

# TOWN OF COTTESLOE



## DEVELOPMENT SERVICES COMMITTEE MINUTES

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

**CARL ASKEW**  
Chief Executive Officer

18 November 2014

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# DEVELOPMENT SERVICES COMMITTEE

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

The Presiding Member announced the meeting opened at 6:05 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 Clark Brannin, 3/15 Overton Gardens, Cottesloe – for Item 10.1.2 – 34 Avonmore Terrace – Dwelling with Undercroft

As the owner of 34 Avonmore Terrace, Mr Brannin expressed his understanding that the proposal complied and advised that the adjacent owners had liaised on their designs. He trusted Council would expedite an approval.

Mr Colin Herdman, 18 Coscastle Avenue, City Beach – for Item 10.1.3 – 34A Avonmore Terrace – Dwelling with Undercroft and Pool

As the owner of 34A Avonmore Terrace, Mr Herdman commented that revision of the original proposal due to the advent of Local Planning Scheme No. 3 had caused delay; however, he wished to comply with the requirements and anticipated Council's support.

Mr John Stokes, 20 Deane Street, Cottesloe – for item 10.1.3 – 34A Avonmore Terrace – Dwelling with Undercroft and Pool

Mr Stokes owns the property on the eastern side of 34A Avonmore Terrace. He expressed concern about the proposed development regarding 'artificial' contours for the site and how that would affect building height and consequently views from his property.

**6 ATTENDANCE**

**Present**

Cr Peter Jeanes Presiding Member  
Cr Philip Angers  
Cr Helen Burke  
Cr Jack Walsh Arrived 6:10 PM  
Cr Rob Rowell

**Officers Present**

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**

Mayor Jo Dawkins (attended from 7:04 PM as an observer only).

**Officer Apologies**

Mr Carl Askew

**6.2 APPROVED LEAVE OF ABSENCE**

Cr Katrina Downes

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**7 DECLARATION OF INTERESTS**

Nil.

**8 CONFIRMATION OF MINUTES**

**Moved Cr Angers, seconded Cr Burke**

Minutes October 20 2014 Development Services Committee.docx

**The Minutes of the Ordinary meeting of the Development Services Committee, held on 20 October 2014 be confirmed.**

**Carried 5/0**

**9 PRESENTATIONS**

Nil.

**9.1 PETITIONS**

Nil.

**9.2 PRESENTATIONS**

Nil.

**9.3 DEPUTATIONS**

Nil.

For the benefit of members of the public present, the Presiding Member determined to consider item 10.1.3 (34A Avonmore Terrace) first, and then return to the published order of the agenda.

## 10 REPORTS

### 10.1 PLANNING

#### 10.1.1 NO. 32 AVONMORE TERRACE (LOT 501) - PROPOSED DWELLING WITH UNDERCROFT, ROOF GARDEN AND TWO POOLS

<b>File Ref:</b>	<b>2951</b>
<b>Responsible Officer:</b>	<b>Andrew Jackson Manager Development Services</b>
<b>Author:</b>	<b>Ed Drewett Senior Planning Officer</b>
<b>Proposed Meeting Date:</b>	<b>17 November 2014</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Property Owner:</b>	<b>John Dunlea</b>
<b>Applicant:</b>	<b>Russell Stewart</b>
<b>Date of Application:</b>	<b>6 June 2014</b>
<b>Zoning:</b>	<b>Residential R30</b>
<b>Lot Area:</b>	<b>289m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Not applicable</b>

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### SUMMARY

This application is seeking the following variations to Local Planning Scheme No. 3 (LPS 3), the Residential Design Codes, Council's Fencing Local Law and Policies:

- Third storey in roof space
- Setbacks
- Visual privacy
- Crossover location
- Front fencing

Each of these aspects, together with other technical comments, is discussed in this report, which refers to plans received on 23 September 2014. All other relevant RDC aspects are satisfied by the proposal.

The lot is one of six new green title lots located on the eastern side of Avonmore Terrace between Fig Tree Lane and Deane Street, which have recently been granted subdivision approval by the WAPC and are proposed to be developed by the same applicant.

Two of the dwellings proposed on the new lots adjoining Fig Tree Lane are reported-on separately in this agenda, while the three dwellings proposed on the southern part of the site are still subject to assessment and advertising by the Town.

Only the northern three lots reported-on in this agenda have received subdivision clearances from the Town and have new titles issued.



## PROPOSAL

This application is for a dwelling comprising of four bedrooms, one shared bathroom, WC, two ensuites, family rooms, dining room/kitchen, laundry, WIR, lift, front/side balconies, undercroft garage, a roof garden with pool, and a pool at ground level.

## STATUTORY ENVIRONMENT

- Local Planning Scheme No. 3
- Residential Design Codes
- Fencing Local Law
- Street Tree Policy

## MUNICIPAL INVENTORY

Not applicable.

## APPLICATION ASSESSMENT

### AREAS OF NON-COMPLIANCE

#### Residential Design Codes

Design Element	Deemed-to-comply	Proposed	Design Principles
5.1 – Lot boundary setbacks	Walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the lot boundary behind the front setback, to one side boundary only; or  Walls on boundaries permitted as <i>of right</i> where the subject site and adjoining sites are created in a plan of subdivision submitted concurrently with the development application.	Walls on the north, south and eastern boundaries.  These boundaries have been created as a result of the concurrent subdivision and therefore may be considered to satisfy the deemed-to-comply standard.	Clause 5.1.3 P3.2
5.4 – Visual Privacy	Compliance with the following cones of vision:	Variations are sought to bedroom 1, the kitchen/dining	Clause 5.4.1 – P1.1 & 1.2

	<p>4.5m – Bedrooms and studies;</p> <p>6m – Habitable rooms, other than bedrooms and studies;</p> <p>7.5m – Unenclosed outdoor habitable space.</p>	<p>area, front ground floor balcony, side 1<sup>st</sup> floor balcony, roof garden to the northern boundary, and unscreened section of roof garden to the southern boundary.</p>	
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### Council's Local Laws/Policies

	Permitted	Proposed
Fencing	Open-aspect above 0.9m in front setback area.	Solid up to 1.5m in height along part of the northern boundary in the front setback.
Crossover location	Minimum 1.5m clearance required from street trees.	Angled crossover proposed which could put Melaleuca tree at risk.

### ADVERTISING OF PROPOSAL

The application was advertised to the three new adjoining owners as settlement of these lots has recently been completed. No submissions were received.

### PLANNING COMMENT

The following comments are made with respect to the proposed development.

#### Building height

Local Planning Scheme No. 3 permits a maximum 7m building height to the top of a parapet (flat roof) measured vertically above any point of natural ground level.

The Residential Design Codes define natural ground level as:

*The levels on a site which precede the proposed development, excluding any site works unless approved by the decision-maker or established as part of subdivision of the land preceding development.*

Under the WAPC subdivision approval conditions the finished ground levels at the boundaries of the lot were required to match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting, and to be filled, stabilised, drained and graded to the Town's satisfaction. These new levels were then able to be used as a guide to establish the levels on the site preceding the proposed development and the applicant's surveyor, Automated Surveys, has

subsequently interpolated the natural contours across the lot(s) to provide suitable datum levels, which have been used to establish the permitted building height.

The proposed dwelling has been designed to comply with the 7m maximum building height permitted under LPS 3, as shown on drawings 5 and 6 of 8.

The highest proposed wall height is to the retractable flat roof above the north-west corner of the dwelling, which is 7m (ie top of wall (TOW) 27.77) above the interpolated NGL (RL: 20.75).

The highest section of solid balustrade located on the north-western side of the proposed central roof garden is 6.73m (TOW 28.83) above an interpolated NGL (RL: 22.1), while the heights of the floor level of the proposed roof garden and of the adjoining metal-deck roof on its northern side, as well as of the wall on its southern side, do not exceed 5.7m above NGL. An L-shaped shade canopy is proposed above a portion of the roof garden to a maximum height of 6.9m (RL: 29.9) above NGL, which complies with LPS 3 in terms of permitted building heights.

The eastern portion of the dwelling has a maximum height of 4.53m (TOW 29.03) above NGL, as due to the topography of the site much of the dwelling towards the rear of the lot will be below existing ground levels.

A 2m<sup>2</sup> lift shaft is proposed to project approximately 2.1m (RL: 29.9) above the proposed roof garden level, providing access to that level and resulting in an overall height of approximately 7.65m above NGL. Although this protrusion exceeds the 7m building height limit, it will be setback 7.82m and 15.26m from the front and rear of the dwelling respectively, which will ameliorate visual impact on adjoining properties and the streetscape. On this basis the lift shaft may be treated as a minor projection above the roof level and exempt from the height limit under LPS 3.

### Storeys

The proposed basement level does not constitute a storey under LPS 3 as it is entirely below the average NGL (RL: 22.47) at the centre of the lot based on the interpolated survey plan and does not contain any habitable rooms.

The proposed unenclosed portion of rooftop garden (32m<sup>2</sup>), including the elevated pool, also does not constitute a storey, as it has no floor or ceiling above and complies with the building height requirement. However, approximately 40% of the proposed roof garden (23m<sup>2</sup>) will be partly enclosed under a narrow, L-shaped, 2.1m high shade canopy, which requires Council's discretion for approval as technically it constitutes a separate storey – clause 5.7.4 of LPS 3 states:

*In the Residential Zone the local government may permit a third storey to be located within the roof space of a dwelling, provided that the development complies with the maximum wall and roof height requirements stipulated in Clause 5.7.2 and also provided that, in the opinion of the local government, the dwelling will retain the appearance of a two-storey dwelling and will not unduly adversely affect local amenity.*

The southern side of the proposed canopy will be approximately 6.4m in length and angled approximately 13 degrees off the vertical wall below; whilst its eastern side will be 6m in length and attached to a vertical wall below the 7m building height limit. It will also be located behind the proposed lift shaft at its closest point to the front boundary of the lot, being a distance of some 14.4m; therefore this section will not be directly visible from the street. The remainder of the canopy will be setback 21.6m from the front boundary and 6.6m from the rear boundary.

The overall height of the canopy will be approximately 1.6m below the maximum permitted height of 8.5m for a pitched roof at its highest point above NGL, while the external wall height below the canopy on the northern and southern sides will be below the maximum permitted height of 6m.

The intent of the above setbacks is to minimise the visual impression of a third storey within the roof space, whilst utilising an area which could otherwise be roofed. When viewed from the adjacent footpath or from surrounding properties the effect of such setbacks is, depending on the vantage point, to either conceal the upper level or present it as a recessive element that echoes the form of a two-storey dwelling while ameliorating the sense of bulk and scale. It also demonstrates that a dwelling with a traditional pitched roof (especially one with gable ends) or a dwelling with 7m wall heights may have a greater visual presence to the streetscape and sense of bulk in relation to existing and proposed adjacent dwellings.

The use of roof forms/spaces as a third storey is discretionary as Council must be satisfied that the development will retain the appearance of a two-storey dwelling and will not unduly adversely affect local amenity.

In this case, taking account the sloping topography of the site, the distance that the third storey component will be from the front and rear of the lot, the height of the existing dwelling that is to be demolished, and the limited visual impact of the third storey on the streetscape or other properties following redevelopment of the abutting sites, this component is supportable under LPS 3.

### Setbacks

The proposed dwelling has front setbacks ranging from 5.16m to the basement level and 4.8m to the balconies on the ground and first floors.

Clause 5.3.7 of LPS 3 states:

*Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied, for the preservation of streetscape, view corridors and amenity.*

The RDC permit a front setback of 4m in an R30 zone, which may be reduced by up to 50% providing an average of 4m is achieved.

The proposed setbacks exceed the RDC, while even in R20 coded areas residential development may be approved with a minimum 3m, average 6m front setback. This provides more flexibility in relation to subdivided smaller lots and for innovative

architectural designs to be considered that provide good articulation to street frontages.

Front setbacks of less than 6m are quite common in the R30 coded areas, as approved in a number of instances, while the proposed setbacks are consistent with the proposed dwellings on the adjoining lots as well as with the general streetscape along this section of Avonmore Terrace. As such, the proposed front setbacks can be supported.

The dwelling walls proposed on the side and rear boundaries of the lot will be partially below ground level and recessed in the central northern section to allow for an outdoor living area and northern light to habitable rooms. Furthermore, as the adjoining lots have been all created in the same plan of subdivision submitted concurrently with the development application, the proposed walls on the boundaries are considered to satisfy the deemed-to-comply requirements of the RDC.

#### Visual privacy

Visual privacy concessions are sought from the proposed first floor bedroom window and kitchen/dining area, the front ground floor balcony, the side first floor balcony and the roof garden to the northern boundary and unscreened section to the southern boundary.

These variations can 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.*

*Maximum visual privacy to side and rear boundaries through measures such as:*

- *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- *building to the boundary where appropriate;*
- *setting back the first floor from the side boundary;*
- *providing higher or opaque and fixed windows; and/or*
- *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

In this case, as all the adjoining lots are being created and developed concurrently with the proposed development and have been designed by the same builder, there is no overlooking of existing active habitable spaces or outdoor living areas and the designs of the proposed adjoining dwellings have taken into consideration the location of proposed major openings and balconies to avoid issues of privacy arising.

As such, the visual privacy variations satisfy the relevant Design Principles of the RDC and are supported.

### Crossover

The location of the proposed crossover to the dwelling is relatively close to two existing street trees and a notation by the applicant on the submitted basement plan advises:

*Verge tree will need to be removed to provide an adequate crossover. A 1.5m setback distance can be attempted, however, survival of the tree cannot be guaranteed.*

The attractive avenue of Melaleuca trees in Avonmore Terrace is a long-standing, distinctive feature contributing to the character and amenity of the street and locality and as such is included in the Town's Municipal Heritage Inventory as well as intended to be included in the Heritage List under LPS3. Any proposal to remove one or more of these trees to allow for a new crossover would be contrary to their planning and heritage value and to Council's Street Tree Policy hence should not be supported. In this respect the overriding planning principles are that design should in the first instance respond appropriately to the characteristics of a site and its surrounds, and that Council in granting development approval should be satisfied that important elements of the public domain are respected and preserved.

The proposed crossover needs to be located centrally between the two existing street trees in order to provide maximum separation distances from the trunks, which will require redesign or deletion of the proposed ground level pool at the front of the lot.

It is therefore recommended that revised plans be required at building permit stage for approval by the Manager Development Services showing the proposed crossover being relocated accordingly to ensure retention and protection of the Melaleuca trees, together with the driveway gradient being designed in accordance with Australian Standards. This has been included as a condition of approval.

### Fencing in front setback

A solid wall up to 1.5m high is proposed along part of the northern boundary within the front setback area.

This constitutes a variation to Council's Fencing Local Law and does not appear necessary considering that the adjoining property is being developed by the same builder and could be designed without the need for solid walls above 0.9m in the front setback. An open-aspect fence in the front setback adjoining Avonmore Terrace would contribute to the streetscape by reducing the mass and bulk of the development and provide better active and passive surveillance to and from the proposed dwelling.

## CONCLUSION

The proposal is compliant with the main height parameters and essentially consistent with the use of partially enclosed roof spaces, with the elevated pool accommodated in that design.

The contemporary design of the dwelling is considered to be in scale with the streetscape, taking account of the relatively steep topography, the limited width and area of the lot, and its compatibility with the design of the proposed dwellings on the adjoining lots. Privacy variations also satisfy the Design Principles of the RDC.

As the proposed location of the crossover is not supported because it could result in the loss of a heritage-listed street tree, it is recommended that the proposed pool in front of the dwelling be redesigned so that the crossover is located centrally between the existing street trees, perpendicular to Avonmore Terrace, and constructed to Australian Standards.

## VOTING

Simple Majority

## COMMITTEE COMMENT

In addition to the discussion concerning the overall subdivision and development, regarding this proposal Committee considered the number and effect of boundary walls, the importance of preservation of the street trees in terms of the basement and crossover design (as conditioned), the unusual roof form, whether the third storey component was appropriate, open space allocations and the visibility of roof-mounted air-conditioners or other equipment. As a result Committee moved a series of amendments to address these aspects to be reflected in improved revised plans. Officers clarified the open space allocation, which included the roof garden area but excluded the balcony with a retractable roof. Officers advised that all of the aspects identified would be reviewed with the applicant in seeking revised plans.

## OFFICER RECOMMENDATION

### **Moved Cr Jeanes, seconded Cr Angers**

That Council GRANT its approval to commence development for the proposed dwelling at 32 Avonmore Terrace COTTESLOE (Lot 501) as shown on the plans received on 23 September 2014, subject to the following conditions:

- (1) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
- (2) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) 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.

- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
- (5) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (6) The finish and colour of the proposed boundary walls shall be to the satisfaction of the Manager Development Services.
- (7) Revised plans shall be submitted at Building Permit stage for approval by the Manager Development Services, showing the fencing in the front setback area being 'open-aspect' above 0.9m, with the palings spaced to ensure that the width between each paling is at least equal to the width of the paling, with a minimum space of 50mm and a minimum open aspect of 50% of the infill panel, and the piers shall not exceed 2.1m in height from natural ground level.
- (8) Revised plans shall be submitted at Building Permit stage for approval by the Manager Development Services showing the crossover being positioned a sufficient distance from the heritage-listed Melaleuca trees to ensure their retention and protection, and showing the gradient to the garage being in accordance with Australian Standards.
- (9) A separate application for construction of the new crossover meeting Council's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer.
- (10) A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of 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 street tree protection.
- (11) The pool pumps and filters shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimized to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.
- (12) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pools are located, and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.



- (13) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary.

Advice Notes:

1. The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

**AMENDMENT**

**Moved Cr Jeanes, seconded Cr Angers**

**That a condition be added for the rooftop air-conditioners or other equipment to be suitably screened from view.**

**Carried 5/0**

**AMENDMENT**

**Moved Cr Walsh, seconded Cr Jeanes**

**That a condition be added for the shade canopy on the third level to be deleted.**

**Carried 5/0**

**THE AMENDED SUBSTANTIVE MOTION WAS PUT at that point.**

**Moved Cr Jeanes, seconded \_\_\_\_\_**

**Lapsed for want of a seconder**

**AMENDMENT**

**Moved Cr Jeanes, seconded Cr Walsh**

**That a condition be added requiring that the roof garden level be deleted.**

**Carried 4/1**

**COMMITTEE RECOMMENDATION**

**That Council GRANT its approval to commence development for the proposed dwelling at 32 Avonmore Terrace COTTESLOE (Lot 501) as shown on the plans received on 23 September 2014, subject to the following conditions:**

- (1) **All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**

- (2) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) 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.
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
- (5) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (6) The finish and colour of the proposed boundary walls shall be to the satisfaction of the Manager Development Services.
- (7) Revised plans shall be submitted at Building Permit stage for approval by the Manager Development Services, showing the fencing in the front setback area being 'open-aspect' above 0.9m, with the palings spaced to ensure that the width between each paling is at least equal to the width of the paling, with a minimum space of 50mm and a minimum open aspect of 50% of the infill panel, and the piers shall not exceed 2.1m in height from natural ground level.
- (8) Revised plans shall be submitted at Building Permit stage for approval by the Manager Development Services showing the crossover being positioned a sufficient distance from the heritage-listed Melaleuca trees to ensure their retention and protection, and showing the gradient to the garage being in accordance with Australian Standards.
- (9) A separate application for construction of the new crossover meeting Council's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer.
- (10) A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of 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 street tree protection.
- (11) The pool pumps and filters shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimized

to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.

- (12) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pools are located, and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (13) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary.
- (14) The rooftop air-conditioners or other equipment shall be suitably screened from view.
- (15) The shade canopy on the third level shall be deleted.
- (16) The third storey roof garden shall be deleted.

**Advice Notes:**

- 1. The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
- 2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

**THE FURTHER AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 3/2**

**10.1.2 NO.34 AVONMORE TERRACE (LOT 502) - PROPOSED DWELLING WITH UNDERCROFT**

**File Ref:** 2950  
**Responsible Officer:** Andrew Jackson  
Manager Development Services  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 17 November 2014

**Author Disclosure of Interest:** Nil

**Property Owner:** Clark Brannin  
**Applicant:** Russell Stewart  
**Date of Application:** 6 June 2014  
**Zoning:** Residential R30  
**Lot Area:** 289m<sup>2</sup>  
**M.R.S. Reservation:** Not applicable

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**SUMMARY**

This application is seeking the following variations to Local Planning Scheme No. 3 (LPS 3), the Residential Design Codes, Council's Fencing Local Law and Policies:

- Setbacks
- Visual privacy
- Solar access
- Front fencing

Each of these aspects, together with other technical comments, is discussed in this report, which refers to plans received on 1 October 2014.

The lot is one of six new green title lots located on the eastern side of Avonmore Terrace between Fig Tree Lane and Deane Street, which have recently been granted subdivision approval by the WAPC and are proposed to be developed by the same applicant.

Two of the dwellings proposed on the adjoining new lots are reported-on separately in this agenda, while the three dwellings proposed on the southern part of the site are still subject to assessment and advertising by the Town.

Only the northern three lots reported-on in this agenda have received subdivision clearances from the Town and have new titles issued.

**PROPOSAL**

This application is for a two-storey dwelling comprising three bedrooms with ensuites, one shared bathroom, office, family / dining room / kitchen, laundry, WIR, lift, front and side balconies and undercroft garage.

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**STATUTORY ENVIRONMENT**

- Local Planning Scheme No. 3
- Residential Design Codes
- Fencing Local Law

**MUNICIPAL INVENTORY**

Not applicable.

**APPLICATION ASSESSMENT****AREAS OF NON-COMPLIANCE****Residential Design Codes**

<b>Design Element</b>	<b>Deemed-to-comply</b>	<b>Proposed</b>	<b>Design Principles</b>
5.1 – Lot boundary setbacks	Walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the lot boundary behind the front setback, to one side boundary only; or  Walls on boundaries permitted as <i>of right</i> where the subject site and adjoining sites are created in a plan of subdivision submitted concurrently with the development application.	Walls on the southern and eastern boundaries.  These boundaries have been created as a result of the concurrent subdivision and therefore may be considered to satisfy the deemed-to-comply standard.	Clause 5.1.3 P3.2
5.4 – Visual Privacy	Compliance with the following cones of vision:  4.5m – Bedrooms and studies;  6m – Habitable rooms, other than bedrooms and	The proposed north-facing balcony has a 5.75m cone of vision, in lieu of 7.5m.	Clause 5.4.1 – P1.1 & 1.2

	studies;  7.5m – Unenclosed outdoor habitable space		
5.4 – Solar access for adjoining sites	Overshadowing to maximum 35% of adjoining site. area.	Overshadowing 67% of adjoining lot.	P2.1 & 2.2

### Council's Local Law/Policy

	Permitted	Proposed
Fencing	Open-aspect above 0.9m in front setback area.	Solid up to 2.3m in height along southern boundary in the front setback.

### ADVERTISING OF PROPOSAL

The application was advertised to four adjoining owners, including two on the northern side of the ROW and two of the newly subdivided lots. No submissions were received.

### PLANNING COMMENT

The following comments are made with respect to the proposed development.

#### Building height

Local Planning Scheme No. 3 permits a maximum 7m building height to the top of a parapet (flat roof) measured vertically above any point of natural ground level.

The Residential Design Codes define natural ground level as:

*The levels on a site which precede the proposed development, excluding any site works unless approved by the decision-maker or established as part of subdivision of the land preceding development.*

Under the WAPC subdivision approval conditions the finished ground levels at the boundaries of the lot were required to match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting, and to be filled, stabilised, drained and graded to the Town's satisfaction. These new levels were then able to be used as a guide to establish the levels on the site preceding the proposed development and the applicant's surveyor, Automated Surveys, has subsequently interpolated the natural contours across the lot(s) to provide suitable datum levels, which have been used to establish the permitted building height.

The proposed dwelling has been designed to comply with the 7m maximum building height permitted under LPS 3, as shown on drawings 5 and 6 of 9.

The highest part of the proposed dwelling is 7m (RL: 28.38) above the interpolated NGL, excluding a small eave overhang and top of lift enclosure, which are considered to be minor projections and exempt from the height limit under LPS 3.

The eastern portion of the dwelling has a maximum height of 4.58m above NGL, as due to the topography of the site much of the dwelling towards the rear of the lot will be below existing ground levels.

### Storeys

The proposed ground floor level above the basement is required to be not higher than 1m above the adjoining ROW measured at the centre point along the northern boundary to which the space has frontage, or to be below the NGL measured at the centre of the new lot.

Based on the levels in the ROW, taken by the applicant's surveyors, Brown McAllister, it would appear that the ground floor above the basement is approximately 0.11m higher than that permitted using this method. However, if the estimated NGL at the centre of the lot is taken then the ground floor level is 0.26m higher than that permitted.

Given the difficulty in establishing the exact permitted height of the ground floor level for the basement below to not constitute a storey, it is recommended that the proposed ground floor level should be lowered to RL: 22.25. However, the overall building height would not be required to be changed, as it is compliant with LPS 3. This has been conditioned accordingly.

### Setbacks

The proposed dwelling has front setbacks ranging from 5.1m to the basement and first floor front balcony to 6m to the first floor front balcony.

Clause 5.3.7 of LPS 3 states:

*Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied, for the preservation of streetscape, view corridors and amenity.*

The RDC permit a front setback of 4m in an R30 zone, which may be reduced by up to 50% providing an average of 4m is still achieved.

The proposed setbacks exceed the RDC, while even in R20 coded areas residential development may be approved with a minimum 3m, average 6m front setback. This provides more flexibility in relation to subdivided smaller lots and for innovative architectural designs to be considered that provide good articulation to street frontages.

Front setbacks of less than 6m are quite common in the R30 coded areas, as approved in a number of instances, while the proposed setbacks are consistent with the proposed dwellings on the adjoining lots as well as with the general streetscape

along this section of Avonmore Terrace. As such, the proposed front setbacks can be supported.

As the adjoining lots have all been created in the same plan of subdivision submitted concurrently with the development application, the proposed walls on the southern and eastern boundaries are deemed-to-comply with the RDC as they will not affect other existing residential lots.

The proposed setbacks to the northern boundary exceed the deemed-to-comply requirements of the RDC as they can be reduced by half the width of the adjoining ROW.

#### Visual privacy

A visual privacy concession is sought from the proposed first floor, north-facing, side balcony, as it has a 5.75m cone of vision to the opposite side of the ROW, in lieu of 7.5m.

This variation can 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.*

*Maximum visual privacy to side and rear boundaries through measures such as:*

- *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- *building to the boundary where appropriate;*
- *setting back the first floor from the side boundary;*
- *providing higher or opaque and fixed windows; and/or*
- *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The proposed upper-level, north-facing balcony will be setback 1.63m from a brick screen wall proposed along the northern boundary that extends 1m above the first floor level, thereby creating a screening device and restricting direct overlooking of active habitable spaces and outdoor living areas at the rear of the dwellings on the opposite side of the ROW.

The applicant has demonstrated the possible extent of overlooking from the proposed upper floor side balcony in the sectional drawing 7 of 9. This shows an effective cone of vision of approximately 19m from the northern side of the proposed balcony to the rear of the adjoining dwelling opposite, with the proposed vertical screen minimising direct overlooking to outdoor living areas.



Taking into account the distance of the adjoining dwelling from its rear boundary, the 4.1m width of the adjoining widened ROW, the proposed setback and the screening on the northern side of the balcony, it is considered that the balcony position can be supported under the Design Principles of the RDC. Furthermore, no objection was received from owner of the northern adjoining lot during advertising of the proposal.

### Solar Access

Overshadowing of the adjoining southern lot has been calculated at 67%, in lieu of 35% permitted under the deemed-to-comply requirements of the RDC. However, it may be considered under the Design Principles, which state:

*Effective solar access for the proposed development and protection of the solar access.*

*Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:*

- *outdoor living areas;*
- *north facing major openings to habitable rooms, within 15 degrees of north in each direction; or*
- *roof mounted solar collectors.*

The design of the proposed dwelling ensures that it has significant northerly solar access and, although it will have a two-storey solid wall along most of the southern boundary, the adjoining dwelling is being designed and constructed by the same builder and has taken the subject property into consideration by setting back its outdoor living areas from the northern boundary and taking advantage of the increased privacy that the adjoining wall will provide. On this basis, it is considered that the proposed overshadowing can be supported under the Design Principles of the RDC.

### Fencing in front setback

A solid wall up to 2.3m high is proposed along part of the southern boundary within the front setback area.

This constitutes a significant variation to Council's Fencing Local Law and does not appear necessary, considering that the adjoining property is being developed by the same builder and could be designed without the need for solid walls above 0.9m in the front setback. An open-aspect fence in the front setback adjoining Avonmore Terrace would contribute to the streetscape by reducing mass and bulk and provide better active and passive surveillance to and from the proposed dwelling.

### **CONCLUSION**

The proposal is compliant with the main height parameters, although its ground floor level may need a minor adjustment to avoid the basement being counted as a storey. The contemporary design is considered to be in scale with the streetscape, taking account of the relatively steep topography, the limited width and area of the lot, and

its compatibility with the design of the proposed dwellings on the adjoining lots. Privacy and solar access variations satisfy the Design Principles of the RDC and all other assessment criteria have been satisfied.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Having discussed relevant matters in the other two applications, Committee discussed this item briefly. Officers confirmed that a condition is included regarding the correct basement level and explained the wall heights in relation to the lane. No amendments were involved in Committee supporting the proposal.

## **OFFICER & COMMITTEE RECOMMENDATION**

**Moved Cr Jeanes, seconded Cr Angers**

**That Council GRANT its approval to commence development for the proposed dwelling at 34 Avonmore Terrace COTTESLOE (Lot 501) as shown on the plans received on 1 October 2014, subject to the following conditions:**

- (1) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**
- (2) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (3) 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.**
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.**
- (5) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those specified in the Environment Protection (Noise) Regulations 1997.**
- (6) The finish and colour of the boundary walls shall be to the satisfaction of the Manager Development Services.**
- (7) Revised plans shall be submitted at Building Permit stage for approval by the Manager Development Services, showing the fencing in the front setback area being ‘open-aspect’ above 0.9m, with the palings spaced to ensure that the width between each paling is at least equal to the width**

of the paling, with a minimum space of 50mm and a minimum open aspect of 50% of the infill panel, and the piers shall not exceed 2.1m in height from Natural Ground Level.

- (8) A separate application new crossover meeting Council's specifications and for construction of a Australian Standards shall be submitted for approval by the Manager Engineering Services or an authorised officer.
- (9) A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of 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 street tree protection.
- (10) The finished floor level above the proposed basement shall be no higher than 1m above the adjoining ROW measured at the centre point along the northern boundary to which the space has frontage or below the NGL measured at the centre of the new lot. Details to be submitted at building permit stage to the satisfaction of the Manager Development Services.

**Advice Notes:**

1. The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

Carried 4/1

**10.1.3 NO. 34A AVONMORE TERRACE (LOT 503) - PROPOSED DWELLING WITH UNDERCROFT AND POOL**

**File Ref:** 2949  
**Responsible Officer:** Andrew Jackson  
Manager Development Services  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 17 November 2014

**Author Disclosure of Interest:** Nil

**Property Owner:** Colin Herdman  
**Applicant:** Russell Stewart  
**Date of Application:** 6 June 2014  
**Zoning:** Residential R30  
**Lot Area:** 289m<sup>2</sup>  
**M.R.S. Reservation:** Not applicable

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**SUMMARY**

This application is seeking the following variations to Local Planning Scheme No. 3 (LPS 3) and the Residential Design Codes:

- Storeys
- Setbacks
- Visual privacy

Each of these aspects, together with other technical comments, is discussed in this report, which refers to plans received on 23 September and 2 October 2014.

The lot forms one of six new green title lots located on the eastern side of Avonmore Terrace between Fig Tree Lane and Deane Street, which have recently been granted subdivision approval by the WAPC and are proposed to be developed by the same applicant.

Two of the dwellings proposed on the adjoining new lots are reported-on separately in this agenda, while the three dwellings proposed on the southern part of the site are still subject to assessment and advertising by the Town.

Only the northern three lots reported-on in this agenda have received subdivision clearances from the Town and have new titles issued.

**PROPOSAL**

This application is for a new dwelling comprising four bedrooms, three ensuites, one shared bathroom, a family room, living room / kitchen, laundry, WIR, lift, side courtyard, balcony, pool and undercroft garage.

**STATUTORY ENVIRONMENT**

- Local Planning Scheme No. 3
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- Residential Design Codes

## MUNICIPAL INVENTORY

Not applicable.

## APPLICATION ASSESSMENT

### AREAS OF NON-COMPLIANCE

#### Residential Design Codes

Design Element	Deemed-to-comply	Proposed	Design Principles
5.1 – Street setback	2.5m setback from ROW to dwelling, or 1.5m to a porch, verandah, balcony or the equivalent.	Minimum 1.4m to basement; 1.23m to ground and first floors; 1m to chimney and 0.23m to raised courtyard.	Clause 5.1.2 P.2.1 & 2.2
5.1 – Lot boundary setbacks	Walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the lot boundary behind the front setback, to one side boundary only; or  Walls on boundaries permitted as <i>of right</i> where the subject site and adjoining sites are created in a plan of subdivision submitted concurrently with the development application.	Walls on the southern, eastern and western boundaries.  The southern and western boundaries have been created as a result of the concurrent subdivision and therefore may be considered to satisfy the deemed-to-comply standard.  The proposed wall on the eastern boundary ranges in height from approximately 1.2m to 2.7m above NGL along its length.	Clause 5.1.3 P3.2
5.4 – Visual Privacy	Compliance with the following cones of vision:  4.5m – Bedrooms and studies;  6m – Habitable rooms, other than	The proposed north and west-facing windows to bed 1, the balcony, the west-facing windows from the first floor kitchen / living area and the raised ground floor	Clause 5.4.1 – P1.1 & 1.2

	bedrooms and studies;  7.5m – Unenclosed outdoor habitable space	courtyard all seek visual privacy variations.	
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### ADVERTISING OF PROPOSAL

The application was advertised to six adjoining owners, including three on the northern side of the ROW, two of the newly subdivided lots and the eastern adjoining lot. One submission was received from the eastern neighbour, Mr John Stokes of 20 Deane Street, following viewing of the plans and discussion with officers. The main comments made in the submission are summarised below:

- We currently enjoy good ocean views from the northern living area of our well-elevated home and we wish to preserve a percentage of it.
- Site levels need to be profiled back to the levels that existed prior to the previous and existing development on the adjoining site.
- The existing dwelling on the site sits artificially high on the block.
- The prospect of a parapet wall on 50% or more of our western boundary is unpalatable and will result in the loss of our views.
- Queries whether new titles have been issued on the adjoining site; and whether the subdivision was approved as one application for the whole site, and if so why the existing dwelling is still remaining as the natural contours cannot be revealed until it has been demolished.

### PLANNING COMMENT

The following comments are made with respect to the proposed development.

#### Building height

Local Planning Scheme No. 3 permits a maximum 7m building height to the top of a parapet (flat roof) measured vertically above any point of natural ground level.

The Residential Design Codes define natural ground level as:

*The levels on a site which precede the proposed development, excluding any site works unless approved by the decision-maker or established as part of subdivision of the land preceding development.*

Under the WAPC subdivision approval conditions the finished ground levels at the boundaries of the lot were required to match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting, and to be filled, stabilised, drained and graded to the Town's satisfaction. These new levels were then able to be used as a guide to establish the levels on the site preceding the proposed development and the applicant's surveyor, Automated Surveys, has subsequently interpolated the natural contours across the lot(s) to provide suitable datum levels, which have been used to establish the permitted building height.

The proposed dwelling has been designed to comply with the building heights permitted under LPS 3, as shown on drawings 6 and 7 of 9. The main part of the dwelling on the higher part of the lot has a maximum building height of 7m (RL: 32.43) above NGL.

The eastern part of the dwelling has a maximum height of approximately 5.68m above NGL as due to the topography of the site much of this part will be excavated below existing ground levels.

An area shown on the plans for a potential roof garden does not form part of this application and would need to be submitted as a separate application in order to be considered.

### Storeys

The proposed ground floor level above the basement is required to be not higher than 1m above the adjoining ROW measured at the centre point along the northern boundary to which the space has frontage, or to be below the NGL measured at the centre of the new lot.

Based on the levels in the ROW, taken by the applicant's surveyors, Brown McAllister, it would appear that the ground floor above the basement is approximately 0.9m higher than that permitted using this method. However, if the estimated NGL at the centre of the lot is taken then the ground floor level appears to be just 0.2m higher than that permitted.

Given the difficulty in establishing the exact permitted height of the ground floor level for the basement below to not constitute a storey, it is recommended that the centre point shown on the interpolated plan be used, which would mean that the proposed ground floor level should be lowered to RL: 25.96. However, the overall building height would not be required to be changed, as it is compliant with LPS 3. This has been conditioned accordingly.

### Setbacks

The proposed dwelling has front setbacks to the ROW ranging from 1.4m to the basement, 0.2m to the ground floor raised courtyard and 1.23m to part of the ground and first floors. A 1m setback is also proposed to a partially projecting chimney feature abutting the ROW.

The RDC permit a front setback of 2.5m to a ROW, which can be reduced to 1.5m to a porch, verandah, balcony or the equivalent.

The proposed setback variation can be considered under the Design Principles of the RDC, which state:

*Buildings set back 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.*

*P2.2 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.*

The setbacks have been reduced by 0.82m due to the widening of the ROW by that amount required as a condition of subdivision. This has impacted on the lot which now has a depth of only 19.17m, making it more difficult to design to achieve the deemed-to-comply front setback requirements.

The remainder of the ROW mostly serves garages located at the rear of dwellings on Deane and Pearse Streets, with minimal setbacks just sufficient to allow for vehicle turning, rather than contributing to the streetscape.

The proposed dwelling has significant recessed sections on its western side fronting the ROW for a courtyard and balcony, which will offset the main dwelling by 13.81m on the ground floor and 8.48m on the first floor. This exceeds the minimum front setback requirements and will assist in reducing the mass and scale of the dwelling viewed from the ROW.

In addition, the proposed dwelling on the western lot will have its side to the ROW, so only one of the new dwellings will be fronting the ROW. The proposed dwelling will still provide adequate privacy to adjoining properties, as the north-facing windows will each be less than one square metre in area and the ground floor raised courtyard is proposed to be screened with angled louvres to prevent direct overlooking. Open space is also compliant.

As two of the adjoining lots have been created in the same plan of subdivision submitted concurrently with the development application, the proposed walls on the southern and western boundaries are deemed-to-comply with the RDC as they will not be affecting other existing residential lots.

The proposed wall on the eastern boundary is single storey and will range in height from approximately 1.2m to 2.7m above NGL, with the highest section being nearest the ROW and abutting the neighbour's garage and the lower sections being in the middle and towards the rear of the lot.

The height of the wall has been kept relatively low as the adjoining proposed courtyard and drying area on the development site will be 2m below the top of the proposed wall, thereby avoiding the need for a higher fence to prevent overlooking of the eastern lot. The proposed first floor will be setback between 1.5m and 2.5m from the eastern boundary as required by the RDC, while the height and length of the



proposed wall on the eastern boundary meets the deemed-to-comply requirements of the RDC.

#### Visual privacy

A visual privacy concession is sought from the proposed upper floor north and west-facing windows to bed 1, the upper floor balcony, the west-facing windows from the kitchen and living area and north-facing raised courtyard.

These variations can 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.*

*Maximum visual privacy to side and rear boundaries through measures such as:*

- *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
- *building to the boundary where appropriate;*
- *setting back the first floor from the side boundary;*
- *providing higher or opaque and fixed windows; and/or*
- *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The proposed north- and west-facing bedroom 1 windows will be setback 0.9m from a proposed two-storey rear wall without major openings on the adjoining western lot (lot 501) and will be fitted with aluminium shutters on the western side. The proposed balcony and west-facing windows to the kitchen and living areas will also face the rear of the proposed dwellings on the adjoining lots and will not result in any direct overlooking of active habitable spaces or outdoor living areas.

As all three applications have been submitted by the same builder the design of the dwellings minimises potential overlooking from the upper-floor openings. Angled louvres on the western side of the raised ground floor courtyard will also be installed to prevent direct overlooking of adjoining properties on the opposite side of the ROW.

#### Response to eastern neighbour's submission.

Council is required to have regard to the relationship of the proposal to existing development on adjoining lots including, but not limited to, the likely effect of height, bulk, scale, orientation and appearance and this has been considered throughout the development and subdivision process to date. Where a proposed development satisfies Scheme and RDC requirements, especially with respect to building height,

planning approval may be granted even though this could result in some loss of view from an adjoining property.

In this case, the subdivision process has been the mechanism used by the Town to ensure that the existing development on the northern half of the site has been removed and the land has been graded so that the resultant ground levels match the existing land at the lot boundaries; prior to clearance of WAPC conditions being issued by the Town.

The southern three lots are being created under a separate subdivision approval by the WAPC and are subject to the same requirements, including the removal of all existing structures on the site and the land being graded to match the existing land at the boundaries. At this stage a request from the applicant for these conditions to be cleared has not been received by the Town and the new titles for the southern lots cannot proceed until the conditions of subdivision have all been fulfilled. In the absence of new titles being issued for the southern lots, the Town is still able to assess development proposals, but based on an interpolated survey plan of the resultant ground levels rather than on existing levels, in order to determine compliant building heights.

As discussed in this report walls proposed on the western boundary of the eastern neighbour's lot are only single-storey for the current proposed development on the northern part of the site (Lot 503). Any other proposed walls on the boundary for the southern development do not form part of the current applications and will be assessed separately following advertising.

## **CONCLUSION**

The proposal is compliant with the overall height parameters, although the ground floor may need to be reduced in height by 0.2m to avoid the basement being counted as a storey. The contemporary design should enhance the streetscape along Fig Tree Lane, also providing increased active and passive surveillance and having an overall mass and scale compatible with the other two proposed dwellings on its western side. The setback and privacy variations can be supported under the Design Principles of the RDC and all other assessment criteria have been satisfied.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee commenced by discussing the overall original site's subdivisions of its northern and southern halves, with Officers clarifying the R30 lot sizes, status of approvals and ownerships, while Committee expressed concern regarding the consequent "overdeveloped" built form comprising the three dwellings involving several concessions and appearing out of context with Cottesloe generally. Committee also queried the various survey plans, which Officers explained in relation to determining natural ground levels; undertaking to provide further advice. Committee then discussed aspects including overshadow, gradients to basements, site cover, open space and setbacks in relation to the proposals. Regarding the

proposal for No. 34A, Committee considered that a setback of 2.5m from the lane should be applied to address the sense of bulk and scale.

### **OFFICER RECOMMENDATION**

#### **Moved Cr Jeanes, seconded Cr Burke**

That Council GRANT its approval to commence development for the proposed dwelling at 34A Avonmore Terrace COTTESLOE (Lot 503) as shown on the plans received on 23 September and 2 October 2014, subject to the following conditions:

- (1) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
- (2) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) 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.
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
- (5) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (6) The finish and colour of the proposed boundary walls shall be to the satisfaction of the Manager Development Services.
- (7) The gradient to the garage shall be in accordance with Australian Standards. Details shall be submitted at building permit stage for approval by the Manager Development Services.
- (8) The owner/applicant shall contribute to the Town a sum of money equal to the cost of sealing and draining the full length and width of the sealed right of way for its extent abutting the northern boundary of the property, prior to the issue of a building permit.
- (9) A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of 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 street tree protection.

- (10) The northern end of the ground floor raised courtyard shall be screened with angled louvres to a minimum height of 1.6m, to the satisfaction of the Manager Development Services. Details shall be submitted at building permit stage.
- (11) The north-facing windows to the ground floor family room and first floor living room shall each not exceed one square metre in area or shall be screened to a minimum height of 1.6m, to the satisfaction of the Manager Development Services.
- (12) The pool pump and filter shall be located closer to the proposed dwelling than 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 minimized to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.
- (13) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (14) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary.
- (15) The finished floor level above the proposed basement shall be no higher than 1m above the adjoining ROW measured at the centre point along the northern boundary to which the space has frontage or below the NGL measured at the centre of the new lot. Details to be submitted at building permit stage to the satisfaction of the Manager Development Services.

Advice Notes:

1. The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

**AMENDMENT**

**Moved Cr Jeanes, seconded Cr Rowell**

**That a condition 16 be added requiring a 2.5m setback to Fig Tree Lane.**

**Carried 5/0**

**COMMITTEE RECOMMENDATION**

**That Council GRANT its approval to commence development for the proposed dwelling at 34A Avonmore Terrace COTTESLOE (Lot 503) as shown on the**

plans received on 23 September and 2 October 2014, subject to the following conditions:

- (1) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
- (2) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (3) 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.
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
- (5) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those specified in the Environment Protection (Noise) Regulations 1997.
- (6) The finish and colour of the proposed boundary walls shall be to the satisfaction of the Manager Development Services.
- (7) The gradient to the garage shall be in accordance with Australian Standards. Details shall be submitted at building permit stage for approval by the Manager Development Services.
- (8) The owner/applicant shall contribute to the Town a sum of money equal to the cost of sealing and draining the full length and width of the sealed right of way for its extent abutting the northern boundary of the property, prior to the issue of a building permit.
- (9) A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of 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 street tree protection.
- (10) The northern end of the ground floor raised courtyard shall be screened with angled louvres to a minimum height of 1.6m, to the satisfaction of the Manager Development Services. Details shall be submitted at building permit stage.

- (11) The north-facing windows to the ground floor family room and first floor living room shall each not exceed one square metre in area or shall be screened to a minimum height of 1.6m, to the satisfaction of the Manager Development Services.
- (12) The pool pump and filter shall be located closer to the proposed dwelling than 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 minimized to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.
- (13) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (14) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary.
- (15) The finished floor level above the proposed basement shall be no higher than 1m above the adjoining ROW measured at the centre point along the northern boundary to which the space has frontage or below the NGL measured at the centre of the new lot. Details to be submitted at building permit stage to the satisfaction of the Manager Development Services.
- (16) A 2.5m setback shall be provided to Fig Tree Lane.

**Advice Notes:**

1. The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 5/0**

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

Nil.

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

**12.1 ELECTED MEMBERS**

Nil.

**12.2 OFFICERS**

Nil.

**13 MEETING CLOSED TO PUBLIC**

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

Nil.

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

Nil.

**14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 7:40 PM.

CONFIRMED MINUTES OF 17 November 2014 PAGES 1 – 37 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

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