



Form 1 - Responsible Authority Report (Regulation 12)

Property Location:	Lots 14 and 15 (220) Marine Parade, Cottesloe
Application Details:	Mixed-use development (4 multiple dwellings and a café)
DAP Name:	Metro West JDAP
Applicant:	Peter D Webb and Associates
Owner:	Berrimel No. 2 Pty Ltd
LG Reference:	3408
Responsible Authority:	Town of Cottesloe
Authorising Officer:	Andrew Jackson, Manager Development Services
Department of Planning File No:	DAP/16/01070
Report Date:	16 September 2016
Application Receipt Date:	4 July 2016
Application Process Days:	90 Days
Attachment(s):	<ol style="list-style-type: none">1. Aerial2. Applicant submission received 4 July 2016.3. Applicant submission received 16 September 2016.4. Bushfire Attack Level Certificate.5. Schedule of Submissions.6. Map of nearby submitters.7. Public submissions.8. Plans received 16 September 2016.

Officer Recommendation:

That the Metro-West JDAP resolves to:

Refuse DAP Application reference DAP/16/01070 and accompanying plans A01/05, A02/05, A03/05, A04/05 and A05/05 received 16 September 2016 in accordance with Schedule 2, Part 9 of the Planning and Development (Local Planning Schemes) Regulations 2015 (as amended) and Town of Cottesloe Local Planning Scheme No.3, for the following reasons:

1. The proposed development does not comply with Local Planning Scheme No. 3 with respect to the maximum permitted building height and number of storeys in a Residential R25 zone.
2. A café (shop) is not a permitted use in the Residential R25 zone under Local Planning Scheme No. 3.
3. The proposed development does not fall within the non-conforming use provisions of Local Planning Scheme No. 3 and is therefore not capable of being approved because the physical development fails to comply with non-discretionary development requirements.

4. The proposed development does not satisfy the requirements of clause 5.3.5 in Local Planning Scheme No. 3 for the proposed increased density to be approved as it will not complement the character of the streetscape, it will detrimentally increase the mass and scale of the development relative to existing development on adjoining properties, it has not been demonstrated that it will improve landscaping on the land and it will not provide adequate and safe means of vehicular and pedestrian access to the land with respect to the proposed café use.
5. The proposed development does not satisfy the Aims, Residential zone Objectives, or provisions of Local Planning Scheme No.3 and the Planning and Development (Local Planning Schemes) Regulations 2015, as amended, as it would not sustain the amenity, character and streetscape quality of the locality, and it does not represent orderly and proper planning.
6. The application fails to provide adequate information, or satisfactorily address relevant Design principles of the Residential Design Codes, with respect to:
 - (a) Street setback
 - (b) Lot boundary setbacks
 - (c) Solar access
 - (d) Visitor parking location
 - (e) Visual privacy
 - (f) Sightlines
 - (g) Landscaping

Background:

Property Address:	Lots 14 and 15 (220) Marine Parade, Cottesloe
Zoning	MRS: Urban
	LPS: Residential R25
Use Class:	Multiple dwellings – ‘D’ use (means that the use is not permitted unless the local government has exercised its discretion by granting planning approval); Café (shop) – ‘X’ use (means a use that is not permitted by the Scheme).
Strategy Policy:	None
Development Scheme:	Local Planning Scheme No. 3
Lot Size:	728m ²
Existing Land Use:	Multiple dwellings
Value of Development:	\$9.65 million

The Town emailed the applicant on 28 July and 8 August 2016 requesting further information to enable an assessment of the proposal to be completed in terms of Local Planning Scheme No. 3 and the Residential Design Codes. Follow-up emails were also sent on 15 and 24 August 2016.

A Bushfire Attack Level (BAL) Certificate was received on 18 August 2016 and amended plans and a covering letter were received on 16 September 2016.

Details:

The application proposes the demolition of an older-style building comprising 3 storeys and containing 9 multiple dwellings, and construction of a new building comprising 5 storeys, 4 multiple dwellings and a café, as described below:

Basement	8 car bays, 5 storerooms, stairs, access ramp & lift.
Ground level	Apartment 1 (279.8m ²) & café (23.7m ²)
Level 1	Apartment 2 (273.7m ²)
Level 2	Apartment 3 (273.7m ²)
Levels 3 & 4	Apartment 4 (275.7m ² lower floor + 75.4m ² upper floor)

Legislation & policy:Legislation

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015, as amended (PDR)
- Local Planning Scheme No. 3 (LPS 3)
- Residential Design Codes (RDC)

Specifically

- PDR: Schedule 2 - Parts 9, 10A
- LPS 3: Clauses 1.6, 4.2.1, 4.10, 4.11, 5.3.5, 5.7, Schedule 13
- RDC: Part 5 – Multiple dwellings in areas coded less than R40

State Government Policies

- State Planning Policy 3.1 – Residential Design Codes of Western Australia
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas

Local Policies

Nil.

Consultation:Public Consultation

The application was advertised by letter from 1 to 22 August 2016 to 253 owners/occupiers located within a catchment area bounded by Ozone Parade (both sides), Grant Street, North Street and Marine Parade. The advertising period was then extended to 29 August 2016 to allow for advertising in a local newspaper.

At the conclusion of advertising, 50 written submissions were received. All the submissions oppose the proposed development. A Schedule of Submissions is attached summarising the comments received.

The key objections raised in the submissions included concerns regarding:

- Building height
- Overshadowing
- Views
- Amenity
- Café use – location/noise/litter/parking
- Setbacks
- Precedent
- Orderly and proper planning
- Short-stay accommodation use
- Non-conforming use
- Design
- Cash windfall

A summary of these key points was provided to the applicant on 8 September 2016 at their request.

Consultation with other Agencies or Consultants

Nil.

Planning assessment:

Legal Advice

The Town has obtained legal advice from Borrello Graham Lawyers regarding two principal issues:

- Whether the application is properly determined by the Metro-West Joint Development Assessment Panel (MWJDAP); and
- Whether the proposed development the subject of the Application is capable of being approved under the non-conforming use provisions of the Scheme.

A summary of the solicitor's advice is provided below:

The application is properly determined by the MWJDAP as an optional DAP application, but only on the basis that the Application seeks approval of the proposed development as a single mixed-use development comprising both 4 multiple dwellings and the café. Otherwise, neither component of the development, considered separately, would constitute a DAP application.

As such, it is not open to the MWJDAP to grant planning approval that does not include the café because this would involve the approval of a development that is different in a fundamental respect from the development the subject of the application. Similarly, if the application is approved, it would not be open to a developer to 'not proceed' with the café.

The application is not made under clause 5.3.5 of the Scheme, which deals specifically with the redevelopment of existing multiple dwellings, and clearly does not comply with the provisions of clause 5.3.5. Rather, the application is made under the non-conforming use provisions of the Scheme and can only be approved if it falls within those provisions.

The existing development is properly considered to be a non-conforming use, described as '9 multiple dwellings'.

The proposed development involves both a change of this existing non-conforming use, and physical development associated with the proposed new use.

Insofar as the proposed development involves a change of use from the existing non-conforming use to another use, the application falls within the non-conforming use provisions of clause 4.11.1(c) of the Scheme and is *capable* of being approved.

However, insofar as the proposed development involves physical development, being the demolition of the building used in conjunction with the existing non-conforming use and the erection of a new 5-storey building to accommodate the proposed new use, the application does not fall within the non-conforming use provisions of clause 4.11.1(b) of the Scheme. Clause 4.11.1(b) deals with the ability to erect, alter or extend a building used in conjunction with or in furtherance of an existing non-conforming use, whereas the proposed development is to erect a building to be used in relation to the proposed new use. The physical development proposed by the Application is therefore *not capable* of being approved, because it fails to comply with various development requirements under the Scheme including (amongst others) maximum building height provisions, which there is no discretion to vary.

While this is enough to dispose of the application, there are also strong grounds to refuse the proposed change of use.

Clause 4.11.3 of the Scheme allows an existing non-conforming use to be changed to a use that is not permitted under the Scheme, despite anything contained in the Zoning Table. However, under clause 4.11.3, in order to grant approval for the change of use, the decision-maker must be satisfied that:

- (a) the proposed use "is less detrimental to the amenity of the locality than the existing non-conforming use"; and*
- (b) the proposed use is "closer to the intent of the zone" than the existing non-conforming use.*

Clause 4.11.4 of the Scheme allows the decision-maker to determine the development requirements applicable to the land for the purpose of determining the application for the change of use from the existing non-conforming use to a use that is not permitted under the Scheme. However, in determining what development requirements to apply in relation to the change of use, the decision-maker is required to have regard to the objectives of the zone in which the use is located. Under clause 4.2.1 of the Scheme, those objectives include to:

- (a) encourage residential development only which is compatible with the scale and amenity of the locality;*
- (b) provide the opportunity for a variety and choice of housing in specified residential areas;*
- (c) allow for some non-residential uses where they are compatible with the amenity of residential localities;*

As to clause 4.11.3, the café component of the proposed new use is likely to fall within the 'Shop' use-class under the Scheme, which is a prohibited use in the Residential zone. Even on the limited scale as proposed, there are clearly grounds to support a view that the inclusion of this additional, prohibited, use is not less detrimental to the amenity of the locality than the existing use of 9 multiple dwellings, and (in particular) is not closer to the intent of the zone than the existing non-conforming use.

As to clause 4.11.4, this is only activated in relation to the proposed change of use under clause 4.11.1(c). It is not activated in relation to the proposed physical development, because the physical development does not fall under clause 4.11.1(b). It therefore only allows the determination of the development requirements applicable to the land in relation to the change of use, not the physical development. The only such development requirement appears to be in relation to vehicle parking, and no basis is provided to apply a development requirement other than that which would ordinarily apply.

Finally, even if it was considered that the proposed physical development falls under clause 4.11.1(b) of the Scheme, so that clause 4.11.4 provides a discretion to determine the development requirements applicable to the land in relation to that physical development, as set out above the decision-maker is required to have regard to the objectives of the zone in determining what development requirements to apply in relation to the physical development. The proposed physical development involves a 5 storey building, in a locality where the scale of development normally permitted is limited to 2 storeys, and which involves a greater departure from the relevant development requirements than the building used in conjunction with the existing non-conforming use. Having regard to the objectives of the Residential zone, there is no basis upon which to exercise the discretion in clause 4.11.4 to apply development requirements that would allow the approval of the physical development.

The conclusion reached is that the physical development the subject of the application **is not capable of approval** under the Scheme and as such, the MWJDAP has no power to approve the application.

Issues raised during public consultation

The table below is a summary of the key issues raised during the public consultation period:

Outcome of consultation			
	Key issue	Summary	Planning Comment
1	Building height	Five storeys is too high; Dominate the streetscape; Support for two storeys, or maximum three storeys.	A 2 storey height limit applies in R25 zone under Local Planning Scheme No.3, except where a development satisfies clause 5.3.5 which may allow maximum of 3 storeys (10m).

			<i>The proposed development does not satisfy Local Planning Scheme No. 3 requirements.</i>
2	Overshadowing	Cast shadow over residential properties to the south and east.	<p>Subject to the requirements under Clause 5.4.2 'Solar access for adjoining sites' of the Residential Design Codes.</p> <p><i>The proposed development does not satisfy the deemed-to-comply requirements of the RDC, and the applicant has failed to satisfactorily address relevant design principles.</i></p>
3	Views	Resultant loss of views to and from surrounding residential properties.	<p>Aims of Local Planning Scheme No. 3 include recognising the principle of the maintenance and enhancement of important views to and from public places.</p> <p><i>The proposed development does not satisfy the relevant aims of Local Planning Scheme No.3.</i></p>
4	Amenity	Height, bulk and scale - will significantly impact on the amenity of residential properties and streetscape.	The aims of Local Planning Scheme No. 3 include to 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

			<p>locality; and, ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront environment.</p> <p><i>The proposed development does not satisfy the relevant aims of Local Planning Scheme No.3.</i></p>
5	Café (shop) use	<p>Not a permitted use; Issues include: Parking Lighting Noise Litter.</p>	<p>Café (shop) use is not permitted in the R25 zone under Local Planning Scheme No. 3;</p> <p>Vehicle parking standards apply in accordance with Local Planning Scheme No. 3.</p> <p><i>1.185 bays are required on-site. The proposed development does not provide any allocated vehicle bays for the non-residential use.</i></p> <p>The use is required to be compatible with the amenity of the locality under Local Planning Scheme No. 3;</p> <p><i>The proposed development does not satisfy the relevant aims of the Local Planning Scheme No.3.</i></p> <p>Health regulations</p>

			<p>apply.</p> <p><i>Insufficient information has been provided to assess this provision.</i></p>
6	Setbacks	Non-compliant.	<p>Required to satisfy Part 5 of the Residential Design Codes.</p> <p><i>The proposed development does not comply with the deemed-to-comply requirements of the Residential Design Codes and the Design principles have not been addressed.</i></p>
7	Precedent	Sets an undesirable precedent.	Each application will be assessed on its merits. However, approval based on a change of a non-conforming use and involving a prohibited use and non-permitted physical development could set a precedent.
8	Orderly and proper planning	Inconsistent with orderly and proper planning.	<p>Due regard to orderly and proper planning is required under the Planning & Development (Local Planning Schemes) Regulations 2015.</p> <p><i>The proposed development does not satisfy this requirement.</i></p>
9	Short stay accommodation use	The inclusion of a café creates concern that the development could be used for short-stay accommodation.	Short-stay accommodation is not permitted in an R25 zone.

10	Non-conforming use	Existing residential use is not non-conforming and a café does not exist.	<p>The existing residential density on the lot is non-conforming with Local Planning Scheme No. 3.</p> <p><i>The proposed physical development is not capable of being approved under Local Planning Scheme No. 3 (refer to legal advice).</i></p>
11	Design	Not consistent with the coastal environment.	<p>The aims of Local Planning Scheme No. 3 include to ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront locality.</p> <p><i>The proposed development does not satisfy the relevant aims of Local Planning Scheme No.3.</i></p>
12	Cash windfall	Cash windfall for the owner. Adjoining residential properties will be devalued.	An increase in property value resulting from the granting of a planning approval is not a relevant planning consideration providing the development satisfies all relevant planning legislation, including sustaining the amenity, character and streetscape quality of the Scheme area.

			<i>The proposed development does not satisfy the relevant aims of Local Planning Scheme No.3.</i>
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The tables below set out the planning assessment of the proposal against the provisions of Local Planning Scheme No. 3, the Residential Design Codes, the Planning and Development (Local Planning Schemes) Regulations 2015, as amended, and submissions received during advertising.

Planning assessment	Complies	Requires exercise of discretion (if permitted)
Multiple dwellings use		✓
Change of non-conforming use for proposed development		Not permitted
Café (shop)		Not permitted
Building height (5 storeys)		Not permitted
Density		✓
Street setback		✓
Lot boundary setbacks		✓
Setbacks of garages and carports	✓	
Garage width	✓	
Street surveillance	✓	
Open space	✓	
Solar access		✓
Parking – residential	✓	
Parking - cafe		✓
Design of parking spaces	✓	
Outdoor living areas	✓	
Street Surveillance	✓	
Site works	✓	
Retaining walls	✓	
Visual privacy		✓
Sightlines		✓
Street walls and fences	✓	
Vehicle access	✓	
Landscaping		✓
General matters to be considered		✓
Bushfire risk management	✓ (BAL-LOW)	

Local Planning Scheme No. 3	Multiple dwellings
'D' use	Not permitted unless the decision-maker has exercised its discretion by granting planning approval.

Comment

The proposed multiple dwellings do not satisfy the requirements of Local Planning Scheme No. 3, the Residential Design Codes or the Planning and Development (Local Planning Scheme) Regulations 2015, as amended, for the reasons already discussed in this report, and as such the proposed multiple dwellings cannot be legally approved (refer to legal advice above).

**Local
Planning
Scheme No. 3****Change of non-conforming use****Comment**

The ventured change of non-conforming use from '9 multiple dwellings' to '4 multiple dwellings and café' is not permitted under Clause 4.11 of Local Planning Scheme No. 3 for the reasons provided in the legal advice discussed in this report.

Even if it were to be considered, the proposed café would not be less detrimental than the existing residential use and would not be closer to the intent of the Residential zone, so would not satisfy Clause 4.11.3 of the Scheme.

As there is currently no café on the site it also cannot be determined that it would be used *in conjunction with, or in furtherance of* a non-conforming use, or that it would satisfy the objectives of the Residential zone. The use therefore does not satisfy clause 4.11.4 of the Scheme.

**Local
Planning
Scheme No. 3****Café use****Comment**

A café use is appropriately classed as a 'Shop' in Local Planning Scheme No. 3 and is not a permitted use in a Residential R25 zone. It therefore cannot be approved (refer to legal advice above).

**Local
Planning
Scheme No. 3****Building height**

Permitted

2-storeys (6m wall height, 8.5m ridge height or 7m flat roof building height), although this may be increased to 3 storeys (maximum 10m) subject to the development satisfying clause 5.3.5 of Local Planning Scheme No. 3.

Applicant's
proposal

5 storeys (up to 18.1m above existing ground level)

Comment

"Building height" is defined in Local Planning Scheme No.3 (clause 5.7.1) as follows:

Means the maximum vertical distance between any point of natural ground level and the uppermost part of the building directly above that point (roof ridge, parapet, or wall), excluding minor projections above that point.

Schedule 13 of Local Planning Scheme No. 3 excludes clause 5.7.1 from the operation of discretion to exceed the absolute height limits.

For the redevelopment of existing multiple dwellings only, as in this case, clause 5.3.5 in Local Planning Scheme No.3 allows specific discretion to consider up to 3 storeys and 10m in height.

Clause 5.3.5 of LPS 3 states, inter alia:

Notwithstanding any other clause in this Scheme, the proposed development may be considered for additional building height (maximum one additional storey) over the prevailing permissible building height for the locality where, in the opinion of the local government, the original number of dwellings (and their replacement plot ratio) cannot be appropriately accommodated on the lot without an increase in height.

However, the proposed development cannot be approved under this clause as it significantly exceeds the maximum permitted building height above the assumed natural ground level.

The non-conforming use provisions of the Scheme also are not relevant to this development proposal for the reasons already discussed in this report (refer to legal advice above).

The amended plans submitted by the applicant on 16 September 2016 do not provide sufficient evidence that the contours represent natural ground levels as determined by a licensed surveyor, and do not include a site plan and/or roof plan showing the natural ground levels at the base of the proposed walls and roof to assist in accurately calculating building heights.

Local Planning Scheme No. 3	Density
Permitted	Maximum 2.08 units based on R25 zoning, although this may be increased subject to the development satisfying clause 5.3.5 of Local Planning Scheme No. 3.
Applicant's proposal	4 multiple dwellings and a café.

Comment

The proposed density is double the permitted density and therefore may only be approved if it satisfies the specific criteria referred to in clause 5.3.5 of Local Planning Scheme No.3, as it does not satisfy the non-conforming use provisions (refer to legal advice above).

Clause 5.3.5 states, inter alia:

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme can, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map, equal to, but not exceeding the existing

built density, subject to the proposed development -

- (a) complementing the character of the streetscape;*
- (b) not detrimentally increasing the mass, scale or surface area of the development relative to existing development on surrounding properties;*
- (c) resulting in improved landscaping of the land;*
- (d) providing adequate and safe means of vehicular and pedestrian access to the land; and*
- (e) providing an adequate number of car parking spaces on the land.*

Four units are proposed which is five less than the existing number of units and may therefore be considered under clause 5.3.5 of Local Planning Scheme No.3, subject to the proposed development satisfying all of the above criteria.

However, the resultant mass and scale of the proposed development would significantly impact on the character of the predominantly single residential streetscape and have a major detrimental impact on the amenity of residential properties in the locality, particularly due to loss of ocean views and overshadowing of the adjoining residential dwellings (the owners all whom have objected to the proposal).

There are also no specific parking bays provided for the proposed café (customers or staff) and this would likely result in parking and access difficulties as no on-street parking is allowed on the eastern side of Marine Parade and parking bays in the area are at a premium during the summer period. Customers would therefore either park illegally on the eastern side of the road or would have to cross busy Marine Parade.

Details have also not been provided with respect to the provision of a loading area, the frequency of goods and deliveries or refuse collection details for the proposed café, and these could all further impact on vehicular and pedestrian safety.

For these reasons, the proposed density cannot be approved as it does not satisfy the criteria under clause 5.3.5 of Local Planning Scheme No. 3.

Street setback	Deemed-to-comply provision	Design principles
Requirement	<ul style="list-style-type: none">• In accordance with Table 1 (ie: 6 metres);• corresponding to the average of the setback of existing dwellings on each adjacent property fronting the same	<p>Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none">• contribute to, and are consistent with, an established streetscape;• provide adequate privacy and open space for dwellings;

	<p>street;</p> <ul style="list-style-type: none"> reduced by up to 50 per cent provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of open space between the setback line and line drawn parallel to it at twice the setback distance. 	<ul style="list-style-type: none"> accommodate site planning requirements such as parking, landscape and utilities; and allow safety clearances for easements for essential service corridors. <p>Buildings mass and form that:</p> <ul style="list-style-type: none"> uses design features to affect the size and scale of the building; uses appropriate minor projections that do not detract from the character of the streetscape; minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and positively contributes to the prevailing development context and streetscape.
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Applicant's proposal	<p><u>Primary street</u></p> <ul style="list-style-type: none"> Apartment 1 – minimum 3.7m; Apartments 2, 3 & 4 – minimum 4.8m Café – 3.1m (0.5m to canopy)
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Comment

The Town requested further details from the applicant to confirm compliance with the deemed-to-comply requirements of the Residential Design Codes as the Design principles had not been addressed by the applicant.

The letter and amended plans submitted by the applicant on 16 September 2016 appear to incorrectly states that the proposed minimum setback to the café is 3.7m, whereas the plans show a minimum 3.1m. Also, plan A01/05 does not show the calculation of determining an average front setback correctly, as the compensating area does not take account of the required northern and southern boundary setbacks as shown in Figure 2A of the Residential Design Codes.

Lot boundary setbacks	Deemed-to-comply provision	Design principles
Requirement	<ul style="list-style-type: none"> The proposed walls on boundaries (undercroft, 	Buildings set back from lot boundaries so as to:

	<p>drying area and covered walkway) do not satisfy the deemed-to-comply requirements of the R-Codes as they are on more than one boundary;</p> <ul style="list-style-type: none">• A minimum 3.1m setback is required from the Apartment 3 – bed 1 ensuite to the southern boundary;• A minimum 4m setback is required from the Apartment 4 bed 1 ensuite and balcony to the southern boundary;• A minimum 4m setback is required from the Apartment 3 balcony to the northern boundary;• A minimum 4.3m setback is required from the Apartment 4 lobby-stair recess to the northern boundary; and• A minimum 4.8m setback is required from the Apartment 4 balcony to the northern boundary.	<ul style="list-style-type: none">• 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
Applicant's proposal	<p><u>Southern setbacks</u></p> <ul style="list-style-type: none">• 2.6m – Apartment 3 (bed 1 ensuite)• 2.6m – Apartment 4 (bed 1 ensuite)• 3.8m – Apartment 4 (side balcony) <p><u>Northern setbacks</u></p> <ul style="list-style-type: none">• 3.95m – Apartment 3 (front balcony)• 3.95m – Apartment 4 (front balcony)	
<p><u>Comment</u></p> <p>The applicant has not provided a contour survey plan by a licensed surveyor to accurately determine natural ground levels. The calculated setbacks are therefore based on ground levels provided by the applicant.</p> <p>In any event, the bulk and scale of the proposed development is significantly larger than the surrounding dwellings and any reduced boundary setbacks would further impact on the amenity of the locality to the detriment of adjoining residents.</p> <p>The letter and amended plans submitted by the applicant on 16 September 2016 do not satisfactorily demonstrate how the design principles of the Residential Design Codes have been addressed for the proposed walls on the lot boundaries to be</p>		

approved. Also, the applicant has not addressed the design principles with respect to the other setback requirements, but rather has incorrectly asserted that they can be approved because the proposal is for a change of a non-conforming use (refer to legal advice above).

Solar access	Deemed-to-comply provision	Design principles
Requirement	Not to exceed 25% on adjoining southern property.	<p>Effective solar access for the proposed development and protection of the solar access.</p> <p>Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:</p> <ul style="list-style-type: none"> • outdoor living areas; • north facing major openings to habitable rooms, within 15 degrees of north in each direction; or • roof mounted solar collectors.

Applicant's proposal 72%

Comment

The proposed development will have a significant impact on neighbouring residential properties due to the extent of overshadowing that will be much greater than that of the existing 3 storey development. For this reason, the shadow cast cannot be supported under Design principles.

The letter and amended plans submitted by the applicant on 16 September 2016 advise that the proposed overshadowing of the southern adjoining site is 263m² (72%). However, the applicant has not addressed the relevant design principles of the Residential Design Codes.

Visual privacy	Deemed-to-comply provision	Design principles
Requirement	<p>Required cone of vision from lot boundary:</p> <ul style="list-style-type: none"> • Major openings to bedrooms and studies: 4.5m; • Major openings to habitable rooms 	<p>Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</p> <ul style="list-style-type: none"> • building layout and location; • design of major

	<p>other than bedrooms and studies: 6m;</p> <ul style="list-style-type: none">Unenclosed outdoor active habitable spaces: 7.5m <p>Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6m in height, at least 75 per cent obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking into any adjoining property.</p>	<p>openings;</p> <ul style="list-style-type: none">landscape screening of outdoor active habitable spaces; and/orlocation of screening devices. <p>Maximum visual privacy to side and rear boundaries through measures such as:</p> <ul style="list-style-type: none">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/orscreen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).
Applicant's proposal	<ul style="list-style-type: none">4.2m – Apartment 2 (bed 2)4.2m – Apartment 3 (bed 2)4.2m – Apartment 4 (bed 2)4m – Apartment 4 (gallery)7.2m – Apartment 1 (side balcony)6.5m – Apartment 2 (side balcony)6.5m – Apartment 3 (side balcony)6.5m – Apartment 4 (side balcony)	
<p><u>Comment</u></p> <p>The proposed development does not satisfy the deemed-to-comply requirements and the applicant has not addressed the relevant Design principles.</p>		

Sight lines	Deemed-to-comply provision	Design principle
Requirement	Walls, fences and other	Unobstructed sight lines

	structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoining vehicle access points where a driveway meets a public street.	provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way (ROW), communal streets, crossovers, and footpaths.
Applicant's proposal	The driveway to the undercroft parking area is adjoining an existing 1.2m high wall where it abuts the front boundary along the southern boundary.	
<u>Comment</u>		
<p>To ensure adequate sightlines are provided, the proposed driveway to the undercroft parking area is required to be setback a minimum 1.5m from the southern boundary where it adjoins the street, or the adjoining southern boundary wall is to be reduced to a maximum 0.75m height within the 1.5m truncation area, as the applicant has not satisfactorily addressed the design principles.</p> <p>The letter and amended plans submitted by the applicant on 16 September 2016 do not satisfactorily address the sightline requirements or the height of the existing southern boundary wall.</p>		

Landscaping	Deemed-to-comply provision	Design principles
Requirement	<p>Landscaping of multiple dwelling common property and communal open spaces in accordance with the following:</p> <ul style="list-style-type: none">the street setback area developed without car parking, except for visitors' bays, and with a maximum of 50 per cent hard surface; andunroofed visitors' car parking spaces to be effectively screened from the street.	<p>Landscaping of grouped and multiple dwelling common property and communal open spaces that:</p> <ul style="list-style-type: none">contribute to the appearance and amenity of the development for the residents;contribute to the streetscape;enhance security and safety for residents;provide for microclimate; andretain existing trees to maintain a local sense of place.
Applicant's proposal	<ul style="list-style-type: none">The potential hardstand in the front setback exceeds 50%;The unroofed visitor bay is not effectively screened from the street.	

Comment

The letter and amended plans submitted by the applicant on 16 September 2016 does not satisfy the deemed-to-comply requirements and the applicant has not addressed the relevant design principles of the Residential Design Codes for this to be approved.

Planning and Development (Local Planning Schemes) Regulations 2015

Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following relevant matters:

- the aims and provisions of this Scheme;
- the requirements of orderly and proper planning;
- any approved State planning policy;
- any policy of the Commission;
- any policy of the State;
- the compatibility of the development with its setting including the relationship of the development 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 development;
- the amenity of the locality including the following:
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- the adequacy of:
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- the history of the site where the development is to be located;
- the impact of the development on the community as a whole notwithstanding

the impact of the development on particular individuals;

- any submissions received on the application; and
- any other planning consideration the local government considers appropriate.

Comment

- The proposed development does not satisfy the aims and objectives of Local Planning Scheme No.3 as it would not sustain the amenity, character and streetscape quality of the locality.
- The proposed development does not comply with Local Planning Scheme No. 3 with respect to building heights, permitted storeys, change of non-conforming use provisions or redevelopment of existing grouped or multiple dwellings.
- The means of access to the site and the required sight lines do not satisfy the Residential Design Codes, which would impact on traffic safety.
- No specific on-site carbays or loading facilities are proposed for the café and this will result in parking difficulties in the area, especially in summer.
- 50 submissions have been received, all objecting to the proposal.

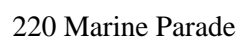
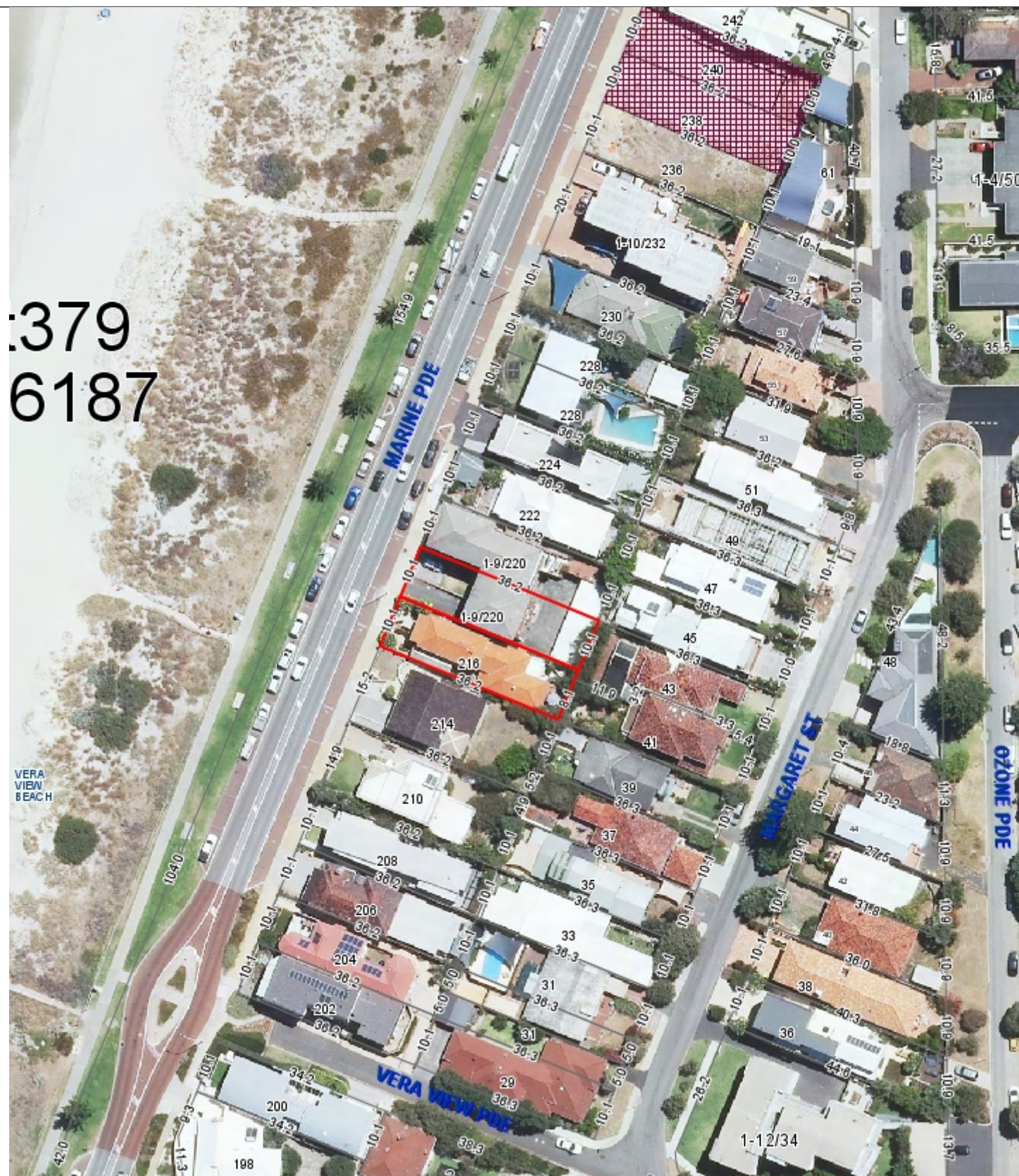
Conclusion:

The proposed development the subject of the application is not capable of approval under the Scheme and as such, the MWJDAP has no power to approve the application.

Furthermore, the proposed development does not satisfy the Aims, Residential zone Objectives or provisions of Local Planning Scheme No.3 and the Planning and Development (Local Planning Schemes) Regulations 2015, as amended, as it would not sustain the amenity, character and streetscape quality of the locality and it does not represent orderly and proper planning.

The applicant has also failed to address the relevant design principles with respect to satisfying the development standards of the Residential Design Codes, and a significant number of submissions have been received from nearby owners and occupiers, all of which have objected to the proposal.

VERA
VIEW
BEACH



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13/09/2016





Application for Planning Approval (Change of Non-Conforming Use)

Proposed Mixed Use Development (Multiple Dwellings & Café)

Lots 14 & 15 (#220) Marine Parade, Cottesloe



Application for Planning Approval (Change of Non-Conforming Use)

Proposed Mixed Use Development (Multiple Dwellings & Café)

Lots 14 & 15 (#220) Marine Parade, Cottesloe

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Job Number:	C2116
Version / Date:	Final / 22 June 2016

Prepared for:

BERRIMEL NO.2 PTY LTD

175 Barrington Street
BIBRA LAKE WA 6163

- 4 JUL 2016

RECEIVED

1.0 INTRODUCTION

Peter D Webb and Associates has been engaged by Mr Mark Ratta (Director of Berrimel No.2 Pty Ltd) to prepare and submit an Application for Planning Approval for Multiple Dwellings & Restaurant (Café) at Lots 14 & 15 (#220) Marine Parade, Cottesloe.

The proposed development will replace the existing nine (9) Multiple Dwellings on the site which exist as a Non-Conforming Use. Therefore, the proposed development will be a **Change of Non-Conforming Use**.

The subject site is zoned "Residential R25" in the Town of Cottesloe Local Planning Scheme No. 3 (LPS 3) and the proposed uses which are contemplated are able to be considered by the Responsible Authority for Approval.

1.1 Joint Development Assessment Panel (JDAP) Determination

Due to the anticipated construction cost being **\$9.65 million**, the Development Application will be required to be determined by the Metro-West Joint Development Assessment Panel (JDAP) as an "opt-in" Application.

The JDAP process has been developed in order to streamline approval processes for large-scale development proposals and act in the place of the local government in making decisions on whether or not to grant approval.

Accordingly, please find **attached** our completed Town of Cottesloe Application for Development Approval Form and DAP Form 1, both signed by the Directors of Berrimel No.2 Pty Ltd (the landowner).

Please also find **attached** the prescribed Application fees including the Town's fees of \$22,212.00 and the required DAP fees of \$5,409.00 being provided in a single cheque as a combined total fee of **\$27,621.00** (based on the anticipated construction cost of \$9.65 million).

Following is a supporting report outlining the details of the proposal as well as the location, the site and relevant planning background and supporting rationale.

2.0 BACKGROUND AND LOCATION DETAILS

Applicant:	Peter D Webb & Associates
Landowner:	Berrimel No.2 Pty Ltd
Zoning:	LPS 3: "Residential R25"
	MRS: "Urban"
Scheme:	Local Planning Scheme No. 3 (LPS 3)
Current NCU:	9 Multiple Dwellings
Lot Size:	728m ² (combined)
Proposed Use Class:	"Multiple Dwellings" & "Restaurant" (Café)

The subject land comprises Lots 14 & 15 (#220) Marine Parade, Cottesloe. The Certificate of Title details of the site are included at **Annexure 1**.

The subject site has a total (combined) land area of 728m² and has a (combined) frontage of 20.12m to Marine Parade (Refer **Figure 1**: Landgate Plan).

Vehicular access and car parking will continue to be derived from Marine Parade.

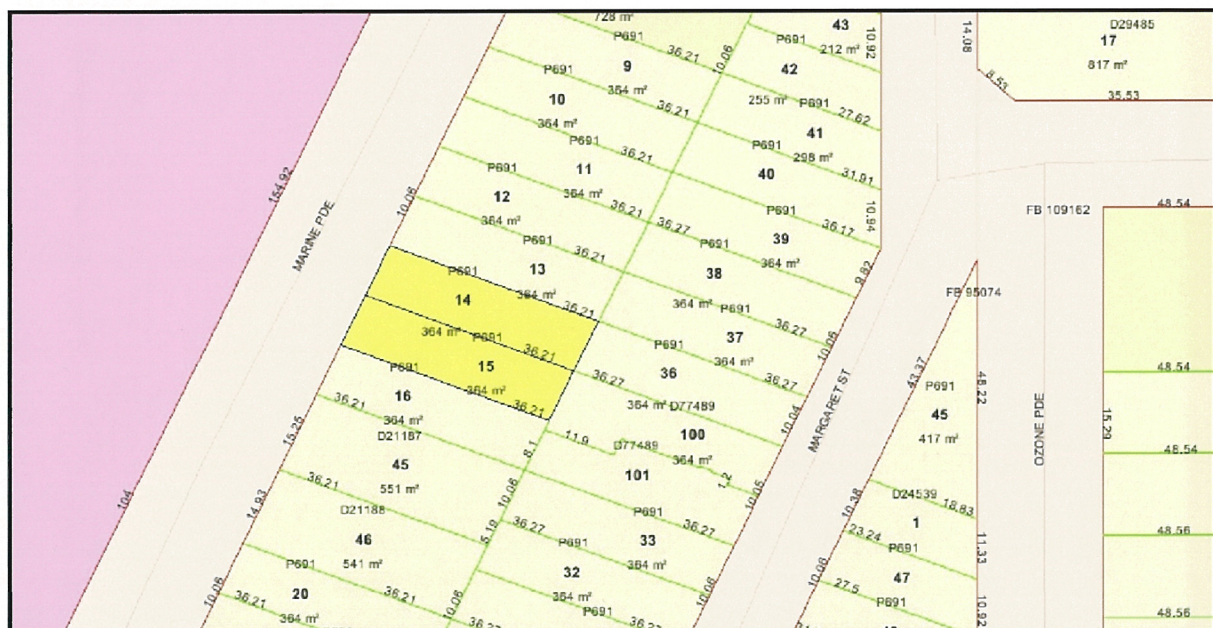


Figure 1: Landgate Plan

The site is currently improved with nine (9) Multiple Dwellings which exist as a Non-Conforming Use. (Please refer to Clause 4.2 below). The site currently accommodates a 3 storey (+ basement) apartment building, with each habitable floor comprising 3 x one bedroom one bathroom apartments of identical configuration.

The layout of the site and its context are outlined in the Aerial Photograph (Nearmap) in **Figure 2** below.



Figure 2: Aerial Photograph (Nearmap)

Photos of the site and its surrounds are included at **Annexure 2**.

3.0 THE PROPOSAL

The proposed Change of Non-Conforming Use from Nine (9) "Multiple Dwellings" to a Mixed Use development comprising Four (4) "Multiple Dwellings" & "Restaurant" (Café) is depicted on Development Plans prepared by R.M. Davey & Associates, included at **Annexure 3**.

The development will include four (4) three bedroom, two bathroom Multiple Dwellings, each on its own level, plus basement car parking, and a small café.

Apartment 4 will have its own roof deck for outdoor living.

Access to the basement parking level will occur at the southern end of the site, from Marine Parade. The basement parking level will accommodate nine (9) parking bays, together with storage areas for each apartment, as required.

The proposed development represents a plot ratio area of 1.1.

4.0 PLANNING ASSESSMENT

4.1 Zoning & Land Use

The subject site is zoned “Residential R25” in the Town of Cottesloe Local Planning Scheme No. 3 (LPS 3).

The proposed “Multiple Dwellings” are a “D” (Discretionary) use in the Residential R25 zone and the proposed Restaurant is an “X” (Not Permitted) Use in the Residential R25 zone.

4.2 Non-Conforming Uses

Particularly relevant to this proposal to redevelop the land are Clauses 4.10 and 4.11 of LPS 3.

Clause 4.10 refers to both use and development of a site and there is a legal distinction that has been drawn between the two.

Development is defined in the *Planning and Development Act 2005 (WA)* as ‘the development or use of land.’

Legal advice provided to the Applicant on this issue notes that a similar definition of ‘development’ was found in the repealed *Town Planning and Development Act 1928 (WA)*. In relation to that definition, Burt CJ said in *University of Western Australia v City of Subiaco (1980) 52 LGRA 360* that the definition makes use of and encompasses two ideas:

- a) *The first being ‘use’ of the land which ‘comprises activities which are done in ...or on the land but do not interfere with the actual physical characteristics of the land’, and*
- b) *The second being activities which result in some physical alteration to the land which has some physical degree of permanence to the land itself.’*

In relation to Clause 4.11, we note that:

4.11.1. A person must not —

- (a) **alter or extend a non-conforming use;**
- (b) *erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or*
- (c) *change the use of land from an existing non-conforming use to another use, other than as set out in clause 4.9(a), **without first having applied for and obtained planning approval under the Scheme.***

4.11.2. **An application for planning approval required by this clause is to be advertised in accordance with clause 9.4.**

4.11.3. **Despite anything contained in the Zoning Table, the local government may approve the change of use of land from an existing non-conforming use to a use that is not**

permitted under this Scheme, if the local government considers that the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is closer to the intent of the zone.

4.11.4. *In determining an application for a change of use of land from an existing non-conforming use to a use that is not permitted under this Scheme, or to alter or extend a non-conforming use, or to erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use, the local government is to have regard to the objectives of the zone in which the use or building is located and is to determine the development requirements applicable to the land.*

Lawyers for the Applicant (Lavan Legal) also respectfully submit that:

The law regarding the relevance of non-conforming/existing uses in planning assessments was considered in detail in *Galati and City of Rockingham* [2007] WASAT 198. In that case, Senior Member Parry stated (at [27]-[33]):

The correct approach to the determination of the scope of the protection afforded by non-conforming/existing use provisions was stated by Kitto J, with whom Owen J agreed, in Shire of Perth v O'Keefe & Anor at 534 as follows:

"But at the outset it is necessary to observe that the 'existing use' by-laws take two steps which should be kept distinct from one another.

*First it is required that a **purpose be identified** as the end for which it can be seen that the premises are being used at the date of gazettal of the by-laws.*

*Then the provision is made that the land may continue to be used for that purpose: **not that the precise manner of use for that purpose may alone continue but that use generally for that purpose may continue.***

The application of the by-law in a particular case has therefore not to be approached through a meticulous examination of the details of processes or activities, or through a precise cataloguing of individual items of goods dealt in, but by asking what, according to ordinary terminology, is the appropriate designation of the purpose being served by the use of the premises at the material date.

In that regard, we have been made aware that a very recent case from the NSW Supreme Court of Appeal *Jojeni Investments Pty Ltd v Mosman Municipal Council* [2015] NSWCA 147 (**Jojeni**) dealt with very similar considerations and in particular, the appropriate level of examination required when assessing non-conforming use rights (or existing use rights in NSW).

The Jojeni case dealt with a circumstance where the land in question contained 2 flats, lawfully constructed in 1933. The relevant town planning scheme was changed such that flats were no

longer permitted on the land despite the residential zoning. The issue arose when the applicant applied for an additional flat on the basis of an existing (non-conforming) use right.

In *Jojeni*, the NSW Court of Appeal found that:

- a) to characterise the proposed use as “residential” (and therefore that there was no non-conforming use right) was too general.*
- b) given that flats of any density were not permitted in the zone, it was correct to characterise the non-conforming use as “flats”, and that being the case, there was nothing preventing the site from being used for “flats” into the future.*
- c) it was too specific to characterise the use by reference to the number of flats, or the area or location of the flats, primarily as in that case the number of flats were not relevant to determination of whether the use was permitted or not.*

This is a slightly different set of circumstances in this case, in that the non-conforming use right claimed is the use of the land for the purposes of 9 multiple dwellings.

In assessing whether or not a non-conforming use right exists, it is Lavan’s view that:

- a) It is too general to say that the use or purpose of the existing use is “residential” and therefore there is no non-conforming use rights;
- b) It is too general to say that the use or purpose is for multiple dwellings, as multiple dwellings are discretionary under the scheme in the zone, and as a result, there is no non-conforming use right.
- c) It is more appropriate to note that the current zoning will only allow 1 multiple dwelling on the site due to the land area, and that because the site is used for 9 multiple dwellings, the permissibility of the use is solely related to density requirements. On that basis, the site enjoys non-conforming use rights as assessed against that general use of 9 multiple dwellings; and
- d) It is too specific, in asserting a non-conforming use right, to compare what is proposed against a site characterised as 9 multiple dwellings, in a 3 level building etc. etc.

In this case, the permissibility of the use is intrinsically linked to the physical development on the land, and in particular, the number of dwellings, rather than the underlying zoning as “residential”. It is Lavan’s view, that non-conforming use rights exist for that reason.

Therefore, Clause 4.11 of LPS 3 essentially provides that the Council is able to consider a proposal for four (4) Multiple Dwellings and a proposed Restaurant (Café) on this site (even though normally, a proposal such as this may not be permitted) as we contend that non-conforming rights exist for this site.

4.3 Objectives of the Zone

There is no stated "intent" of the Residential Zone in LPS 3. The objectives of the Residential Zone however are included at Clause 4.2.1 of LPS 3 to:

- (a) *encourage residential development only which is **compatible with the scale and amenity** of the locality;*
- (b) *provide the opportunity for a variety and choice in housing in specified residential areas;*
- (c) *allow for some non-residential uses where they are compatible with the amenity of residential localities; and*
- (d) *encourage the retention of local facilities and services within specified residential areas for the convenience of the local community.*

In relation the Scheme Objective which requires the Proponent to, '...encourage residential development only which is compatible with the scale and amenity of the locality', it is apparent that the existing nine (9) multiple dwellings on the site will be reduced to four (4) multiple dwellings, together with a small café.

The proposed development is considerably more consistent and compatible with the scale of residential development in the immediate locality, than that which currently exists.

Further, the design of the proposed residential development as part of this Application is also more consistent with the more contemporary architectural design which also features along this part of Marine Parade and more appropriately, reflects the increased value of the properties in this immediate locality.

In relation to the objective requiring the opportunity for variety and choice in housing in this area, it is evident that the proposal the subject of this Application adds to the quality and choice of residential development which is more consistent with the community's expectations in this area.

In relation to the provision requiring some non-residential uses, we have incorporated a small café within the complex which would add to the vibrancy and general community expectation for a casual meeting place within close proximity to the beach environment.

The fourth objective is not relevant to this development as it relates to the local government's responsibilities to retain 'local facilities and services....for the convenience of the local community.'

Therefore it is evident that the development proposed as part of this Application, meets the relevant objectives of the Scheme.

4.4 Amenity

The term "amenity" is defined by LPS 3 as:

"All those factors which combine to form the character of an area and include the present and likely future amenity."

The locality of the site can be defined by reference to the properties immediately abutting the land, as well as those north and south of Marine Parade, predominated by large single and older 3-4 storey multiple dwellings. This is the context in which the property sits.

Other elements which affect the consideration of amenity, include issues such as overlooking, overshadowing and possible impact on views from adjoining and nearby residences.

In the first instance, as the development complies with the Residential Design Codes of WA (R-Codes), it is evident that no overlooking issues arise as the building conforms with the requirements of the R-Codes in this regard.

The attached drawings also include an overshadowing diagram and it is evident from the drawing, that the residential development to the immediate south of the subject site is not compromised by non-complying overshadowing from the subject property.

Not only does the minimal overshadowing comply with the requirements of the R-Codes, that part of the adjoining building which is affected by any overshadowing, comprises primarily of the 'service' rooms rather than of major habitable rooms which generally face west (or east). (Refer attached drawings provided by Mr Davey).

Therefore, the proposed height of the development the subject of this Application will not impact upon or compromise the amenity of the locality as it will not contribute to overlooking or overshadowing issues which are required to be addressed by the R-Codes.

To assist in the Panel's understanding of the development, we provide herewith perspectives of the proposed development which we believe, put the development in context with its neighbours.

4.5 Residential Design Codes of WA

The design of each of the dwellings generally respects the requirements of Part 6 of the R-Codes in relation to Multiple Dwellings.

4.5.1 Car Parking

In relation to car parking, we provide the Town with general advice on car parking opportunities proposed in the development.

The Proponents have been able to provide a total of 9 car parking bays, which complies with the R-Codes requirements (Part 6). This is considered in the following:

4 units at >110m ²	= 1.5 bays each	= 6 bays
Visitors	= 0.25 per dwelling	= 1 bays

TOTAL BAYS REQUIRED:

= 7 bays

Therefore, the proposed development has a surplus of two (2) car parking bays.

4.6 Traffic Impact

It has been concluded that the proposed development will have negligible impact on traffic movements on Marine Parade, and with therefore, not compromise the road environment. In fact, it will be improved by fewer movements being generated by this proposal.

5.0 CONCLUSION

The site has been used for Nine (9) Multiple Dwellings for the past few decades and has not caused any detrimental impacts to surrounding landowners or operators in that time.

Given that the proposed Change of Non-Conforming Use to Four (4) Multiple Dwellings and Cafe is complementary to the "Residential" zone and replaces a similar development (made up of nine (9) Multiple dwellings), we respectfully seek the Town of Cottesloe's support and the Joint Development Assessment Panel's **Approval** for the Change of Non-Conforming Use for Lots 14 & 15 (#220) Marine Parade, Cottesloe.

Peter D Webb and Associates



Photograph 1: Looking east from Marine Parade to the improvements on the site.



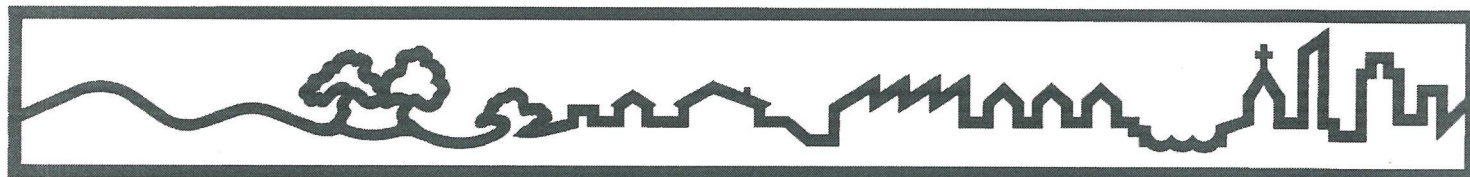
Photograph 2: The subject property in the context of its neighbours.



Photograph 3: Looking east along the southern side of the property -noting existing undercroft parking area.



Photograph 4: Looking east along the northern side of the existing improvements.



CONSULTANTS IN TOWN PLANNING AND URBAN DESIGN

15 September 2016

Our Ref: C2116-01

Chief Executive Officer
Town of Cottesloe
PO Box 606
COTTESLOE WA 6911



Attention: Ed Drewett – Senior Planning Officer

Dear Sir/Madam

**Re: Proposed Mixed Use Development
Lots 14 & 15 (#220) Marine Parade, Cottesloe**

We refer to the Town of Cottesloe's preliminary assessment of the above Application and we provide a number of responses to the comments, as well as providing the Town with updated plans for its consideration. Please find **attached** revised Plans.

Response to Town of Cottesloe Issues:

We will provide comments following each of the Town's issues, as follows:

1. *A contour survey plan by a licensed surveyor is required showing contours at maximum intervals of 0.5m and spot levels along all boundaries. The contours should be based on the surveyor's interpolation of the levels on the site which preceded the existing development;*

A contour survey plan has been prepared and the details have been superimposed onto the development plans.

2. *Based on the surveyors contour-survey plan, the natural ground levels at the base of the proposed walls and roof are required to be shown on the site plan and/or roof plan to determine building heights;*

The natural ground levels and proposed heights relative to the contour plan has now been provided.

3. *Based on the surveyors contour-survey plan natural ground levels are required to be shown on all elevations to assist in the determination of setbacks and wall heights;*

The proposed elevations now show the heights of the building relative to natural ground level.

4. *A minimum 6m front setback is required to the proposed residential development or compliance with Clause 5.1.2 C2.1 of the R-Codes. Further details are to be shown on the plans demonstrating compliance with this requirement;*

The revised site plan provides an overall 6.00m average front setback. A minimum of 3.70m is proposed for the café. Overall, this achieves compliance with Clause 5.1.2 C2.1 iii of the R-Codes. Additionally, the proposed setbacks have been increased from what already exists in the current development, so this improves the overall amenity of the street.

5. *The proposed walls on boundaries (undercroft, drying area and covered walkway) do not satisfy the deemed to comply requirements of the R-Codes as they are on more than one boundary;*

The retaining walls on the boundary already exist so the undercroft walls have not been altered. Given the existing development is a non-conforming use, the proposed walls on the boundary can be proposed in any format, where the amenity of the locality is not affected to a greater extent.

The drying court is simply a wall on the boundary that acts in a similar way that a fence would, so this does not detract from neighbouring landowner's amenity.

The covered walkway only has posts on the boundary, so this will also similarly, not affect neighbouring landowner's amenity.

6. *A minimum 3.1m setback is required from the Apartment 3 - bed 1 ensuite to the southern boundary;*

The proposal does not need to comply with the R-Codes as this is a change of non-conforming use. An acceptable setback is proposed.

7. *A minimum 4m setback is required from the Apartment 4 bed 1 ensuite to the southern boundary;*

The proposal does not need to comply with the R-Codes as this is a change of non-conforming use. An acceptable setback is proposed.

8. *A minimum 4m setback is required from the Apartment 4 bed 1 balcony to the southern boundary;*

The proposal does not need to comply with the R-Codes as this is a change of non-conforming use. An acceptable setback is proposed.

9. *A minimum 4m setback is required from the Apartment 3 balcony to the northern boundary;*

The proposal does not need to comply with the R-Codes as this is a change of non-conforming use. An acceptable setback is proposed.

10. *A minimum 4.3m setback is required from the Apartment 4 lobby-stair recess to the northern boundary;*

A 4.3m setback has now been proposed for the Apartment 4 lobby-stair recess to the northern boundary. Refer revised plans.

11. *A minimum 5.2m setback is required from the Apartment 4 balcony to the northern boundary;*

The proposal does not need to comply with the R-Codes as this is a change of non-conforming use. An acceptable setback is proposed.

12. *Overshadowing is not to exceed 25% of the adjoining southern lots. Further details showing the square metres and percentage of overshadowing is required, irrespective of shadow cast by the existing building;*

The proposed overshadowing of the adjacent (southern) site is 263m² (72%).

The overshadowing of the adjacent (southern) building on ITS adjacent southern site is 252m² (69%).

The proposed overshadowing is therefore, almost similar to the existing development on the adjacent site and is an important factor in determining the existing amenity of the street.

13. *Details of an appropriate bin enclosure is required for the proposed café;*

A bin enclosure is now proposed in the café.

14. *Confirmation is required as to whether the proposed café will have internal seating or if it is only for take-away. Further details are also required with respect to the likely demand for parking, a loading area, frequency of goods and deliveries, refuse collection, staff toilets etc;*

No internal seating is proposed for the café, although there may be some stools provided for waiting. This is a takeaway coffee for passers-by. There is no parking required for patrons. On-street parking on western side of Marine Parade can accommodate weekly goods deliveries by a van. Refuse collection will be via standard wheelie bins collected from the street. A toilet has also been included in the café.

- 15. A minimum 50% open space is required. Can you please provide further detail on a site plan showing the areas that have been included and the overall percentage of proposed open space;*

The development provides in excess of 50% open space (and actually provides 62%). Details are shown on the revised Site Plan.

- 16. With respect to the proposed common areas, the street setback is not to exceed 50% hard surface. Details to be provided please;*

It is difficult to incorporate extensive landscape areas, although the development proposes green covered walkways, landscaping boxes, and hanging gardens. In addition, the visitor parking bay will be a "green bay", landscaped with lawn in a hardscape system. This is deemed to be satisfactory.

- 17. The unroofed visitor bay on common property is to be effectively screened from the street;*

We do not propose to screen the unroofed visitor parking bay, as this will be contrary to providing landscaped areas in the front setback area, as well as being contrary to providing acceptable street setbacks. This requirement just provides more hardscape. This requirement appears superfluous.

- 18. The proposed driveway is to be no closer than 0.5m from the southern boundary or a street pole;*

The driveway has been set back 500mm from the side boundary and will include a 500mm landscaping strip.

- 19. The proposed driveway, parking spaces and manoeuvring areas are to satisfy Australian Standards;*

The parking bays and manoeuvring spaces have been adjusted to comply with Australian Standards.

- 20. Walls, fences and other structures are to be truncated or reduced to no higher than 0.75m within 1.5m of where they adjoining the proposed driveway and the street. If the existing wall along the southern boundary exceeds this height then the driveway may need to be adjusted accordingly or the wall will need to be reduced in height with the adjoining owners agreement.*

The existing wall on the adjacent site cannot be adjusted as part of this Application. In any event, vehicles will be returning to the street in forward gear, so the wall does not present any sightline issues. Further, with a good size verge, the vehicle can nose out without causing any impact to pedestrians.

Amenity:

As this proposal is for a change of non-conforming use to another, the local government is required to consider **whether the proposed development is less detrimental to the amenity of the locality than the existing non-conforming use**, and is **closer to the intent of the zone**. The local government is also required to consider the **objectives of the zone** (and we have provided a response to this in our submitted Planning Application).

We are prepared however, to provide additional assessment on the existing and hypothetical character and amenity of the locality.

The term "amenity" is defined by LPS 3 as:

"All those factors which combine to form the character of an area and include the present and likely future amenity."

Existing Amenity & Character:

The existing amenity of Marine Parade within proximity of the subject site is characterised by predominantly two to three storey single dwellings (with a number of single storey older style dwellings), vacant development sites, and a number of older multiple dwelling developments (between three and four storeys in height). It is therefore, clearly an area "in transition".

The existing development on the subject site can be characterised as an older-style multiple dwelling complex (flats) comprising three levels of apartments, with undercroft car parking. The existing development is set back only 2.50m from the street boundary.

The existing development only has a 1.00m northern and southern side setback (to a full three storeys in height) to the adjacent sites, with blank brick walls.

The existing development comprises nine (9) multiple dwellings, which allows more people to be accommodated at the site than compared with a single dwelling or a multiple dwelling complex with less dwellings.

Within 50m of the subject site, there exists an older-style multiple dwelling complex of four storeys in height as viewed from Marine Parade.

The existing character of the locality is considered to be eclectic, given there is no set style, size and type of dwelling(s) development in the street.

Each of the properties along Marine Parade have a direct (straight) view of the Indian Ocean.

Hypothetical Amenity & Character:

The proposed development comprises four (4) multiple dwellings with undercroft parking and a small (walk-in) café. Therefore, this proposal reduces the number of dwellings on the site by five (5) dwellings.

Given the existing development site has a three storey multiple dwelling complex set back only 2.50m from the street boundary, the proposed four-storey (with roof deck) proposal, set back further from the street does not materially change the impact of the built form as it is viewed from Marine Parade or the footpath adjacent to the site. (The angle up to the roof of a lower building closer to the street can appear similar to a higher building set further back).

It is our view that the proposed high quality design of built form of the proposed development will greatly improve the amenity of the site, and contribute to an overall increase in amenity of the Marine Parade environment.

When comparing the proposed development with the street, it is evident that the development generally fits with the existing (eclectic) range of properties along Marine Parade, which does not have a set style, development form, height or dwelling type.

In addition, the existing three storey multiple unit development only has a 1.00m northern and southern side setback to the adjacent sites, with blank brick walls. The proposed development seeks to increase the setbacks of the side boundaries to improve the amenity of those adjacent properties. Increased setbacks of side boundaries provides additional opportunity for cooling breeze to extend to adjacent properties (both to the side and rear), as well as improve view corridors from adjacent sides (both side and rear). This improves the amenity of the immediately adjacent properties.

The northern proposed setback will be at least 1.90m at its closest point, extending further away from the boundary at other locations.

The southern proposed setback will be at least 2.00m at its closest point, extending further away from the boundary at other locations.

These greater side setbacks invariably improve the amenity of the adjacent properties and reduces building bulk as viewed from adjacent properties.

In addition, there are vertical gardens proposed on side walls to significantly improve the visual amenity.

In all of these circumstances, the existing amenity will not be compromised by this proposed development, but in many areas, the proposed development will improve the amenity of the locality by virtue of:

- **increased side and front setbacks**, which gives rise to better cooling opportunities, increased view corridors and reduction of building bulk;
- **high quality built form outcomes**, which improves the streetscape of Marine Parade;
- increased opportunities for landscaping (including **vertical gardens**), providing “softer” surfaces of buildings and **reducing heat effect**;
- **reduced overall number of dwellings** (from nine to four), which reduces traffic movements from the site; and
- **no greater overshadowing impact** on adjacent properties to the south.

As the amenity will be demonstrably improved by the proposed development and is closer to the intent of the zoning, the proposed change of non-conforming use to another **is capable of being approved**.

We now look forward to the Town’s further assessment of this Application and to prepare its Responsible Authority Report (RAR) in a positive manner, in due course.

Should you wish to discuss, please do not hesitate to contact us on 9388 7111.

Yours faithfully

NIK HIDDING 
Planning Consultant

Bushfire Attack Level (BAL) Certificate

Determined in accordance with AS 3959-2009

This Certificate has been issued by a person accredited by Fire Protection Association Australia under the Bushfire Planning and Design (BPAD) Accreditation Scheme. The certificate details the conclusions of the full Bushfire Attack Level Assessment Report (full report) prepared by the Accredited Practitioner.

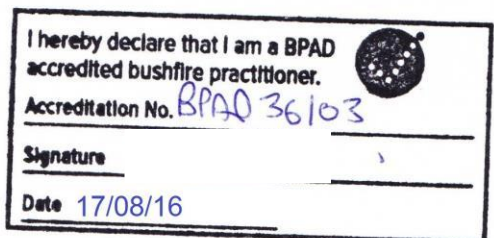
Property Details and Description of Works

Address Details	Unit no	Street no	Lot no	Street name / Plan Reference	
		220	14&15	Marine Parade	
Local government area	Suburb				State
	Cottesloe				WA
Main BCA class of the building	Postcode				
	6011				
Description of the building or works	Town of Cottesloe				
	1a and 6	Use(s) of the building	Proposed mixed use development		
Cafe and a detached house					

Determination of Highest Bushfire Attack Level

AS 3959 Assessment Procedure	Vegetation Classification	Effective Slope	Separation Distance	BAL
Method 1	N/A	N/A	N/A	BAL-LOW

BPAD Accredited Practitioner Details

Name Rob Turner	 <p>I hereby declare that I am a BPAD accredited bushfire practitioner. Accreditation No. BPAD 36103 Signature _____ Date 17/08/16</p>
Company Details Bushfire Ready	
I hereby certify that I have undertaken the assessment of the above site and determined the Bushfire Attack Level stated above in accordance with the requirements of AS 3959-2009 (Incorporating Amendments 1, 2 and 3).	

Authorised Practitioner Stamp

Reliance on the assessment and determination of the Bushfire Attack Level contained in this certificate should not extend beyond a period of 12 months from the date of issue of the certificate. If this certificate was issued more than 12 months ago, it is recommended that the validity of the determination be confirmed with the Accredited Practitioner and where required an updated certificate issued.

Schedule of Submissions – 220 Marine Parade, Cottesloe

No.	Name & Address	Affected property	Summary of Submission	Trim Ref
1	T & N Kestell		<ul style="list-style-type: none"> • Objects to the proposal; • Development is too high; • It does not comply with the Planning Scheme; • It will create significant overshadowing; • There will be a loss of views due to inconsistent application of Scheme requirements; • The development would be more suited within the foreshore precinct; • It would result in a massive windfall for the owner; • No need for another café; • Café would create parking difficulties, especially in the summer due to existing parking restrictions; • The area doesn't suit 5-storey developments; • It will impact on the amenity of residents; • If this gets approved, he will put a 20 storey building on own property. 	D16/22990
2	T & A Sweet		<ul style="list-style-type: none"> • Objects to the proposal; • It is non-compliant in terms of height, setbacks, use (café); • Expectations are that the existing building could not be built higher than 3-storeys or have a café; • It would be out of scale and character and set an undesirable precedent; • Café would exacerbate existing traffic conditions and on-street parking would be difficult, particularly during summer; • No need for a café in this area; • No objection to a redevelopment if similar to scale of existing building. 	D16/23158

3	G Muir & K Anderson		<ul style="list-style-type: none"> • Objects to proposed height as this would be intrusive and not in keeping with the area. 	D16/23372
4	Y Mcardle		<ul style="list-style-type: none"> • Objects to the proposal; • It will appear visually disturbing; • The development should not exceed the existing height; • Residential owners in the area do not want to live in such an environment. 	D16/23466
5	F Lee		<ul style="list-style-type: none"> • Objects to the proposal; • Non-compliant in terms of height, setbacks, use (café); • Expectation was that the existing building could not be built higher than 3-storeys or have a café; • Proposal would be out of scale and character will set an undesirable precedent; • Café would exacerbate existing traffic conditions and on-street parking would be difficult during the summer; • No need for a café in this area; • Back garden would be overshadowed. 	D16/23583
6	P & A Callander		<ul style="list-style-type: none"> • Objects to the proposal; • Opposed to five-storey development as not consistent with existing residential area; • No objection to redevelopment if similar to scale of existing building. • The development should be located in a more appropriately-zoned area. 	
7	J Harding		<ul style="list-style-type: none"> • Objects to the proposal; • Represents an incremental challenge to the bounds of the planning code; • The current property is already out of character with neighbouring dwellings so should not be allowed to have more bulk and height; • Further developments of a similar nature could result from an approval as it will set a precedent; 	D16/23669

			<ul style="list-style-type: none"> • Council must draw the line and not include commercial property in the residential area. 	
8	G Sweet		<ul style="list-style-type: none"> • Objects to the proposal; • It would be out of scale and character and set an undesirable precedent; • It is non-compliant in terms of height, setbacks, use (café); • Planning Scheme acts as a guide to both developers and residents to see if amenity of prospective house purchases will be affected by future developments; • Café use is out of character with area. 	D16/23707
9	Dr T Ercleve		<ul style="list-style-type: none"> • Objects to the proposal; • Loss of views from houses on eastern side; • Will set a precedent for further oversized development; • Proposed uses do not optimise residential capacity; • No need for additional café as area is already well-served. 	D16/23716
10	K Kestell & D Kestel		<ul style="list-style-type: none"> • Objects to the proposal; • Will adversely effect neighbours' amenity and is non-compliant; • Unacceptable overdevelopment of the site; • The bulk and scale of the development is out of keeping with the locality as it will dwarf adjoining dwellings and impact visually on the streetscape; • It will set a precedent; • There will be a loss of views; • Adjoining properties will be significantly overshadowed; • There will be a loss of ventilation to eastern adjoining properties; • Proposed non-residential use would create noise and disturbance and is of no benefit to the neighbours and community. 	D16/23761
11	L Chester		<ul style="list-style-type: none"> • Objects to the proposal; 	D16/23874

			<ul style="list-style-type: none"> • It would set an undesirable precedent for the area; • Eastern adjoining properties would lose afternoon sun; • Café would exacerbate existing traffic conditions and on-street parking would be difficult during the summer; • Litter will become a problem due to patrons using the cafe and disposing of paper cups in street bins; • There appears to be no limit to the operating hours of the café; • Not opposed to change. 	
12	N Simpson		<ul style="list-style-type: none"> • Objects to the proposal; • Planning Scheme acts as a guide to both developers and residents to see if amenity of prospective house purchases will be affected by future developments; • No objection to redevelopment at same height as existing, but no higher; • Mixed use development is not appropriate in this area and should not be allowed. 	D16/23875
13	C Somas		<ul style="list-style-type: none"> • Objects to the proposal; • Proposal would be out of scale and character will set an undesirable precedent; • Café is not required in the area; • It would result in additional traffic congestion along North Street; • There is no reason to change the planning requirements to allow this development. 	D16/23877
14	B Young		<ul style="list-style-type: none"> • Objects to the proposal; • Proposal would be out of scale and character will set an undesirable precedent; • It would have a detrimental effect on everyone in close proximity due to overlooking and overshadowing. 	D16/23881
15	S Tobin		<ul style="list-style-type: none"> • Objects to the proposal; • The development will impose an ugly streetscape that 	D16/23959

			<p>will have to be endured by residents;</p> <ul style="list-style-type: none"> • It will appear as a 'blight on the landscape; • There will be significant overshadowing and a loss property values; • There will light and noise issues from its 5th floor of occupants which will effect local amenity; • Loss of privacy will occur; • Will be seen as a failure of urban planning; • The developer is not local and contributed little to rates etc; • Proponent is seeking to exploit planning loophole; • There is ample opportunity to build this development further south where land is appropriately zoned; • Would not object to a high quality; • Café is not permitted; • Floor area is so small it would be uneconomic; • Existing neighbours and residents do not wish to see advertising signage and lighting to downgrade beachfront; • Café will create parking difficulties; • Café will create lighting, noise and pedestrian issues that don't currently exist; • Should be located further south, not in residential area. 	
16	K & P Law		<ul style="list-style-type: none"> • Objects to the proposal; • It would set an undesirable precedent; • Do not object to re-build at same height as existing building; • Proposal would be in breach of Scheme requirements; • Do not want café in residential area; • Traffic issues, opening hours etc will be an issue; • Development would cause multiple problems for residents. 	D16/23963

17	S Nelson		<ul style="list-style-type: none"> • Objects to the proposal; • Proposed development is out of context with the residential area; • Does not comply with height requirements of Scheme; • Will set a precedent; • It is out of scale with surrounding low scale residential area. 	D16/23964
18	J Wilshire		<ul style="list-style-type: none"> • Objects to any proposal that does not conform with Scheme requirements; • Support Council having some degree of discretion for say exceptional architecture cases. 	D16/24001
19	TPG Town Planning Urban Design and Heritage for T & N Kestell		<ul style="list-style-type: none"> • Objects to the proposal; • It is incapable of being approved in its current form as it is inconsistent with the Scheme's requirements for height and land use; • It will have far greater bulk and scale than the existing development and will substantially increase overshadowing of the adjoining property to the south which will not satisfy design principles; • A restaurant use is not permitted; • It is incompatible with scale and amenity of locality; • It is inconsistent with orderly and proper planning; • It does not satisfy the objectives of the Scheme. 	D16/24035
20	A Burgoyne		<ul style="list-style-type: none"> • Objects to the proposal; • Planning Scheme acts as a guide to both developers and residents and should be adhered to; • Does not comply with height requirements of Scheme; • Does not want café in residential area as not appropriate in residential area. 	D16/24040
21	A Renouf		<ul style="list-style-type: none"> • Objects to the proposal; • It will not sit well with current streetscape; • Set a precedent; 	D16/24045

			<ul style="list-style-type: none"> Do not need extra height or café in the area. 	
22	K MacDermott		<ul style="list-style-type: none"> Objects to the proposal; Height should not be allowed as exceeds that permitted; Not in-keeping and will set a precedent which will greatly diminish the community feel of the area and offer no amenity to current landowners; It will appear an eyesore; The café will create additional noise, traffic and parking issues. 	D16/24058
23	D Borshoff/C Crabb		<ul style="list-style-type: none"> Objects to the proposal; Area is already well supplied with cafes and it will set a precedent if 5-storeys is allowed; Requires thoughtful, insightful representation to protect interest of ratepayers. 	D16/24086
24	M Collins		<ul style="list-style-type: none"> Objects to the proposal; Directly affected by the proposal; The existing building is already an anomaly to the rest of the buildings; It will set a precedent; Does not want unnecessary overdevelopment; Has provided photos showing impact of existing building. 	D16/24090
25	J McIntosh		<ul style="list-style-type: none"> Objects to the proposal; It is higher than that permitted under the Planning Scheme; It will set a precedent; Have a disastrous affect on local amenity. 	D16/24093
26	A Papagioftsis		<ul style="list-style-type: none"> Objects to the proposal; Opposed to mix use development in the area; Does not want 5-storeys as will impact on amenity of area; It will set a precedent. 	D16/24136
27	M & E Carrick		<ul style="list-style-type: none"> Objects to the proposal; 	D16/24146

			<ul style="list-style-type: none"> • The development is overheight; • Café will adversely impact upon residential properties which were purchased or developed relying on the Scheme requirements. 	
28	D Kailis		<ul style="list-style-type: none"> • Objects to the proposal; • Height has increased from 3 storeys to 5 storeys; • The increased height will be an eyesore, block existing views, and create overshadowing; • Café use is not consistent with the area; • Will cause major loss of amenity. 	D16/24149
29	M Prater		<ul style="list-style-type: none"> • Objects to the proposal; • Café will cause parking issues as not close enough to a carpark. Could only be supported if parking can be provided; • Residential units are overheight and will dominate the streetscape. 	D16/24250
30	G McGarry		<ul style="list-style-type: none"> • Objects to the proposal; • It is incapable of being approved in its current form as it is inconsistent with the Scheme's requirements for height and land use; • The maximum height that could be considered is 3-storeys; • The proposed height is excessive and will adversely impact adjoining properties and the amenity of the locality; • It will create significant overshadowing; • The café/restaurant is not permitted in the residential zone; • It does not satisfy the objectives of the Scheme or orderly and proper planning. 	D16/24183
31	E & J Van Beem		<ul style="list-style-type: none"> • Objects to the proposal; • It is incapable of being approved in its current form as it 	D16/24189

			<p>is inconsistent with the Scheme's requirements for height and land use;</p> <ul style="list-style-type: none"> • The maximum height that could be considered is 3-storeys; • The proposed height is excessive and will adversely impact adjoining properties and the amenity of the locality; • It will create significant overshadowing; • The café/restaurant is not permitted in the residential zone; • It does not satisfy the objectives of the Scheme or orderly and proper planning. 	
32	D Bevan		<ul style="list-style-type: none"> • Objects to the proposal; • It would have have significant negative visual impact for residents; • It is out-of-character; • Not compliant with Scheme requirements; • Immediate neighbours would be impacted by setbacks, shading, noise, and negative visual impact; • The additional café use creates concern that it could be used for short-stay accommodation which would further impact neighbours; • 3-storeys would be fair and reasonable. 	D16/24210
33	C & D Fuller		<ul style="list-style-type: none"> • Objects to the proposal; • The commercial aspect is inappropriate and not within the zoning and would set a precedent; • There will be a loss of privacy and amenity ruining outlook; • Anything above 3-storeys does not comply with Scheme; • As soon as it is demolished it must revert to 2-storeys; • There is already insufficient parking in the area in the summer. 	D16/24298

34	T Evans		<ul style="list-style-type: none"> • Objects to the proposal; • Disregards height restrictions; • It will create more overshadowing and more cars etc in the area; • Result in loss of amenity to nearby residents; • There was strong resident protest surrounding heights along the foreshore; • Careful consideration is needed regarding the precedent it would set; • Must listen to ratepayers and keep the balance right. Does not want to become a Scarborough. 	D16/24321
35	K Strzina		<ul style="list-style-type: none"> • Objects to the proposal; • Exceeds permitted building height and will cause serious overlooking; • Setbacks are too small creating too much bulk and not enough open space; • Café use is contrary to Scheme; • No need for additional café; • The development is for economic gain; • It ignores community sensitivities, wants and needs; • It will set a precedent. 	D16/24417
36	C Newall & A Roberts		<ul style="list-style-type: none"> • Objects to the proposal; • Negatively effect amenity of area; • Does not comply with height, setbacks and building use; • Set an unwanted precedent; • It is located well outside the area zoned for this type for development; • Café is not appropriate in the residential area and will impact on parking in the vicinity. 	D16/24431
37	J Walsh		<ul style="list-style-type: none"> • Objects to the proposal; • Replacement building is not exceed maximum 3-storeys to comply with Scheme requirements for replacement 	D16/24463

			<ul style="list-style-type: none"> multiple dwellings; It is not a non-conforming use as the existing residential use is allowed in this area. It is only the height and density that is non-conforming. Also the Scheme requires a non-conforming use to only be replaced by an equally or lesser non-conforming building, never by a more non-conforming building; For these reasons, the application must be rejected. 	
38	A Sweet		<ul style="list-style-type: none"> Objects to the proposal; Does not comply with zoning and will not appear in-keeping with the area; Traffic and parking already creates enough problems in the summer. 	D16/24532
39	A Wells		<ul style="list-style-type: none"> Objects to the proposal; It will set a precedent in the residential area; Café will impact adjoining dwellings; Height does not comply with regulations; Marine Parade landscape is not high rise or overdeveloped; It will obstruct views; Take steps in future to ensure that developers cant side step Council; Expresses dismay and horror with the proposal. 	D16/24693
40	M & D Ford		<ul style="list-style-type: none"> Objects to the proposal; Does not comply with height regulations; It will be out of context in height, scale and appearance; Overshadowing will be an issue due to height; Café use is not required and is totally inappropriate at the location; Insufficient parking will be available for customers to the café; Noise in the mornings from the café use would create 	D16/24696

			anti-social issues.	
41	R Simpson		<ul style="list-style-type: none"> • Objects to the proposal; • Will impact on amenity; • Any change to regulations should not be led by a non-conforming opportunistic submission; • It will set a precedent in the residential area; • Such a change is not what ratepayers expect from Council. 	D16/24701
42	P Carmichael		<ul style="list-style-type: none"> • Objects to the proposal; • It is out-of-character with surrounding residential area; • Areas of concern include height, overshadowing, R-Codes density, setbacks, commercial use and traffic management policy; • Council is already aware of the traffic hazards which arise in the area. 	D16/24703
43	G Kakulas & J Taylor		<ul style="list-style-type: none"> • Objects to the proposal; • It is offensive and shows little knowledge of the community or respect for people that live here; • We pay a premium for the low density, low-lying residential area; • Council is already aware of the traffic hazards which arise in the area; • The café is an insult to neighbours and owners of existing cafes in the area which lay dormant over winter; • Insufficient parking or demand for this use; • Café will devalue property prices; • They should not be allowed to develop higher than the existing building, or possibly just two-storeys; • Will set a precedent; • Residents in Broome Street should have been consulted. Small add in paper is insufficient. 	D16/24712
44	R Sadler		<ul style="list-style-type: none"> • Objects to the proposal; 	D16/24724

			<ul style="list-style-type: none"> • Has no architectural merit and will set a new low along Marine Parade; • This is only for commercial gain; • It does not comply with Council regulations and will spread disharmony; • There is already a traffic problem in the area. A café will add to this problem; • It is a cash grab; • Compensation to ratepayers may be argued if development is allowed; • It should fail automatically. 	
45	P & K Wright		<ul style="list-style-type: none"> • Objects to the proposal; • Height does not comply regulations and it will appear out-of-character with properties in the area; • Will create significant overshadowing; • There will be overlooking and loss of privacy; • Café is in breach of zoning and will increase traffic and noise; • It will set an undesirable precedent; • Its design is poor and not consistent with a coastal area. 	D16/24761
46	A Wilson		<ul style="list-style-type: none"> • Objects to the proposal; • Application is incomplete so should not have been accepted; • It will create overlooking and loss of privacy to neighbours; • Any change of non-conforming use should be dismissed. If building is demolished is cannot be replaced by another building of greater change of use; • It will appear grossly out of scale and character; • Commercial use is not permitted; • There would be a loss of amenity, traffic, parking, waste and noise issues; 	D16/24767

			<ul style="list-style-type: none"> • Setbacks do not comply; • It will set a precedent; • It must comply with the Planning Scheme. 	
47	J Hammond		<ul style="list-style-type: none"> • Objects to the proposal; • Inconsistent with Scheme; • Out of scale with adjoining properties; • Out of character with Marine Parade precinct; • Cant determine levels with surveyor's plan; • Will result in loss of privacy and overshadowing; • Setbacks do not comply; • Change of non-conforming use should not be permitted; • Commercial use not permitted; • It will set an undesirable precedent. 	D16/24780
48	D & S Wright		<ul style="list-style-type: none"> • Objects to the proposal; • Scale of the building will be confronting; • It will block light and afternoon sun in winter; • There will be loss of privacy; • Roof deck will result in increased noise; • There will be noise from air-conditioners; • It is motivated by profit; • There is no need for another café; • It does not satisfy Scheme. 	D16/24732
49	R Walsh		<ul style="list-style-type: none"> • Objects to the proposal; • Scheme only allows three-storeys; • Prior to current Scheme, 76% of residents asked for low rise along the beachfront. The Minster agreed to this outside the Foreshore Centre area. 	D16/24875
50	C Medhurst P Jones		<ul style="list-style-type: none"> • Objects to the proposal; • Does not comply with zoning; • In height, bulk, scale and appearance it is completely out of context with the existing residential dwellings in the area; 	D16/25014

			<ul style="list-style-type: none"> • Proposed café is not needed as there are already various cafes in the locality; • There is insufficient parking to service customers to the café and noise from patrons will be an issue; • The proposal would be appropriate in the commercial beachfront zone. 	
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SUBMISSIONS - 220 MARINE PARADE



From: Tim Kestell
Sent: Tuesday, 2 August 2016 6:37 PM
To: council
Cc: Naomi Kestell
Subject: Development Application #3408, 220 Marine Pde Cottesloe

Mr Andrew Jackson,

Between my wife and myself we own 3 properties in Cottesloe all of which would be impacted by this proposed development, properties are Cottesloe.

Both myself and my wife strongly oppose the development of a 5 story mixed use development for the following reasons.

1. It is too high and against the current planning scheme for that area, it will cast a shadow greater than the current structure by far, this will affect the beach and path in the morning, and neighbours to the south (in winter) and east in the afternoon. Some allowances around the scheme are justifiable but not an extra 3 stories.
2. It will block views of numerous people and I know you can't own a view, however the people behind developed and or purchased knowing the current height restrictions and so to amend the property height allowance at 220 Marine Pde is unfair to all neighbours that are not given the same allowances, I would love to have approval for a 5 story development on my properties as it would be like winning lotto, however this would be unfair to others not given the same allowances.
3. There is already a precinct allowing taller developments further south in Cottesloe and if they wanted to develop a 5 story apartment complex they could do so in that precinct, the answer is probably that that land would be twice as expensive.
4. In appox 2010/11 when this property was up for Auction I actually bid for it and was the highest bidder when it was passed in, I did a bit of research on the property and the previous owners development ideas and I bid for it knowing that 1. To retain the current height in a development you had to keep the existing structure and 2. if you were to knock it down then you would not be able to gain the same height as there would be the current planning scheme. If I had of known that a 5 story development was allowed then I would have bid much higher and might I say a lot of other people would have as well. Why are they not proposing a 3 story development? Well the answer is its probably not profitable and the owners wouldn't make any money, well where in the planning scheme does it say the government should add extra height so that a good return is made on the development, the answer is it doesn't. If the owners cannot make money out of developing it under the current scheme then simply don't do it! If the JDAP was to approve this they are handing a massive windfall to a developer who cannot make a development work under the current scheme.
5. I assume that the zoning doesn't allow for commercial (café). I see no reason why we need another café in an area that is full of them (approx. 10-12 within a 1km strip of Cottesloe). Not to mention that the parking on marine parade especially in front of the dog beach is usually full on any nice morning in summer, so there would be parking issues.
6. The general amenity of the North Cottesloe area doesn't include 5 story developments, the area south does and so for that reason a lot of people buy in to the North precinct, Cottesloe has a nice balance and this would ruin it.

In summary we are strongly opposed to this development and it should be rejected.

Regards

Tim and Naomi Kestell

T & AD Sweet

Cottesloe WA 6011

06/08/2016

Attn. Mr A Jackson

Manager Development Services Town of Cottesloe

Dear Sir,

Ref. Development Application #3408, 220 Marine Parade Cottesloe

We thank you for drawing our attention to the application for planning approval for a five-story building

It will come as no surprise that we strongly object to such approval being granted, for the following reasons:

1. The proposed development does not comply with the current Town Planning Scheme, with respect to height, setbacks, use (cafe), and no doubt other aspects of the scheme. A Town Planning Scheme acts as a guide to developers, but also to residents and prospective residents, who use the scheme to see if the amenity of a prospective house purchase is likely to be affected by future developments – we purchased our property, (and extended it within the criteria of TPS No.3) on the basis that the next-door property (non-conforming at 3 stories) could not be made higher under the existing scheme (and certainly not have a cafe installed).
2. The proposed development would be of a scale and character which is not in keeping with this northern part of Marine Parade, would look out of place, and could set an undesirable precedent, whereby others would seek to develop oversized buildings in an otherwise low-rise residential area.
3. The proposed development would further overshadow our residence/back garden, which already is compromised by the existing three-story building.
4. The proposal to include a cafe would exacerbate existing traffic conditions on this section of Marine Parade (there have been several serious accidents, including fatalities within sight of this proposed development). There is "No Parking" on this eastern side of Marine Parade, (as parked vehicles in this part of the road are considered to be a particular hazard), so presumably patrons of the proposed cafe would have to drive onto the site (room?) or park on the western side of the road and walk across the road. In summer the parking is invariably solid.
5. There are several cafes within easy walking distance of this part of Marine Parade, so there is no perceived need for another in this (inappropriate) area.

We would have no objection to the redevelopment of 220 Marine Parade within the TPS No.3 guidelines, or even non-conforming to a not greater extent than already exists, ie three story, with reasonable set-back, however the proposal to build five-story, and include a cafe is completely unacceptable. We would be grateful if you would pass on our objections to JDAP, who we understand will assess the development application.

Yours faithfully

Terry Sweet

Ann Sweet

From: Gregory Muir
Sent: Tuesday, 9 August 2016 8:57 PM
To: council
Subject: Development Application 3408 220 Marine Parade

Re: Development Application 3408, 220 Marine Parade Cottesloe.

We wish to register our objection to the height of the proposed project.

We do not object in principle to the redevelopment but we believe the proposed height is intrusive and not in keeping with the area.

We believe any new development should be the same height as the existing building.

Gregory Muir
Kathleen Anderson

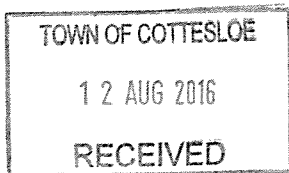
From: ymcardle
Sent: Wednesday, 10 August 2016 11:49 PM
To: council
Subject: Development #3408 at 220 marine pde

Dear Council Members

I object strongly to having such a tall structure so close to my already small backyard. I am already feeling hemmed in by the 2 new houses in either side of me and though diagonal to my backyard, it will be visually disturbing. The development should not exceed its current height as I would not like to see that stretch of marine parade eventually developed similarly to 5 storeys. DAP must be sensitive to the views of the majority of single residential owners in the immediate vicinity who choose to live on that patch between grant and north streets to be away from the numerous apartment developments, pubs and cafes south of grant st.

Sincerely

Yvonne Mcardle



Mrs F Lee

Cottesloe WA 6011

07/08/2016

Attn. Mr A Jackson

Manager Development Services Town of Cottesloe

Dear Sir,

Ref. Development Application #3408, 220 Marine Parade Cottesloe

I strongly object to the above approval being granted, for the following reasons:

1. The proposed development does not comply with the current Town Planning Scheme, with respect to height, setbacks, use (cafe), and no doubt other aspects of the scheme. A Town Planning Scheme acts as a guide to developers, but also to residents and prospective residents, who use the scheme to see if the amenity of a prospective house purchase is likely to be affected by future developments – we purchased our property, on the basis that the nearby properties could not be made higher under the existing scheme .
2. The proposed development would be of a scale and character which is not in keeping with this northern part of Marine Parade, would look out of place, and could set an undesirable precedent, whereby others would seek to develop oversized buildings in an otherwise low-rise residential area.
3. The proposed development would overshadow our residence/back garden, even though it is not adjacent to 220 Marine Parade – it would be even worse for the next-door neighbours.
4. The proposal to include a cafe is outrageous! It would exacerbate existing traffic conditions on this section of Marine Parade (there have been several serious accidents, including fatalities within sight of this proposed development). There is "No Parking" on this eastern side of Marine Parade, (as parked vehicles in this part of the road are considered to be a particular hazard), so presumably patrons of the proposed cafe would have to drive onto the site (room?) or park on the western side of the road and walk across the road. There are several cafes within easy walking distance of this part of Marine Parade, so there is no perceived need for another in this (inappropriate) area.

We would be pleased if you would pass on our objections to JDAP, who we understand will assess the development application.

Yours faithfully

Mrs Fay Lee

From: Paul Callander
Sent: Thursday, 11 August 2016 12:10 PM
To: council
Cc:
Subject: 220 Marine Pde - Proposed development

To Cottesloe Council
Regarding the Proposed Development of 220 Marine Pde

My Family has lived at Cottesloe for the past decade. We are completely opposed to the five storey development plan for 220 Marine Pde as this is not in line with the residential planning in the area and is not something that we want to see along the north Cottesloe beach front.

We are not opposed to the apartments being knocked down and renovated as long it remains within the current height restrictions in Cottesloe. This proposal would seem to be a complete breach of the law as it is clearly above the current Cottesloe Planning scheme height restrictions. We have talked to multiple residents in the neighbourhood and there is no one we have spoken with in favour of this building.

If developer's want to build 5 storey apartment blocks within the areas zoned for this within Cottesloe we have no issue with this but not in our residential area.

We would appreciate being kept informed of this proposal and any feedback from JDAP as it evolves.

Many Thanks

Paul and Annie Callander
Managing Director

From: Jeff Harding
Sent: Sunday, 14 August 2016 7:20 PM
To: council
Subject: Development Application #3408, 220 Marine Parade Cottesloe

Our ref:

Your ref: 5.2016.3408

14 August 2016

Dear Councillors

I hope that the Cottesloe Town Council will recognise this application as an incremental challenge to the bounds of the planning code. The current property on the site is already out of character with the neighbouring dwellings and a scaling down might well be more appropriate than ever more bulk and height.

All of the many developments in this area have resulted in larger, squarer buildings, more concrete and glass, overshadowing, loss of views, crowding and dwarfing of traditional residences. This area is under continual development as older property is demolished to make way for something bulkier. The local residents endure continual disruption to their lifestyles from all the building work.

I believe that, in this case, the developer has financial and family involvement in other properties along this stretch of Marine Parade. If this is so, the Council should be suspicious and in any case, should anticipate applications for further developments of a possibly similar nature.

The current application is for a commercial enterprise and, if approved, will set a precedent. The end result could be resort-style accommodation along this part of the beach front.

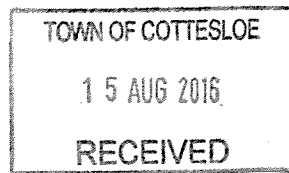
The Council must decide whether its vision for North Cottesloe is to include commercial property in a currently residential area and at what stage in this process of escalating harassment of the rules, they will firmly draw the line.

The limits have already been stated and if they are negotiable then they are not limits.

Yours Faithfully

J. Harding.

Giles Sweet



Cottesloe WA 6011

07/08/2016

Attn. Mr A Jackson

Manager Development Services Town of Cottesloe

Dear Sir,

Ref. Development Application #3408, 220 Marine Parade Cottesloe

As a long-term resident of Cottesloe, I strongly object to the above approval being granted, for the following reasons:

1. The proposed development would be of a scale and character which is not in keeping with this northern part of Marine Parade, would look out of place, and could set an undesirable precedent, whereby others would seek to develop oversized buildings in an otherwise low-rise residential area.
2. The proposed development does not comply with the current Town Planning Scheme, with respect to height, setbacks, use (cafe), and no doubt other aspects of the scheme. A Town Planning Scheme acts as a guide to developers, but also to residents and prospective residents, who use the scheme to see if the amenity of a prospective house purchase is likely to be affected by future developments.
3. The proposal to include a cafe is completely out of character with this part of Cottesloe. There are several cafes within easy walking distance of this part of Marine Parade, so there is no perceived need for another in this (inappropriate) area.

We would be pleased if you would pass on our objections to JDAP, who we understand will assess the development application.

Yours faithfully

Giles Sweet

From: Tor Ercleve
Sent: Monday, 15 August 2016 2:03 PM
To: council; Sally Ercleve; Jayson Renouf; Amanda Renouf; Bernard Seeber
Subject: Development Application #3408, 220 Marine Parade

We would like to register our objection to the development of a 5 story development at 220 Marine Parade. It will completely obliterate the view to the houses to the East and set a precedent for further oversized development beyond the current limitations existing to the North side of Eric Street. 1 developer stands to gain for an arms race for 'sea views' which will decrease the quality of life for all in the area (at large expense). Given the 2 story penthouse and ground floor cafe, 2 of the 5 floors will not be optimizing residential capacity, which defeats the argument of increasing height to provide more space for living in the Western suburbs. We are already very well serviced for coffee bars thank you very much. I can think of 10 in about a 1 sq km radius: Shorehouse, Kirkwood Delhi, Fiddlesticks on Kirkwood, Little Supp, Barchetta, Cimbalinis, Daisies, The Blue Duck and the OBH... not to mention those further along Marine Parade. Do you really think we need another?

Thanks for your consideration,
Dr Tor N Ercleve

Cottesloe

From: Kristin Kestell
Sent: Tuesday, 16 August 2016 9:37 AM
To: council
Subject: Comments Regarding Development Application #3408, 220 Marine Parade Cottesloe

ATTN: Council, Town of Cottesloe

RE: Development Application #3408, 220 Marine Parade Cottesloe

Dear Council

We have attended the offices of Town of Cottesloe and reviewed the plans contained in Development Application #3408 for 220 Marine Parade, Cottesloe. In our consideration the proposed development should not be allowed to proceed. There are numerous adverse effects on the amenity of neighbours both in the immediate area and more locally, in addition to the development being clearly non-compliant with Town of Cottesloe zoning and building limits for the site. Please find our comments regarding the proposals unsuitability following:

1. ***Unacceptable overdevelopment of the site:*** the building is significantly outside the allowing building envelope as zoned for this area of Cottesloe. Cottesloe has an area (800m to the south of this lot) that has been zoned for such large buildings. In its current location the development is 3 storeys higher than zoning allows, therefore should clearly not be allowed.
2. ***Visual impact:*** the large development visually dwarfs neighbouring buildings, and is out of keeping with the small-medium residential developments along this section of Marine Parade and the surrounding streets. Visually the bulk of the building dominates the open space of the area and reduces amenity for all. When looking from Marine Parade back towards the East, the existing residential buildings follow the rise of the natural sand dunes. Visually this is very pleasing as there are large amounts of open space, the natural form of the land can be observed, and no one building dominates another. This would be destroyed by the bulk of the proposed development.
3. ***Bulk of development:*** the existing flats at 220 Marine Parade are in keeping with the streetscape with regard to the bulk of the buildings. The proposed development, particularly when viewed from the North and South elevations is quite overwhelming in its bulk. Neighbouring houses to the North, South and East are overwhelmed and dwarfed by the size, particularly the large block like depth of the new building and its excessive height.
4. ***Effect of the development on the character of the neighbourhood:*** the current 3 storey, or generally lower, height of residential buildings in the neighbourhood creates a very green environment, with lovely light and open space between buildings and streets. Allowing an over-height, very dense building will induce other land owners in the neighbourhood to follow this lead and apply to build over-height large structures. Neighbours would also then argue they should be allowed to build to this height/provide mix-use of their sites given the precedent of 220 Marine Parade. There will be a flow on effect of similar proposals, with a significant profit motivation when additional height and bulk is allowed. We will lose the lovely, friendly, open and visually non intrusive nature of the area. There will be a destruction of the family neighbourhood character that currently exists, with an influx of dense oversized buildings.

5. **Loss of views:** near neighbours will be severely impacted by views being blocked by the overly large structure. This will clearly result in a loss of amenity by neighbouring owners.

6. **Overshadowing:** the southern neighbour of 220 Marine Parade, is in almost complete shadow at mid-day due to the bulk of the new development. Similarly neighbours to the East will have a loss of evening light. The impact on the amenity for the existing residents is very concerning and sets a precedent that if repeated would significantly detract from the amenity of the suburb.

7. **Loss of ventilation:** We would expect that access to natural breezes, particularly for buildings at the Eastern rear of the development would be markedly reduced. Air-flow is important in providing cooling and ventilation. The bulk of the development would again reduce the amenity of neighbours with reduced ventilation.

8. **Land-use:** Cottesloe and neighbouring Swanbourne have many near-by areas that are already designated for restaurant and cafe use. To change an existing residential land use to a commercial/mixed land use is detrimental to the near neighbours and again sets a precedent for a residential zone to change to a mixed use zone which would be a significant change to the character of the neighbourhood. Near neighbours would not wish to have a coffee shop that may well have early opening hours creating early morning disturbance with noise and traffic.

In conclusion, there is no advantage to the community, only significant dis-advantage to allowing an oversized, dense, visually dominating building to be allowed at 220 Marine Parade. There is only commercial benefit to the developer and no benefit to the neighbours and community. In fact the neighbours of this development will suffer many adverse effects should it proceed. We are also concerned at a “domino” effect, driven by the profit motive as an incentive for owners of similar properties to carry out such large developments, permanently changing the character of this family neighbourhood.

We hope the Town of Cottesloe and Metro West Joint Development Assessment Panel will take into consideration the many negative impacts of Development Application #3408 and not grant permission for it to proceed..

Yours faithfully

Kristin Kestell & Damian Kestel

Cottesloe
Mobile:
email:

To: Cottesloe Council
council@cottesloe.wa.gov.au

From: Lisa Chester Cottesloe

Re: Development Application #3408, 220 Marine Parade, Cottesloe

Date: 14 August 2016

I refer to your letter dated 1 August with respect to the abovementioned Application. The letter contains limited information, and specifically light on with respect to what the Cottesloe Council is prepared to do to minimise disruptions to the local community.

I object to this application on the following grounds:

- Any acceptance by the Council of the JDAP would be to set precedence for this specific area in North Cottesloe. There are currently no other buildings/ sites in this area where similar heights have been approved or are currently in place. It would be difficult for the Council to restrict ANY other applications along Marine Parade (or for that matter other streets) for similar height and usage.
- Approval of the new height limits would be to remove sun in the afternoon from those homes on the eastern side of the site.
- Solutions to parking problems are not being addressed. With a cafe comes traffic, both foot and vehicle. Passing trade would be the best source of new customers to the cafe. Where will these cars park? Please note that in Summer that experience shows that all parking on the western side of Marine Parade is taken. Of concern will be those repeat customers who, to avoid parking issues will choose to park in nearby streets. These streets are already populated by locals and by outer residents attending the beach.
- Traffic management - should it be that there is on-site parking at the cafe, then how will the traffic turning right into the cafe be addressed, and specifically to prevent holding up all traffic behind the vehicle.
- Rubbish - should customers be taking away coffee, then there is a concern that litter in the immediate area will be of concern. Will the Council be emptying the nearby bins more regularly, and putting in new bins to circumvent the problem? There is also concern that coffee drinkers will take their cup with them and dispose of it when convenient to them. This may cause rubbish in nearby streets.
- Operating hours - no limit appears to be put on the opening hours of the cafe, which could potentially follow other cafes in eg Leederville, and open until late night time.

I am not opposed to change, however I believe that approval for this site would set a dangerous precedence for the local area, and would cause multiple problems for nearby residents.

Lisa Chester

From: Nicole
Sent: Tuesday, 16 August 2016 4:37 PM
To: #Councillors
Subject: RESIDENT SUBMISSION FOR DEVELOPMENT APPLICATION - #3408, 22 MARINE PARADE, COTTESLOE

Dear Councillors

I am writing in relation to the current development application - #3408 for 220 Marine Parade, Cottesloe.

I am a 30 plus year resident of Cottesloe and current owner and resident with my family of five) of Cottesloe. We are deemed a "surrounding property owner" for the purposes of this submission.

My family and I STRONGLY object to the application for the proposed development on the following grounds:

1. PRINCIPLE OF CONFORMING TO CURRENT BUILDING REGULATIONS - The local government regulations relating to planning have been developed over many years as a consultative process between state government, local government and the community. These regulations are clear, transparent and provide a consistent framework for all stakeholders. They allow the interests of residents, the broader community and developers to be considered and provide security and certainty that no single party can operate in manner that denies or over-rides anyone else's interests. This is the measure and expectation that the community has in developing and applying these regulations. As such these regulations are the default position and should not be changed unless in extreme circumstances where the regulations are not acting in the interests of the broader community. This is not the case with this development application. It is the interests of one party versus the rest of the community. This party is seeking to avoid the local regulations which are designed to protect the local community. As our representative local government, we request you vigorously express our objection to this development proposal to the Metro West JDAP;
2. HEIGHT RESTRICTION - This development is seeking to not only maintain the current height but increase the height to accommodate 5 stories in a purely residential area. This contravenes local government height restrictions. The owner of this development has rights and these are set out in the regulations as they are for all of us. We have built in Cottesloe in the past 3 years and strictly adhered to these building guidelines. For the reasons set out in (1) above, this is fair to all residents living around and adjacent to us and should rightly apply to everyone else seeking to build in the area. It is the very basis we have all bought our land and buildings and to have one party having a unique and privileged set of rules, it is disadvantaging the people playing by the rules. In an economic sense, the people accepting the rules are transferring economic wealth to the developer by letting them have an advantage that was created out of thin air. It should NOT be allowed. We are completely happy with the owner keeping or demolishing the existing units and building his new house/apartments but at the same height restrictions that apply to all other buildings in the area. That is fair, equitable and transparent to all involved. As our representative local government, we request you vigorously express our objection to this development proposal to the Metro West JDAP; and
3. RESIDENTIAL AREA - We believe it is entirely inappropriate to have mixed use development in clearly a residential area. The residents have not bought and built in this part of Cottesloe to be in the middle of a mixed use area. We have and enjoy these mixed use areas in and around Cottesloe.
The difference is that residents in these areas know what to expect with the mixed use, have had this mixed use factored into the price for their properties and these areas have the supporting infrastructure (car parks, toilets) in place. This is not the case in this section of North Cottesloe.

By allowing this development to take place, there will be unintended consequences with a development of this scale and intensity and as such should be avoided. Allowing this development will transform this area of Cottesloe forever. If this is the intention, the community needs to be involved in this decision making process and planning put in place to deal with this outcome. By allowing this development, it will certainly exclude the relevant community members from the consultation process and effectively becomes development by stealth. This is not what is expected from a elected local or state government.

On these grounds, there is no reason that one party should have the right to impact so many other members of the community. This is an opportunistic proposal and should be seen as such and REJECTED.

Yours sincerely

Nicole Simpson

From: Chris Somas
Sent: Tuesday, 16 August 2016 5:59 PM
To: council
Subject: Development Application 3408

We are writing in relation to the application for planning approval for a five storey mixed use development at 220 Marine Parade Cottesloe.

As a local resident we believe the proposal for a five storey development is neither in accordance with the Towns local Planning Scheme No 3 and the scale of the building would be out of character for the northern end of Marine Parade.

The proposed café is not required in an area that is well serviced for such amenities.

The additional traffic that would be generated would add to the increased congestion in North St that has already occurred in that in recent years.

We see no reason that would justify any change to the Town Planning to accommodate this development.

Yours faithfully
C & G SOMAS

COTTESLOE WA 6011

15 August 2016

Cottesloe WA

Town of Cottesloe
P O Box 606
Cottesloe WA 6911

By email

Development Application #3408, 220 Marine Pde Cottesloe

Dear Sir/Madam

I refer to your letter dated 1 August 2016 in respect to abovementioned Development Application.

As a resident in the area, I have concerns about the size and scale of such a large development in residential areas and the variation to the Town's local Planning Scheme No 3.

My understanding is that the height limit and density for 220 Marine Pde is restricted to 2 storeys. The current building height is 3 storeys as result of a previous approval which was outside the by-laws. The current units at 220 Marine Pde have been as a result of a decision many years ago.

This particular application for 4 storeys is excessive and is out of character with rest of the area. The further increase the height of the units would have a detrimental effect on everyone in close proximity with the units overlooking and overshadowing many single residential buildings in the area.

The application, if approved, would create a precedent in the area where other development applications would seek to vary the zoning and density rules to similar heights.

I am not in favour of this development.

Yours faithfully

Brett Young
Resident



17th August 2016

Cottesloe Town Council
109 Broome St, Cottesloe, WA, 6011
Attn: Mayor & Councillors

Dear Madam & Sirs,

Re: Application for Development of 220 Marine Parade, Cottesloe, WA, 6011

As long term residents of the Town of Cottesloe, we are writing to comment on the proposed re-development of the Apartments at 220 Marine Parade, Cottesloe.

Having viewed the plans at Cottesloe Council offices on Fri 12th August, we wish to protest against almost all aspects of this proposed 5 story development.

Our objections specifically include:

- a) The current building is 3 levels high (above street level) and the proposed building is 5 levels in height. This additional height is not permitted along this part of Marine Parade as it will create:
 - a. A significant change to the maximum 2-3 story heights existing across all residences and apartments on the streetscape, thus imposing an “ugly lumpy streetscape” that will have to be endured by all residents and neighbours for generations to come. If this proposal is approved, an unfortunate “blight on the landscape” will be created that will create much unrest and discomfort for all near neighbours and residents.
 - b. A significant “overshadowing issue” for several neighbours on the eastern and south sides of the proposed building. These neighbours will suffer an unnecessary downward revaluation of their property values as they will forever more “live in shadow”, and have homes deemed to be of lesser value than surrounding which receive full sunlight.
 - c. The 5 story tower will create light and noise pollution from its 5 floors of tenants in an otherwise quiet seaside environment. This additional noise, light and “blight on the architectural landscape” will collectively destroy the quiet amenity currently enjoyed over many decades by the current and future residents of Marine Parade.

- d. Adjacent residents on three sides of the proposed 5 level development will lose much of their privacy and security as many of the new windows from the development will overlook straight into their backyards, side and rear windows. This loss of privacy is a significant problem that cannot be addressed in any manner other than ensuring the proposed development does not contain any side or rear facing windows (impractical).
 - e. The "Tower" as it may become known, will be seen to be another total failure of urban planning (similar to observation City in Scarborough) whereby the interests of long term Cottesloe Residents have been ignored as Council and/or state Planning has pandered to the whims & demands of another land developer.
- b) Other reasons why any proposed development along the "residential part" of Marine Parade should be denied a Planning Approval are:
- a. The proponent Developer is NOT a Cottesloe resident (he resides in Attadale), has contributed little to the paying of local rates and taxes over the years, cares nothing for the amenity of the beachfront and environs of Cottesloe and thus is proposing a development that in no way fits in with the current style and sophistication of "the casual chic, family focused Cottesloe Lifestyle".
 - b. As with all commercial developments, the proponent Developer simply seeks to exploit a planning loophole to maximise the sqm area of his building to increase the Building to Land Area Ratio to maximise the Profit from this development. Defending a Developer's "profit motive" should not be a reason to approve any given development that does not comply in so many other ways with current Town of Cottesloe building and zoning regulations.
 - c. No other residents have been cheeky enough to propose 3 or 4 level Residential or Commercial developments along the residential portions of north and south Marine Parade as they have always tried to design and build in sympathy with existing beachfront streetscapes and elevation profiles.
 - d. If the proponent Developer has a particular desire to build 5 story apartments on the beach front in Cottesloe, he has ample opportunity to purchase land further south on Marine Parade (and pay the appropriate prices) for oceanfront land that is clearly zoned commercial and where 5 story beachfront developments are currently permitted. This Developer has chosen not to do this, but wishes to try to exploit a loophole in State Planning regulations to try to railroad his unsightly proposal through and bypass the normal scrutiny of Cottesloe Council, existing neighbours and ratepayers.
- c) The proposed development appears very angular and bulky using cheaper quality external materials. The Developer should understand that existing neighbours and Cottesloe residents have no problem with seeing high quality, visually attractive 3 level apartment developments on the Cottesloe beachfront, however we object to grotesque, over built slab-sided edifices that seek to exploit planning loopholes and create planning arguments for generations to come.

d) We consider it a ridiculous idea to include a very tiny café on the ground floor of the development for the following reasons:

- a. The current zoning is Residential, and thus does not allow for a café/shop to be included.
- b. The shop floor area is so small that it will be an uneconomic venture for anyone who wishes to undertake the venture.
- c. Existing neighbours & residents do not wish to see advertising signage and lighting contributing to a downgrading of the visual appeal of the Cottesloe beachfront.
- d. The existence of a shop will create traffic congestion (slowing down, turning, attempted parking), car parking and rubbish problems along what is currently a tranquil, peaceful expanse of Cottesloe beachfront.
- e. A shop in this location will require early opening, delivery of supplies, late closing and a myriad of other lighting, noise and pedestrian problems that don't currently exist along this part of Marine Parade.
- f. As stated earlier, if the proponent Developer wishes to build a "shop", he has plenty of land choice further south along Marine Parade and does not need to destroy the "Quiet Amenity" enjoyed by existing residents along the northern Marine Parade, residential precinct.

Should Cottesloe Councillors or DAP members wish to discuss this proposal more fully with either Hayley or myself, we are happy to convey and explain our concerns more fully in person.

Thankyou for your consideration.

Yours Sincerely,

Steve and Hayley Tobin
Cottesloe, WA 6011.

Michael Tobin
Cottesloe, WA 6011.

From: Katina Law
Sent: Wednesday, 17 August 2016 2:06 PM
To: council
Cc: 'Peter and Katina Law'
Subject: Development Application #3408, 220 Marine Parade, Cottesloe

To Cottesloe Council

Re: Development Application #3408, 220 Marine Parade, Cottesloe

I refer to your letter dated 1 August with respect to the abovementioned Application. My Family has lived at Cottesloe for the past decade. We are completely opposed to the five storey development plan for 220 Marine Pde as this is not in line with the residential planning in the area and is not something that we want to see along the north Cottesloe beach front.

Any acceptance by the Council of the JDAP would be to set precedence for this specific area in North Cottesloe. There are currently no other buildings/ sites in this area where similar heights have been approved or are currently in place. It would be difficult for the Council to restrict ANY other applications along Marine Parade (or for that matter other streets) for similar height and usage.

We are not opposed to the apartments being knocked down and renovated as long it remains within the current height restrictions held within the Cottesloe Town Planning Scheme. This proposal would seem to be a complete breach of the law as it is clearly above the current Cottesloe Planning scheme height restrictions. We have talked to multiple residents in the neighbourhood and there is no one we have spoken with in favour of this building.

If developer's want to build 5 storey apartment blocks within the areas zoned for this within Cottesloe we have no issue with this but not in our residential area.

Also we are concerned about the café which is proposed. This would introduce a commercial venture into a very residential neighbourhood. This would set a clear precedent for more commercial development in this area. We do not want commercial activity in this area which is already served by cafés at North Cottesloe and Swanbourne.

In addition the traffic issues, opening hours and many other aspects relating to the operation of the café remain a significant concern.

We believe that approval for this site would set a dangerous precedence for the local area, and would cause multiple problems for nearby residents.

We would appreciate being kept informed of this proposal and any feedback from JDAP as it evolves.

Many Thanks

Katina and Peter Law

Cottesloe

TOWN OF COTTESLOE
109 Broome Street
COTTESLOE WA 6011

Attention - Ed Drewett (Senior Planning Officer)
Regarding - Development Application - 3408 / 220 Marine Parade - Cottesloe

Dear Sir

I am the property owner of _____ – Cottesloe – to the _____ of the proposed redevelopment at 220 Marine Parade – Cottesloe. I have viewed the proposed drawings for the development and have the following issues I wish to lodge my objections and concerns over:

Proposed 5 Storey Height of Development:

The existing block of flats is currently a 3 storey building and does not conform with the current Town Planning Scheme of the area. This residential precinct is a low rise area and it is important that the “residential precinct” is maintained as such for the integrity and streetscape amenities. The proposal for a 5 storey redevelopment of this site is completely out of context with the streetscape and the Town Planning Scheme for this area. High rise and high density developments are zoned in the central CBD area of Cottesloe further south along Marine Parade.

It does not comply with the height requirements for the Town Planning Scheme.
It will set a detrimental precedent to this important low rise residential area.
It is completely out of scale and character to the streetscape along this northern section of Marine parade.

Proposed Setbacks for Development:

The proposed front setbacks of the development do not comply with the current Town Planning Scheme of the area. The development needs to conform with the current street setback requirements of 6m from marine parade to maintain the integrity of the streetscape. This development has ignored the current streetscape setbacks and dynamics completely and is trying to push the boundaries with the setbacks from marine parade to the detriment of the overall streetscape and character of the area.

Proposed Café To Development:

The proposed Café to the ground floor of the development does not comply with the current Local Town Planning Scheme – a Café is a “non-conforming use”. This is a residential precinct.

The central CBD area of Marine Parade further south is the area zoned for cafes, restaurants etc... in the Town. The café component should not be allowed in this residential area – as it would set a dangerous precedent for non-conforming use in the area. We need to maintain the integrity of this residential area. This is not the place for a café.

SUMMARY:

The 5 storey development proposed for 220 Marine Parade – Cottesloe (to replace the existing 3 storey flats) is completely out of context with the surrounding low scale residential precinct. It does not contribute to the streetscape aesthetics of the area – but rather would be detrimental and create a visual threat to the existing low rise amenities of the area.

The Local Town Planning Scheme is in place for a reason and it is important to maintain the reason why it exists – to protect the amenity of the area and its residents.

There is no reasoning what so ever that the proposal for a new 5 storey development in this area (which does not even comply with height and setbacks and is trying to introduce a non-conforming café use) – should even be considered at all!

We have a Town Planning Scheme and applications need to comply with the requirements of the scheme.

I therefore lodge my objection to the DAP on the proposed development of 220 Marine Parade – Cottesloe.

I would also like to be informed of the proposed meeting date for the DAP who will be assessing this development – to have the opportunity to attend.

Simon Nelson
Property Owner -

Cottesloe.

From: Jim Wilshire
Sent: Thursday, 18 August 2016 11:18 AM
To: council
Subject: Against Development Application Exemptions 220 Marine Parade

I am against any change in the current council zonings and therefore wish to register my opposition to the redevelopment for North Cottesloe which exceeds the height restrictions and change to mixed use with a café. I support the council has some degree of discretion for say exceptional architecture cases and am sure most ratepayers would agree.

Thanks

Jim Wilshire

Our Ref: 717-076

18 August 2016

Chief Executive Officer
Town of Cottesloe
PO Box 606
COTTESLOE WA 6911



TOWN PLANNING
URBAN DESIGN AND HERITAGE

Attention: Andrew Jackson– Manager Development Services

Dear Andrew,

DEVELOPMENT ASSESSMENT PANEL APPLICATION DA3408 – SUBMISSION ON PROPOSED MIXED USE DEVELOPMENT AT LOTS 14 AND 15 (NO. 218-220) MARINE PARADE, COTTESLOE

This submission has been prepared by TPG Town Planning, Urban Design and Heritage (TPG), on behalf of Tim and Naomi Kestell of Cottesloe, to object to the proposed five (5) storey mixed use development at Lots 14 and 15 (Nos. 218-220) Marine Parade, Cottesloe (the subject site). The proposed development is currently out for public advertising, with submissions closing on Monday, 22 August 2016.

This submission primarily objects to the height and scale of the proposed development in the context of surrounding development and the requirements under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3). The submission concludes that the development is incapable of being approved in its current form on the basis that it is inconsistent with the statutory requirements relating to building height and land use under LPS3.

The proposed development comprises the demolition of the existing three (3) storey residential apartment building on the subject site and the construction of a five (5) storey mixed use development, comprising four (4) residential apartments and one (1) café tenancy at the ground floor. Nine (9) car parking bays are also proposed within a single basement level. As part of preparing this submission, TPG has visited the Town of Cottesloe's Administration Centre to view the plans for the proposed development, which comprised of floor plans, elevations, an overshadowing diagram and coloured perspectives of the proposed development.

Site Background and Planning Framework

The subject site is zoned 'Urban' under the Metropolitan Region Scheme and is zoned 'Residential' under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3). LPS3 assigns a residential density for the subject site of R25. The adjoining properties to the north, east and south are also zoned 'Residential' under LPS3 and are assigned a residential density of R25.

The objectives of the Residential zoned under LPS3 are to:

- a) *encourage residential development only which is compatible with the scale and amenity of the locality;*
- b) *provide the opportunity for a variety and choice in housing in specified residential areas;*

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The Planning Group WA Pty Ltd
ABN 36 097 273 222

- c) allow for some non-residential uses where they are compatible with the amenity of residential localities; and*
- d) encourage the retention of local facilities and services within specified residential areas for the convenience of the local community.*

Development in the immediate locality generally comprises of single residences and exhibits a built form of between two (2) and three (3) storeys.

Building Height

Clause 5.2.2 of LPS3 states that, unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of those Codes.

However, Clause 5.3.3 of LPS3 provides that, despite anything contained in the Residential Design Codes to the contrary, the building height for all residential development shall comply with the provisions of Clause 5.7 of LPS3, which establishes that building height is limited to that stated in Table 2 of LPS3. Table 2 provides for a maximum height of two (2) storeys for all development within the Residential zone (regardless of whether that development is residential or otherwise).

The building height requirements under Clause 5.7 are specifically excluded from being eligible for the exercise of general discretion under Clause 5.5.1 of LPS3, with variations only permitted to the extent provided for under Clause 5.7. This is outlined in the following extract from Schedule 13 of LPS3:

3. Height (clause 5.7, Table 2)

- 3.1. To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.*
- 3.2. To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6 and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1. - AMD 1 GG 24/3/15*
- 3.3. To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.*

Therefore the building height requirements under Table 2 can generally only be varied to the extent provided in Clauses 5.7.4, 5.7.5 or 6.3.6. Based on a review of the aforementioned provisions, the proposed development is not eligible for assessment under any of Clauses 5.7.4, 5.7.5 or 6.3.6 and regardless, these could only permit a maximum three (3) storey development on the subject site. Broadly, these clauses operate as follows:

- Clause 5.7.4 permits a third storey to be located within the roof space of a dwelling provided that the dwelling retains the appearance of a two-storey dwelling, and is therefore not relevant to the proposed mixed use development.
- Clause 5.7.5 relates to alterations, additions or extensions to existing dwellings, and is therefore not relevant to the proposed mixed use development. Regardless, development cannot exceed the existing number of storeys on site.
- Clause 6.3.6 relates to building height within Special Control Area 1, as identified under LPS3, and is therefore not relevant to the proposed mixed use development.

In accordance with the above, development on the subject site would generally be limited to a height of two (2) storeys. However, it is noted Clause 5.3.5 of LPS3 states that:

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme can, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map, equal to, but not exceeding the existing built density, subject to the proposed development —

- a) complementing the character of the streetscape;*
- b) not detrimentally increasing the mass, scale or surface area of the development relative to existing development on surrounding properties;*
- c) resulting in improved landscaping of the land;*
- d) providing adequate and safe means of vehicular and pedestrian access to the land; and*
- e) providing an adequate number of car parking spaces on the land.*

Furthermore, and notwithstanding any other clause in this Scheme, the proposed development may be considered for additional building height (maximum one additional storey) over the prevailing permissible building height for the locality where, in the opinion of the local government, the original number of dwellings (and their replacement plot ratio) cannot be appropriately accommodated on the lot without an increase in height.

Regardless of whether the development satisfies the above criteria (particularly with respect to points a and b, as discussed below), this provides for a maximum building height of three (3) storeys for the subject site, with no discretion provided to vary this requirement. As such, it is concluded that the proposed five (5) storey (16 metre high) development is incapable of being approved under the provisions of LPS3, on the basis that there is no general discretion to vary the height requirements under the Scheme except in accordance with the criteria outlined above, which at most could provide for a three (3) storey building on the subject site.

Furthermore, and in order to satisfy the above, the decision making authority must be satisfied that the proposed development will complement the streetscape and not detrimentally increase the bulk and scale impact of the development on surrounding properties. In this instance, the proposed five (5) storey mixed use development is considered to be inconsistent with the prevailing character of the streetscape, which comprises predominantly of single residences and exhibits a built form of between two (2) and three (3) storeys. In addition, the increased building height and larger footprint of the proposed mixed use development will clearly have a far greater bulk and scale impact than the existing residential apartment building on the subject site, and will substantially increase overshadowing of the existing residential property at Marine Parade, as discussed below.

On the basis of the above, and irrespective of the fact that a five (5) storey development could not be approved on the subject site (as established above), the development is not considered to meet the relevant criteria to enliven the discretion available under Clause 5.3.5, nor that available under Clauses 5.7.4, 5.7.5 or 6.3.6 of LPS3. As such, and based on the information made available by the Town, it is unclear on what basis the proponent considers that a five (5) storey building can be approved on the subject site, let alone be considered contextually appropriate.

Based on the above, the decision-making authority has no alternative other than to refuse the development in its current form, as it is inconsistent with the statutory requirements under LPS3 and the prevailing streetscape character. The proposed five (5) storey building height is excessive and will adversely impact adjoining properties and the amenity of the locality.

Overshadowing

The height and scale of the proposed development, and the proposed setback to the southern lot boundary, will also result in significant overshadowing of the adjoining property at Marine Parade, Cottesloe, being well in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes where adjoining properties are coded R25.

Whilst it is acknowledged that the existing residential apartment building on the subject site results in overshadowing of [redacted] that is in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes, the proposed five (5) storey development will result in a significant exacerbation of the overshadowing impact on [redacted]. Based on the shadow diagrams provided, we estimate that the existing residential apartment building overshadows approximately 40% of the adjoining site area at midday on June 21, whilst the proposed mixed use development will overshadow approximately 75% of the adjoining site area at midday on June 21. This is well in excess of the permitted 25% overshadowing, and is considered to unreasonably detract from the amount of sunlight penetration into the adjoining property owing primarily to the height of the proposed development. As such, it is considered that the overshadowing impact is inconsistent with the relevant Design Principles of the R-Codes with respect to solar access for adjoining sites.

Land Use

In addition to the above, it is noted that the commercial tenancy provided at the ground floor is identified as a 'Café' on the development plans, which falls within the definition of a 'Restaurant' as defined under LPS3. 'Restaurant' is defined as follows:

"restaurant" means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;

In accordance with the Zoning Table contained within LPS3, 'Restaurant' is identified as a prohibited ('X') use within areas zoned Residential R25, and is therefore not capable of being approved in accordance with the provisions of LPS3, noting that there is no discretion to vary the land use requirements under the Zoning Table contained within LPS3. As such, the decision-making authority cannot issue an approval for the proposed 'Café' land use at the ground floor.

Whilst the objectives for the Residential zone under LPS3 do allow for *"some non-residential uses where they are compatible with the amenity of residential localities"*, the use class permissibility table under LPS3 clearly establishes that a café / restaurant is not considered an appropriate land use within the Residential zone.

It is acknowledged that 'Multiple Dwelling' is a discretionary ('D') use within the Residential R25 zone and therefore is capable of being approved under LPS3.

General Objectives of the Scheme

In addition to the specific comments outlined above, the proposed mixed use development is considered to be inconsistent with objectives for the Residential zone under LPS3, and the general aims under Clause 1.6 of the Scheme, on the basis that

- a) The proposed development is incompatible with the scale and amenity of the locality, as established above; and
- b) The nature of the proposed café land use at the ground floor level has previously been determined by the Town of Cottesloe to be incompatible with the amenity of residential locality, as evidenced by the fact that a 'Restaurant' is identified as a prohibited ('X') use within the Residential zone.

DEVELOPMENT ASSESSMENT PANEL APPLICATION DA3408 – SUBMISSION ON PROPOSED MIXED USE DEVELOPMENT AT LOTS 14 AND 15 (NO. 218-220) MARINE PARADE, COTTESLOE

On the basis of the above, the development is inconsistent with the principles of orderly and proper planning, due to the incompatibility of the development with its setting, particularly with respect to the resultant impact on adjoining property owners.

Conclusion

In conclusion, this submission objects to the proposed development on the basis that:

- a. The bulk and scale of the development is not in accordance with the objectives for the Residential zone under LPS3 and will adversely impact adjoining properties, the prevailing streetscape character and the amenity of the locality;
- b. The height of the proposed development, at five (5) storeys (16 metres high), is not capable of being approved under LPS3, noting that there is no discretion available to approve a development in excess of three (3) storeys within the Residential R25 zone;
- c. The overshadowing impact of the proposed development on the Marine Parade is well in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria, and is considered incapable of demonstrating compliance with the Design Principles of the R-Codes on the basis that the overshadowing impact of the proposed development will unreasonably impact on solar access to the adjoining 216 Marine Parade;
- d. The proposed 'Café' land use at the ground floor is a prohibited ('X') use within the Residential R25 zone, and is therefore not capable of being approved under LPS3; and
- e. The development as a whole is considered to be inconsistent with the general objectives and provisions of LPS3, for the reasons outlined above.

Based on the information provided above, and in accordance with the provisions of LPS3, it is concluded that the development is not capable of being approved in its current form and will have a significant adverse impact on the streetscape and the amenity of the locality. We therefore conclude that the only option available is for the Town of Cottesloe to recommend refusal of the application and for the Metropolitan West Joint Development Assessment Panel to refuse the development accordingly.

Should you have any queries or require clarification on any of the matters presented herein please do not hesitate to contact the undersigned on (08) 9289 8300.

Yours sincerely

TPG TOWN PLANNING, URBAN DESIGN AND HERITAGE

David Caddy
Senior Director

From: Andrew Jackson
Sent: Friday, 19 August 2016 9:29 AM
To: Elizabeth Yates
Subject: 220 Marine Pde - Development Application

From: Mayor Jo Dawkins
Sent: Friday, 19 August 2016 8:42 AM
To: Alistair Burgoyne
Cc: Andrew Jackson
Subject: Re: [LIKELY_SPAM] 220 Marine Pde - Development Application

Dear Alistair,

The below submission noted - thank you.

As submissions should be directed to the manager of Development Services, I have forwarded your email.

Kind regards
Jo

Mayor Jo Dawkins



Town of Cottesloe

109 Broome Street | Cottesloe WA 6011
P O Box 606 | Cottesloe WA 6011
☎ (08) 9384 9760
✉ mavor@cottesloe.wa.gov.au
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On 18 Aug 2016, at 6:05 pm, Alistair Burgoyne wrote:

I am writing in relation to the development application - #3408 for 220 Marine Parade, Cottesloe.

I am a current owner in Cottesloe.

I would like to object to the application for the proposed development on the following grounds:

1. CONFORMING TO CURRENT BUILDING REGULATIONS

The local government regulations relating to planning have been developed over many years as a consultative process between state government, local government and the community. These regulations are clear, transparent and provide a consistent framework for all stakeholders. They allow the interests of residents, the broader community and developers to be considered and provide security and certainty that no single party can operate in manner that denies or over-rides

anyone else's interests. This is the measure and expectation that the community has in developing and applying these regulations. As such these regulations are the default position and should not be changed unless in extreme circumstances where the regulations are not acting in the interests of the broader community.

This is not the case with this development application. It is the interests of one party versus the rest of the community. This party is seeking to avoid the local regulations which are designed to protect the local community. As our representative local government, we request you express our objection to this development proposal to the Metro West JDAP;

2. HEIGHT RESTRICTION

This development is seeking to not only maintain the current height but increase the height to accommodate 5 stories in a purely residential area. This contravenes local government height restrictions. The owner of this development has rights and these are set out in the regulations as they are for all of us. To have one party having a unique and privileged set of rules, it is disadvantaging the people playing by the rules. I am completely happy with the owner keeping or demolishing the existing units and building his new house/apartments but at the same height restrictions that apply to all other buildings in the area. That is fair, equitable and transparent to all involved. As our representative local government, we request you express our objection to this development proposal to the Metro West JDAP;

2. RESIDENTIAL AREA –

I believe it is entirely inappropriate to have mixed use development in clearly a residential area. The residents have not bought and built in this part of Cottesloe to be in the middle of a mixed use area. We have and enjoy these mixed use areas in and around Cottesloe. The difference is that residents in these areas know what to expect with the mixed use, have had this mixed use factored into the price for their properties and these areas have the supporting infrastructure (car parks, toilets) in place. This is not the case in this section of North Cottesloe. By allowing this development to take place, there will be unintended consequences with a development of this scale and intensity and as such should be avoided. Allowing this development will transform this area of Cottesloe forever. If this is the intention, the community needs to be involved in this decision making process and planning put in place to deal with this outcome. By allowing this development, it will certainly exclude the relevant community members from the consultation process. This is not what is expected from an elected local or state government.

On these grounds, there is no reason that one party should have the right to impact so many other members of the community. This is an opportunistic proposal and should be seen as such and REJECTED.

Best Regards,

Alistair Burgoyne
Director
Head - Mergers & Acquisitions
PrimePartners Corporate Finance Pte Ltd
16 Collyer Quay, #10-00
Income at Raffles, Singapore 049318
Tel:
Fax:
Mob
E-mail: _____

From: amanda renouf
Sent: Friday, 19 August 2016 10:24 AM
To: council
Subject: Development Application #3408, 220 Marine Parade

We would like to register an objection to the proposed development of a 5 level apartment/café at 220 Marine Parade. This development will not enhance or sit well with the current street scape. Its height will destroy the views of others situated around and in our street behind, it will also set a precedent for others who wish to carry out further developments such as this along this part of the beachfront. We do not need the extra height, nor another café as we have plenty very close by which are easily accessible. Please consider how this development will effect the lives of the current rate payers who live in the area,

Regards,

Amanda Renouf

Cottesloe

From: Kate Macdermott
Sent: Friday, 19 August 2016 1:10 PM
To: council
Subject: 220 Marine Parade Cottesloe - Development Application #3408

To the attention of the Town Of Cottesloe Council,

RE: Development Application 3408 in regard to 220 Marine Parade, Cottesloe.

Dear Council,

I am writing in regard to the development application for 220 Marine Parade, Cottesloe. I have reviewed the plans contained in the application and I would like to voice my concerns in my capacity as a North Cottesloe resident.

For the reasons I have detailed below, I am strongly against this application being allowed to proceed, notwithstanding the fact that it is non-compliant with the Town of Cottesloe's zoning and building limits for the site.

1) Height of the proposed building is three storeys higher than current zoning allows, therefore should not be permitted. This will dwarf all neighbouring buildings and is not in keeping with the small to medium houses along this section of the street. Permitting additional height as per the proposal will create a dangerous precedent for other land developers, which will greatly diminish the community feel of the neighbourhood and offer no amenity to current landowners.

2) Size of the proposed building - is significantly larger than what is existing at 220 Marine Parade. The proposed development is overwhelming and will dominate the streetscape and become somewhat of an eyesore due to its sheer volume and size. Permitting this will no doubt encourage other land developers to follow this direction and build structures that occupy the entirety of the landholding. This will not negatively impact the street scape.

3) Commercial land use - Cottesloe has many areas that are designated for restaurant and cafe-use. To allow a cafe to be incorporated into a residential dwelling, will be detrimental to residents as there will be increased noise, additional traffic and even less available parking (which is of particular concern over the summer months).

In summary, I see nothing advantageous to the Cottesloe community in allowing this proposal to go ahead for the reasons i have listed above. I can be reached on _____ should you wish to discuss my concerns with me.

With regards
Kate MacDermott
Margaret Street, Cottesloe.

From: David Borshoff
Sent: Saturday, 20 August 2016 3:08 PM
To: council
Subject: #3408, 220 Marine Parade

Dear Sir/Madam,

We write to convey my strong objection to the above development application.

As Cottesloe residents, we appreciate the unique ambience of the North Cottesloe enclave surrounding this address.

This is not part of the 'developed area' of our suburb, already well supplied with cafes, and the precedent set by allowing a 5 story development, just in the interest of maximising profit for the developer, is not acceptable to us.

We require thoughtful, insightful representation to protect the interest of the ratepayers, preserve the character of one of Perth's most loved suburbs and to prevent a Scarborough Beach style debacle.

I urge you to strongly advocate for limiting this development to the height of the current property.

Sincerely,

David Borshoff
Caroline Crabb

From: Marita Collins
Sent: Sunday, 21 August 2016 2:40 PM
To: council
Subject: 220 Marine Parade Development Application #3408

Dear Sir/Madam

I would like to submit my absolute opposition to the proposed development of 220 Marine Parade Cottesloe.

My family & I live behind this development at no . From my living room windows I look directly onto the top floor of the existing building. As it stands in its present form, it is already an anomaly from the rest of the buildings in northern Marine Parade. The public consensus being that the existing structure is above the legal height ruling for the area.

I have viewed the plans and like many of my neighbours have serious reservations about their legitimacy and legality. Indeed if this should be approved for this particular developer then surely a precedent would be set for subsequent applications from surrounding parties.

Given that the owner of this property bought it at a very reduced price, can it perhaps be a case of greed proceeding common sense that gives him the audacity to over develop in an area which is 800 metres north of the commercial part of Marine Parade. I am aware that this will go to the Development Assessment Panel. This in itself is a major worry as recent media reports have shown their absolute disregard for community opinion.

As a Cottesloe ratepayer and as a local who loves the area I simply do not want to risk the long term damage to the area for one very unnecessary over development.

I trust as my council , I can leave my concern in your very capable hands.

Yours Sincerely

Marita Collins (Ms)

From: Jodie McIntosh
Sent: Sunday, 21 August 2016 10:28 PM
To: council
Subject: Regarding Development Application - #3408, 220 Marine Parade Cottesloe

Dear Andrew

I am a property owner in North Cottesloe. I strongly object to the proposed development at 220 Marine Parade Cottesloe (Development Application #3408). I strongly object on the grounds that the proposed development is higher than permitted under Cottesloe's planning scheme. The approval of this application would set a precedent which would have a disastrous affect on the amenity of Cottesloe.

Why is this application determined by the Metro West Joint Development Assessment Panel (JDAP)? Why would the JDAP have more developmental influence than the rate payers of Cottesloe and the Cottesloe Council? The values of many properties in Cottesloe are based on ocean views. How would this affect property values going forward if views are not guaranteed by current zoning?

Kind regards

Jodie McIntosh

Cottesloe 6011

TOWN OF COTTESLOE

19 AUG 2016

Town of Cottesloe RECEIVED

109 Cottesloe St

Cottesloe 6011

Cottesloe 6011

19-8-2016

Manager of Development Services

Dear Mr Jackson,

re Development Application #3408, 220 Marine Parade, Cottesloe

My family would like to strongly oppose the proposal for 2 major reasons:-

- ① The introduction of the mixed use development, the kiosk at the front in what is a residential area.
- ② Also, we do not want to see a five storey block replacing a three storey one, bringing with it an impact on the amenity of the residents to the side and behind the 5 storey structure. It could then become a precedent for other developers to follow this example.

We strongly ask that these reasons will be passed on to the Metro West Joint Development Assessment Panel.

Yours faithfully,

From: Michael Carrick
Sent: Monday, 22 August 2016 12:51 PM
To: council
Cc: Elizabeth Carrick
Subject: DEVELOPMENT APPLICATION #3408, 220 Marine Parade, Cottesloe

20 AUGUST 2016

Dear Sirs

FOR: MR ANDREW JACKSON
MANAGER DEVELOPMENT SERVICES

My wife and I are the owners of [redacted] Cottesloe and we write in response to your kind letter of 1 August 2016.

We are strongly opposed to Mr. Ratta's development proposal on the following grounds:

a) Five story development

As I understand, the proposed development is 800m north of the approved height changes on Marine Parade and three stories higher than the Cottesloe's planning scheme permits.

b) The ground floor level café

This is clearly not a café precinct and this will adversely impact upon the residential properties in the neighbourhood which were purchased or developed relying on existing town planning guidelines and zonings.

The applicant was fully aware of both constraints before his purchase of the above property.

We would like to thank the Council for providing neighbours with the opportunity to comment.

Regards
Mike & Liz Carrick

From: d k
Sent: Monday, 22 August 2016 1:15 PM
To: council
Subject: DA #3408 - 220 Marine Parade, Cottesloe

Dear Andrew Jackson,

We are in receipt of a letter from Council regarding the above DA.

As a surrounding neighbour of this site we are very opposed to a DA permit being granted due to:

1. The height has increased above the current 3 story structure to a 5 story building
2. This increased height is an eyesore as well as blocking existing views and shading of many residents
3. The café is a use that is not consistent with the surrounding neighbourhood

Apart from the above, we feel strongly that this proposed development would create a major loss of amenity for residents within a large radius of this property and we urge the Council to oppose this DA at JDAP and beyond.

Your faithfully,

D P Kailis

From: Michelle Prater
Sent: Tuesday, 23 August 2016 9:27 AM
To: Ed Drewett
Subject: RE: 220 Marine Parade, Cottesloe

Good morning Ed

Based on the information available we do not support the development on the basis that the retail space in this exact location will potentially cause parking issues for the residents and is not located close enough to a carpark to accommodate. We are in support of additional retail operations but only if parking can be provided for it.

We also do not support the construction of the apartments as they in excess of the height requirements and the design overly dominates the streetscape.

We respectfully request that the council use its' discretion and object to the proposed development.

Regards

Michelle Prater

Director

Automotive Properties Pty Ltd
Suite 3, Centro on the Park
2 Centro Ave
SUBIACO WA 6008
AUSTRALIA



AUTOMOTIVE PROPERTIES PTY LTD
T: (08) 9380 0444
F: (08) 9380 0445

From: Gayle McGarry
Sent: Monday, 22 August 2016 2:46 PM
To: council
Subject: DEVELOPMENT ASSESSMENT PANEL APPLICATION DA3408 -
SUBMISSION ON PROPOSED MIXED USE DEVELOPMENT AT
LOTS 14 AND 15 (NO. 218-220) MARINE PARADE, COTTESLOE

22 August 2016

Chief Executive Officer
Town of Cottesloe
PO Box 606
COTTESLOE WA 6911

Attention: Andrew Jackson– Manager Development Services

Dear Sir

**DEVELOPMENT ASSESSMENT PANEL APPLICATION DA3408 – SUBMISSION ON PROPOSED MIXED USE
DEVELOPMENT AT LOTS 14 AND 15 (NO. 218-220) MARINE PARADE, COTTESLOE**

I am the owner of Cottesloe and make these submissions to object to the proposed five (5) storey mixed use development at Lots 14 and 15 (Nos. 218-220) Marine Parade, Cottesloe (the subject site). The proposed development is currently out for public advertising, with submissions closing on Monday, 22 August 2016.

This submission primarily objects to the height and scale of the proposed development in the context of surrounding development and the requirements under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3) and concludes that the development is **incapable** of being approved in its current form on the basis that it is inconsistent with the statutory requirements relating to building height and land use under LPS3.

The proposed development comprises the demolition of the existing three (3) storey residential apartment building (10m in height) on the subject site and the construction of a five (5) storey mixed use development, comprising four (4) residential apartments and one (1) café tenancy at the ground floor (16m in height). Nine (9) car parking bays are also proposed within a single basement level. I have visited the Town of Cottesloe's Administration Centre to view the plans for the proposed development, which comprised of floor plans, elevations, an overshadowing diagram and coloured perspectives of the proposed development.

Site Background and Planning Framework

The subject site is zoned 'Urban' under the Metropolitan Region Scheme and is zoned 'Residential' under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3). LPS3 assigns a residential density for the subject site of R25. The adjoining properties to the north, east and south are also zoned 'Residential' under LPS3 and are assigned a residential density of R25.

The objectives of the Residential zoned under LPS3 are to:

- a) encourage residential development only which is compatible with the scale and amenity of the locality;
- b) provide the opportunity for a variety and choice in housing in specified residential areas;
- c) allow for some non-residential uses where they are compatible with the amenity of residential localities; and
- d) encourage the retention of local facilities and services within specified residential areas for the convenience of the local community.

Development in the immediate locality generally comprises of single residences and exhibits a built form of between two (2) and three (3) storeys.

Building Height

Clause 5.2.2 of LPS3 states that, unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of those Codes.

However, Clause 5.3.3 of LPS3 provides that, despite anything contained in the Residential Design Codes to the contrary, the building height for all residential development shall comply with the provisions of Clause 5.7 of LPS3, which establishes that building height is limited to that stated in Table 2 of LPS3. Table 2 provides for a maximum height of two (2) storeys for all development within the Residential zone (regardless of whether that development is residential or otherwise).

The building height requirements under Clause 5.7 are **specifically excluded** from being eligible for the exercise of general discretion under Clause 5.5.1 of LPS3, with variations only permitted to the extent provided for under Clause 5.7. This is outlined in the following extract from Schedule 13 of LPS3:

3. Height (clause 5.7, Table 2)

- 3.1. To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.
- 3.2. To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6 and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1. - AMD 1 GG 24/3/15
- 3.3. To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.

Therefore the building height requirements under Table 2 can generally **only** be varied to the extent provided in Clauses **5.7.4, 5.7.5 or 6.3.6**. Based on a review of the aforementioned provisions, the proposed development is **not** eligible for assessment under any of Clauses 5.7.4, 5.7.5 or 6.3.6 and regardless, these **could only permit a maximum three (3) storey development on the subject site**. Broadly, these clauses operate as follows:

- Clause 5.7.4 permits a third storey to be located within the roof space of a dwelling provided that the dwelling retains the appearance of a two-storey dwelling, and is therefore not relevant to the proposed mixed use development.
- Clause 5.7.5 relates to alterations, additions or extensions to existing dwellings, and is therefore not relevant to the proposed mixed use development. Regardless, development cannot exceed the existing number of storeys on site.
- Clause 6.3.6 relates to building height within Special Control Area 1, as identified under LPS3, and is therefore not relevant to the proposed mixed use development.

In accordance with the above, development on the subject site would generally be limited to a height of two (2) storeys. However, it is noted Clause 5.3.5 of LPS3 states that:

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme can, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map, equal to, but not exceeding the existing built density, subject to the proposed development —

- a) complementing the character of the streetscape;
- b) not detrimentally increasing the mass, scale or surface area of the development relative to existing development on surrounding properties;
- c) resulting in improved landscaping of the land;
- d) providing adequate and safe means of vehicular and pedestrian access to the land; and
- e) providing an adequate number of car parking spaces on the land.

Furthermore, and notwithstanding any other clause in this Scheme, the proposed development may be considered for additional building height (**maximum one additional storey**) over the prevailing permissible building height for the locality where, in the opinion of the local government, the original number of dwellings (and their replacement plot ratio) cannot be appropriately accommodated on the lot without an increase in height.

Regardless of whether the development satisfies the above criteria (particularly with respect to points a and b, as discussed below), this provides for a **maximum building height of three (3) storeys** for the subject site, with **no discretion** provided to vary this requirement. As such, it is concluded that the proposed five (5) storey (16 metre high) development is **incapable** of being approved under the provisions of LPS3, on the basis that there is no general discretion to vary the height requirements under the Scheme except in accordance with the criteria outlined above, which **at most could provide for a three (3) storey building** on the subject site.

Furthermore, and in order to satisfy the above, the decision making authority must be satisfied that the proposed development will complement the streetscape and not detrimentally increase the bulk and scale impact of the development on surrounding properties. In this instance, the proposed five (5) storey mixed use development is considered to be inconsistent with the prevailing character of the streetscape, which comprises predominantly of single residences and exhibits a built form of between two (2) and three (3) storeys. In addition, the increased building height (16m vs 10m) and larger footprint of the proposed mixed use development will clearly have a far greater bulk and scale impact than the existing residential apartment building on the subject site, and will substantially increase overshadowing of the existing residential property at Lot 16 (No. 216) Marine Parade, as discussed below.

On the basis of the above, and irrespective of the fact that a five (5) storey development could **not** be approved on the subject site (as established above), the development is **not considered to meet the relevant criteria to enliven the discretion available under Clause 5.3.5**, nor that available under Clauses 5.7.4, 5.7.5 or 6.3.6 of LPS3. As such, and based on the information made available by the Town, it is unclear on what basis the proponent considers that a five (5) storey building can be approved on the subject site, let alone be considered contextually appropriate.

Based on the above, the decision-making authority has **no alternative other than to refuse the development in its current form**, as it is inconsistent with the statutory requirements under LPS3 and the prevailing streetscape character. The proposed five (5) storey building height is excessive and will adversely impact adjoining properties and the amenity of the locality.

Overshadowing

The height and scale of the proposed development, and the proposed setback to the southern lot boundary, will also result in significant overshadowing of the adjoining property at Lot 16 (No. 216) Marine Parade, Cottesloe, being well

in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes where adjoining properties are coded R25.

Whilst it is acknowledged that the existing residential apartment building on the subject site results in overshadowing of 216 Marine Parade that is in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes, the proposed five (5) storey development will result in a significant exacerbation of the overshadowing impact on 216 Marine Parade. Based on the shadow diagrams provided, I estimate that the existing residential apartment building overshadows approximately 40% of the adjoining site area at midday on June 21, whilst the proposed mixed use development will overshadow approximately 75% of the adjoining site area at midday on June 21. This is well in excess of the permitted 25% overshadowing, and is considered to unreasonably detract from the amount of sunlight penetration into the adjoining property owing primarily to the height of the proposed development. As such, it is considered that the overshadowing impact is inconsistent with the relevant Design Principles of the R-Codes with respect to solar access for adjoining sites.

Land Use

In addition to the above, it is noted that the commercial tenancy provided at the ground floor is identified as a 'Café' on the development plans, which falls within the definition of a 'Restaurant' as defined under LPS3.

'Restaurant' is defined as follows:

"restaurant" means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;

In accordance with the Zoning Table contained within LPS3, 'Restaurant' is identified as a prohibited ('X') use within areas zoned Residential R25, and is therefore not capable of being approved in accordance with the provisions of LPS3, noting that there is no discretion to vary the land use requirements under the Zoning Table contained within LPS3. As such, the decision-making authority cannot issue an approval for the proposed 'Café' land use at the ground floor.

Whilst the objectives for the Residential zone under LPS3 do allow for "some non-residential uses where they are compatible with the amenity of residential localities", the use class permissibility table under LPS3 clearly establishes that a café / restaurant is not considered an appropriate land use within the Residential zone.

It is acknowledged that 'Multiple Dwelling' is a discretionary ('D') use within the Residential R25 zone and therefore is capable of being approved under LPS3.

General Objectives of the Scheme

In addition to the specific comments outlined above, the proposed mixed use development is considered to be inconsistent with objectives for the Residential zone under LPS3, and the general aims under Clause 1.6 of the Scheme, on the basis that:

- a) The proposed development is incompatible with the scale and amenity of the locality, as established above; and
- b) The nature of the proposed café land use at the ground floor level has previously been determined by the Town of Cottesloe to be incompatible with the amenity of residential locality, as evidenced by the fact that a 'Restaurant' is identified as a prohibited ('X') use within the Residential zone.

On the basis of the above, the development is inconsistent with the principles of orderly and proper planning, due to the incompatibility of the development with its setting, particularly with respect to the resultant impact on adjoining property owners.

Conclusion

In conclusion, this submission objects to the proposed development on the basis that:

- a. The bulk and scale of the development is not in accordance with the objectives for the Residential zone under LPS3 and will adversely impact adjoining properties, the prevailing streetscape character and the amenity of the locality;
- b. The height of the proposed development, at five (5) storeys (16 metres high vs current 10m), is not capable of being approved under LPS3, noting that there is **no discretion available to approve a development in excess of three (3) storeys within the Residential R25 zone**;
- c. The overshadowing impact of the proposed development on the adjoining Lot 16 (No. 216) Marine Parade is **well in excess** of the 25% overshadowing permitted under the Deemed-to-Comply criteria, and is considered incapable of demonstrating compliance with the Design Principles of the R-Codes on the basis that the overshadowing impact of the proposed development will unreasonably impact on solar access to the adjoining 216 Marine Parade;
- d. The proposed 'Café' land use at the ground floor is a prohibited ('X') use within the Residential R25 zone, and is therefore not capable of being approved under LPS3; and
- e. The development as a whole is considered to be inconsistent with the general objectives and provisions of LPS3, for the reasons outlined above.

Based on the information provided above, and in accordance with the provisions of LPS3, it is concluded that the development is not capable of being approved in its current form and will have a significant adverse impact on the streetscape and the amenity of the locality. The only option available is for the Town of Cottesloe to recommend **REFUSAL** of the application and for the Metropolitan West Joint Development Assessment Panel to refuse the development accordingly.

Yours sincerely

Gayle McGarry

22 August 2016

Chief Executive Officer
Town of Cottesloe
PO Box 606
COTTESLOE WA 6911

Attention: Andrew Jackson– Manager Development Services

Dear Sir,

**DEVELOPMENT ASSESSMENT PANEL APPLICATION DA3408 – SUBMISSION
ON PROPOSED MIXED USE DEVELOPMENT AT LOTS 14 AND 15 (NO. 218-220)
MARINE PARADE, COTTESLOE**

I am the owner of _____ Cottesloe and make these submissions to object to the proposed five (5) storey mixed use development at Lots 14 and 15 (Nos. 218-220) Marine Parade, Cottesloe (the subject site). The proposed development is currently out for public advertising, with submissions closing on Monday, 22 August 2016.

This submission primarily objects to the height and scale of the proposed development in the context of surrounding development and the requirements under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3) and concludes that the development is **incapable** of being approved in its current form on the basis that it is inconsistent with the statutory requirements relating to building height and land use under LPS3.

The proposed development comprises the demolition of the existing three (3) storey residential apartment building (10m in height) on the subject site and the construction of a five (5) storey mixed use development, comprising four (4) residential apartments and one (1) café tenancy at the ground floor (16m in height). Nine (9) car parking bays are also proposed within a single basement level. I have visited the Town of Cottesloe's Administration Centre to view the plans for the proposed development, which comprised of floor plans, elevations, an overshadowing diagram and coloured perspectives of the proposed development.

Site Background and Planning Framework

The subject site is zoned 'Urban' under the Metropolitan Region Scheme and is zoned 'Residential' under the Town of Cottesloe Local Planning Scheme No. 3 (LPS3). LPS3 assigns a residential density for the subject site of R25. The adjoining properties to the north, east and south are also zoned 'Residential' under LPS3 and are assigned a residential density of R25.

The objectives of the Residential zoned under LPS3 are to:

- a) encourage residential development only which is compatible with the scale and amenity of the locality; □
- b) provide the opportunity for a variety and choice in housing in specified residential areas;
- c) allow for some non-residential uses where they are compatible with the amenity of residential localities; and □
- d) encourage the retention of local facilities and services within specified residential areas for the convenience of the local community. □

Development in the immediate locality generally comprises of single residences and exhibits a built form of between two (2) and three (3) storeys.

Building Height

Clause 5.2.2 of LPS3 states that, unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of those Codes.

However, Clause 5.3.3 of LPS3 provides that, despite anything contained in the Residential Design Codes to the contrary, the building height for all residential development shall comply with the provisions of Clause 5.7 of LPS3, which establishes that building height is limited to that stated in Table 2 of LPS3. Table 2 provides for a maximum height of two (2) storeys for all development within the Residential zone (regardless of whether that development is residential or otherwise).

The building height requirements under Clause 5.7 are **specifically excluded** from being eligible for the exercise of general discretion under Clause 5.5.1 of LPS3, with variations only permitted to the extent provided for under Clause 5.7. This is outlined in the following extract from Schedule 13 of LPS3:

3. Height (clause 5.7, Table 2)

- 3.1. To avoid any uncertainty, the provisions of clause 5.7 are excluded from the □ operation of the discretion provided in clause 5.5.1. □
- 3.2. To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6 and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1. - AMD 1 GG 24/3/15 □
- 3.3. To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1. □

Therefore the building height requirements under Table 2 can generally **only** be varied to the extent provided in Clauses **5.7.4, 5.7.5 or 6.3.6**. Based on a review of the aforementioned provisions, the proposed development is **not** eligible for assessment under any of Clauses 5.7.4, 5.7.5 or 6.3.6 and regardless, these **could only permit a maximum three (3) storey development on the subject site**. Broadly, these clauses operate as follows:

- Clause 5.7.4 permits a third storey to be located within the roof space of a dwelling provided that the dwelling retains the appearance of a two-storey dwelling, and is therefore not relevant to the proposed mixed use development.
- Clause 5.7.5 relates to alterations, additions or extensions to existing dwellings, and is therefore not relevant to the proposed mixed use development. Regardless, development cannot exceed the existing number of storeys on site.
- Clause 6.3.6 relates to building height within Special Control Area 1, as identified under LPS3, and is therefore not relevant to the proposed mixed use development.

In accordance with the above, development on the subject site would generally be limited to a height of two (2) storeys. However, it is noted Clause 5.3.5 of LPS3 states that:

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme can, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map, equal to, but not exceeding the existing built density, subject to the proposed development —

- a) complementing the character of the streetscape; ☐
- b) not detrimentally increasing the mass, scale or surface area of the development relative to existing development on surrounding properties; ☐
- c) resulting in improved landscaping of the land; ☐
- d) providing adequate and safe means of vehicular and pedestrian access to the land; and ☐
- e) providing an adequate number of car parking spaces on the land. ☐

Furthermore, and notwithstanding any other clause in this Scheme, the proposed development may be considered for additional building height (**maximum one additional storey**) over the prevailing permissible building height for the locality where, in the opinion of the local government, the original number of dwellings (and their replacement plot ratio) cannot be appropriately accommodated on the lot without an increase in height.

Regardless of whether the development satisfies the above criteria (particularly with respect to points a and b, as discussed below), this provides for a **maximum building height of three (3) storeys** for the subject site, with **no discretion** provided to vary this requirement. As such, it is concluded that the proposed five (5) storey (16 metre high) development is **incapable** of being approved under the provisions of LPS3, on the basis that there is no general discretion to vary the height requirements under the Scheme except in accordance with the criteria outlined above, which **at most could provide for a three (3) storey building** on the subject site.

Furthermore, and in order to satisfy the above, the decision making authority must be satisfied that the proposed development will complement the streetscape and not detrimentally increase the bulk and scale impact of the development on surrounding properties. In this instance, the proposed five (5) storey mixed use development is considered to be inconsistent with the prevailing character of the streetscape, which comprises predominantly of single residences and exhibits a built form of between two (2) and three (3) storeys. In addition, the increased building height (16m vs 10m) and larger footprint of the proposed mixed use development will clearly have a far greater bulk and scale impact than the existing residential apartment building on the subject site, and will substantially increase overshadowing of the existing residential property at Lot 16 (No. 216) Marine Parade, as discussed below.

On the basis of the above, and irrespective of the fact that a five (5) storey development could **not** be approved on the subject site (as established above), the development is **not considered to meet the relevant criteria to enliven the discretion available under Clause 5.3.5**, nor that available under Clauses 5.7.4, 5.7.5 or 6.3.6 of LPS3. As such, and based on the information made available by the Town, it is unclear on what basis the proponent considers that a five (5) storey building can be approved on the subject site, let alone be considered contextually appropriate.

Based on the above, the decision-making authority has **no alternative other than to refuse the development in its current form**, as it is inconsistent with the statutory requirements under LPS3 and the prevailing streetscape character. The proposed five (5) storey building height is excessive and will adversely impact adjoining properties and the amenity of the locality.

Overshadowing

The height and scale of the proposed development, and the proposed setback to the southern lot boundary, will also result in significant overshadowing of the adjoining property at Lot 16 (No. 216) Marine Parade, Cottesloe, being well in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes

where adjoining properties are coded R25.

Whilst it is acknowledged that the existing residential apartment building on the subject site results in overshadowing of 216 Marine Parade that is in excess of the 25% overshadowing permitted under the Deemed-to-Comply criteria of the R-Codes, the proposed five (5) storey development will result in a significant exacerbation of the overshadowing impact on 216 Marine Parade. Based on the shadow diagrams provided, I estimate that the existing residential apartment building overshadows approximately 40% of the adjoining site area at midday on June 21, whilst the proposed mixed use development will overshadow approximately 75% of the adjoining site area at midday on June 21. This is well in excess of the permitted 25% overshadowing, and is considered to unreasonably detract from the amount of sunlight penetration into the adjoining property owing primarily to the height of the proposed development. As such, it is considered that the overshadowing impact is inconsistent with the relevant Design Principles of the R-Codes with respect to solar access for adjoining sites.

Land Use

In addition to the above, it is noted that the commercial tenancy provided at the ground floor is identified as a 'Café' on the development plans, which falls within the definition of a 'Restaurant' as defined under LPS3.

'Restaurant' is defined as follows:

"restaurant" means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988;

In accordance with the Zoning Table contained within LPS3, 'Restaurant' is identified as a prohibited ('X') use within areas zoned Residential R25, and is therefore not capable of being approved in accordance with the provisions of LPS3, noting that there is no discretion to vary the land use requirements under the Zoning Table contained within LPS3. As such, the decision-making authority cannot issue an approval for the proposed 'Café' land use at the ground floor.

Whilst the objectives for the Residential zone under LPS3 do allow for "some non-residential uses where they are compatible with the amenity of residential localities", the use class permissibility table under LPS3 clearly establishes that a café / restaurant is not considered an appropriate land use within the Residential zone.

It is acknowledged that 'Multiple Dwelling' is a discretionary ('D') use within the Residential R25 zone and therefore is capable of being approved under LPS3.

General Objectives of the Scheme

In addition to the specific comments outlined above, the proposed mixed use development is considered to be inconsistent with objectives for the Residential zone under LPS3, and the general aims under Clause 1.6 of the Scheme, on the basis that:

- a) The proposed development is incompatible with the scale and amenity of the locality, as established above; and
- b) The nature of the proposed café land use at the ground floor level has previously been determined by the Town of Cottesloe to be incompatible with the amenity of residential locality, as evidenced by the fact that a 'Restaurant' is identified as a prohibited ('X') use within the Residential zone.

On the basis of the above, the development is inconsistent with the principles of orderly and proper planning, due to the incompatibility of the development with its setting, particularly with respect to the resultant impact on adjoining property owners.

Conclusion

In conclusion, this submission objects to the proposed development on the basis that:

- a) The bulk and scale of the development is not in accordance with the objectives for the Residential zone under LPS3 and will adversely impact adjoining properties, the prevailing streetscape character and the amenity of the locality;
- b) The height of the proposed development, at five (5) storeys (16 metres high vs current 10m), is not capable of being approved under LPS3, noting that there is **no discretion available to approve a development in excess of three (3) storeys within the Residential R25 zone;**
- c) The overshadowing impact of the proposed development on the adjoining Lot 16 (No. 216) Marine Parade is **well in excess** of the 25% overshadowing permitted under the Deemed-to-Comply criteria, and is considered incapable of demonstrating compliance with the Design Principles of the R-Codes on the basis that the overshadowing impact of the proposed development will unreasonably impact on solar access to the adjoining 216 Marine Parade;
- d) The proposed 'Café' land use at the ground floor is a prohibited ('X') use within the Residential R25 zone, and is therefore not capable of being approved under LPS3; and

- e) The development as a whole is considered to be inconsistent with the general objectives and provisions of LPS3, for the reasons outlined above.

Based on the information provided above, and in accordance with the provisions of LPS3, it is concluded that the development is not capable of being approved in its current form and will have a significant adverse impact on the streetscape and the amenity of the locality. The only option available is for the Town of Cottesloe to recommend **REFUSAL** of the application and for the Metropolitan West Joint Development Assessment Panel to refuse the development accordingly.

Yours sincerely

Edward Van Beem

From: David Bevan
Sent: Monday, 22 August 2016 9:12 PM
To: council
Subject: Proposed Development 220 Marine Parade

Dear Sir/Madam

In response to the advertised request for comments regarding the proposed 5 level Development for 220 Marine Parade Cottesloe I provide the following.

I reside at Cottesloe and I am also the owner of Cottesloe.

I have been advised that under the Cottesloe Town Planning Scheme the current structure at 220 Marine Parade is Non Confirming regarding height and exceeds the current allowable height limit for the area. I also understand that the current height permits 2 levels in the North Cottesloe residential area.

I object to a height greater than the current height of 220 Marine Parade (currently 3 levels above the natural ground level). The current height of 3 levels is generous. Any increase above 3 levels would have a significant negative Visual Impact for residents in the general surrounding area as the proposed development is out of character from the surrounding residential building lines and heights. The proposed development is also not compliant with the Town's Planning Scheme regarding setbacks and height limits.

As a resident in the area of the proposed development I object to a development that significantly exceeds the height limits within the Town's Planning Scheme.

I am concerned that the residents immediately to the North, South and East of the proposed development would be "buried " under the proposed excessive height of 5 levels impacted by and not limited to: setback, shading, acoustic/noise and negative visual impact.

Whilst this risk exists with any development an additional concern is that the development has a cafe proposed within it creating a concern that the proposed development may have the potential risk of becoming an unofficial short stay tourism facility, a use that is not permitted under the Scheme and would further negatively impact local residents.

I feel it would be fair and reasonable to allow the owner to redevelop to the current non conforming height level of a maximum 3 levels.

Regards

David Bevan

Sent from my iPhone

David Bevan I Director

BEVLAK INVESTMENTS

From: Donna Fuller
Sent: Tuesday, 23 August 2016 12:54 PM
To: council
Subject: Development Applicaton - #3408, 220 Marine Parade

Dear Sir/Madam

We wish to strongly object to planning approval for a five-storey mixed use commercial/residential development at 220 Marine Parade for the following reasons:

1. The area is zoned 'residential' and approval of the commercial aspect of the approval is inappropriate and not within the zoning. Most importantly, establishment of a commercial enterprise in the residential area would set a precedent for other developers. This has always been a residential area and commercially zoned areas are available to developers at the central area of Marine Parade, and at the northern end of Marine Parade in the City of Nedlands area containing 'The Shorehouse'.
2. The 5 storey development would look directly into our backyard, resulting in a direct loss of privacy and amenity and ruining our outlook.
3. The existing building is zoned 'non conforming to a height of 3 storeys'. Anything above 3 storeys for that site is against its zoning and intent. As soon as the building is demolished, it must revert to 2 storeys.
4. The immediate area outside the proposed development is already undersubscribed for beach parking in summer, due to the high number of patrons utilizing the dog beach. This development would only further congest the limited parking in the area.
5. Approval of this development would set a commercial and height precedent in the area, creating 'open slather' for developers to put other 5 storey residential and commercial operations in the middle of a residential area.

Your sincerely

Craig and Donna Fuller

Cottesloe WA 6011

From: Sally Pyvis
Sent: Tuesday, 23 August 2016 2:07 PM
To: council
Cc: Mat Humfrey; Andrew Jackson;
Subject: Fwd: 220 Marine Parade- OBJECTION

Categories: Yellow Category

F Y I

No reply needed

Please we (below) the Submission from Tony Evans re 220 Marine Pde Cottesloe.

Many thanks

Sally

Cr Sally Pyvis

Begin forwarded message:

From: Tony Evans
Date: 23 August 2016 at 1:29:38 PM AWST
To:
Cc: "mayor@cottesloe.wa.gov.au" <mayor@cottesloe.wa.gov.au>
Subject: 220 Marine Parade- OBJECTION

Dear Elected Mayor and Councillors,

I wish to express my strongest objection to the proposed development at 220 Marine Parade based on the following facts:

- 1) The new height of the proposed building exceeds the current height of the existing building and seems to completely disregard height restrictions within the bylaws adopted by council.
- 2) Does this mean as resident of Cottesloe on an R20 block I can now apply for a multi-level development exceeding the 10m height restriction we have all had to abide by in the past?
- 3) Issues surrounding the proposed height of the development include : overshadowing, general over- crowding (more residents mean more visitors, more cars/parking, greater volume of everything in what is already a busy ocean front strip.
- 4) Loss of amenity for residents surrounding the development – see comments above, loss of views from some residents who clearly thought that the current height would never be exceeded.
- 5) Given the massive issues/debate and level of resident protest surrounding the proposed height of developments at Cottesloe Hotel and OBH surely set the scene for what rate payers of Cottesloe think of high rise.
- 6) Please give careful consideration to any precedence that may get set from your decision.
- 7) Please listen to the rate payers who elected you and don't allow this development to proceed with the proposed height and KEEP THE BALANCE RIGHT IN COTTESLOE – we are not and don't want to be SCARBOROUGH.

From: Kerry Strzina
Sent: Wednesday, 24 August 2016 10:29 AM
To: council
Subject: Re Dev App 22 Marine Parade Cottesloe

Re: Development Application 220 Marine Parade

I strongly object to these development plans for the following reasons:

1. Height is way above Cottesloe's town planning scheme & will cause serious overshadowing.
2. Setbacks are too small creating too much bulk on the plot and not enough open space.
3. Building use is contrary to Cottesloe's town planning scheme as it includes a cafe
4. There is absolutely no need for a cafe. There are at least 29 coffee service venues within 2km of this property and 18 within 1.5km. The nearest is only 500m away.
5. The motivation for the size of this building is economic gain for the developer. It ignores community sensitivities, wants and needs.
6. Approval of such a development sets a dangerous precedent.

I appeal to Town of Cottesloe to object strongly to this development.

With thanks,

Kerry Strzina

Cottesloe WA 6011



27/4/98

RE: Proposed development for 220 Marine Pde Cottesloe

Thank you for writing to inform us regarding the proposed development for 220 Marine Pde Cottesloe.

We are writing to protest strongly against the proposed 5 storey mixed use development at 220 Marine Pde. We understand the development comprises basement parking four multiple dwellings (i.e. apartments one on top of another; with the top one being two-storey) and a small café on the ground floor.

The proposed five storey development would negatively affect the residential amenity of the area. We have lived in the area for over forty years and have valued the particular ambiance of the area as well as its proximity to commercial establishments that sit within areas that have been zoned and developed for such use.

The application's plans fail to comply with the Cottesloe's town planning scheme (Local Planning Scheme 3) in regards to height, setbacks and building use. The proposed five storey development will be three storeys higher than neighbouring buildings and if it goes ahead would set an unwanted precedent. To have five storey buildings along all the beach front would significantly change the sense of the area.

After significant consultations and protests the most recent town planning scheme defined what future development changes would be considered for the future development of the beachfront. This included a general five-storey limit along Marine Parade between Eric and Forrest streets, a six-storey limit set for the Il Lido site and an eight-storey limit set on the OBH site. In addition it was stated that all developments above three storeys along Marine Parade must be set back further on the block to reduce visual impact and prevent overshadowing.

The Town of Cottesloe's Local Planning Scheme 3 was jointly announced by WA Premier and the then Minister for Planning Mr John Day in July 2014. The Minister for Planning John Day said the new town planning scheme would revitalise the Cottesloe beachfront but insisted the developments would not be "high-rise". "The residential areas of the district should by and large retain their attractive amenity under LPS3, while the beachfront will be treated sensitively to ensure appropriate and compatible quality of development over time that respects and enhances the character and ambience of the Cottesloe foreshore, beachfront and neighbourhood." Premier Colin Barnett also said "the allowance for development, is totally responsible, it is not high-rise, it is not the Gold Coast, nothing like that."

The proposed development at 220 Marine Pde falls well outside the zone earmarked for redevelopment. Furthermore it does not reflect the

descriptions for development indicated by the then Minister for Planning John Day and Premier Colin Barnett. What follows with further similar developments will resemble exactly what the Gold Coast looks like. There is no need for five story developments in this part of Cottesloe. This is a family residential area.

We would also like to protest against the proposed inclusion of a cafe in the development. This area is not zoned for commercial use. This is a quiet residential area which is in close proximity to areas that are zoned for such use. There is no need for a proposed cafe when a number of cafes situated in areas that are zoned for commercial use, are very near (in walking distance). As well there will be a significant impact on parking availability. It is often challenging to get a parking bay in summer when many people travel to the area to make use of the local dog beach. The addition of a cafe would further limit parking access.

It is important that any proposed development of 220 Marine Pde is in line with local government height restrictions and does not open the door for further developments that sit outside existing regulations that would negatively impact on the character of this quiet residential area.

Please let us know what are our options in regards to ensuring that this development does not go ahead.

Yours sincerely

Dr Chris Newall and Ms Anna Roberts

From: John Francis Walsh
Sent: Thursday, 25 August 2016 12:37 PM
To: Andrew Jackson
Cc: Mat Humfrey
Subject: 220 Marine Pde

Andrew,
Please accept the following as a submission re 220 Marine Pde.

The current building at 220 is 3 storeys. Under the TOC LPS any replacement building should not exceed 3 storeys. When drawing up the LPS TOC supported like for like replacement of multiple dwellings. The Minister/WAPC changed

this to what was allowed on the site plus one extra storey. 220 Marine Pde is in a zone classed as R20 residential which means the proponent, under the LPS, is allowed to build to 2 storeys height plus a 3rd as a replacement multiple dwelling.

Any argument that the current building is a non-conforming use so the proposed non-conforming building can be allowed is not correct. The current building has a non-conforming height and density but is residential and allowed in this area.

Further, the rule always followed by the TOC has been that a non-conforming use building could be replaced by an equally or lesser non-conforming building never by a more non-conforming building.

Based on the above this application must be rejected and, given its importance for the beachfront, must be fought at the DAP and SAT if necessary.

Yours faithfully,
J. F. WALSH

COTTESLOE W. A. 6011

From:
Sent:
To:
Subject:

Friday, 26 August 2016 10:49 AM
council

Public Consultation Submission

Details Submitted	
What is your submission on?	Developement 220 Marine Parade
Name	a.Sweet
Address	cottesloe
Telephone	
Email	
Comments	I object Strongly to this development. It is completely out side the zoning. Not within keeping of the whole area of North Cottesloe. We have more than enough problems with traffic and parking in this area during the summer it is a complete mess. the danger to public when crossing this road, is shown by the amount of accidents on Marine Parade, at North Cottesloe. We ask the Council to strongly appose and reject any development of this size and for the use of a CAFE on the small block. A.D.Sweet.
Visitor Source	

From: Alice Wells
Sent: Friday, 26 August 2016 5:48 PM
To: council
Subject: Development application 220 Marine Parade

Dear Sir/Madam,

As a long-time resident of Margaret Street Cottesloe I would like to register my opposition to the application at 220 Marine Parade.

1. Traditionally, Marine Parade between Grant Street and John Street has been the designated section for retail and restaurants. The section from Grant to North Street has been residential. This application if approved, will set a precedent in terms of building use other than residential. I am sure those close neighbours more directly affected are most concerned about the impact a café will have on their privacy, noise levels and general lifestyle issues.
2. The size of the building proposed is of great concern. At the moment the building is three storeys and is already an eye sore and dominates that particular section of the street. The fact that the developer plans another two storeys clearly contravenes building codes and makes a mockery of council regulations and rules. Again, if approved this will set a precedent whereby other developers will seize the opportunity to build higher than currently accepted and very soon we will have a "gold coast" scenario.
3. It is interesting that the developer does not live in Cottesloe. He obviously does not have any understanding, appreciation or empathy of the Cottesloe lifestyle and culture that many of us wish to preserve. One aspect of the Cottesloe Marine parade "landscape" is that it is not high rise or overdeveloped. If the application is approved this will no doubt mean a completely contrary street scape.
4. While I do not have uninterrupted views of the ocean I can predict that if the application is approved those people who have paid a lot of money for unobstructed views will be very concerned. Once again, if approved there will be very quickly building applications on current buildings both on the beachfront and behind to raise the height of their houses. This will mean the only people privy to views will be right on the beachfront.
5. I do think that Cottesloe Council may very well be disturbed and affronted by the developer side stepping the council. I would suggest that the council take steps so that this does not happen in the future. You are, after all, supposed to protect our interests.

Please consider my utter dismay and horror with this application and convey it to the Planning Authority.

Yours sincerely

Alice Wells

From: Debbie Ford
Sent: Saturday, 27 August 2016 1:57 PM
To: council
Subject: Development Application #3408, 220 Marine Parade, Cottesloe

TO:

Town of Cottesloe

109 Broome Street Cottesloe WA 6011

Attention: Andrew Jackson
Manager Development Services

Dear Mr Jackson

Your ref: 5.2016.3408
Development Application #3408, 220 Marine Parade, Cottesloe

26th August 2016

Thank you for your letter of 1 August 2016 giving us the opportunity to comment on the above Development Application/Proposal. We live in the area at south of the site. We are not in favor of this proposal.

Our reasons are:

1. At 5 storeys and including a commercial use, the Proposal **does not comply** with the Residential zoning of the site.
 2. In a zoned Residential area this proposal will be **out of context** in height, scale and appearance within the northern section of Marine Parade.
 3. From the drawings submitted it is impossible to determine the natural ground level and therefore the total height of the building, however it appears to be approximately 15-16 metres high. This **is at least 50% higher than permitted under the applicable zoning** of the site – which we understand to be 10 metres.. At 15+ metres this surely effects the amenity of the neighbours by the **overshadowing**.
 4. The Proposal for commercial use as a “coffee outlet” is not required by the neighbours or the local community and is **totally inappropriate at the location**. There are at least 4 coffee/café outlets between 400 and 750 metres to the north (Shorehouse) and south (Blue Duck, Barchetta, OBH).
- There is insufficient parking** to service customers of the proposed coffee outlet – during the summer months and on weekends and public holidays there is **no available parking along Marine Parade** (north)

and the entire strip is used by beachgoers and overspill parking from the Blue Duck, Barchetta and the OBH.

There is also no street parking whatsoever on the north side of Marine Parade surrounding the site, therefore patrons would park and walk. The early morning use of the coffee outlet by cycling peletons at this location will be extremely **anti-social in terms of noise impacts**. The dozens of peletons that cycle along the beachfront start at 5.00am and make significant noise talking and shouting to each other as they pass.

5. We are concerned that the developers have chosen a scheme that will not be determined by Cottesloe's own town planning scheme. This seems contemptuous of the normal planning procedure.

Yours faithfully

Maurice & Debbie Ford

From: Richard Simpson
Sent: Sunday, 28 August 2016 10:03 AM
To: council
Subject: DEVELOPMENT APPLICATION - 220 MARINE PARADE,
COTTESLOE

ATTENTION: Andrew Jackson, Town of Cottesloe

Dear Andrew

I am writing as the concerned owner of Cottesloe for the proposed development application for 220 Marine Parade, Cottesloe.

This development should not be allowed as it fundamentally changes the amenity and use of this part of Cottesloe forever. This area is a residential precinct of Cottesloe enjoyed by families and is away from the mixed commercial areas of Cottesloe. If it is the intention that this area be changed it should involve the close and considered consultation of the community and not be led by a non-conforming opportunistic submission.

The scale, intensity and mixed use of this development sets a precedent that has the potential to adversely impact on Cottesloe forever. To even consider such a change without full and considered community engagement is not what we ratepayers expect from our council. Our council should reflect the outcomes of the community that has elected them to office and not blindly giving special treatment or priority to an opportunistic developer from out of the area, with no connection or community investment in the area.

Yours sincerely

Lexton Holdings Pty Ltd
Richard Simpson

From: picarmichael
Sent: Sunday, 28 August 2016 4:42 PM
To: council
Subject: OBJECTION proposal 220 Marine Parade Cottesloe 6011

Please forward notification in receipt of my objection.
Thanking you,
Patricia Carmichael

OBJECTION: 220 Marine Parade, Cottesloe WA 6011
Closing date Monday 29th August 2016

Objection 1. IMPACT ON THE AMENITY OF THE AREA

This proposal is out of character with the surrounding residential areas.

Objection 2. COMPLIANCE

Is this proposal in compliance with the Local Planning Scheme3 (LPS3 2014), the LOCAL Planning Strategy (LPS 2008) and its Traffic Management Policy? Please note areas of concern in points 1-6 below

1. HEIGHT
2. OVERSHADOWING
3. R-CODES// DENSITY
4. SET BACKS
5. COMMERCIAL USE
6. TOWN OF COTTESLOE POLICY - TRAFFIC MANAGEMENT

The objectives of this policy are:

- a) The establishment of appropriate traffic flow and access into and through the Town of Cottesloe, which maximises road safety and local amenity.
- b) The establishment of a procedure from which necessary traffic management works are undertaken in a cost effective and equitable manner.
- c) Integration of the traffic management policy into the Council's Strategic Plan.

TRAFFIC MANAGEMENT

Over a period of years there have been many problems associated with this area of North Cottesloe. Distraught residents have submitted to Council on a number of occasions the concerns of the traffic hazards along this section of Marine Parade so please take note of the existing Policy in relation to this proposal.

Ms Patricia Carmichael

Cottesloe WA 6011

From: Jeanne Taylor
Sent: Sunday, 28 August 2016 10:27 PM
To: council
Subject: Re: 220 Marine Pde - full opposition to proposal

As long term residents and also investors on Marine Parade we oppose both areas of this proposal. It is offensive and shows little knowledge of the community or respect for people who have to live here and is at odds with everything this suburb and tight knit community represents.

We enjoy living here, we pay a premium as does everyone else to have the privilege of low density and low lying residential areas that maintain a community feeling not a high rise overdeveloped streetscape.

In summer it is a constant battle with the thoroughfare of traffic and this is well documented with the council. Often we witness vehicles down the wrong side of the road at excessive speeds, animals being hit, cyclists being hit and even a death on our doorstep. There is insufficient traffic measures already and incredibly limited parking without the complication of having drivers looking from the view to a commercial building with cafe and an extreme height clearly substantially higher than anything near by. It doesn't fit with the street scape or suburb and I believe the owner perhaps should look to invest in Scarborough or Rockingham as that may be more suited to their ideals.

The addition of a cafe within the building is an insult to neighbours and also owners of Cafes already in existence nearby that lay dormant during winter. There is insufficient parking to support this, there is lack of demand and this is the WRONG part of Cottesloe for a commercial business. This suggestion is at odds with the councils grander plan to redevelop the area surrounding the "established" commercial area between and immediately surrounding the two hotels along marine parade. A cafe devalues our real estate as who on earth would want to buy near the potential for never having a sleep in ever again on a weekend.

Nearly all us on this strip of road have older building that don't fit current regulations or requirements so at one point or another have had to either compromise by working with what we currently have (renovate to maintain height/window positioning etc) or go with council requirements. The zoning for the block at 220 Marine is two story. It currently has a three story on it. It would be an insult to all of us who have had to modify and compromise our plans to accommodate requirements that ensure our community is taken care of if this plan was to be approved. I believe if the council is generous they should be able to replace what they currently have and if they stick to their current requirements they should have to reduce their size to two stories.

We as well as others along here own adjoining properties on marine pde. If this goes ahead in any way this will set a precedent for us and others like us all over. Cottesloe to develop up when we chose.

Residents of Broome Street haven't been issues papers about this and many have houses that will overlook this monstrosity so should be given an opportunity to comment. Many of us have small children, work overseas and travels so putting a small ad in the paper really doesn't count as sufficient or considered consultation.

Please oppose this proposal on the basis of aesthetics, respect for exciting owners, managing traffic in an already difficult area, precedents, current planning allowances and restrictions, ruining the streetscape and community feel we have established in our small pocket of Cottesloe.

Yours sincerely
Jeanne and George Kakulas

From: Rosalin Sadler
Sent: Monday, 29 August 2016 11:04 AM
To: council
Cc: Rosalin Sadler
Subject: SUBMISSION RE 220 MARINE PARADE COTTESLOE

OBJECTION to
PROPOSED RE-DEVELOPMENT OF 220 MARINE PARADE COTTESLOE.

There are so many reasons to object to this plan, it is very hard to know where to start.

Here goes :

Architectural Merit : MINUS ZERO.

Q.

Did the proponents take a drive around the railway line in West Perth in search of site specific aesthetic inspiration for 220 Marine Parade?

A.

Clearly they must have.

Anyone who takes a long walk around Cottesloe will see that from time to time a monstrosity of a building lands in our various and pleasing and (far too) occasionally architecturally inspirational built environment.

There are stand out buildings that set the bar high.

This building does seek and will create a new low for the suburb let alone the State and Community asset that is Marine Parade.

Any developer has a choice :

to add to the liveable and aesthetic experience of Marine Parade and or Cottesloe,

or to abuse it - by creating a new low in disharmony and aggression against the rights of others under the Planning Code. And this - for only one purpose - commercial gain.

There will be a handful of people who will gain from this hideous proposal and so they will not object. Including some owners along Marine Parade who are outside the rezoned height allowances ending at Grant Street and will care for cash over community (community in its widest application). Cottesloe is a treasure. To be safeguarded, not ransacked.

But as always, the issue is NOT about individuals.

The issue is the site zoning!

SITE ZONING :

R25.

This proposal breaks all the rules it is the responsibility of ToC to uphold.

As is ToC's responsibility in other matters of contention currently spreading disharmony in Cottesloe.

SAFETY :

This area is an ongoing problem area for speeding hooning cars motorbikes trucks - for the residents - as ToC knows. ToC's recently departed Mr Elkins was unsympathetic to the group of Marine Parade residents who hoped to find understanding and support at ToC to calm traffic.

Its a good thing Mr Elkins is no longer the ToC engineer, if this means his replacement will be more creative and flexible in understanding the speed issues already experienced by residents in this part of Marine Parade (let alone the whole of Marine Parade).

Q.

How could a CAFE(!) land at this address and not require WHOLESale CHANGE TO THE ROAD USE RULES??

Q.

How much of ratepayers cash will have to be spent (instead of by the developer) to re-design road use specifically for this proposal? And will the Main Road authority collaborate? They haven't so far, for the residents.

Q.

Just how ignorant and dismissive of ALL the local conditions does a developer have to be, before he fails in his commercial dreams??

A.

Here's the very test case for ToC and DAPS to deliver the answer.

PRECEDENT :

ToC knows what will happen if this cash grab makes it.

I do hope this proposal fails.

It should FAIL AUTOMATICALLY.

Q.

How can it be that it is a requirement that ratepayers have to write submissions against this proposal, when by the ToC regulations, its already a FAIL.

And when(!) will ToC place large picture boards with pictures at the front of sites such as this, to inform the public what yet another developer has in mind for the area he does not care to reside in and disrespects so publically. By the evidence, this developer has no allegiance (not even the vanity and usefulness of an intelligent design) in this matter - other than to a bank balance.

Our bank balances matter too.

We cannot be required to spend a penny on this development.

And if we are directly affected by this development (or others) - such as in the matters of deep shadows, privacy intrusions, and so forth, we should be able to argue for financial compensation.

What comes around should go around.

Its time for ToC to follow DUE PROCESS.

Rosalin Sadler

Cottesloe. 6011.

Mr P & Mrs K Wright

COTTESLOE WA 6011

26 August 2016

Mr A Jackson
Manager – Development Services
Town of Cottesloe
PO Box 606
COTTESLOE WA 6011

Dear Andrew

RE: Development Application - #3408, 220 Marine Parade

We own and reside at Cottesloe which adjoins 220 Marine Parade and would like to lodge our objection to Development Application #3408.

Our objections are as follows:

1. **Height:** We were under the impression from the Town Local Planning Scheme No 3 that this property is in a zone that ordinarily allows for a 2 storey development, however as 220 Marine Parade already was a 3 storey building it may have been eligible for a concession to rebuild to 3 storeys.

Whilst the plans are not clear its estimated that the building will be 5 storeys (estimated at 16 to 17 meters in height) well in excess of the standard provision that applies. We note that under the Town of Cottesloe Local Planning Scheme No 3 developments in Special Control Area 2 (further down Marine Parade) are limited to 12 meters and 3 storeys, which is again less than what is proposed.

We feel this size is completely out of character with the other properties in the area and is direct contradiction of the agreed planning scheme.

A property of this size will also stand out from a significant distance and be highly visible in our area, including from the beach.

2. **Bulk of development:** At the proposed height the bulk of the property will completely engulf all neighbouring properties (including ours).

We note from the overshadowing drawings that the neighbours to the south of the property at 216 Marine Parade (and possibly 214 but this is not clear) will have their block completely overshadowed. We believe that there will also be considerable overshadowing of our and our Margaret Street neighbours back yards.

We feel that this is very unfair on all existing neighbours (particularly those at 214 Marine Parade) and will greatly impact on their ability to enjoy their own homes and garden areas.

3. **Privacy:** From the plans we note that the bedrooms are proposed for the rear of the development. These bedroom windows on the higher levels will look straight into our back yard and we will in effect be being looked down upon.

This is a concern for us as we have a young family.

- 4. Commercial Space:** We understand that the land in our area is zoned for residential use. The plans outline provision for a café which is in breach of this zoning and we have concerns about the impact this will have on the area in terms of increased traffic and noise.

There are already parking issues along Marine Parade in summer and there is no information given to us on where bins for this café will be stored, how goods will be delivered and loaded (and what noise impact is associated), what parking provision is being made for the café.

We feel that the noise and extra traffic that will be associated with the café will have a detrimental impact on local residents.

Given the proximity of existing café's and coffee shops we question the need for another one to be established and have not received any information relating to a change of zoning.

- 5. Precedent:** Should this development be approved then we are very concerned about the precedent that it will set for future development applications.

We have lived in Cottesloe for approximately 21 years and owned our property for around 9 years. Throughout this time there has been debate around the developments that are to be allowed along Marine Parade. The council ratified a Local Planning Scheme which took into account the majority of residents wanting to restrict high rise development along Marine Parade.

If this application is approved then this goes completely against the Local Planning Scheme and could lead to high rise development along Marine Parade, not just within the area between Forrest Street and Eric Street as agreed.

It would be a tragedy if other properties along Marine Parade undertake similar developments and we end up with five storey apartment blocks all along Marine Parade, which is in complete contradiction of local resident sentiment for many years.

This type of development will completely change the nature and tone of the area and moves it away from being a family friendly area due to increased traffic volumes and higher visitation rates.

Sadly, for residents in the streets behind like Margaret Street we will be completely overshadowed by bulky developments which will have a significant impact on our ability to enjoy living in our homes.

However the visual bulk of these developments will not only impact residents, as it will change the visual look of the suburb and the beach amenity that residents and visitors currently enjoy.

- 6. Visual Design:** We also think the design of the property as shown in the plans is very poor and not consistent with a coastal area. The property will noticeably stand out from a long distance and impact the visual aesthetic of our beachside location.

We trust that given the Proposal breaches the Town's Local Planning Scheme No 3 that the council will also be objecting the Metro West Joint Development Assessment Panel.

If you have any queries regarding this letter please do not hesitate to contact us.

Kind regards

Peter Wright

Katharine Wright

From: adrianwilson
Sent: Monday, 29 August 2016 1:42 PM
To: council
Subject: SUBMISSION -proposed Development 220 Marine Parade Cottesloe

Dear Sir

please find my submission for the proposed development at 220 Marine Parade Cottesloe

As far as I can determine, the plans submitted to Town of Cottesloe (TOC) by the applicant appear to be incomplete and lacking essential information.

As insufficient information has been provided by the applicant, I ask why has TOC even accepted this application?

I strongly OBJECT to the proposed development for reasons below -

HEIGHT

LPS3 allows discretion for replacement of the existing 3 storey building.

The existing building is 3 storeys and, as per LPS3, any replacement building should not exceed 3 storeys.

SURVEY

It appears a licensed survey plan has not been submitted therefore it is impossible to determine accurate site levels including NGL and consequent privacy and overshadowing issues.

OVERSHADOWING

Accurate assessment of overshadowing is not possible without a proper site survey however, in general terms, the proposed height of approx 17m would result in excessive overshadowing and loss of solar access to neighbours on the south and east.

PRIVACY

Any height in excess of 3 storeys would result in overlooking and loss of privacy to neighbours on the north, east and south.

NON-CONFORMING USE

The applicant's claim that the current number of units doesn't comply with current zoning (see LPS3 clause 4.11) and therefore they are entitled to go from one non-conforming use to another non-conforming use should be dismissed.

This site is zoned R25 and is in precinct of R20 and R25 zoning which offers a low rise, family friendly beachside amenity. The proposed development will be grossly out of scale and character with this neighbourhood.

If the existing building is demolished, there should be no concessions granted in a replacement building. I understand TOC practice is to allow a building with non-conforming use cannot be replaced by a building of greater non-conforming use, as is proposed here.

COMMERCIAL USE

The proposed commercial use is prohibited under LPS3 and should not be permitted.

If approved, this commercial use would lead to loss of amenity and traffic, parking, waste collection, commercial deliveries, trucks and noise issues.

SET BACKS

A number of setbacks do not comply with deemed to comply requirements of the R Codes. This is unacceptable.

SCALE

The bulk and scale of this development exceeds the surrounding built environment which is maximum 2 storey residential R20 and R25 precinct.

CHARACTER

Proposal is out of character with surrounding residential area.

PRECEDENT

If the proposed development is approved it will set an adverse precedent which will negatively impact on the current low rise, family friendly residential character and amenity of this precinct.

PROCESS

What date was this application lodged at TOC?

From what date have TOC Staff been liaising with the applicant?

(The recent LPS3 Scheme Amendment 5 Local Development Plan 1 {126-128 Railway Street} has shown TOC Staff have been liaising with the applicant for some 2 years and I do not believe this demonstrates proper process)

I trust TOC understands and fulfils its role in supporting residents and ratepayers in protecting the amenity of our suburb.

The formulation of LPS3 involved comprehensive community consultation and Minister for Planning's approval of this Scheme demonstrates residents' rights to protect the character and amenity of the 220 Marine Parade precinct.

Thank you for considering my comments

Adrian A WILSON

From: John Hammond
Sent: Tuesday, 30 August 2016 9:29 AM
To: council
Cc: Yvonne Hart; Gail Manton
Subject: FW: Submission from Cottesloe Residents & Ratepayers Association Inc

Dear Sir / Madam

My email mistakenly referred to 200 Marine Parade. It should have referred to 220 Marine Parade.

SUBMISSION REGARDING 200 MARINE PARADE

The proposed development at 220 Marine Parade, Cottesloe:

1. Is inconsistent with the Town of Cottesloe's Town Planning Scheme No. 3;
2. Is completely out of scale with adjoining properties;
3. Is out of character with the Marine Parade precinct;
4. Has not involved the use of a licensed survey as licensed survey appears not to have been submitted. It is therefore difficult to determine accurate levels'
5. Has an excessive height of 17 metres that is likely to lead to loss of privacy and overshadowing;
6. Has setbacks do not comply with the R Codes;
7. Seeks to utilize the non-conforming use provisions when this should not be permitted;
8. Contains a commercial use which is not allowed in this part of the precinct;
9. Will set an undesirable precedent on Marine Parade.

Yours sincerely

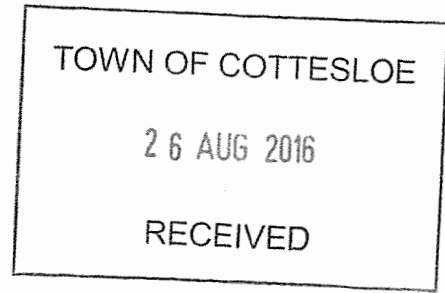
John Hammond
Chair
Cottesloe Residents & Ratepayers Association Inc

Level 2, 82 Beaufort Street
Perth WA 6000
Tel:
Fax:
E:
W: www.hammondlegal.com.au

David and Stella Wright

Cottesloe WA 6011

23 August 2016



Development Application #3408, 220 Marine Parade, Cottesloe, 6011

Dear Mr Jackson

We owned the house the property and have a number of objections to the proposed development.

- 1) The scale of the building will be extremely confronting to us. It is our understanding that the height limit is 8.5 metres.

It will block light and in winter the afternoon sun.

Our rear balcony and courtyard will also be affected due to lack of privacy, etc. The main bedroom is also situated at the back of the house.

We realize that there is an existing three storey building on the land and the developers can apply to replace it with a three storey building. It is a huge leap to apply for five.

Unfortunately, you could not tell us the height of the proposed building, compared with the present one, but it did look much taller than the next door house on the drawing of the streetscape.

- 2) The roof deck will probably result in increased noise for all the neighbours. It will act like a soundshell.

We are likely to have noise from the air conditioning units – people rarely seem to put them under their own bedroom windows.

- 3) Developers Greed

The developers are obviously motivated by profit. There is certainly no need for another café in this part of Cottesloe.

This proposed development does not fit in with Cottesloe's Town Planning Scheme.

Yours Sincerely

Stella and David Wright

From: rosie walsh
Sent: Monday, 29 August 2016 2:05 PM
To: Andrew Jackson
Subject: Submission re 220 Marine Pde Cottesloe

Submission re 220 Marine Pde Cotesloe

I object to the building proposed and ask that Cottesloe fight this in the strongest possible fashion.

The TPS allows only a 3 storey building on this site and this must be strongly stated at the DAPS hearing and at any SAT hearing if taken there.

Prior to TPS 3 community consultation (76% of a very large number of residents) asked for a low rise beach front with a 3 storey, 12m height between Eric and Forrest Sts. Two storeys was their expectation for the rest of the beachfront.

The WAPC/Minister overrode this position for the Eric to Forrest strip, agreed with 2 storeys for the rest, and only allowing 3 storeys when replacing non-conforming multiple dwellings such as this one.

R. D. WALSH

COTTESLOE

Town of Cottesloe
109 Broome Street
Cottesloe WA 6011

19 August 2016

Attention: Andrew Jackson
Manager Development Services
By email: council@cottesloe.wa.gov.au

Dear Mr Jackson

Your ref: 5.2016.3408
Development Application #3408, 220 Marine Parade, Cottesloe

We refer to your letter of 1 August 2016 giving us, as surrounding property owners, the opportunity to comment on the above Development Application (Proposal). Our house at is 180 metres south of the site.

Our comments are:

1. At 5 storeys and including a commercial use, the Proposal does not comply with the zoning of the site.
2. In height, bulk, scale and appearance, the Proposal is completely out of context in the northern section of Marine Parade (between Grant and North Streets) which is a mixture of old and redeveloped single residential, with 3 blocks of 50+ year old apartments, 2 of which have been fully renovated in the past few years. 220 Marine Parade is the only apartment building that requires redevelopment due to extreme disrepair.
3. From the drawings submitted by the proponent it is impossible to determine the natural ground level and therefore the total height of the building, however it appears to be approximately 15-16 metres high. This is at least 50% higher than permitted under the applicable zoning of the site – which is 10 metres. As far as we are aware, many neighbours would welcome the redevelopment of the site consistent with its existing height limit of 10 metres in order for the development to remain appropriate in its context. However at 15+ metres the Proposal would create an excessive looming bulk that will overshadow neighbouring residences to the south and east.
4. The Proposal for commercial use as a “coffee outlet” is not required by the neighbours or the local community and is totally inappropriate at the location. There are at least 4 coffee/café outlets between 400 and 750 metres to the north (Shorehouse) and south (Blue Duck, Barchetta, OBH). There is insufficient parking to service customers of the proposed coffee outlet – during the summer months and on weekends and public holidays there is no available parking along Marine Parade (north) and the entire strip is used by beachgoers and overspill parking from the Blue Duck, Barchetta and the OBH. There is also no street parking whatsoever on the north side of Marine Parade surrounding the site, therefore patrons would park and walk. The early morning use of the coffee outlet by cycling peletons at this location will be extremely anti-social in terms of noise impacts. The dozens of peletons that cycle along the beachfront start at 5.00am and make significant noise talking and shouting to each other as they pass.

The important thing is they are passing by and not stopping for coffee – which they do in areas with commercial zoning.

5. The Proposal would be appropriate in the Commercial beachfront zone of Cottesloe between Forrest and Eric Streets which has been zoned for buildings of this scale in the new Town Planning Scheme after an exhaustive and fraught series of planning reviews and extensive consultation with the Cottesloe community. If there is to be any meaning or purpose to the recent Cottesloe planning review and the resulting Scheme, this Proposal must be rejected as entirely inappropriate.

Yours sincerely

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