that due regard is given to heritage significance in development assessment, planning schemes and planning strategies.

Proposals should aim to meet this overarching policy guidance, satisfy the heritage values associated with the particular place under its heritage classifications, and address the heritage-related requirements of the local government's planning scheme and policies.

State Heritage Register

Pine Lodge is listed in the HCWA's State Register of Heritage Places, wherein the *Statement of Significance* for the place provides the following description:

Pine Lodge, a single-storey Federation Queen Anne style brick house with cellars and a corrugated iron clad roof, extensive verandahs and a viewing belvedere, has cultural heritage significance for the following reasons:

- *the place is a finely designed and executed substantial single-storey residence with a prominent belvedere in the Federation Queen Anne style, set in expansive grounds, and displaying quality craftsmanship;*
- *the place was designed by eminent architect Edwin Summerhayes for William Zimpel, a prominent furniture merchant and manufacturer. The business he established operated in Hay Street, Perth, from the 1880s to the 1960s;*
- *the place is representative of the residential development of the Peppermint Grove, Cottesloe and Swanbourne areas, in particular the establishment of*

large family homes and grounds following the increase in population and prosperity associated with the gold discoveries of the 1890s; and

- *the place's setting is a well known feature of the suburb of Cottesloe and contributes to this community's sense of place; and, the pine trees in the grounds of Pine Lodge and the associated trees in John Street are representative of the garden suburb movement of the early twentieth century, when the Forestry Department provided a variety of seedlings free of charge for planting in public spaces.*

The clinker brick wall and the 1980s additions are considered to have little cultural heritage significance.

Heritage Council's comment

The HCWA has provided the following findings to the applicant in respect of the plans submitted by the applicant in March and June 2014:

March plans

- *We note that the fabric to be demolished, including the existing living room, carport, sections of boundary wall and swimming pool were built post-1980 and their demolition will have no adverse impact on the cultural significance of the place;*
- *The proposed pavilion to the north is contemporary in style, materials and form, distinguishing it as a new addition. The addition is single storey which identifies it as subservient accommodation to the main house.*
- *Landscaping works including the removal of the existing carport and continuing the permeable fence may enhance the overall setting of the place;*
- *The covered drop-off area and screening walls are at single storey height and significantly set back from the street. The flat roof and walls are at a lower height than the existing carport which is to be demolished. The position, scale and form is considered appropriate in relation to Pine Lodge;*
- *The eastern addition is partially below-ground and will not have an impact on the existing streetscape;*
- *We note that views of the Pine Lodge from along the street will not be compromised by the current proposal;*
- *The Statement of Significance identifies the setting as a well-known feature of the suburb and contributes to the community's sense of place. The proposal will not have an adverse impact on the identified value of the registered place; and*
- *The proposed works, in accordance with the plans submitted, could be supported.*

June plans

- *The drawings provided are a revised version of the scheme submitted to the State Heritage Office in March 2014;*
- *We note that the plans indicate minor changes to the previous scheme only, which will not have further adverse impact to the registered place;*
- *Our previous findings from March 2014 are unchanged; and*
- *The proposed works, in accordance with the plans submitted, could be supported.*

The plans received on 27 June 2014 were also referred to the HCWA by the Town and, in addition to the above advice, the HCWA has confirmed that the plans are supported.

The amended plans received on 16 July 2014 have also been referred to the HCWA and comments are awaited. However, as the amendments are relatively minor it is anticipated that the advice will be unchanged.

Town Planning Scheme No. 2 (TPS 2)

Pine Lodge is included in Schedule 1 of TPS 2, which is the highest heritage listing available in terms of local government heritage control, as a scheme has the force and effect of law, ie affording heritage protection.

The Schedule lists the property as follows:

- *House No. 42 John Street – Large brick and iron house with gazebo constructed circa 1900. Classified by the National Trust.*

This invokes Part 6 of the Scheme: *Conservation and Preservation of Places of Natural Beauty and Historic Buildings and Objects of Historic or Scientific Interest*, requiring Council's written consent to proposals in addition to a planning approval under Part 7. Broadly, Part 6 requires virtually any change to such a place to receive Council's consent, and in practice the making of a development application enables that step to be addressed.

Part 6 states that:

The Council considers that the places of natural beauty, and historic buildings, and objects of historic or scientific interest in Schedule 1 should be conserved and preserved.

The matters covered requiring Council consent include to:

- *clear, excavate or fill any land;*
- *fell, remove, kill or irreparably damage any tree;*

- *erect any fence;*
- *commence or carry out any renovation, modification, refitting, decoration or demolition of any building; and*
- *alter or remove any building or object or any part thereof.*

Clause 5.1.2 of TPS 2 requires Council in considering a proposed development in relation to heritage to have regard to:

- *the need for preservation of existing trees or areas or buildings of architectural or historical interest;*
- *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally;*
- *the need for limitation of height or location of buildings to preserve or enhance views; and*
- *the dispersal of building bulk into two or more separate buildings on a lot in order to minimise the effect of building bulk.*

As a further criterion, Clause 5.1.5 of TPS 2 requires that a *building be designed, constructed and finished so that its external appearance does not disfigure the locality, lack harmony with the exterior design of neighbouring buildings or tend to depreciate the value of the surrounding properties.*

Municipal Heritage Inventory (MHI)

Pine Lodge is classified as Category 1 in the Town's MHI, which is defined as:

Highest level of protection: included in the State Register of Heritage Places, provides maximum encouragement to the owner to conserve the significance of the place. Photographically record the place.

The MHI description of the place is as follows:

An elegant Victorian 'Queen Anne' bungalow c. 1896 of tuck pointed brick with an iron roof. Sheltered by wide verandahs with large turned posts of regular square section frieze it has a belvedere to the south-west corner with pressed zinc cladding and candle-snuffer roof. The front sitting room has a bay window with casement windows. The main bedroom and dining room have bay windows with double-hung floor-to-ceiling window/doors with side windows. The front door has exquisite original leaded stained glass of a country scene. The carved mantelpieces came from Zimpel's own factory. The house has had two renovations. One c.1980 when the Georgian windows to the ballroom's north wall and the brick courtyards were added. The second c.1982 by D. Erickson saw the kitchen and cellars enlarged and the easting extensively remodeled adding the poolroom, three bedrooms and the eastern verandah. At this time the library was turned into a walk-in wardrobe and bathroom. The older bathrooms were demolished and two new ones, a guest pantry, sunroom and cloakroom created. Detailing in the old section of the house was copied. Stained glass windows and doors from the old National Mutual House were incorporated into the poolroom which has multi-paned French doors echoing those in the ballroom.

Underground garages were created next to the cellar. The old stables were demolished to make way for a tennis court.

Pine Lodge is one of the grandest heritage places in Cottesloe. Together with Kulahea, Belvedere, Tukurua and Le Fanu, it is one of a handful of stately period dwellings/properties around the district that stand out from others, each being of unique historical design with distinctive features and in most cases set in prominent positions and/or on larger sites.

All of these distinctive places have been saved, as well as undergone conservation works and various additions in more recent times. The earlier tendency has been for additions copying the style of the original dwellings, while lately the trend has been for additions of contemporary design. The approach has been to extend the dwellings to the rear and side, whereby the additions are either largely concealed from view or read as logical from the street. Although there have been some upper-level additions, they have tended to be minor. There has been very little by way of forward additions to these places, and none detracting from the dominance of the original dwellings to their streetscapes.

From an analysis of the proposed design the following is observed:

- the portions of the existing dwelling to be demolished or modified are later additions, which will not be detrimental to the heritage of the place;
- the proposed modern rear additions, being single-storey above ground with a basement, are capable of being absorbed by the site and would be mostly hidden from view from the street; and
- The new covered entry/walkway and screen walls are located behind the 6m front setback area and will have a low-profile so as not detract from the heritage and visual significance of Pine Lodge.

Novas (48 John Street) is Category 3 in the Town's MHI, which is defined as:

Retain and conserve if possible: endeavour to conserve the significance of the place through the provisions of the Town Planning Scheme. Photographically record the place prior to any major redevelopment or demolition.

The MI description of the place is:

"Novas", Hipped iron roof with a small gablet to the front, 1913. Verandahs to half the west and all the south face. It has a separate hipped roof to the verandah. The double-hung windows are floor to ceiling window/doors. The front door has a large central light with a pair above and a fanlight but no side lights. The walls are tuck pointed red brick. The gable has a carved wooden finial. The corbelled chimney stack has a holey terracotta pot similar to that in nearby 86 Forrest Street.

The Town engaged another heritage consultant to also consider the proposal for demolition, whose advice concurs with the applicant's justification for the demolition of 'Novas'. The Consultant's conclusion states:

We do not believe the place has sufficient heritage value in its own right to be upgraded to Category 2 in the Municipal Inventory or to warrant retention. It is appropriately assigned as a Category 3 place, a category which generally comprises places of some streetscape value.

Given the existing TPS2 provisions, which do not extend to Category 3 places and the fact that John Street has been subject to change and lacks a homogenous built form character, we consider there are insufficient grounds to refuse the demolition on heritage grounds.

Overall, the Officer conclusion, together with the Town's heritage consultant's advice, is that the revised proposal, including the demolition of 'Novas', satisfactorily addresses the heritage aspects of the site and can be supported.

PLANNING ASSESSMENT

In addition to the heritage requirements, the following comments are made with respect to a technical assessment of the revised proposal under TPS 2 and the RDC:

- The proposed development complies with Council's front setback and building height requirements;
- Building setbacks comply with the RDC;
- The proposed retaining wall adjoining the eastern boundary is up to 1.4m high above the proposed footpath level and will be inaccessible except for garden maintenance. A steel balustrade will be constructed above the retained area with trees planted to provide natural screening. As such, the proposed 1.5m setback to the eastern boundary complies with the deemed-to-comply requirements of the RDC;
- From the eastern boundary, 1.6m high landscaped walls and privacy screens are proposed with setbacks ranging from 1.1m to 3.2m in order to provide adequate visual privacy screening to the eastern property and to comply with setback requirements;
- Any overlooking from the remainder of the terrace will only be possible at an acute angle and restricted to the side of the adjoining dwelling, rather than directly into major openings or active habitable spaces;
- Retaining along the eastern boundary will not exceed 0.5m which complies with the RDC;
- A portion of the existing northern boundary wall adjoining the right-of-way will be raised in two sections behind Lot 32, in order to provide additional privacy to the occupants and neighbours and to match the existing over-height wall at the rear of Pine Lodge;
- A new boundary wall is proposed along the eastern common boundary to replace a section of wall that is currently on the neighbour's lot;
- The new section of wall and sliding gates along the front boundary will be of an open-aspect design to match the existing walls and comply with the Fencing Local Law; and

- Private open space of 52% is proposed on the amalgamated site which complies with the RDC.

CONCLUSION

Council is the authority to determine this planning application under its Scheme and in doing so is required to have regard to the advice of the HCWA, which has been supportive of the previous and the revised proposals.

The amended design submitted on 16 July 2014 is significantly different to the original proposal considered by Council in August 2013. The location of the proposed development behind the front setback area, subtly integrating with Pine Lodge without mimicking it, and with reduced bulk and scale, a large open pool, uncovered terraces, lawn and creative landscaped areas should all contribute to the prevailing streetscape as well as satisfy State and local heritage requirements.

The amended proposal will also have less impact on the amenity of adjoining residents than the original proposal, which is reflected in the absence of any submissions received during consultation on and advertising of the proposal.

In conclusion, taking into account the advice of the Town's heritage consultant raising no objection to the demolition of 'Novas', and the heritage and planning assessment of the proposed development by the HCWA and Officers, it is recommended that the revised proposal be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted the request that for privacy the item be considered *in camera*, which the Manager Development Services advised was reasonable.

MOTION FOR BEHIND CLOSED DOORS

Moved Cr Downes, seconded Cr Rowell

In accordance with Standing Orders 15.10 "That the Committee meets behind closed doors – Effect in Motion", *Local Government Act 1995 s. 5.23(2)*.

Carried 3/2

Members of the public and media were requested to leave the meeting at 6:29 PM.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Downes, seconded Cr Rowell

THAT, subject to support from the Heritage Council of Western Australia of the revised plans, Council GRANT its Written Consent and Approval to Commence Development for the proposed alterations and additions, including below-ground accommodation and parking area, new vehicular entry, raised pavilion and terraces, covered walkways, boundary fencing, landscaping, a pool and demolition works at 42 and 48 John Street (Lots 301, 31 and 32) as shown on

the revised plans submitted on 16 July 2014, subject to the following conditions, all to the satisfaction of the Manager Development Services:

1. Prior to any demolition, a full photographic and documented record, both internally and externally of the affected areas to be demolished, shall be compiled and submitted to the Town as a heritage record.
2. The external profile of the proposed 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 Council and any approvals as required under the relevant heritage classifications.
3. All boundary walls facing the northern right-of-way shall be properly finished-off.
4. All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site, where climatic and soil conditions allow for the effective retention of stormwater on-site.
5. Wastewater or backwash water from the swimming pool filtration system shall be contained within the property and disposed of into adequate soak-wells. A soak-well system shall be installed to the satisfaction of the Environmental Health Officer, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
6. The pool pump and filter shall be located closer to the existing dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
7. Any air-conditioning plant and equipment shall be located closer to the existing dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
8. The Building Permit plans shall include details of all external plant, equipment or infrastructure, including all proposed installations to the roof, and shall demonstrate how those fixtures are to be located, housed, screened or treated to achieve visual and acoustic amenity and to respect heritage.
9. A comprehensive Demolition and Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of a Demolition Permit or a Building Permit, and shall address (amongst other things):

maintaining lane access for residents; traffic management and safety for the streets, lane and site; worker parking, including off-site parking in consultation with and approval by the Town; and verge and tree protection.

10. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
11. All street trees (which comprise heritage-listed Norfolk Island Pine trees) shall be protected at all times from the demolition and construction activities and any stockpiled materials shall be kept clear of the trees and not built up around or leant against their trunks.
12. The existing redundant crossovers shall be removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
13. The applicant applying to the Town for approval to construct the proposed crossovers, in accordance with the Town's specifications, as approved by the Manager Engineering Services or an authorised officer.
14. Any damage within the road reserve occasioned by the demolition and construction activities shall be rehabilitated to the specification and satisfaction of the Town at the cost of the owner.
15. Lots 301, 31 and 32 shall be amalgamated into one lot prior to occupation of the completed development.
16. The fencing and sliding gates within the front setback area shall be of an open-aspect design as proposed in accordance with the Town's Fencing Local Law to the satisfaction of the Manager Development Services.
17. In order to provide sufficient privacy to the adjoining property to the east, the owner/applicant shall plant semi-mature, dense vegetation along the eastern boundary as shown on the approved plans. This vegetation shall be to the satisfaction of the Manager Development Services and shall be kept and maintained in good condition in perpetuity, including being replaced and re-grown over time if necessary.
18. The owner/applicant shall be responsible for producing a comprehensive dilapidation report, to the satisfaction of the Town, to ascertain and monitor any damage caused to the eastern neighbouring property as a result of the demolition and construction works, with copies being provided to the Town and the neighbour in order to consider any repairs required.

ADVICE NOTES:

1. This approval is to the proposed demolition, development and restoration works as required only. All future proposals for the property are subject to further applications, approvals and consents as required by the Town and any heritage classifications of the property.

2. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
3. It is advised that a written agreement with the neighbour/s should be made before undertaking changes to the dividing fence, as per the Dividing Fence Act 1961.

Carried 5/0

MOTION FOR BEHIND CLOSED DOORS

Moved Cr Downes, seconded Cr Walsh

“In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media.”

Carried 5/0

The media representative returned to the meeting at 6:33 PM.

PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

For the benefit of the public Cr Downes announced that the Officer and Committee Recommendation was carried.

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

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

14 MEETING CLOSURE

The Deputy Presiding Member announced the closure of the meeting at 6:33 PM.

CONFIRMED MINUTES OF 22 July 2014 PAGES 1 – 32 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: / /