

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 15 JUNE 2015

MAT HUMFREY
Chief Executive Officer

19 June 2015

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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 6:00 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 TIMEDr Barbara Hewson-Bower – re item 10.1.1 – 31D Curtin Avenue

Dr Hewson-Bower, the owner of the property, acknowledged the Officers' efforts towards a solution satisfying the neighbours' objection to the proposal for privacy screening. She briefly summarised the matter and emphasised the overlooking into the living room and outdoor spaces, handing-out photos showing the situation.

Mr Ross Taylor – re item 10.1.1 – 31 D Curtin Avenue

As the owner of the neighbouring property, 31C Curtin Avenue, Mr Taylor referred to the long history of the matter and handed-out an earlier letter by Dr Hewson-Bower when she requested that their new balcony not be screened. He advised that they had only recently been informed of the latest plans and outlined their concerns, including loss of winter sun and that overall the proposed privacy screen would be to their detriment. They were not supportive of possible alternative screening, except perhaps the suggested opaque film to their balustrade, and also offered to move their table and chairs away from the northern side.

Mr Michael Swift – re items 10.1.2 and 10.1.3 – 28 and 30 Avonmore Terrace respectively

Mr Swift, as planning consultant for the development proposals, broadly addressed the issues identified in the reports and referred to the R30 density coding and the interrelated subdivision and developments being undertaken. He expressed a desire to obtain approvals rather than to resort to the SAT, whilst pointing-out that there were site constraints and design aspirations to be

taken into account in reaching agreement on revised plans in time for the forthcoming Council meeting.

Ms Diane Wainwright – re item 10.1.4 – Request for Residential Density Increase, Curtin Avenue

Ms Wainwright is an owner-resident who initially supported the proposal but has since expressed concern and caution. Although not entirely opposed to the up-coding she urged Council not to take a blanket approach and to consider design controls to protect the interests of property owners from infill subdivision and development.

6 ATTENDANCE

Present

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

Officers Present

Mr Mat Humfrey	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mr Doug Elkins	Manager Engineering Services
Mr Ed Drewett	Senior Planning Officer
Mr Ronald Boswell	Planning Officer
Mrs Liz Yates	Development Services Administration Officer

6.1 APOLOGIES

Nil.

Officer Apologies

Nil.

6.2 APPROVED LEAVE OF ABSENCE

Cr Helen Burke

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Jeanes, seconded Cr Walsh

That Mayor Dawkins' request for leave of absence from the July round of meetings be granted.

That Cr Angers' request for leave of absence from the July round of meetings be granted.

Carried 5/0

7 DECLARATION OF INTERESTS

Mayor Dawkins declared an impartiality interest in items 10.1.2 and 10.1.3 due to residing opposite the sites and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matters on their merits and vote accordingly.

8 CONFIRMATION OF MINUTES

Moved Cr Downes, seconded Cr Angers

[Minutes May 18 2015 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 18 May 2015 be confirmed.

Carried 5/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

Note:

The Presiding Member determined to consider items 10.1.1 (31D Curtin Avenue) and 10.1.4 (Density Increase Request – Curtin Avenue) firstly, and then return to the published order of the agenda. As items 10.1.2 (28 Avonmore Terrace) and 10.1.3 (30 Avonmore Terrace) are currently before the SAT, the Presiding Member foreshadowed a motion to meet behind closed doors for those items.

10 REPORTS

10.1 PLANNING

10.1.1 31D CURTIN AVENUE - PROPOSED PRIVACY SCREEN

File Ref:	3091
Attachments:	31D Curtin Aerial 31D Curtin Application 31D Curtin Louvre Screen 31D Curtin Town s Photos
Responsible Officer:	Mat Humfrey, Chief Executive Officer
Author:	Andrew Jackson, Manager Development Services
Proposed Meeting Date:	15 June 2015
Author Disclosure of Interest:	Nil
Property Owner:	Dr B J Hewson-Bower
Applicant:	Dr B J Hewson-Bower
Date of Application:	5 December 2014
Zoning:	Residential R30
Use:	P - A use that is permitted under this Scheme
Lot Area:	320sqm approx.
M.R.S. Reservation:	N/A

SUMMARY

The application is for a privacy screen to the outside of a dwelling to reduce overlooking from the balcony of an adjacent dwelling. As a late addition between the two properties, the proposal requires careful consideration.

Previously, the balcony extension to the adjacent property was approved without a screen, due to the respective owners and the Town agreeing to waive that requirement for the sake of shared views.

Given the dialogue and assessment undertaken, the recommendation is to approve the revised proposal.

BACKGROUND

The subject property, 31D Curtin Avenue, is one of four green title dwellings with boundary walls occupying a row of long, narrow lots running east-west from Curtin Avenue at the front to right of way at the rear.

Given this orientation, the dwellings are designed to provide ocean views and over time have, with approvals, been altered to enhance access to the views, including courtyards and balconies to their western rear sections, as primary outdoor open spaces.

This development context of capturing views and of outdoor living areas for dwellings near the coast is common in Cottesloe, which generally has fostered shared views

and, to some extent, acceptance of less privacy in order to enjoy views and the climate, where goodwill and cooperation between adjacent owners has achieved these benefits.

The attached photos show the existing interrelationship of the western portions of the properties.

It is noted that over the years changes involving these two properties have raised several aspects of contention between the respective owners, as referred to in dealing with the Town on the application. It is common for the issues that occur to be resolved between neighbours and this background should not cloud the current proposal.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

Local Planning Scheme No. 3 and Residential Design Codes.

SUSTAINABILITY IMPLICATIONS

Nil.

APPLICANT'S JUSTIFICATION

In essence, the applicant wishes to obtain adequate privacy similar to that which would have occurred had the adjacent balcony extension been screened in accordance with the RDC. In lieu of a full-height screen to the northern side of the adjacent balcony, the proposal is to add a privacy screen to the boundary wall/ fence of No. 31D, as shown in the attached plans. The intended effect is to prevent substantial overlooking into the areas of No. 31D mentioned, creating a satisfactory degree of both visual and psychological privacy.

The applicant's submission summarises the privacy circumstances and her endeavours to address the problem. As No. 31D experiences a substantial lack of privacy, the aim is to provide a well-designed screen to protect the downstairs courtyard, upstairs balcony and internal living area from invasive overlooking.

PROPOSAL

The proposal is to add a privacy screen to the southern side boundary of No. 31D Curtin Avenue on its western portion, adjacent to No. 31C Curtin Avenue, effectively along the fence-line. The purpose is to provide privacy to No. 31D, which is overlooked by an unscreened balcony extension to No. 31C.

When the balcony extension to No. 31C was approved, in liaison with the Town and the owner of No. 31D, the balcony was not screened and the balustrade was made clear glass, in order to preserve views for No. 31D and allow views for No. 31C, rather than to provide privacy.

However, the owner of No. 31D now desires improved privacy as the lower-level courtyard, upper-level balcony and even the upper-level living room of that dwelling are directly overlooked by the balcony extension at No. 31C.

The original proposal was for an extensive metal perforated screen structure to the inside of the boundary wall of No. 31D – refer attached indicative photo. The Town's preliminary assessment found that this screen design would appear excessive in itself as an added structure and be aesthetically bold, and advised both parties accordingly.

The Town encouraged a scaled-down and open-aspect louvre structure as a subtler solution providing privacy for No. 31D, a partial view from No. 31C angled to the NW away from No. 31D, air flow and light penetration, which would be a more compatible interface responding to the objectives of both parties – refer attached example photo.

As requested by the Town, an architect-designed louvre screen has been illustrated in detailed plans. This design reveals that the screen would:

- Be of limited extent and well-proportioned.
- Be visually open-aspect and of quality material (ie lightweight yet strong and durable aluminium).
- Appear as sensitively-conceived and read as if it had been constructed in the first place.
- Respect the requirements of both properties for a modicum of privacy and good views.

This entails a screen 4m wide and up to 4.2m high spanning the ground and upper floor levels of the two properties. Horizontally, the height matches the wing wall of No. 31D and the opaque window of the sunroom to No. 31C (ie 1.65m from the floor level) and extends 1.65m past the western wall of No. 31C, ie just over half of the western side of the balcony, leaving the remainder unscreened for unrestricted views. Vertically, the screen functions as an upper half and a lower half. For No. 31D the louvres would present as an elegant curtain of fins screening each level and the stairway transition. For No. 31C the screen would function as lower and upper level portions, each being experienced at that level rather than as a complete curtain.

The plans of the improved proposal demonstrate the following:

- The cone of vision indicates extensive overlooking from the No. 31C balcony.
- The louvre screen design is elegant, logical and legible.
- The screen would be relatively thin, with louvre blades of approximately 90mm, and appear narrower than the image shown in the plans. This is for minimal obstruction of the staircase to No. 31D and less weight and aesthetic appeal.

- The screen, instead of being on the No. 31C balcony edge, would be offset from that by 1m, leaving the balustrade free, providing a separation distance and not confining the outlook from the sunroom of No. 31C or for persons at No. 31C to see one-another and speak between the balcony and lower level courtyard/side steps.
- Security for No. 31C would be greatly improved.
- Privacy for No. 31C would be gained for the current owners and be valued by future purchasers who could be deterred by the absence of privacy to the balcony.
- The No. 31C balcony and upward skillion roof would still project beyond the screen and would not be hemmed-in.
- The screen would provide some weather protection to each property.

CONSULTATION

The original proposal was advertised to the adjacent owners at No. 31C, who objected to it. A revised proposal was subsequently provided to the adjacent owners, to which they also objected.

Officers have met with the applicant and inspected the subject property to discuss the proposal and overall situation. Officers have also met with the adjacent owners and inspected from their property and discussed the matter. Officers have explored the considerations involved and possible options to address privacy, in an endeavour to achieve an agreed proposal. After lengthy dialogue a revised proposal is now presented for determination.

The gist of the comments from the neighbours at No. 31C is that they are unconcerned about the absence of privacy for their balcony and do not wish to diminish their commanding views. They maintain that a substantial privacy screen as proposed would affect their amenity. They have suggested various alternative privacy measures for No. 31D. They have not indicated a willingness to agree to a practical compromise.

Note that as the revised plans were received recently, the opportunity for the neighbours to appreciate them has not come until the Agenda was published.

PLANNING ASSESSMENT

Local Planning Scheme No. 3

The Scheme provides the overall planning framework for development control and includes the Residential Design Codes (RDC) by reference. The Scheme itself comprises broad planning parameters, including the following relevant matters for Council to have due regard to in considering the development proposal:

- *the compatibility of a use or development with its setting;*
- *any relevant submissions received on the application;*

- *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- *the suitability, durability, quality and aesthetic appeal of building materials, finishes and colours in relation to the development and locality;*
- *the effect of the proposal on the maintenance and enhancement of important views to and from public places, including views to the public domain and views of the coastal and inland landscapes, and the need to control the position, height, setback and design of the proposal in the interest of important views to and from public places; and*
- *any other planning consideration the local government considers relevant.*

Whilst the Scheme has no specific provisions dealing with privacy, the above matters assist assessment of the proposal.

Residential Design Codes

The RDC contain more detail in relation to residential development and include privacy controls. These provisions focus on privacy requirements for alterations or additions to dwellings or new dwelling developments. They do not deal specifically with the addition of a privacy screen as proposed; however, they provide additional guidance in this respect, as follows:

- An objective to ensure privacy.
- Nomination of permanent screening to limit overlooking.
- Definition of screening as *permanently fixed external perforated panels or trellises composed of solid or obscured translucent panels.*
- Nomination of screening devices including obscure glazing, timber screens, shutters, etc; with design standards of being at least 1.6m high, at least 75% obscure and durable, and directing views away from adjoining property.

The RDC Explanatory Guidelines elaborate as follows:

- Privacy is a valid concern and important to residential amenity, especially for primary outdoor living spaces.
- The cone of vision concept provides a measure of overlooking/privacy.
- Intervening screening is a way to prevent or ameliorate overlooking.
- Fencing or vegetation is a supplementary means to obtain privacy.
- Specification for louvres of 25% visual permeability and 45% maximum view angle, regarding blade width and spacing; although this may be relaxed.
- Control of overlooking does not imply absolutely no visual interaction between properties, whereby:
 - *... the focus should be on what constitutes a reasonable degree of privacy in the circumstances, and what is realistically achievable; and*

- *In some cases there may be mutual benefit to be gained by a relaxation of the privacy standards, and subject to consultation with potentially affected property owners, alternatives should be considered in this light.*

Possible alternatives

Various possible alternative privacy measures have been considered by the applicant, neighbours and Town, including vegetation to No. 31D or the No. 31C balcony, lowering or extending the shade-cloth over the courtyard of No. 31D, opaque film to the glass balustrade (or replacement opaque glass) to the balcony of No. 31C, and tinted glass, blinds or curtains to the living room window of No. 31D.

For a range of reasons none of these is favoured by either party or so far has been agreed to. It is also apparent that none of these would be as effective as a proper screen to the balcony of No. 31C or to an intervening screen as proposed.

The shade-cloth over the No. 31D courtyard does provide a degree of privacy, which if lowered and/or extended on the southern side would reduce direct overlooking from the No. 31C balcony, but would not be as complete as a screen or address overlooking of the upper-level balcony and living room. The owner of No. 31D considers this to be inadequate.

The owners of No. 31C have, however, indicated that they may be prepared to consider opaque film to the northern glass balustrade of their balcony, subject to it being high quality, durable and paid for by the owner of No. 31D. Although this would not provide full-height screening, it would provide a visual barrier for persons sitting on the balcony or standing-back from the northern side, as well as when looked towards from No. 31D, thereby improving privacy and a better sense of separation. The owner of No. 31D considers this to be insufficient.

CONCLUSION

Both properties have undergone major renovations to modernise the dwellings and expand or improve their west-facing outdoor open spaces to enjoy the ocean views and coastal climate.

It is noted that normally privacy is required to be addressed by the development which impacts on adjacent privacy, either at the point from where overlooking occurs or at a suitable intervening point to afford privacy. In the present case the balcony ordinarily required a full-height screen along its northern flank, which all parties agreed to waive, and it would be difficult to force compliance retrospectively.

As observed, a relaxed privacy regime is sometimes agreed to in order to obtain and share views, where mutual tolerance and harmonious neighbour relations are called-for. Such an arrangement can work well where there is a balance between properties in terms of views and the absence of privacy or limited privacy experienced. In the present case No. 31C clearly has a dominant position which takes advantage of wide views and does not contribute to privacy. Nor does the balcony have a privacy screen to the southern adjoining property, which it also overlooks.

On this basis partially restricting the lesser, northern urban view from the panorama of No. 31C is considered acceptable in the interest of a privacy improvement for No. 31D. The effect of this open-aspect screen to only half the length of the No. 31D balcony would be much less restrictive than a full-height screen as normally required and allow most of the current view. The louvre screen would actually augment No. 31C.

Overall, it is concluded that the proposal to rectify the situation to provide privacy to No. 31D is reasonable, and that the louvre screen design achieves this in a manner which is well-considered and attractive.

COMMITTEE COMMENT

Committee discussed the matter at some length and a number of members had inspected the properties involved. Overall, Committee was concerned with the bulk and scale of the proposed privacy screen and its effects in terms of loss of sunlight and structural weight given the wind. It considered that the adjacent balcony was not heavily used and that the shade-cloth to the applicant's courtyard could be lowered or extended to improve privacy; whilst noting that the applicant had previously requested that the neighbours' balcony be unscreened as exists. Committee appeared to support the suggestion of adding opaque film to the balcony balustrade to address privacy, which the Manager Development Services advised could be pursued between the owners separate from Council's determination of the application for the subject property.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Jeanes, seconded Cr Walsh

THAT Council GRANT its approval to Commence Development for the proposed Privacy Screen at 31D Curtin Avenue, COTTESLOE in accordance with the plans received on 10 June 2015, subject to the following conditions:

1. At Building Permit stage detailed plans and supporting information shall be submitted including the following, to the satisfaction of the Manager Development Services:
 - a) the louvre blade width, spacing and angle;
 - b) the materials, finish and colour of the privacy screen; and
 - c) the structural engineering of the privacy screen for rigidity and durability.
2. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
3. No alteration or addition to the privacy screen shall be made without further planning and building applications and approvals as required.

AMENDMENT

Moved Cr Walsh, seconded Mayor Dawkins

That Condition 1 of the Recommendation be amended to require an obscure glass privacy screen of the same size as the louvre privacy screen shown on the plans.

Lost 1/4

OFFICER AND COMMITTEE RECOMMENDATION

THAT Council GRANT its approval to Commence Development for the proposed Privacy Screen at 31D Curtin Avenue, COTTESLOE in accordance with the plans received on 10 June 2015, subject to the following conditions:

1. At Building Permit stage detailed plans and supporting information shall be submitted including the following, to the satisfaction of the Manager Development Services:
 - a) the louvre blade width, spacing and angle;
 - b) the materials, finish and colour of the privacy screen; and
 - c) the structural engineering of the privacy screen for rigidity and durability.
2. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
3. No alteration or addition to the privacy screen shall be made without further planning and building applications and approvals as required.

Lost 0/5

Mayor Dawkins declared an impartiality interest in items 10.1.2 and 10.1.3 due to residing opposite the sites 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 their merits and vote accordingly.

10.1.2 NO. 28 AVONMORE TERRACE (PROPOSED LOT 505) - TWO-STOREY DWELLING AND POOL

File Ref: 2994
Attachments: [28 Avonmore Aerial](#)
[28 Avonmore Plans](#)
Responsible Officer: Andrew Jackson
Manager Development Services
Author: Ed Drewett
Senior Planning Officer

Proposed Meeting Date: 15 June 2015

Author Disclosure of Interest: Nil
Property Owner: Henriette Stewart
Applicant: Nathan Stewart (Russell Stewart)
Date of Application: 8 August 2014
Zoning: Residential R30
Lot Area: 303m² (proposed)
M.R.S. Reservation: Not applicable

SUMMARY

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

- Building height to top of lift shaft.
- Visual privacy.
- Open space.
- Bulk and scale.

Each of these aspects is discussed in this report and refers to plans received on 2 June 2015.

BACKGROUND

This 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 been granted subdivision approval by the WAPC and are proposed to be developed by the same applicant.

Three dwellings on the adjoining northern lots were approved by Council on 15 December 2014 and are currently under construction. Appeals were subsequently determined by the State Administrative Tribunal (SAT) against two of those applications and all but one of the matters were settled following a Section 31 Direction from the SAT and reconsideration by Council. The outstanding issue was in

respect of a proposed roof garden at 32 Avonmore Terrace and, following written submissions being made by both parties to the SAT, the appeal was upheld.

The southern three lots have received only partial subdivision clearance from the Town, due to unsatisfactory vehicle access being proposed via a tunnel from Deane Street to the proposed south-eastern lot (Lot 506). Although a planning application was submitted for a new dwelling on proposed Lot 506 it has not progressed as it did not comply with LPS 3.

The applicant recently lodged appeals with the SAT for the developments on proposed Lots 504 and 505 (which are both reported on in this Agenda) on the basis of the deemed refusal of the two applications and the exercise of discretion by the Town in deferring and seeking amendments to the application plans. These appeals are currently deferred awaiting Council's determination of the applications.

PROPOSAL

This application is for a dwelling comprising four bedrooms with en suites, WCs, lower family room, upper family room/kitchen, laundry, WIR, lift, two front balconies, undercroft, and a pool at ground level.

STATUTORY ENVIRONMENT

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

MUNICIPAL INVENTORY

Category 4 – street trees in Avonmore Terrace (proposed on LPS 3 Heritage List).

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Local Planning Scheme No. 3

	Permitted	Proposed
Building height	7m to top of lift shaft (RL: 29.9).	7.43m (RL: 30.334)
Matters to be considered by Council	A proposal that satisfies the aims and provisions of LPS 3, including Part 10 of the Scheme.	The bulk and scale of the proposal appears excessive and would not preserve the amenity of the area or appear compatible with the scale and amenity of the locality.

Residential Design Codes

Design Element	Deemed-to-comply	Proposed	Design Principles
Visual privacy	6m cone of vision	3.52m	Clause 5.4.1 –

	from first floor north-facing family room.		P1.1 & 1.2
Open space	Minimum 45%	44.4%	Clause 5.1.4 – P4

ADVERTISING OF PROPOSAL

The application was not advertised as both adjoining proposed lots are owned by the applicant.

DESIGN ADVISORY PANEL

A Design Advisory Panel meeting was convened on 10 December 2014 and attended by the applicant, his planning consultant, Elected Members, Panel Members and Officers, which considered the proposals for Nos 32, 34 and 34A Avonmore Terrace on the first three lots to the north, as well as the designs for Nos 28 and 30 Avonmore Terrace in this overall context.

Panel Members generally acknowledged the site conditions and contemporary designs, whilst appreciating Council's underlying concerns about the proposals in terms of overdevelopment, bulk and scale, built form, streetscape and amenity. Suggestions to improve the designs included:

- Articulation of built form to ameliorate bulk and scale.
- Provision of a sense of relief, separation or space between dwellings by design treatments such as setbacks to common boundaries and balconies and the position and style of screens.
- Engagement with the street by open-aspect, visually permeable designs rather than solid-walled front yards and heavily-screened buildings.
- Attention to detail of quality building materials, finishes and colours.

PLANNING COMMENT

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

Building height

Local Planning Scheme No. 3 permits a maximum 6m wall height, measured to the median height between the lowest and highest points of the wall for a curved roof, and 8.5m to the uppermost part of the building measured vertically above any point of natural ground level.

The Residential Design Codes define natural ground level (NGL) 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 RDC, where NGL varies across the site, as in this case, deemed NGL is to be used which "smoothes out" irregularities for the purposes of calculating building heights.

The applicant has interpolated the natural contours across the lot based on historical TPS 1, which is consistent with that used for the northern three lots that have already been granted development approvals. However, the submitted roof plan which shows the interpolated contours does not appear to be drawn to the correct scale, as the width and length of the lot appears smaller than that shown on the proposed subdivision plan. This will therefore need further clarification prior to being approved.

The proposed curved roof of the dwelling has been designed to the maximum building height permitted under LPS 3. However, due to it extending from the secondary street setback to the proposed northern boundary this exacerbates the bulk and scale of the dwelling, which is of concern as discussed separately in this report.

The proposed lift shaft adjoining the northern boundary will extend above the curvature of the roof and exceeds the maximum permitted height by 0.43m. However, it is considered that this may be treated as a minor projection, together with the chimney proposed towards the front of the dwelling.

A 'minor projection' is defined in the RDC as follows:

In relation to the height of a building: a chimney, vent pipe, aerial or other appurtenance of like scale.

Although the footprint of the lift will be 3.23m², which is larger than that of a typical chimney, the intrusion above the 7m height limit is only 0.43m, as opposed to a chimney which would generally project 1.2m to 1.5m above the roofline. In this context, the lift shaft may be regarded as a minor projection, which is also consistent with a review by the SAT for the lift shaft projection at 32 Avonmore Terrace, which extended 0.6m above the roofline.

The proposed chimney constitutes a 'minor projection' under the RDC and so is not subject to the maximum building height.

Storeys

The proposed basement level does not constitute a storey under LPS 3, as it is not higher than 1m above the footpath level measured at the centre of the land along the boundary to which the space has frontage, and therefore complies.

Setbacks

The proposed dwelling has a minimum front setback of 4.5m.

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.

Front setbacks of less than 6m are quite common in the R30 coded areas and were recently approved by Council for the two dwellings to the north of the site. As such, there is no objection to supporting this setback.

The wall proposed on the northern side of the lot will be partially below ground level and recessed at first floor level in the central northern section to allow for an outdoor living area and northern light to habitable rooms. The wall will range in height from 2.2m to 5.9m above the NGL, with the highest section towards the rear of the proposed lot. Under the RDC, where both the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application (as in this case) the walls on the boundary are deemed-to-comply.

Visual Privacy

A visual privacy concession is sought from the first floor, north-facing, family/kitchen area. 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).*

In this case, as the adjoining northern lot is being created and developed concurrently with the proposed development and has been designed by the same builder, there is no overlooking of existing active habitable spaces or outdoor living areas and the design of the proposed adjoining dwelling has taken into consideration the location of major openings and balconies to avoid privacy impacts. As such, the visual privacy variation satisfies the relevant design principles of the RDC and can be supported.

Open Space

The applicant has detailed the areas included in open space and has advised that at least 51% will be provided, which exceeds the minimum 45% open space required. However, based on the definition of open space in the RDC, it is questionable as to whether all of the nominated areas can be included. The definition of 'open space' in the RDC states:

Generally that area of a lot not occupied by any building and includes:

- *open areas of accessible and useable flat roofs and outdoor living areas above NGL;*
- *areas beneath eaves;*
- *verandahs, patios or other such roofed structures not more than 0.5m above NGL, unenclosed on at least two sides, and covering no more than 10% of the site area or 50m² whichever is the lesser;*
- *unroofed open structures such as pergolas;*
- *uncovered driveways(including access aisles in car parking areas) and uncovered car parking spaces;*

but excludes:

- *non-accessible roofs, verandahs, balconies and outdoor living areas over 0.5m above NGL; and/or*
- *covered car parking spaces and covered walkways, areas for rubbish disposal, stores, outbuildings or plant rooms.*

The calculated areas of open space based on the above definition do not include covered balconies or covered areas less than 0.5m above NGL that are not unenclosed on at least two sides, and therefore Areas F and G should not be included as open space. Furthermore, Area D is shown as 22m² on the ground floor plan but the area based on the submitted written dimensions is 21.36m², so should be reduced accordingly. On this basis the calculated open space is 134.66m² or 44.4%, a shortfall of 1.69m².

This is a relatively small deficiency and the applicant contends that the proposed first floor balcony with a louvred roof falls within the definition of open space and meets design principles of the RDC given the amenity afforded by the option to close the roof in inclement weather. Whilst its inclusion under the definition of open space can be disputed, it is unlikely that such a small shortfall would not satisfy the design principles of the RDC and therefore it could be supported.

Matters to be considered by Council

In addition to the Scheme and RDC requirements, Council is to have regard to the following relevant matters:

- the aims and provisions of the Scheme;*
- the Local Planning Strategy;*
- the requirements of orderly and proper planning;*

- (d) *the compatibility of the development with its setting;*
- (e) *the preservation of the amenity of the locality.*

Council is also to have due regard to the following matters relevant to the development:

- (a) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (b) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (c) *the suitability, durability, quality and aesthetic appeal of building materials, finishes and colours in relation to the development and locality;*
- (d) *any other planning consideration the local government considers relevant.*

The development will extend the full developable width of the proposed 12.83m wide lot, similar to the two northern lots approved by Council last December. However, the widths of those lots are only 9.55m and 9.63m respectively and they are 14m² smaller than this southern lot, whereby space for the developments was more constrained. Further, despite the submission of revised plans on 2 June 2015, the roof is arguably more akin to a flat roof than a curved roof, due to its large expanse which extends the full developable width of the proposed lot, and this exacerbates the overall height, bulk and scale of the development, which together with the adjoining northern proposed and approved developments will be unlikely to preserve the amenity of the area or appear compatible with the scale and amenity of the locality. A preferred option would be to reduce the overall bulk and scale of the dwelling by increasing the curvature of the roof and increasing the setback from the northern boundary, especially to the front portion of the dwelling.

Crossover

The proposed crossover location is to the west of the existing crossover on Deane Street. However, due to the difficulties in providing acceptable vehicle access to the proposed rear Lot 506 (which does not have a current planning proposal under consideration) it is necessary to advise potential owners of Lot 505 that they must have a shared crossover arrangement. Therefore, if this development is approved it is recommended that an S70A Notification be placed on the new lot titles to advise the owners of this requirement.

CONCLUSION

The proposed development is seeking various concessions under the RDC which can be supported under the design principles of the RDC, and the proposed lift shaft can be approved as a minor projection. However, the overall bulk and scale of the development, together with the proposed zero setback along the northern boundary, appears excessive and should be reduced to ensure that it preserves the amenity of the area.

VOTING

Simple Majority

MOTION FOR BEHIND CLOSED DOORS

Moved Cr Jeanes, seconded Cr Angers

In accordance with Standing Orders 15.10 *That the Council meets behind closed doors* – as the subject of items 10.1.2 and 10.1.3 are before the State Administrative Tribunal.

Carried 5/0

Members of the public and the media were requested to leave the meeting at 7:17 PM

OFFICER RECOMMENDATION

Moved Cr Walsh, seconded Cr Jeanes

1. That Council DEFER its approval to commence development for the proposed dwelling at 28 Avonmore Terrace, Cottesloe (proposed Lot 505), as shown on the revised plans received on 2 June 2015, to enable the applicant to submit revised plans that:
 - (i) show a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within the permitted building heights and by increasing the setback from the proposed northern boundary; and
 - (ii) are drawn to scale to match the written dimensions, including the roof plan and contours.

OR

2. THAT Council GRANT its approval to commence development for the proposed dwelling at 28 Avonmore Terrace, Cottesloe (proposed Lot 505), as shown on the revised plans received on 2 June 2015, subject to the following conditions:
 - (i) Revised plans shall be submitted showing a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within the permitted building heights and by increasing the setback to the proposed northern boundary, to the satisfaction of the Town.
 - (ii) Revised plans shall be submitted that are drawn to scale to match the written dimensions, including the roof plan and contours, to the satisfaction of the Town.
 - (iii) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
 - (iv) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.

- (v) 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.
- (vi) The roof surface shall be treated to reduce glare if following completion of the development the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours.
- (vii) The finish and colour of the north-facing boundary wall shall be to the satisfaction of the Town.
- (viii) In accordance with the Town's Fencing Local Law, the proposed fencing in the front setback area shall be 'open-aspect' above 0.9m (or 0.6m to comply with swimming pool regulations), 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, with the piers not exceeding 2.1m in height, and the overall fence height not exceeding 1.8m above the adjoining lower ground level.
- (ix) All air-conditioning and other plant or equipment shall be located below roof-level and selected, designed, positioned and screened so as to be visually concealed and not to appear unattractive or unduly affect views, 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.
- (x) A separate application for construction of a new crossover meeting the Town's specifications and Australian Standards shall be submitted for approval by the Town.
- (xi) 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): traffic management and safety for the streets, worker parking, including off-site parking in consultation with and approval by the Town; and verge and street tree protection.
- (xii) 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 minimised to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.
- (xiii) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Town's street drainage system or the Water Corporation's sewer.

- (xiv) A soakwell 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.
- (xv) Finalisation of the subdivision to create proposed Lot 505 is required prior to the issue of a Building Permit.
- (xvi) A Section 70A Notification shall be placed on the title of the new Lot 505 to advise any owner or purchaser that access may be required to be shared with the proposed rear lot (Lot 506), that no parking will be allowed on the crossover, and that future maintenance and replacement costs will need to be shared in the event that the proposed rear lot is developed. Details evidencing this shall be lodged with the application for a Building Permit, to the satisfaction of the Town.

Advice Notes:

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

OFFICER AND COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Jeanes

1. That Council DEFER its approval to commence development for the proposed dwelling at 28 Avonmore Terrace, Cottlesloe (proposed Lot 505), as shown on the revised plans received on 2 June 2015, to enable the applicant to submit revised plans that:
 - (i) show a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within the permitted building heights and by increasing the setback from the proposed northern boundary; and
 - (ii) are drawn to scale to match the written dimensions, including the roof plan and contours.

Carried 5/0

Mayor Dawkins declared an impartiality interest in items 10.1.2 and 10.1.3 due to residing opposite the sites and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matters on their merits and vote accordingly.

As per resolution on page 21 the meeting remained behind closed doors for the consideration of this item.

10.1.3 NO. 30 AVONMORE TERRACE (PROPOSED LOT 504) - TWO-STOREY DWELLING AND POOL

File Ref: 2992
Attachments: [30 Avonmore Aerial](#)
[30 Avonmore Plans](#)
Responsible Officer: Andrew Jackson
Manager Development Services
Author: Ed Drewett
Senior Planning Officer

Proposed Meeting Date: 15 June 2015

Author Disclosure of Interest: Nil
Property Owner: Henriette Stewart
Applicant: Rededge Enterprises P/L (Russell Stewart)
Date of Application: 8 August 2014
Zoning: Residential R30
Lot Area: 312m² (proposed)
M.R.S. Reservation: Not applicable

SUMMARY

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

- Setbacks.
- Visual privacy.
- Solar access.
- Bulk and scale.

Each of these aspects is discussed in this report and refers to plans received on 2 June 2015.

BACKGROUND

This 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 been granted subdivision approval by the WAPC and are proposed to be developed by the same applicant.

Three dwellings on the adjoining northern lots were approved by Council on 15 December 2014 and are currently under construction. Appeals were subsequently

determined by the State Administrative Tribunal (SAT) against two of those applications and all but one of the matters were settled following a Section 31 Direction from the SAT and reconsideration by Council. The outstanding issue was in respect of a proposed roof garden at 32 Avonmore Terrace and, following written submissions being made by both parties to the SAT, the appeal was upheld.

The southern three lots have received only partial subdivision clearance from the Town, due to unsatisfactory vehicle access being proposed via a tunnel from Deane Street to the proposed south-eastern lot (Lot 506). Although a planning application was submitted for a new dwelling on proposed Lot 506 it has not progressed as it did not comply with LPS 3.

The applicant recently lodged appeals to the SAT for the developments on proposed Lots 504 and 505 (which are both reported on in this Agenda) on the basis of the deemed refusal of the two applications and the exercise of discretion by the Town in deferring and seeking amendments to the application plans. These appeals are currently deferred awaiting Council's determination of the applications.

PROPOSAL

This application is for a dwelling comprising four bedrooms with en suites, WCs, lower family room, upper family room/kitchen, laundry, WIR, lift, two front balconies, undercroft, and a pool at ground level.

STATUTORY ENVIRONMENT

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

MUNICIPAL INVENTORY

Category 4 – street trees in Avonmore Terrace (proposed on LPS 3 Heritage List).

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Local Planning Scheme No. 3

	Permitted	Proposed
Matters to be considered by Council	A proposal that satisfies the aims and provisions of LPS 3, including Part 10 of the Scheme.	The bulk and scale of the proposal appears excessive and would not preserve the amenity of the area or appear compatible with the scale and amenity of the locality.

Residential Design Codes

Design Element	Deemed-to-comply	Proposed	Design Principles
Visual privacy	6m cone of vision from first floor north-facing family room.	4.6m	Clause 5.4.1 – P1.1 & 1.2
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.	Wall on northern boundary up to 6.5m above NGL.	Clause 5.1.3 – P3.2
Solar access	Overshadowing to maximum 35% of adjoining site.	41.5%	Clause 5.4.3 – P2.1 & P2.2

ADVERTISING OF PROPOSAL

The application was not advertised as both the proposed southern and eastern lots are owned by the applicant and the northern lot is currently under construction by the applicant.

DESIGN ADVISORY PANEL

A Design Advisory Panel meeting was convened on 10 December 2014 and attended by the applicant, his planning consultant, Elected Members, Panel Members and Officers, which considered the proposals for Nos 32, 34 and 34A Avonmore Terrace on the first three lots to the north, as well as the designs for Nos 28 and 30 Avonmore Terrace in this overall context.

Panel Members generally acknowledged the site conditions and contemporary designs, whilst appreciating Council's underlying concerns about the proposals in terms of overdevelopment, bulk and scale, built form, streetscape and amenity. Suggestions to improve the designs included:

- Articulation of built form to ameliorate bulk and scale.
- Provision of a sense of relief, separation or space between dwellings by design treatments such as setbacks to common boundaries and balconies and the position and style of screens.
- Engagement with the street by open-aspect, visually permeable designs rather than solid-walled front yards and heavily-screened buildings.
- Attention to detail of quality building materials, finishes and colours.

PLANNING COMMENT

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

Building height

Local Planning Scheme No. 3 permits a maximum 6m wall height, measured to the median height between the lowest and highest points of the wall for a curved roof, and 8.5m to the uppermost part of the building measured vertically above any point of natural ground level.

The Residential Design Codes define natural ground level (NGL) 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 RDC, where NGL varies across the site, as in this case, deemed NGL is to be used which “smoothes out” irregularities for the purposes of calculating building heights.

The applicant has interpolated the natural contours across the lot based on historical TPS 1, which is consistent with that used for the northern three lots that have already been granted development approvals. However, the submitted roof plan which shows the interpolated contours does not appear to be drawn to the correct scale, as the width and length of the lot appears smaller than that shown on the proposed subdivision plan. This will therefore need further clarification prior to being approved.

The proposed curved roof of the dwelling has been designed to comply with the building heights permitted under LPS 3. However, due to its large expanse this exacerbates the bulk and scale of the dwelling which is of concern as discussed separately in this report.

Storeys

The proposed basement level does not constitute a storey under LPS 3, as it is entirely below the average NGL (RL:23.30) at the centre of the lot based on TPS1, and therefore complies.

Setbacks

The proposed dwelling has a minimum front setback of 4.5m.

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.

Front setbacks of less than 6m are quite common in the R30 coded areas and were recently approved by Council for the two dwellings to the north of the site. As such, there is no objection to supporting this setback.

The boundary wall proposed on the southern side of the lot will be partially below ground level. The wall will be up to 5.8m above the NGL, with the highest section towards the centre of the proposed lot boundary. Under the RDC, where both the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application (as is in this case) the walls on the boundary are deemed-to-comply.

The boundary wall on the northern boundary will also be partially below ground level, extending up to 6.5m above the NGL, with the highest section towards the front of the lot. However, unlike the walls on the southern proposed boundary, the adjoining lot (Lot 501) on the northern side was not created in a plan of subdivision submitted concurrently with the development application and therefore the wall on the boundary needs to be assessed under design principles of the RDC, which are as follows:

Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

Buildings built up to boundaries (other than the street boundary) where this:

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *positively contributes to the prevailing development context and streetscape.*

Council originally required the proposed dwelling on Lot 501 to have a minimum 1.2m setback from the southern boundary in front of the lift shaft, or as otherwise agreed by the Town, in order to provide visual separation between the front of the dwelling and the adjoining southern lot. However, following a request by the applicant, Council agreed to transfer this requirement on the basis that development on proposed Lot 504 could more easily accommodate a setback as it was 2.94m wider, and to formalise this a Memorandum of Understanding (MOU) was signed by the owners and the Town.

The applicant has transferred the 1.2m setback to the ground and first floors on the northern side of the proposed development, with a setback of 7.76m from the front boundary. However, the proposed basement will still extend to the northern boundary, even though the MOU provides that the setback was to be for the full

height of the development. Also, a setback depth of 3.27m is proposed, whereas the MOU provides that this should be approximately 3.3m minimum from the front balcony external wall face of the dwelling.

The approved development on the northern adjoining lot will have a two-storey wall along its southern boundary, which will abut the proposed walls on the southern lot. However, as these walls do not exist and will not necessarily be constructed simultaneously it is considered that the proposal does not satisfy the deemed-to-comply requirements in this case.

In terms of considering the proposal under the RDC design principles, and having regard to the MOU, it is acknowledged that following completion of the adjoining northern development the proposed wall on the boundary will not have any significant affect of the adjoining property. However, it is difficult to support the rationale that it would not compromise the design principle that allows a building built up to boundaries only where this positively contributes to the prevailing development context and streetscape.

If the deemed-to-comply setbacks applied the required setbacks from the northern boundary are as follows:

	Required setback	Proposed setback
Basement	1m	0m
Ground floor – en suite to bedroom 2	1.1m	0m
Ground floor – front balcony	1.5m	1.2m
Ground floor – bedroom 3	1m	0m
Ground floor – central courtyard	1.5m	5.75m
Upper floor – living area fireplace	1.2m	0m
Upper floor – front balcony	3.3m	1.2m
Upper floor – bedroom 1	1.2m	0m
Recessed area	2.2m	4.6m

Any increased setback from the northern boundary would likely result in the bulk and scale of the development being reduced, which would more positively contribute to the streetscape. Further, if a 1.2m setback is accepted then this should be for the full height of the development, including the basement, and should have a minimum length of 3.3m from the front balcony external wall face of the dwelling in accordance with the MOU.

Visual Privacy

A visual privacy concession is sought from the first floor, north-facing, family/kitchen area and from the north-facing sections of the ground and first floor front balconies.

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 the adjoining northern lot has been created and is being developed by the same builder, there is no overlooking of existing active habitable spaces or outdoor living areas and the design of the proposed adjoining dwelling has taken into consideration the location of major openings and balconies to avoid issues of privacy impacts. As such, the visual privacy variations satisfies the relevant design principles of the RDC and can be supported.

Solar access

Overshadowing of the adjoining southern lot has been calculated at 41.5%, 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 both western and northern solar access and, although it will have a two-storey solid wall along much 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.

Matters to be considered by Council

In addition to the general Scheme and RDC requirements, Council is also to have regard to the following relevant matters:

- (f) the aims and provisions of the Scheme;
- (g) the Local Planning Strategy;
- (h) the requirements of orderly and proper planning;
- (i) the compatibility of the development with its setting;
- (j) the preservation of the amenity of the locality.

Council is to also have due regard to the following matters relevant to the development:

- (e) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (f) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (g) the suitability, durability, quality and aesthetic appeal of building materials, finishes and colours in relation to the development and locality;
- (h) any other planning consideration the local government considers relevant.

The basement will extend the full width of the proposed 12.5m wide lot, with reduced setbacks to the northern and southern boundaries on the ground and first floors, similar to the two northern lots approved by Council last December. However, the widths of those lots were only 9.55m and 9.63m respectively, and they were 23m² smaller than this southern lot, whereby space for the developments was more constrained. Further, despite the submission of revised plans on 2 June 2015, the proposed roof is arguably more akin to a flat roof than a curved roof, due to its large expanse which extends across most the developable width of the proposed lot, and this exacerbates the overall height, bulk and scale of the development, which together with the adjoining southern proposed development and approved developments on its northern side, will be unlikely to preserve the amenity of the area or appear compatible with the scale and amenity of the locality. A preferred option would be to reduce the overall bulk and scale of the dwelling by increasing the curvature of the roof and increasing the setback from the northern boundary, especially to the front portion of the dwelling, to satisfy the requirements of the MOU.

Crossover

The proposed crossover location will be adjoining two heritage-listed street trees and may require earthworks to the verge and lowering of the footpath. The Town advised the WAPC of these concerns prior to the subdivision being approved and a condition was put on the WAPC approval as follows:

Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.

Whilst the crossover can be supported, to ensure adequate protection of the trees the Town has advised the applicant that a bond will be required reflecting the replacement cost of each of the trees, like-for-like. In this case, a bond of \$10,000 for each tree is recommended (ie, total: \$20,000) which would be repayable only if the health of the trees remains unaffected following one complete summer after completion of the development or completion of the crossover, whichever is the latter. This can be conditioned accordingly.

CONCLUSION

The proposed development is seeking various concessions under the RDC which can be supported under the design principles. However, the overall bulk and scale of the dwelling, together with the proposed zero setback along the northern boundary, appears excessive and should be reduced to ensure that it preserves the amenity of the area and to comply with the MOU. In addition, the scale of the plans received does not match the written dimensions shown and this needs to be addressed to ensure accuracy of the planning assessment.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Jeanes, seconded Cr Angers

1. That Council DEFER its approval to commence development for the proposed dwelling at 30 Avonmore Terrace, Cottesloe (proposed Lot 504), as shown on the revised plans received on 2 June 2015, to enable the applicant to submit revised plans that:
 - (i) show a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within permitted building heights and by extending the proposed 1.2m setback to the northern boundary for the full height of the development, including the basement, for a minimum length of 3.3m from the front balcony external wall face of the dwelling, in accordance with the Memorandum of Understanding between the Town and the owner/s in this respect; and
 - (ii) are drawn to scale to match the written dimensions, including the roof plan and contours.

OR

2. THAT Council GRANT its approval to commence development for the proposed dwelling at 30 Avonmore Terrace, Cottesloe (proposed Lot 504), as shown on the revised plans received on 2 June 2015, subject to the following conditions:
- (i) Revised plans shall be submitted showing a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within permitted building heights and by extending the proposed 1.2m setback to the northern boundary for the full height of the development, including the basement, for a minimum length of 3.3m from the front balcony external wall face of the dwelling, in accordance with the Memorandum of Understanding between the Town and the owner/s in this respect, to the satisfaction of the Town.
 - (ii) Revised plans shall be submitted that are drawn to scale to match the written dimensions, including the roof plan and contours, to the satisfaction of the Town.
 - (iii) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
 - (iv) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.
 - (v) 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.
 - (vi) The roof surface shall be treated to reduce glare if following completion of the development the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours.
 - (vii) The finish and colour of the north and south-facing boundary walls shall be to the satisfaction of the Town.
 - (viii) In accordance with the Town's Fencing Local Law, the proposed fencing in the front setback area shall be 'open-aspect' above 0.9m (or 0.6m to comply with swimming pool regulations), 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, with the piers not exceeding 2.1m in height, and the overall fence height not exceeding 1.8m above the adjoining lower ground level.
 - (ix) All air-conditioning and other plant or equipment shall be located below roof-level and selected, designed, positioned and screened so as to be visually concealed and not to appear unattractive or unduly affect views, 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.

- (x) A separate application for construction of a new crossover meeting the Town's specifications and Australian Standards shall be submitted for approval by the Town.
- (xi) 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): traffic management and safety for the streets, worker parking, including off-site parking in consultation with approval by the Town; and verge and street tree protection.
- (xii) 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 minimised to within permissible levels specified in the Environmental Protection (Noise) Regulations 1997.
- (xiii) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells. Wastewater or backwash water shall not be disposed of into the Town's street drainage system or the Water Corporation's sewer.
- (xiv) A soakwell 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.
- (xv) Finalisation of the subdivision to create proposed Lot 504 is required prior to the issue of a Building Permit.
- (xvi) At Building Permit stage a \$20,000 bond shall be paid to the Town as surety for the health of the two heritage-listed street trees in Avonmore Terrace. This bond will only be repayable providing the health of the trees is unaffected following one complete summer after completion of the development or completion of the crossover, whichever is the latter.

Advice Notes:

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

OFFICER AND COMMITTEE RECOMMENDATION

Moved Cr Jeanes, seconded Cr Angers

- 1. That Council DEFER its approval to commence development for the proposed dwelling at 30 Avonmore Terrace, Cottesloe (proposed Lot 504),**

as shown on the revised plans received on 2 June 2015, to enable the applicant to submit revised plans that:

- (i) show a reduction in the bulk and scale of the proposed dwelling by increasing the curvature of the roof form within permitted building heights and by extending the proposed 1.2m setback to the northern boundary for the full height of the development, including the basement, for a minimum length of 3.3m from the front balcony external wall face of the dwelling, in accordance with the Memorandum of Understanding between the Town and the owner/s in this respect; and
- (ii) are drawn to scale to match the written dimensions, including the roof plan and contours.

Carried 5/0

MOTION FOR BEHIND CLOSED DOORS

Moved Cr Jeanes, seconded Cr Angers

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

Carried 5/0

Members of the public and media were allowed to return to the meeting at 7:49 PM to be advised of the Officer and Committee Recommendation for items 10.1.2 and 10.1.3, but none were present.

10.1.4 REQUEST FOR RESIDENTIAL DENSITY INCREASE - CURTIN AVENUE

File Ref:	SUB/339
Attachments:	Curtin Avenue Density Aerial Curtin Avenue Density Location Map Curtin Avenue Density Property Photos Curtin Avenue Density Submissions
Responsible Officer:	Mat Humfrey, Chief Executive Officer
Author:	Andrew Jackson, Manager Development Services
Proposed Meeting Date:	15 June 2015
Author Disclosure of Interest:	Nil
Zoning:	Residential (R20 presently)
Uses:	Residential (existing and proposed)
MRS Reservation:	Primary Regional Road (future Curtin Ave)

SUMMARY

This report presents a request that a number of lots along Curtin Avenue in north-east Cottesloe have their residential density code increased from R20 to R30. It is a preliminary assessment for Council to consider if it wishes to support the request.

Changing density coding requires a Scheme Amendment, a process which is initiated by the local government and involves public advertising, consideration of submissions, evaluation by the Western Australian Planning Commission (WAPC), and determination by the Minister for Planning.

Sometimes Scheme Amendment requests are made by planning consultants who submit a comprehensive proposal at the proponent's expense. Alternatively, for a request from local landowners, the Town can prepare the Amendment documentation and charge a fee for the service.

A further report would present the formal Amendment proposal in detail to Council, to decide whether to adopt for advertising.

BACKGROUND

In February 2015 following earlier discussion with the Manager Development Services (MDS) the Town received a request from the owners of twelve residential properties along Curtin Avenue between Florence and Grant Streets for a density increase from R20 to R30 – refer to attached standard letter and plan showing the lots (note that the reference to Eric Street is more accurately Florence Street).

One lot in the middle on the corner of Curtin Avenue and Hawkstone Street has not signed the letter. Another owner has withdrawn unconditional support due to concern about redevelopment consequences and recommends design controls to avoid an arbitrary approach.

The letter offers the following rationale for the request:

- Impacts from Curtin Avenue traffic, especially heavy vehicles, and trains.
- Proximity to bus and train transport.
- Ageing dwellings and the cost of upgrading them, including to address road and rail impacts.
- Increased subdivision potential would encourage redevelopment to take advantage of public transport and provide better residential amenity.
- Other areas along Curtin Avenue have R30 or R35 density coding.

In April 2015 the Development Services Committee was briefed on and discussed the request. Committee expressed in-principle support for the proposal, being cognisant of the amenity impacts of main roads and of regional planning objectives for infill housing. It considered that properties along Curtin Avenue could be included in a proposed density increase, but that this should not extend significantly along side streets into the established and quieter residential area.

In late May the MDS updated representative owners and invited further justification for the proposal. This was received in June 2015 – refer to attached letter with photos, which is summarised as follows:

- The density increase would facilitate redevelopment with single or grouped dwellings, orientated to the lanes for frontage and access rather than to Curtin Avenue.
- Similar development has occurred nearby and elsewhere in Cottesloe.
- Such redevelopment would be compatible with the locality.
- Vehicular and pedestrian access would be coordinated and the Curtin Avenue verge could be landscaped.
- There is landowner support for the request and no objection from nearby owners (to date).
- Redevelopment could occur individually or be coordinated between owners, via progressive development applications and owner arrangements.
- The Residential zoning favours that use and the Scheme, policies, etc manage development requirements and standards.
- Advocates up-coding areas of smaller lots with alternative access and close to public transport along Curtin Avenue generally.

STRATEGIC IMPLICATIONS

Relates to residential density, development and types in connection with local and regional planning objectives and mechanisms.

POLICY IMPLICATIONS

A Scheme Policy, Design Guidelines or Local Development Plan may be appropriate.

STATUTORY ENVIRONMENT

- Planning & Development Act 2005
- Local Planning Strategy
- Local Planning Scheme No. 3 (LPS3)
- Residential Design Codes (RDC)

FINANCIAL IMPLICATIONS

Cost-recovery of Amendment preparation.

STAFFING IMPLICATIONS

Assessment of proposal, preparation of reports and administration of Amendment process.

SUSTAINABILITY IMPLICATIONS

Increased density has a nexus with sustainability.

CONSULTATION

To date liaison has occurred with the proponents. A Scheme Amendment process would entail community and agency consultation for information and feedback.

Following advertising, Council considers any submissions and the proposal and decides whether to adopt the Amendment, adopt a modified version or not proceed. Council then forwards the submissions and its resolution to the WAPC for review and advice to the Minister, who makes the final decision to approve the Amendment or a modified version, or to refuse it.

PRELIMINARY ASSESSMENT**Planning context**

LPS3 deals with zoning, land use and development throughout the district. The broad aims of the Scheme are linked to regional planning, the Local Planning Strategy, supporting transport, sustaining population, providing housing variety (subject to community identity and amenity), sustaining character and streetscape, and a convenient, pleasant public domain. The objectives of the Residential zone include encouraging residential development only which is compatible with the scale and amenity of the locality and providing the opportunity for a variety and choice in housing in specified residential areas.

Development implications

This is a starting point for considering proposals. It does not mean that changes may be made *carte blanche* to zoning, density coding or development requirements. Instead they may warrant assessment in their particular contexts having regard to detailed planning aspects and methods.

Typical considerations include the degree and extent of up-coding; resultant lot sizes, subdivision pattern, built form and streetscape; access (side streets and rear lanes are available); traffic generation and circulation; infrastructure and services; possible public open space, plus landscaping; special development controls (Local Development Plan or Special Control Area) or Policy/Design Guidelines. Heritage or character can also be relevant.

Denser development areas usually invite overall plans and controls rather than leaving things to chance.

Site areas (lot sizes) and dwelling types

The current lot sizes range from 426sqm to 765sqm, the most common being 606sqm and 640sqm. Under the Residential Design Codes density codes lot size requirements are:

	R20	R30
Minimum site area (sqm)	350	260
Average site area (sqm)	450	300
Multiple dwelling	450	based on design

Single or grouped dwellings would be suitable in this locality. Multiple dwellings would be denser, but limited to two-storey. Note that in lieu of subdivision at R20, lots of 450sqm may add ancillary accommodation (a granny flat) subject to meeting development requirements.

Planning approach

This is a strategic planning proposal that needs to be carefully considered in relation to LPS3 and ongoing requests for up-coding or rezoning. When LPS3 was prepared Council considered a number of requests for up-coding but did not agree to them all, generally adhering to R20 in north Cottesloe. Council mainly supported density increases to reflect existing lot density rather than to trigger widespread subdivision, demolition and development, or supported selective up-coding in intensive nodes.

An up-coding in this area may prompt further requests. Current density codes along Curtin Avenue on the west are predominantly R20, with some R30 areas (Millers Court, Bird Street and south of Pearse Street).

At R30 density coding the approximate potential lot yield (subject to detailed design) based on the total existing area of 8096 sqm is 23 lots. The ultimate lot and dwelling yield would depend upon the subdivision pattern and form of development.

There are two approaches to land development embracing density increases:

- Increase density coding and leave subdivision and redevelopment to the property owners. This is likely to be a gradual, ad hoc method with mixed results and limited coordination. It applies where owners wish to gain their individual subdivision/redevelopment benefits.
- Prepare a Local Development Plan to guide subdivision layout and control development standards; eg similar to as for the former depot site. This would achieve more coordinated and cohesive subdivision, access and development. The difficulty can be in getting owners to agree to arrangements for joint subdivision and redevelopment. As mentioned, a Scheme Policy or Design Guidelines, or Special Control Area provisions, may be called-for where the circumstances demand detailed governance.

In terms of overall planning the latter would be preferable, albeit more complex.

CONCLUSION

Given that transport corridors cause amenity impacts, the notion of increasing density to expose more dwellings and people to them may seem at odds with orderly and proper planning. Whilst the amenity impacts are acknowledged, they could be addressed by other means by each property and within the public domain corridor.

Nevertheless, as urban areas evolve historical layouts and built form can become ripe for improvement, older dwellings can become outmoded and amenity may deteriorate.

The current request has some basic merit, but requires more detailed examination. The justification is fairly superficial and is founded on stage-of-life and property asset realisation aspirations. It assumes that quality outcomes will materialise from market forces and lacks prescriptive controls.

There is a risk in allowing unmanaged subdivision and denser redevelopment should take the opportunity to improve amenity and streetscape, including avoiding impacts on adjoining areas.

It is concluded that Council should decide whether it wishes to pursue or decline the proposal and if so request staff to report-back on the matter with detailed information and a draft Amendment.

COMMITTEE COMMENT

Committee members indicated that they had given the matter consideration and clarified with the Manager Development Services that a draft Scheme Amendment would include controls over land redevelopment. Cr Walsh expressed concerns that the proposed density increase would not result in orderly and proper planning and that there would be traffic, parking and amenity impacts; whilst the existing dwellings were in good condition.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Jeanes

THAT Council, having considered the request from landowners that lots along Curtin Avenue generally between Florence Street and Grant Street, Cottesloe, undergo a residential density increase from R20 to R30, resolves to SUPPORT the proposal in-principle, and requests staff to report-back on the matter with detailed information and a draft Amendment for further consideration, including the preferred approach to managing subdivision and redevelopment.

Lost 2/3

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 Presiding Member announced the closure of the meeting at 7:50 PM.

CONFIRMED MINUTES OF 15 June 2015 PAGES 1 – 41 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: / /