

**10.1.2 COUNCIL SUBMISSION TO STATE DEVELOPMENT ASSESSMENT UNIT RE: DEVELOPMENT APPLICATION AT LOT 500 (STRATA LOTS 1-7), 120 MARINE PARADE COTTESLOE, FOR NINE (9) STOREY MIXED USE DEVELOPMENT**

**File Ref:** SUB/2798  
**Applicant(s) Proponents:** Planning Solutions on behalf of Gary Dempsey Developments  
**Attachments:** Nil  
**Responsible Officer:** Freya Ayliffe, Director Development and Regulatory Services  
**Author:** Wayne Zimmermann, Manager of Planning  
**Author Disclosure of Interest:** Nil

Cr Harben declared an IMPARTIALITY INTEREST in item 10.1.2 by virtue "The architect on the project is known to me."

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**SUMMARY**

A significant development application for Lot 500 (Strata Lots 1-7) Marine Parade, Cottesloe has been referred by the State Development Assessment Unit (SDAU) to the Town for comment. The SDAU assesses development applications of State or regional significance for determination by the Western Australian Planning Commission (WAPC). The purpose of this report is to provide a Council submission to SDAU on the significant development application.

The development application proposes the demolition of a three (3) storey mixed use building and its replacement with a nine (9) storey mixed use building comprising of two levels of basement car parking, a ground floor commercial tenancy (café/restaurant), eight (8) levels of apartments (total 16 apartments – one being a dual key apartment) and a roof terrace with roof structures above, including a photovoltaic array.

The documents for the development application are contained in the following links:

1. [Proposed Development Application Plans - 120 Marine Parade Cottesloe \(Appendix 3\)](#)
  2. [Applicant Development Applicant Report](#)
  3. [Applicant Architectural Design Statement \(Appendix 4\)](#)
  4. [Applicant R-Codes Volume 2 Assessment \(Appendix 1\)](#)
  5. [Proposed Landscaping Plans \(Appendix 5\)](#)
  6. [Applicant Transport Impact Statement \(Appendix 6\)](#)
  7. [Applicant Access Management Plan \(Appendix 7\)](#)
  8. [Applicant Proposed Waste Management Plan \(Appendix 8\)](#)
  9. [Applicant Sustainability Report \(Appendix 9\)](#)
  10. [Applicant Cover Letter](#)
  11. [Applicant Acoustic Report \(Appendix 10\).PDF](#)
  12. [Applicant Economic Benefit Statement \(Appendix 12\).PDF](#)
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13. [Applicant Heritage Impact Statement \(Appendix 11\).PDF](#)
14. [Applicant Response to DRP minutes \(Appendix 13\).PDF](#)

**BACKGROUND**

Zoning	MRS:	Urban
	LPS:	Foreshore Centre zone
Use Class:		Mixed Use
Development Scheme:		Local Planning Scheme No. 3 (LPS 3)
Lot Size:		561m <sup>2</sup>
Existing Land Use:		Mixed Use
Value of Development:		\$22.75 million
Owner:		120 Marine Parade Pty Ltd

A conceptual development proposal was submitted to the Town for consideration and advice in May 2019 which proposed 6 levels (basement for car/motorbike/bicycle parking) and five floors comprising 10 residential apartments. The application was considered under a pre-lodgement process including submission to the Town's Design Advisory Panel. Comments and advice on the proposal was provided to the applicant however, a final application was never submitted for determination.



**STRATEGIC IMPLICATIONS**

There are no perceived strategic implications arising from the officer’s recommendation.

**POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

**STATUTORY ENVIRONMENT**

- *Planning and Development (Local Planning Schemes) Regulations 2015,*
- *Planning and Development Act 2005 - Part 17 Special provisions for COVID-19 pandemic relating to development applications;*
- *Local Planning Scheme No. 3;*
- *Residential Design Codes.*

**FINANCIAL IMPLICATIONS**

There are no perceived financial implications arising from the officer's recommendation.

**STAFFING IMPLICATIONS**

There are no perceived staffing implications arising from the officer's recommendation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**CONSULTATION**

The application was not advertised by the Town as the Council is not the determining authority. The application is a significant development application for Lot 500 (Strata Lots 1-7) Marine Parade, Cottesloe that has been referred by the State Development Assessment Unit (SDAU) to the Town for comment as required under Part 17 of the planning and Development Act 2005. SDAU has advised that although the submission period closed on 29 January 2021 it has granted Council an extension to comment until the Ordinary Meeting of Council on 23 February 2021. SDAU has further advised verbally that approximately 1000 submissions were received during the advertising period, with approximately 80% objecting to the proposed development application and 20% supporting the proposal.

**OFFICER COMMENT****Local context and site characteristics**

The subject site is located on Marine Parade directly opposite Cottesloe Beach. It is situated between two local landmarks being Cottesloe Beach Hotel approximately 130 metres to the south and the Ocean Beach Hotel approximately 300 metres to the north. The height of existing development along this section of the beachfront ranges from two to six storeys.

The Cottesloe train station is approximately 900 metres south-east of the site which is approximately a 12 minute walk. The immediate surrounds generally comprise a mixture of

commercial and residential development, including restaurants, cafes, shops and various types of accommodation.

There is currently a three storey mixed use building on the site comprising a retail outlet on the ground floor and six apartments located on the second and third storeys. The site has a gentle slope upwards from Marine Parade with a level difference from front to rear of approximately 400mm.

### **Strategic Planning Framework**

#### Perth and Peel @ 3.5 million

This is the overarching spatial framework applicable to the Perth and Peel regions. It provides guidance on where development should occur to ensure sustainable urban growth, protect the environment and heritage and make the most effective use of existing infrastructure. The proposed development is inconsistent with aim of this strategic planning document as it provides only a marginal increase in the residential density of the site and does not adequately satisfy housing choice and diversity requirements for this locality, adversely impacts on the existing public infrastructure along the Cottesloe foreshore through overshadowing and traffic conflict, and adversely impacts on views to and from a State heritage listed site.

#### Central Sub-Regional Framework

The Central Sub-Regional Framework is one of four sub-regional planning framework arising from Perth and Peel @ 3.5 million. It provides the spatial framework which is to guide local governments in achieving optimal urban consolidation over the long term.

The implementation actions of the Central Sub-Regional Framework include to 'promote growth in diversity and density of employment and residential development, where appropriate, in the employment network of activity centres'. Cottesloe Beach is not identified as an 'activity centre' but as a 'Metropolitan attractor' that creates transport and other planning needs. The Cottesloe Town Centre is the designated activity centre under the Central Sub-Regional Framework and consequently the development should be located in the Town Centre.

#### State Planning Policy No.2.6 - State Coastal Planning Policy

The proposed development conflicts with State Planning Policy No.2.6 of the Western Australian Planning Commission in respect to building height. SPP 2.6 specifies that:

- Maximum height limits should be specified as part of controls outlined in a local planning scheme and/or structure plan, in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.
- When determining building height controls in a local planning scheme and/or structure plan, building heights should have due regard to the following planning criteria:
  - development is consistent with the overall visual theme identified as part of land use planning for a locality or in an appropriate planning control instrument such as a local planning strategy;
  - development takes into account the built form, topography and landscape character of the surrounding area;

- the location is part of an identified coastal node;
  - the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and
  - there is overall visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.
- The Town of Cottesloe Local Planning Strategy sets out the long term planning directions for Cottesloe, including the beachfront precinct and sets the development objectives for this area including appropriate building height and form of development. Local Planning Scheme No.3 includes controls to deliver these objectives. The proposed development does not satisfy the criteria in SPP 2.6 as it is contrary to both the Local Planning Strategy and the Local Planning Scheme in terms of building height, built form, overshadowing and visual permeability of the foreshore and ocean.
  - Local Planning Strategy

The Town of Cottesloe's Local Planning Strategy was endorsed by the Western Australian Planning Commission in January 2008 and a review of the strategy is currently being undertaken. The Local Planning Strategy sets out the long term planning directions for Cottesloe, including the recommended approach and actions to address changes that are necessary for the future development of the local government area over the next 10 to 15 years.

The Local Planning Strategy recognises the beachfront precinct along Marine Parade from Eric to Forrest Streets as a specialised node of commercial activity essentially serving the beach recreational, entertainment and holiday trade. It emphasises the future of the beachfront is dependent on the combined local and regional role of this recreational activity node and the need for sensitive land use and development planning. The Strategy supports some mixed use redevelopment focused on beachfront activity whilst restricting permanent residential land use predominating in the area and facilitating the provision of better tourist/visitor facilities along with more short-term accommodation.

The development objectives for the beachfront area include:

- Mixed-use redevelopment focused on beachfront activity;
- The provision of a mixture of land uses with an active commercial/recreational street-front that is not displaced by residential; and
- A built edge to Marine Parade, orientation to a pedestrian promenade, and amenity and built form controls including height and setbacks in respect of views, overshadowing, privacy and urban design.

Although the proposed development includes a commercial tenancy on the ground floor to be used as a café/restaurant with an active interface with Marine Parade, the predominant use in the proposed development is private residential apartments. This is contrary to the objectives and future planning under the Local Planning Strategy for development of the beachfront precinct along Marine Parade.

#### Cottesloe Beach Foreshore Master Plan

The Town has endorsed a Master Plan for improvements to the Cottesloe Beach foreshore adjacent to the site. The Master Plan will guide the enhancement and management of the

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foreshore in the future. Although the proposal will provide some activation along the Marine Parade frontage through a proposed alfresco dining forecourt and possible parklet, the height of the building and vehicle access arrangements will have adverse impacts on the amenity of the area (through overshadowing, loss of views and privacy) and cause serious traffic, pedestrian and cyclist movement and safety issues.

#### Part 17 of the *Planning and Development Act 2005*

The proposal has been assessed against the key considerations for the determination of this application under Part 17 of the PD Act, as follows:

#### The Purpose and Intent of the Local Planning Scheme

The purposes of Local Planning Scheme No.3 (LPS3) include:

- Set out the local government's planning aims and intentions for the Scheme area;
- Zone land within the Scheme area for the purposes defined in the Scheme; and
- Control and guide land use and development.

The aims of the Scheme include:

- To promote the Local Planning Strategy;
- Provide opportunities for housing choice and variety in localities which have a strong sense of community identity and high levels of amenity;
- Ensure that land uses and development adjacent to Marine Parade are compatible with the residential and recreational nature of their setting and the amenity of the locality;
- Ensure that new development is compatible with the conservation significance and aesthetic value of heritage places and areas and coastal landscape; and
- Recognise the principle of the maintenance and enhancement of important views to and from public places.

The proposal conflicts with the aims of LPS3 as it will result in adverse impacts from the increased building height, including overshadowing, loss of privacy, loss of views (including views of a heritage place on the State Register) and reduced amenity for residents and the general public in this important coastal locality. It also fails to deliver appropriate opportunities for housing choice, particularly for holiday and short-stay purposes in a recognised tourist area.

#### Building height

The proposed 9 storey development plus a roof terrace (33.7 metres to top of roof structures, including a photovoltaic array) is contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 (LPS 3) as it exceeds the building height limit of a maximum of five (5) storeys (21 metres above natural ground level) by 12.7 metres. The proposed development application cannot be approved under LPS 3 as there is no discretion under the Scheme to vary the maximum building height.

The height of the development would overshadow adjacent properties, reduce the light and privacy of existing adjacent buildings and adversely impact on the public domain and amenity particularly the coastal foreshore area. The accuracy of overshadowing diagrams

submitted with the current application is questioned. The initial application when it was submitted proposed the same height and similar floor layouts and configuration to the current application however, the shadow diagrams in the initial application depicted a much more extensive area of overshadowing of the foreshore, beach and adjacent buildings. The current application fails to justify or explain the significant reduction in overshadowing from the initial application.

Previous sentiments expressed by the Cottesloe community were that building heights along the coastal foreshore east of Marine Parade should be restricted to a maximum 5-storeys in this location. This position has not changed and is strongly echoed in the community response to the current proposal.

#### Setbacks from Street and other lot boundaries

Under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum 4 metres from Marine Parade. The balconies of the fourth to ninth floors of the proposed development project into this setback area and are located 2.06 metres from the front boundary. This will increase the building bulk and overshadowing of Marine Parade and the Cottesloe foreshore area which will adversely impact on the public domain.

Also under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum of 4metres from the rear eastern boundary. The proposed development does not comply with this requirement as it proposes a rear setback of 3.5 metres from the first to ninth floors which will increase the overshadowing impacts on adjacent properties to the east.

The proposed development has a nil setback to all floors along the southern boundary of the site. This conflicts with the building control diagram 3 for SCA2 in Schedule 15 of LPS3 which indicates that buildings on Lots 1, 500 and 3 Marine Parade, above 12 metres be stepped back along the southern boundaries so that upper levels do not add to the shadow of the 3rd storey according to the angle of the sun in winter at noon on 21 June (winter solstice). The development as proposed will therefore result in increased overshadowing of adjoining and adjacent properties including parts of the beach foreshore which will adversely affect the amenity of the locality.

#### Vehicle access and Parking

Under clause 6.4.3.5(c) of LPS3 no vehicular ingress or egress to Marine Parade is permitted except in the case of Lot 500, where temporary access directly from Marine Parade may be approved, but only in the event that rear vehicular access is not at the time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3 or 500 shall grant a 4 metre wide rear cross-easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment.

Vehicle access to and from Marine Parade is proposed via a single vehicle width crossover and no alternative vehicle access plan or arrangement has been provided to demonstrate how rear access can be achieved in future redevelopment of the adjoining lots. The proponent acknowledges that access could (theoretically) be provided from the rear of the site in the future and the rear of the ground floor is proposed to be constructed at grade



with no permanent structures in the rear setback area and a 4 metre height clearance to the first floor.

The proponent is seeking a variation to the rear access requirement claiming that providing access from the rear would require the removal of the 1.5 metre wide deep soil zone across the rear of the property which is proposed to include trees to soften the rear elevation and this would result in more driveway areas and a poorer design outcome. This variation is not supported as it is contrary to clause 6.4.3.5(c) and Schedule 15 of LPS3 and will result in a permanent access arrangement that is contrary to the aims and objectives of the Cottesloe Foreshore Master Plan to remove and restrict vehicle access to Marine Parade for development along this portion of the foreshore.

The proposed vehicular access arrangements for the development include a vehicle lift to provide access to the two basement levels of car parking (27 car parking bays) plus 6 ground floor parking bays. The car lift operation requirements coupled with access to and from the site is via a single driveway from Marine Parade, will cause traffic conflict and delay to vehicles using this section of Marine Parade and create an unsafe environment for pedestrians and cyclists.

The proposed waste management arrangements for the development application are unacceptable as they are reliant on the waste collection vehicle reversing into the single driveway and loading the waste adjacent to the car lift. This will block any other vehicle access to and from the site while this is occurring. In addition both the Transport Impact Statement and the Access Strategy submitted in support of the application clearly indicate that the pathway for the movement of the waste vehicle to and from the site will cross the existing median strips adjacent to the site on Marine Parade and may cause serious delays to safe traffic movement on Marine Parade. Furthermore no allowance has been made for the 6x660 litre waste bins to be transported through the car lift on collection days (40 mins of usage in and out) and the pick-up area for these bins appears to be inadequate.

#### Orderly and Proper Planning and Preservation of Amenity

The proposal is considered contrary to the orderly and proper planning as it will result in adverse impacts from the increased building height, including overshadowing, loss of privacy, loss of views (including views of a heritage place on the State Register) and reduced amenity for residents and the general public in this important coastal locality.

#### Impact on Views

Lot 500 is located in relatively close proximity (approximately 180 metres to the west) of the Cottesloe Civic Centre which was made a Permanent Entry on the State Heritage Register in 1997. The height and bulk of the proposed development will adversely impact on important views to and from the Cottesloe Civic Centre. This conflicts with the objective of the Foreshore Centre zone under Clause 4.2.3(d) of LPS3 and the endorsed Conservation Plan for the Cottesloe Civic Centre.

In addition the height, reduced setbacks and building bulk of the proposed development will adversely impact on views and privacy of adjacent residential development which is predominantly 2 storeys. Should the proposal be approved it will set a precedent for similar or higher development on adjoining and nearby lots along Marine Parade which will result in an cumulative adverse impact on views along the beachfront and to and from the Civic Centre.

### Use of the Development

Lot 500 is zoned "Foreshore Centre Zone" and is located in 'Special Control Area 2' (SCA2) in LPS3. The aims and objectives of the Scheme for the zone and SCA2 include providing opportunities for housing choice and variety and a limited range of commercial shopping. Clause 6.4.3.1(d) of the Scheme requires in SCA2 that development should provide a minimum of 25% of the total multiple dwellings proposed comprising a maximum plot ratio area of 70m<sup>2</sup> and 25% shall comprise a maximum plot ratio of greater than 70m<sup>2</sup> but not greater than 90m<sup>2</sup>.

The size and composition of the multiple dwellings in the proposed 16 apartment development does not meet this requirement and only one apartment (60m<sup>2</sup>) is proposed through a dual key arrangement. This equates to approximately 6% of the development which is considerably less than the requirements of LPS3.

Although the proposed use of the ground floor is of a commercial nature (cafe/restaurant) the 7 metre depth from the Marine Parade frontage does not comply with the required minimum depth of 9 metres under Clause 6.4.3.5 of LPS3. Under LPS3 a café use is not defined but vehicle parking requirements for a restaurant is 1 car space for every 8 persons accommodated. The proposed cafe/ restaurant use of the commercial tenancy will have a capacity of approximately 40 persons based on an estimated seating area of 70m<sup>2</sup>.

The required car parking for this use is 5 car bays however, the application proposes two car bays and seeks approval to a parking shortfall of two car bays based on an existing parking shortfall of 5 bays for the current shop use on Lot 500. Under the circumstances the shortfall in car parking may be considered through cash-in-lieu arrangements.

### Response to the Economic Effects of the COVID-19 Pandemic

The economic benefits statement submitted in support of the proposal indicates that the development cost is \$22.75 million and that it will provide 69 full-time equivalent direct and indirect jobs during the construction of the development (construction timeframe 18 months) and 8 on-going jobs. The scale of the job creation for the project it is considered marginal and rather insignificant in terms of meeting the criteria as a significant development that represents broad ranging benefits for the State. Apart from unsubstantiated claims that there is significant demand for the proposed apartments no other information has been provided to confirm that finance has been secured for the development and that the project is not relying on pre-sales.

### State Planning Policies and Policies of the WAPC

- State Planning policy 7.0 - Design of the Built Environment (SPP 7.0)

SPP 7.0 sets out the objectives, measures, principles and processes which apply to the design and assessment of built environment proposals through the planning system. It is considered that the application has not provided sufficient justification to demonstrate that the proposed development meets the policy objectives as it:

- Proposes residential development of form and scale inappropriate to the context and the existing character of the Cottesloe foreshore area which will have significant impacts on the neighbouring properties and the public domain.
- Fails to adequately provide for the social, environmental and economic opportunities for new housing in a recognised important tourist locality.

- Proposes development that will adversely impact on and fails to fully respect views of and from a designated important local heritage site.
- Fails to provide residential development that offers future residents the opportunities for better living choices and affordability when seeking a home in the locality.
- In terms of the 10 design principles in SPP 7.0 the proposal was presented to and assessed by the State Design Review Panel (SDRP) on two occasions and only two principles were met through this process, these being legibility and aesthetics of the proposal. The applicant has submitted a response to the SDRP assessment as part of the application and the following comments are provided to this response:

#### Context & Character

The response to the built form and envelope, particularly height is based on a solar analysis which has changed through the application process although the built form and height of the development has only marginally changed. Consequently the findings of the solar analysis are to be questioned. The response by the applicant therefore does not adequately demonstrate that the built form envelope will not adversely impact on the amenity of neighbouring properties through overshadowing. The analysis of views of the Civic Centre is also questionable as it only examines views from specific points within the Civic Centre grounds and fails to properly consider the views of the Civic Centre looking from the beachfront and from other viewpoints along Marine Parade.

In respect to the concerns raised by the SDRP about building mass and the undesirable precedent that will be set if this development is approved, the application clearly demonstrates that these concerns are valid and will not be removed should the proposal be approved.

#### Landscape Quality

The concerns raised by the SDRP regarding the required rear access in the future under LPS3 and the impact on the deep soil areas along the eastern boundary of the site when this occurs are still valid. The applicant's response to this unacceptable as it is based on this not occurring and that vehicle access from Marine Parade will remain permanently in place after the development is approved. In respect to other landscaping provided it is considered that the window planter boxes will have servicing and maintenance issues and the location and types of street trees will need to be carefully planned given the need for safe vehicle and pedestrian movement and the coastal climatic conditions.

#### Built Form and Scale

Refer to Context and Character above.

#### Functionality & Build Quality

The proposed vehicular access arrangements for the development include a vehicle lift to provide access to the two basement levels of car parking (27 car parking bays) plus 6 ground floor parking bays. The car lift operation requirements coupled with access to and from the site via a single driveway from Marine Parade, will cause traffic conflict

and delay to vehicles using this section of Marine Parade and create an unsafe environment for pedestrians and cyclists.

The Traffic Management Plan and the Transport Impact Statement submitted with the application confirm the major problems that will arise should the development application be approved. The proposed access to and from the basement car parks combined with other proposed access arrangements, including for waste management, clearly demonstrate that the traffic management of the development will result in major impacts on traffic circulation, access and safety and therefore it should not be approved.

#### Sustainability

The sustainability elements of the proposed development focus on the heating and cooling elements. It would be helpful to have provided information on the materials that are proposed to be used in the development and the impact of this on the environment.

#### Amenity

The height and bulk of the proposed development will overshadow the adjacent buildings and have a significant impact on the coastal foreshore and the associated public domain. It will also cause visual privacy issues with neighbouring properties and will adversely impact on important views to and from the Cottesloe Civic Centre. The applicant's response does not demonstrate that these issues will be appropriately addressed.

#### Legibility

This element is adequately addressed.

#### Safety

The proposed vehicle and pedestrian access arrangements to and from the proposed development are unacceptable as explained under the 'Functionality & Build Quality' design principle.

#### Community

The size and composition of the multiple dwellings in the proposed 16 apartment development does not satisfy the housing choice and variety provisions under LPS3. The provision of only one apartment (60m<sup>2</sup>) through a dual key arrangement. This equates to approximately 6% of the development which is considerably less than the requirements of LPS3.

As mentioned under the 'Amenity' design principle the height and bulk of the proposed development will overshadow the adjacent buildings and have a significant impact on the coastal foreshore and the associated public domain. In addition it will adversely impact on important views to and from the Cottesloe Civic Centre.

The proposed development therefore fails to properly address this design principle and should not be supported.

### Aesthetics

The aesthetics of the design is understood to capture the ocean feeling of the locality. The size and shape of the balconies that encroach into the front setback area will result in some increase in overshadowing of the public domain. Also the roof deck area is likely to become a rather inhospitable environment for a large part of the time due to climatic conditions particularly the strong south-westerly and westerly winds that occur in this locality.

### **CONCLUSION**

The proposed development is unacceptable and should not be approved for the following reasons:

- The proposed development is contrary to the State Planning Framework including State Planning Policy No.2.6 of the Western Australian Planning Commission in respect to building height and adverse impacts on amenity of the locality.
- The proposed development of nine storeys plus a roof terrace (33.7 metres to top of roof structures, including a photovoltaic array) is contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 (LPS 3) as it exceeds the building height limit of a maximum of five (5) storeys (21metres above natural ground level).

The proposed development application cannot be approved under LPS 3 as there is no discretion under the Scheme to vary the maximum building height.

- Lot 500 is zoned "Foreshore Centre zone" and is located in 'Special Control Area 2' (SCA2) in LPS3. The aims and objectives of the Scheme for the zone and SCA2 include providing opportunities for housing choice and variety and a limited range of commercial shopping. Clause 6.4.3.1(d) of the Scheme requires in SCA2 that development should provide a minimum of 25% of the total multiple dwellings proposed comprising a maximum plot ratio area of 70m<sup>2</sup> and 25% shall comprise a maximum plot ratio of greater than 70m<sup>2</sup> but not greater than 90m<sup>2</sup>. The size and composition of the multiple dwellings in the proposed 16 apartment development does not satisfy this requirement as only one dual key apartment (60m<sup>2</sup>) is provided.
- Under clause 6.4.3.5(c) of LPS3 no vehicular ingress or egress to Marine Parade is permitted except in the case of Lot 500, where temporary access directly from Marine Parade may be approved, but only in the event that rear vehicular access is not at the time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3 or 500 shall grant a 4 metre wide rear cross-easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment.

Vehicle access to and from Marine Parade is proposed via a single vehicle width crossover and no alternative vehicle access plan or arrangement has been provided to demonstrate how rear access can be achieved in future redevelopment of the adjoining lots. The proponent acknowledges that access could (theoretically) be provided from the rear of the site in the future and the rear of the ground floor is proposed to be constructed at grade with no permanent structures in the rear setback area and a 4 metre height clearance to the first floor.

The proponent is seeking a variation to the rear access requirement claiming that providing access from the rear would require the removal of the 1.5 metre wide deep soil zone across the rear of the property which is proposed to include trees to soften the rear elevation and this would result in more driveway areas and a poorer design outcome. This variation is not supported as it is contrary to clause 6.4.3.5(c) and Schedule 15 of LPS3 and will result in a permanent access arrangement that is contrary to the aims and objectives of the Cottesloe Foreshore Master Plan to remove and restrict vehicle access to Marine Parade for development along this portion of the foreshore.

- The proposed vehicular access arrangements for the development include a vehicle lift to provide access to the two basement levels of car parking (27 car parking bays) plus 6 ground floor parking bays. The car lift operation requirements coupled with access to and from the site is via a single driveway from Marine Parade, will cause traffic conflict and delay to vehicles using this section of Marine Parade and create an unsafe environment for pedestrians and cyclists.

The proposed waste management arrangements for the development application are unacceptable as they are reliant on the waste collection vehicle reversing into the single driveway and loading the waste adjacent to the car lift. This will block any other vehicle access to and from the site while this is occurring. In addition both the Transport Impact Statement and the Access Strategy submitted in support of the application clearly indicate that the pathway for the movement of the waste vehicle to and from the site will cross the existing median strips adjacent to the site on Marine Parade and may cause serious delays to safe traffic movement on Marine Parade. Furthermore no allowance has not been made for the 6x660 litre waste bins to be transported through the car lift on collection days (40 mins of usage in and out) and the pick-up area for these bins appears to be inadequate.

- Under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum 4 metres from Marine Parade. The balconies of the fourth to ninth floors of the proposed development project into this setback area and are located 2.06 metres from the front boundary. This will result in some increase in overshadowing of the public domain which is unacceptable.
- Under schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum of 4 metres from the rear eastern boundary. The proposed development does not comply with this requirement as it proposes a rear setback of 3.5 metres from the first to ninth floors which will increase the overshadowing impacts on adjacent properties to the east.
- Lot 500 is located in relatively close proximity (approximately 180 metres to the west) of the Cottesloe Civic Centre which was made a Permanent Entry on the State Heritage Register in 1997. The height and bulk of the proposed development will adversely impact on important views to and from the Cottesloe Civic Centre. This conflicts with the objective of the Foreshore Centre zone under Clause 4.2.3(d) of LPS3 and the endorsed Conservation Plan for the Cottesloe Civic Centre.
- The proposed development has a nil setback to all floors along the southern boundary of the site. This conflicts with the building control diagram 3 for SCA2 in Schedule 15 of LPS3 which indicates that building volumes on Lots 1, 500 and 3 Marine Parade, above

12 metres be terraced so that upper levels do not add to the shadow of the 3rd storey according to the angle of the sun in winter at noon on 21 June (winter solstice). The height of the proposed development coupled with a nil setback on the southern boundary will therefore result in the building encroaching into the area of the winter solstice and cause increased overshadowing of adjoining and adjacent properties including parts of the beach foreshore which will adversely affect the amenity of the locality.

- Although the proposed use of the ground floor is of a commercial nature (cafe/restaurant) the 7 metre depth from the Marine Parade frontage does not comply with the required minimum depth of 9 metres under Clause 6.4.3.5 of LPS3.
- Under LPS3 a café use is not defined but vehicle parking requirements for a restaurant is 1 car space for every 8 persons accommodated. The proposed cafe/ restaurant use of the commercial tenancy will have a capacity of approximately 40 persons based on an estimated seating area of 70m<sup>2</sup>. The required car parking for this use is 5 car bays however, the application proposes two car bays and seeks approval to a parking shortfall of two car bays based on an existing parking shortfall of 5 bays for the current shop use on Lot 500. Although under the circumstances the shortfall in car parking may be considered by Council possibly through a cash-in-lieu arrangement, application has not proposed this as an option.
- The economic benefits statement submitted in support of the proposal indicates that the development cost is \$22.75 million and that it will provide 69 full-time equivalent direct and indirect jobs during the construction of the development (construction timeframe 18 months) and 8 on-going jobs. The scale of the job creation for the project it is considered marginal and rather insignificant in terms of meeting the criteria as a significant development that represents broad ranging benefits for the State. Apart from unsubstantiated claims that there is significant demand for the proposed apartments no other information has been provided to confirm that finance has been secured for the development and that the project is not relying on pre-sales.
- The proposed development does not satisfy sentiments previously expressed by the Cottesloe community that building height along the coastal foreshore east of Marine Parade should be restricted to 5-storeys maximum building height in this location. This position has not changed and is strongly echoed in the community response to the current proposal.

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER RECOMMENDATION**

**Moved Cr Young**

**Seconded Mayor Angers**

1. THAT Council advise the Western Australian Planning Commission that it objects to the proposed nine (9) storey development for Lot 500 (Strata Lots 1-7) Marine Parade, Cottesloe for the following reasons:
  - a) The proposed development is contrary to the State Planning Framework including State Planning Policy No.2.6 of the Western Australian Planning

- Commission in respect to building height and adverse impacts on amenity of the locality.
- b) The proposed development of nine storeys plus a roof terrace (33.7 metres to top of roof structures, including a photovoltaic array) is contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 (LPS 3) as it exceeds the building height limit of a maximum of five (5) storeys (21metres above natural ground level).
  - c) The proposed development application cannot be approved under LPS 3 as there is no discretion under the Scheme to vary the maximum building height.
  - d) Lot 500 is zoned "Foreshore Centre zone" and is located in 'Special Control Area 2' (SCA2) in LPS3. The aims and objectives of the Scheme for the zone and SCA2 include providing opportunities for housing choice and variety and a limited range of commercial shopping. Clause 6.4.3.1(d) of the Scheme requires in SCA2 that development should provide a minimum of 25% of the total multiple dwellings proposed comprising a maximum plot ratio area of 70m<sup>2</sup> and 25% shall comprise a maximum plot ratio of greater than 70m<sup>2</sup> but not greater than 90m<sup>2</sup>. The size and composition of the multiple dwellings in the proposed 16 apartment development does not satisfy this requirement as only one dual key apartment (60m<sup>2</sup>) is provided.
  - e) Under clause 6.4.3.5(c) of LPS3 no vehicular ingress or egress to Marine Parade is permitted except in the case of Lot 500, where temporary access directly from Marine Parade may be approved, but only in the event that rear vehicular access is not at the time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3 or 500 shall grant a 4 metre wide rear cross-easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment.
  - f) Vehicle access to and from Marine Parade is proposed via a single vehicle width crossover and no alternative vehicle access plan or arrangement has been provided to demonstrate how rear access can be achieved in future redevelopment of the adjoining lots. The proponent acknowledges that access could (theoretically) be provided from the rear of the site in the future and the rear of the ground floor is proposed to be constructed at grade with no permanent structures in the rear setback area and a 4 metre height clearance to the first floor.
  - g) The proponent is seeking a variation to the rear access requirement claiming that providing access from the rear would require the removal of the 1.5 metre wide deep soil zone across the rear of the property which is proposed to include trees to soften the rear elevation and this would result in more driveway areas and a poorer design outcome. This variation is not supported as it is contrary to clause 6.4.3.5(c) and Schedule 15 of LPS3 and will result in a permanent access arrangement that is contrary to the aims and objectives of the Cottesloe Foreshore Master Plan to remove and restrict vehicle access to Marine Parade



for development along this portion of the foreshore.

- h) The proposed vehicular access arrangements for the development include a vehicle lift to provide access to the two basement levels of car parking (27 car parking bays) plus 6 ground floor parking bays. The car lift operation requirements coupled with access to and from the site is via a single driveway from Marine Parade, will cause traffic conflict and delay to vehicles using this section of Marine Parade and create an unsafe environment for pedestrians and cyclists.
- i) The proposed waste management arrangements for the development application are unacceptable as they are reliant on the waste collection vehicle reversing into the single driveway and loading the waste adjacent to the car lift. This will block any other vehicle access to and from the site while this is occurring. In addition both the Transport Impact Statement and the Access Strategy submitted in support of the application clearly indicate that the pathway for the movement of the waste vehicle to and from the site will cross the existing median strips adjacent to the site on Marine Parade and may cause serious delays to safe traffic movement on Marine Parade. Furthermore no allowance has not been made for the 6x660 litre waste bins to be transported through the car lift on collection days (40 mins of usage in and out) and the pick-up area for these bins appears to be inadequate.
- j) Under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum 4 metres from Marine Parade. The balconies of the fourth to ninth floors of the proposed development project into this setback area and are located 2.06 metres from the front boundary. This will result in some increase in overshadowing of the public domain which is unacceptable.
- k) Under schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum of 4metres from the rear eastern boundary. The proposed development does not comply with this requirement as it proposes a rear setback of 3.5 metres from the first to ninth floors which will increase the overshadowing impacts on adjacent properties to the east.
- l) Lot 500 is located in relatively close proximity (approximately 180 metres to the west) of the Cottesloe Civic Centre which was made a Permanent Entry on the State Heritage Register in 1997. The height and bulk of the proposed development will adversely impact on important views to and from the Cottesloe Civic Centre. This conflicts with the objective of the Foreshore Centre zone under Clause 4.2.3(d) of LPS3 and the endorsed Conservation Plan for the Cottesloe Civic Centre.
- m) The proposed development has a nil setback to all floors along the southern boundary of the site. This conflicts with the building control diagram 3 for SCA2 in Schedule 15 of LPS3 which indicates that building volumes on Lots 1, 500 and 3 Marine Parade, above 12 metres be terraced so that upper levels do not add to the shadow of the 3rd storey according to the angle of the sun in winter at noon on 21 June (winter solstice). The height of the proposed development coupled with a nil setback on the southern boundary will therefore result in the building encroaching into the area of the winter solstice and cause increased

overshadowing of adjoining and adjacent properties including parts of the beach foreshore which will adversely affect the amenity of the locality.

- n) Although the proposed use of the ground floor is of a commercial nature (cafe/restaurant) the 7 metre depth from the Marine Parade frontage does not comply with the required minimum depth of 9 metres under Clause 6.4.3.5 of LPS3.
- o) Under LPS3 a café use is not defined but vehicle parking requirements for a restaurant is 1 car space for every 8 persons accommodated. The proposed cafe/restaurant use of the commercial tenancy will have a capacity of approximately 40 persons based on an estimated seating area of 70m<sup>2</sup>. The required car parking for this use is 5 car bays however, the application proposes two car bays and seeks approval to a parking shortfall of two car bays based on an existing parking shortfall of 5 bays for the current shop use on Lot 500. Although under the circumstances the shortfall in car parking may be considered by Council possibly through a cash-in-lieu arrangement, application has not proposed this as an option.
- p) The economic benefits statement submitted in support of the proposal indicates that the development cost is \$22.75 million and that it will provide 69 full-time equivalent direct and indirect jobs during the construction of the development (construction timeframe 18 months) and 8 on-going jobs. The scale of the job creation for the project it is considered marginal and rather insignificant in terms of meeting the criteria as a significant development that represents broad ranging benefits for the State. Apart from unsubstantiated claims that there is significant demand for the proposed apartments no other information has been provided to confirm that finance has been secured for the development and that the project is not relying on pre-sales.
- q) The proposed development does not satisfy sentiments previously expressed by the Cottesloe community that building height along the coastal foreshore east of Marine Parade should be restricted to a maximum 5-storeys in this location. This position has not changed and is strongly echoed in the community response to the current proposal. Furthermore, though the Town is supportive of increased residential density, it is the Town's preference and the WAPC's policy that this increase in density occur within the Transit Orientated Development Area (TOD), not Marine Parade.

2. That this entire report be forwarded to the Western Australian Planning Commission.

Cr Tucak proposed an amendment to add points r) and s) to the motion. Following discussion, Cr Young and Mayor Angers (as mover and seconder of the motion) agreed to incorporate Cr Tucak's amendments into the substantive motion.

- r) The proposed development is inconsistent with the State Government's Strategic Planning Framework for the Perth and Peel regions as it:
  - is located adjacent to the Cottesloe Beach foreshore which is not identified as an 'activity centre' but as a 'Metropolitan attractor' and such development should be located in the Cottesloe Town Centre which is the designated activity centre

- under the Central Sub-Regional Framework;
  - does not adequately provide housing choice and diversity requirements for this locality;
  - adversely impacts on the existing public infrastructure along the Cottesloe foreshore through overshadowing and traffic conflict; and
  - adversely impacts on views to and from a State heritage listed site.
- s) The proposed development is inconsistent with State Planning Policy 7.0 Design of the Built Environment as it fails to satisfy the 10 Design Principles that underpin the policy, including Context and character and Built form and scale as outlined in Council's report.

**COUNCILLOR RATIONALE:**

1. Point r) picks up comments in the Officer's Report on the Sub-Regional Framework.
2. Point s) addresses the importance of 'good design' in significant State developments.

**OCM019/2021****SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

1. **THAT Council advise the Western Australian Planning Commission that it objects to the proposed nine (9) storey development for Lot 500 (Strata Lots 1-7) Marine Parade, Cottesloe for the following reasons:**
  - a) **The proposed development is contrary to the State Planning Framework including State Planning Policy No.2.6 of the Western Australian Planning Commission in respect to building height and adverse impacts on amenity of the locality.**
  - b) **The proposed development of nine storeys plus a roof terrace (33.7 metres to top of roof structures, including a photovoltaic array) is contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 (LPS 3) as it exceeds the building height limit of a maximum of five (5) storeys (21metres above natural ground level).**
  - c) **The proposed development application cannot be approved under LPS 3 as there is no discretion under the Scheme to vary the maximum building height.**
  - d) **Lot 500 is zoned "Foreshore Centre zone" and is located in 'Special Control Area 2' (SCA2) in LPS3. The aims and objectives of the Scheme for the zone and SCA2 include providing opportunities for housing choice and variety and a limited range of commercial shopping. Clause 6.4.3.1(d) of the Scheme requires in SCA2 that development should provide a minimum of 25% of the total multiple dwellings proposed comprising a maximum plot ratio area of 70m2 and 25% shall comprise a maximum plot ratio of greater than 70m2 but not greater than 90m2. The size and composition of the multiple dwellings in the proposed 16 apartment development does not satisfy this requirement as only one dual key apartment (60m2) is provided.**
  - e) **Under clause 6.4.3.5(c) of LPS3 no vehicular ingress or egress to Marine Parade is permitted except in the case of Lot 500, where temporary access directly**

from Marine Parade may be approved, but only in the event that rear vehicular access is not at the time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3 or 500 shall grant a 4 metre wide rear cross-easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment.

- f) Vehicle access to and from Marine Parade is proposed via a single vehicle width crossover and no alternative vehicle access plan or arrangement has been provided to demonstrate how rear access can be achieved in future redevelopment of the adjoining lots. The proponent acknowledges that access could (theoretically) be provided from the rear of the site in the future and the rear of the ground floor is proposed to be constructed at grade with no permanent structures in the rear setback area and a 4 metre height clearance to the first floor.
- g) The proponent is seeking a variation to the rear access requirement claiming that providing access from the rear would require the removal of the 1.5 metre wide deep soil zone across the rear of the property which is proposed to include trees to soften the rear elevation and this would result in more driveway areas and a poorer design outcome. This variation is not supported as it is contrary to clause 6.4.3.5(c) and Schedule 15 of LPS3 and will result in a permanent access arrangement that is contrary to the aims and objectives of the Cottesloe Foreshore Master Plan to remove and restrict vehicle access to Marine Parade for development along this portion of the foreshore.
- h) The proposed vehicular access arrangements for the development include a vehicle lift to provide access to the two basement levels of car parking (27 car parking bays) plus 6 ground floor parking bays. The car lift operation requirements coupled with access to and from the site is via a single driveway from Marine Parade, will cause traffic conflict and delay to vehicles using this section of Marine Parade and create an unsafe environment for pedestrians and cyclists.
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fourth to ninth floors of the proposed development project into this setback area and are located 2.06 metres from the front boundary. This will result in some increase in overshadowing of the public domain which is unacceptable.

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represents broad ranging benefits for the State. Apart from unsubstantiated claims that there is significant demand for the proposed apartments no other information has been provided to confirm that finance has been secured for the development and that the project is not relying on pre-sales.

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- r) The proposed development is inconsistent with the State Government's Strategic Planning Framework for the Perth and Peel regions as it:
- is located adjacent to the Cottesloe Beach foreshore which is not identified as an 'activity centre' but as a 'Metropolitan attractor' and such development should be located in the Cottesloe Town Centre which is the designated activity centre under the Central Sub-Regional Framework;
  - does not adequately provide housing choice and diversity requirements for this locality;
  - adversely impacts on the existing public infrastructure along the Cottesloe foreshore through overshadowing and traffic conflict; and
  - adversely impacts on views to and from a State heritage listed site.
- s) The proposed development is inconsistent with State Planning Policy 7.0 Design of the Built Environment as it fails to satisfy the 10 Design Principles that underpin the policy, including Context and character and Built form and scale as outlined in Council's report.
2. That this entire report be forwarded to the Western Australian Planning Commission.

Carried 9/0

COUNCILLOR RATIONALE:

1. Point r) picks up comments in the Officer's Report on the Sub-Regional Framework.
2. Point s) addresses the importance of 'good design' in significant State developments.