

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

**SPECIAL MEETING OF COUNCIL
HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
7.00 PM, Wednesday, 21 September, 2011**

23 September 2011

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.00 PM.

**2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)****Elected Members**

Mayor Kevin Morgan	(Presiding Member)
Cr Jay Birnbrauer	
Cr Greg Boland	
Cr Patricia Carmichael	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Rob Rowell	
Cr Jack Walsh	
Cr Ian Woodhill	
Cr Davina Goldthorpe	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mrs Christy Watterson	Administration and Governance Officer

Apologies

Nil

Officer Apologies

Nil

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIME

Mr Bret Christian – 38 John Street, Cottesloe – Item 9.1.1 Local Planning Scheme No.3 – Minister’s Modifications – Report on Submissions & Scheme Provisions. Mr Christian addressed Council and offered his congratulations to

the Manager Development Services for the effort and time required to complete the report. Mr Christian urged Council to stand firm with respect to the EbD, as part of the officer recommendation. He fears Council is caving-in to Ministerial pressure. In his opinion Cottesloe and the broader community is facing pressure to conform. Mr Christian concluded by stating that if the State Government want to ruin Cottesloe, let that be on their head, not on Council's.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Presiding Member, Mayor Kevin Morgan, addressed the Elected Members and advised that the Manager Development Services had prepared a new part F recommendation that reflected the sentiment expressed by Mr Christian, by extrapolating across all one dozen or so central foreshore sites the principles that the EbD devised for the two beachfront hotel sites. The Mayor continued by stating that the community at large, both locally and statewide, had galvanised behind the principles and design process of the EbD in preference to the height modifications proposed by the Minister and in preference to arbitrarily devising height limits.

The Mayor described the new part F recommendation as a transparent and public compromise, unlike the intent of recommendation E.2.(g) where the Minister would be approached behind closed doors with room to "negotiate". The Mayor further pointed out under the new part F, the scope for five storey developments would be confined to three sites only, the OBH, the Cottesloe Beach Hotel, and now also the Seapines site but not the Il Lido site, and on these three sites the extra height would be very much circumscribed by carefully calibrated side setbacks from the side streets that run perpendicular to Marine Parade, in addition to the western setbacks still required from Marine Parade for anything over three storeys.

By and large most of the sites will have to remain three storeys due to insufficient north/south width between the side streets to accommodate the necessary side setbacks for extra height.

Part F is a compromise that will maximise the public benefit to be reasonably extracted from these twelve private development sites to ensure that the unique features of Cottesloe are retained, whilst embracing the Minister's imperative that we maximise the financial incentives available to encourage redevelopments which have the quality design features and public facilities that are commensurate with this iconic western Australian beach that they will grace.

Part F is based purely on planning principles and is devised by experts on the EbD principles that have now been embraced by both low-rise and high-rise proponents. It is a compromise that will deliver the primary objectives of each of these two viewpoints, whereby quality redevelopments will be actively enticed but without jeopardising their long term viability.

The Mayor noted each councillor has travelled their own journey on the issues before us tonight, but all Councillors can be proud of their contributions as individuals to LPS3. The compromise needs to be embraced by as many councillors as possible, who should present a unified front on this issue so as to provide the best outcome for the community, and demonstrate its acceptance as a genuine solution by both sides of the debate that has divided this Council and the local and wider community for the best part of the past decade.

The Mayor acknowledged that some submissions oppose departing from the Council's previous draft, in particular a letter provided by Sally Pyvis on behalf of SOS, but felt that the vast majority recognise that any height limits are only defensible in the long term if they are underpinned throughout by the EbD principles. The Mayor suggested that detailed sketches/plans which reflect the EBD principles could be made available on Monday night's Council meeting, for public viewing. Specifically he referred to the opportunity for developments above three storeys at the OBH, CBH and Seapine sites, with their opportunities for up to five storeys being subject to specific setback parameters being satisfied, with the balance of the beachfront retaining a human scale of three storeys, including the Il Lido site.

Lastly, all Councillors were encouraged to disclose their individual interests as required, prior to voting on relevant aspects.

7.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE

BACKGROUND

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

Suspension of Standing Orders

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

COUNCIL RESOLUTION:

Moved Cr Dawkins, seconded Cr Strzina

That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.

Carried 11/0

8 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

9 REPORTS OF OFFICERS

9.1 MANAGER DEVELOPMENT SERVICES

Cr Carmichael declared a financial interest in items 11 and 16 from the Master Schedule of Technical Details (pages 56 & 57) due to owning property at 14/116 Marine Parade, Cottesloe, and left the meeting at 7.25PM. Cr Carmichael returned to the Council Chambers after the vote was cast at 7.26PM.

Cr Carmichael declared a financial interest in Recommendation D due to owning property at 14/116 Marine Parade, Cottesloe, and left the meeting at 7.35PM. Cr Carmichael returned to the Council Chambers after the vote was cast at 7.36PM.

Cr Boland declared a proximity interest in item 44 from the Master Schedule of Technical Details (page 41) due to owning property at 70 Napier Street, Cottesloe, and left the meeting at 7.30PM. Cr Boland returned to the Council Chambers after the vote was cast at 7.31PM.

Cr Goldthorpe declared a financial interest in item 44 from the Master Schedule of Technical Details (page 41) due to owning property at 73 Napier Street, Cottesloe, and left the meeting at 7.30PM. Cr Goldthorpe returned to the Council Chambers after the vote was cast at 7.31PM.

Mayor Morgan declared a financial interest in item 42 from the Master Schedule of Technical Details (page 40) due to owning Cottage 2, 1 Pearse Street, Cottesloe, and left the meeting at 7.31PM. Mayor Morgan returned to the Council Chambers after the vote was cast at 7.33PM.

9.1.1 LOCAL PLANNING SCHEME NO. 3 – MINISTER'S MODIFICATIONS – REPORT ON SUBMISSIONS & SCHEME PROVISIONS

File No:	SUB443
Responsible Officer:	Carl Askew
	Chief Executive Officer
Author:	Andrew Jackson
	Manager Development Services
Proposed Meeting Date:	21 September 2011
Author Disclosure of Interest	Nil

INTRODUCTION

Council in June 2011 received a status report on the advertising undertaken for the Minister's proposed major modifications to Local Planning Scheme No. 3 (LPS3), a broad overview of the submissions received and an outline of the remaining steps for finalisation of the Scheme.

Council is committed to the ongoing statutory process, including any necessary additional advertising, pursuing legal aspects and liaison with the State authorities.

This further report now presents a detailed analysis of the current submissions for Council's consideration and determination of its recommendations on them. Any future submissions on additionally-advertised matters will also need to be considered by Council before being able to complete its response on the Scheme.

COUNCIL ACTIONS REQUIRED

This phase of the Scheme process entails the following administrative tasks:

1. Prepare schedules of the submissions.
2. Assess and recommend upon the submissions.
3. Send the schedules, copies of submissions and Council's recommendations to the Western Australian Planning Commission (WAPC); ultimately supported by Council's overall case for the Scheme.
4. Liaise with the State authorities.

The reporting to and consideration by Council needs to cover:

1. Council's previous modifications as accepted or not by the Minister to date.
2. The meaning and implications of the proposed major modifications.
3. Evaluation of the submissions in terms of their numbers, origins, validity, aspects raised and merits.
4. Inputs from the Town's consultants and solicitors.

Council is required to consider all of the submissions and make recommendations in respect of each (which may be collective), towards outcomes on the proposed major modifications and hence the final contents of the Scheme.

The timeline is to lodge the current submissions and Council's recommendations with the WAPC by the end of September 2011, based on a one month extension requested and agreed to. Due to the additional advertising agreed to, a second round of any submissions received will need to be processed, before Council can confirm its final response on all of the submissions and the Scheme.

While the focus is on the proposed major modifications and the submissions regarding them, in completing the entire Scheme Council needs to address:

1. The minor modifications to the Scheme previously recommended by Council as accepted or not by the Minister. These were not required to be advertised so were not subject to invitation for submissions; however, those not agreed to by the Minister warrant review by Council for any it still wishes to settle with the WAPC and Minister.
2. The interpretation and implications of the proposed major modifications in relation to the Scheme as adopted by.
3. Evaluation of the submissions, including in terms of their numbers, origins, validity, the aspects raised and the merits of the comments, in the context of the Scheme as adopted by Council and the proposed major modifications.

4. Any legal advice to Council concerning the legalities, technicalities or procedures associated with the Scheme process, provisions and modifications.
5. The bearing of parallel actions relating to the Scheme by Council, consultants for the Town, community groups or other stakeholders; such as the application by Keep Cott Low (KCL) for National Heritage Listing of the Cottesloe coastline, the citizens' Petition presented to State Parliament, public meetings and studies.
6. Council's perspective for the composition of the Scheme as a whole and the beachfront development controls in particular, as a long-term strategic vision for orderly and proper planning, and the justification for this.
7. The degree of variation that Council may be prepared to support in the Scheme provisions all things considered, without compromising the underlying vision, objectives and principles.

RELATED ACTIONS

Legal letters to WAPC & Minister

Council on 28 February 2011 considered an initial report entitled *Local Planning Scheme No. 3, Report on Modifications Required by Minister for Further Advertising* and resolved to:

Request staff to investigate whether State Planning Policy (SPP) 2.6: State Coastal Planning Policy has been properly interpreted and appropriately applied by the State planning authorities in giving consideration to the preferred height regime for the Cottesloe beachfront, including the apparent disregard for the Enquiry by Design outcomes report of that intensive consultation process and detailed study, which was jointly undertaken and funded by the State planning agencies and the Town of Cottesloe, pursuant to the statutory arrangements agreed for formulation of the Scheme provisions.

The Town's solicitors wrote to the WAPC and Minister questioning the administration of SPP2.6, plus the influence of planning for climate change, as key issues stemming from the handling of LPS3 and the proposed major modifications by the State authorities. The WAPC Chairman replied, including on the Minister's behalf, on 28 June 2011. In brief, the letter argued that the authorities are not bound by State planning policy and that departures are appropriate in this instance. The letter also advised that the DoP and WAPC are willing to discuss climate change and sea level rise when the Scheme is resubmitted for final approval.

Given legal review and Council consideration these concerns remain in regard to the proposed major modifications.

Further, Council on 27 June 2011 considered a status report on LPS3 and resolved to:

Endorse sending letters from the Town's solicitors to the Western Australian Planning Commission and the Minister for Planning regarding the omissions and errors in the proposed major modifications; with an added request to the Minister for Planning for approval to undertake additional advertising of the omissions and errors, prior to completing consideration of the submissions on all of the proposed major modifications in a collective, comprehensive and coordinated manner, for a response to the Commission on the Scheme.

These letters were sent in early July, with replies requested in time for the Council meeting at the end of the month. The WAPC Chairman replied, including on the Minister's behalf, on 14 July 2011. In brief, the letter asserted the Minister's power to determine the matter but does allowed some additional advertising, subject to specified timelines. The Town's solicitors have since responded regarding Council's intention to undertake additional advertising, as well as nominated a one-month extension to respond on the current submissions by the end of September 2011, which the WAPC has confirmed agreement with.

Meeting with DoP / WAPC & Minister

Council on 27 June 2011 in considering the status report on LPS3 also resolved to:

Arrange to meet with the Department of Planning, Western Australian Planning Commission and Minister for Planning towards finalisation of the Scheme with acceptable provisions and a suitable outcome for the beachfront, prior to Council's determination of all of the submissions and its overall response on the Scheme.

It is anticipated that a meeting may be arranged after Council has responded on the current submissions and before lodging Council's final response on the Scheme.

Complementary study by Ecotect Architects

Council on 27 June 2011 considered a report entitled *Local Planning Scheme No. 3, Proposed 100-Year Planning & Design Concept Study for Cottesloe Beach* by Ecotect Architects, and resolved to:

- 1. Note the assessment and advice contained in this report regarding the proposal by Ecotect Architects to undertake a study focused on climate change in relation to the Cottesloe Beachfront for Local Planning Scheme No. 3.*
- 2. Support the suggested study in-principle as an independent initiative by Ecotect Architects, without prejudice to Council proceeding to complete the Scheme, on the proviso that Ecotect Architects does not act as a representative of Council in the matter.*
- 3. Agree to the Town liaising with Ecotect Architects in terms of information for the separate study, the timeframe for the study in relation to the progress of LPS3, a suitable study brief and protocols for interaction with all parties.*
- 4. Reply to the letter from Ecotect Architects in accordance with the above.*

5. *Subject to the study going ahead, in due course inform the Department of Planning in writing accordingly.*

Ecotect Architects has since been advised of Council's resolution and is liaising with the Town on the matter, gathering background information and proceeding with the study.

Petition to Parliament

A citizens' petition from KCL containing 13,436 signatures was presented to the Legislative Council by the Hon Giz Watson MLC on 5 April 2011. The Parliamentary committee which examined the Petition concluded that, given the proposed major modifications and advertising process under LPS3, it would not further consider the matter. It is surprising that the committee did not recognise the strength of public concern in such a large petition on such a longstanding issue as a demonstration of dissatisfaction with the governance of the planning process.

Nonetheless, KCL and SOS have furnished the Town with a full copy of the Petition, which was lodged during the advertising period and is specifically referenced by SOS as part of its submission. To reinforce this KCL has written to the Town supporting the Petition as a submission in relation to the proposed major modifications to the Scheme. Several other submissions also refer to the Petition, as a strong indication of public concern regarding the beachfront and overriding support for a low-rise height regime. Council should therefore include the Petition in its response to the State authorities on the submissions and Scheme.

The preamble statement summarises the history of consultations undertaken over the years by both the Town and State Government in relation to the Scheme and beachfront, which consistently demonstrate local community and wider public support in favour of a low-rise development character for Cottesloe, including the EbD process to determine the preferred built form planning parameters. It also refers to relevant guidance in SPP2.6 that building height should be sensitive to views and the visual landscape. The Petition prayer reads:

We the undersigned value the low-rise coastal village character of the Cottesloe beachfront and support the proposed Cottesloe Local Planning Scheme 3 for a 12metre/3 storey height limit on Marine Parade with 4 storeys on the Cottesloe Beach Hotel site and 5 storeys on the OBH [Ocean Beach Hotel] site in accordance with the outcomes of the Enquiry by Design process (2009).

Your petitioners therefore respectfully request the Legislative Council to call upon the Minister for Planning to abide by the height limits in State Coastal Planning Policy 2.6 and gazette the proposed Cottesloe Local Planning Scheme 3 without modification and without further delay.

When signatures to the Petition were gathered during the Sculpture by the Sea exhibition, which was attended by a wide cross-section of the public, representatives of KCL and SOS were present to explain and discuss the situation with interested persons, and a copy of the EbD report was available for inspection. Press coverage in the main and local newspapers at that time also drew attention to the matter and the considerations involved, whether pitched for or against Council's Scheme.

National Heritage Listing

The application by KCL to the Federal Government for consideration of the Cottesloe coastal strip to be given national heritage list classification has not been included in this year's round of proposals to be assessed; however, it is intended to be reconsidered next year.

This remains a worthwhile initiative in recognition of the cultural heritage attributes, special character and landscape qualities of the Cottesloe coastal locality.

It is noted that the concept of a cultural heritage area here is a holistic recognition of the natural, landscape, scenic, scientific, historical, social, built environment and overall sense of place characteristics and attributes of the complete Cottesloe coastal entity.

COUNCIL'S CONCERNS

In previous Council reporting and deliberations a number of serious concerns to Council have been identified in terms of the derivation, details and imposition of the proposed major modifications. These relate to both process issues and the planning substance of the proposed changes.

Due process

As previously reported, the DoP and WAPC did not engage with the Town on their examination of the Scheme as adopted by Council and lodged for final approval, or regarding the intended major modifications. Moreover, the Minister's position was that the modifications be advertised as supplied, their contents not be open for negotiation prior to advertising, and concerns Council may have with their intent be raised when re-lodging the Scheme – this needs to be done.

The reluctance of the State authorities to engage with the Town and Council in a constructive dialogue in order to address planning considerations and progress the Scheme can be seen as disappointing and unreasonable. Concern about delay of the Scheme is insufficient cause to not conduct a meaningful dialogue.

Officer-level professional interaction would have facilitated the process to be more effective and efficient, especially avoiding significant omissions or errors, which have emerged as unfortunate flaws as discussed below.

Also vitally, discussion of the key planning issues could have achieved a level of agreement about the Scheme provisions, as well as reduced and streamlined the proposed major modifications. In this respect the DoP did supply some of its reports to the WAPC on the Scheme to the Town upon request; however, Freedom of Information applications by the press and community members – ideally which should be unnecessary – have revealed in greater depth the internal deliberations of the DoP, WAPC and Minister in dealing with the Scheme so far.

In this connection, Council's February resolution in point 7 asks the Minister to what extent external consultants played a role in the modifications, in particular the alternative beachfront building design controls. The Minister has responded that the

DoP was assisted by *Planning Consultants Australia*, acting exclusively for the Department and not for any of the beachfront landowners or occupiers. The difficulty Council may see in this arrangement is that the consultant involved was previously the DoP planner responsible for jointly carrying-out the EbD and producing the final report with the Town, and the consensus reached through the EbD as a dedicated study for the Scheme review has since been abandoned by the State agencies.

The lack of dialogue is also at odds with the extensive consultation undertaken in producing the Scheme and the voice of the community and wider public in the process. The studies performed in-house by the DoP, rather than being an open process, were not made public and were only fully-revealed via Freedom of Information. Similarly, the reporting to the WAPC was not in the public arena. A more interactive, transparent approach would have been preferable and beneficial for all parties. Yet it is known that the State authorities were lobbied by and met with the beachfront major landowners / intending developers and their consultants, which has contributed to the development scenario set out in the proposed major modifications. In turn, the attitude taken by the State Authorities to Council's Scheme and the initial submissions has been unduly dismissive.

SPP2.6 & climate change

As mentioned above, resulting from point 6 of Council's 28 February 2011 resolution, the Town's solicitors wrote to the WAPC and Minister questioning the administration of SPP2.6, plus the influence of planning for climate change, as key issues stemming from the State authorities' handling of LPS3 and the proposed major modifications.

The incorrect interpretation and application of this Policy, as well as other regional strategies and policies, to the Scheme runs contrary to the correct use of planning instruments and powers, in conflict with the technical roles and decision-making responsibilities of the State authorities.

Planning framework

Several additional concerns exist in relation to the correct planning framework for consideration of the Scheme. These include:

- dismissing and discrediting the EbD, despite it being written into Scheme;
- disregarding Council's draft Beachfront Policy and its refined Foreshore Concept Plan (which was originated by the EbD);
- being oblivious to a sense of place and character, thereby deleting the associated urban design and development principles from Schedule 15;
- misconstruing amenity as a planning notion;
- disregarding views as an important planning consideration; and
- inadequate recognition of design for climate.

The position assumed by the State authorities promotes a dominance of broad-brush regional planning philosophy over fine-grained local planning and the democratic scheme review process involving community consultation. In this regard, portraying the support for a low-rise height regime as simply *emotive* or *subjective* is not a mature argument.

In the same vein, the classic economic argument advocating maximum redevelopment potential (ie building height) on the premise of viability or incentive is unacceptably one-dimensional and even crude in today's planning world. In this connection the tourism equation embodied in the proposed modified beachfront provisions is awkward, with a conflict between the aspiration of the State authorities for short-stay accommodation and the desire of developers for permanent residential.

Hence the proposed major modifications do not sit comfortably with the Scheme objectives and the thrust of its provisions as adopted by Council.

Omissions & errors

A number of omissions and errors in the proposed major modifications have been discovered – notably by the Town and members of the public in the first instance rather than by the DoP or WAPC – and concern/confusion in this regard is reflected in the submissions.

The WAPC's stance was that these be treated as merely technical corrections and simply added to the advertising midway. The Town obliged but saw this as statutorily unsatisfactory so obtained legal advice. The upshot warrants additional advertising, with process and time implications for the completion of public consultation and finalisation of the Scheme, as outlined below.

Additional advertising

Exchanges of correspondence between the Town's solicitors and the WAPC have reached agreement on some additional advertising to be undertaken once Council's consideration of the current submissions has been lodged with the DoP. The additional advertising is to take place during October and November 2011 for 42 days and involve a small number of specific aspects. Any further submissions received relating directly to those aspects only would then be considered for Council's recommendations upon them, in the context of its consideration of the current submissions and the overall Scheme.

ADVERTISING UNDERTAKEN

Official advertising

The Town conducted formal advertising of the proposed major modifications for eight weeks from 1 April to 27 May 2011 – the Minister agreed to Council's request that the initial six-week period be extended by two weeks given the Easter and school holidays.

The advertising methods comprised as follows:

1. Official public notices in *The West Australian*, *Post* and *Western Suburbs Weekly* newspapers, at intervals.
2. Hard-copy displays for inspection at the Civic Centre and *The Grove Library* (serving Cottesloe, Mosman Park and Peppermint Grove).
3. A dedicated website page with full information.

4. Two rounds of mail-outs to all Cottesloe property owners and occupiers, distributing documents explaining the proposed major modifications, plus submission forms.
5. Ongoing monthly coverage in the *Cottesloe Council News* page of the *Post*.

Continual articles and letters on the matter in all of the above newspapers have supplemented the formal advertising means.

This wide consultation program significantly exceeded the minimal advertising specified by the Town Planning Regulations (Regulations) and afforded extensive exposure of the proposed major modifications and associated issues. Officers fielded numerous enquiries.

The advertising material conveyed via the displays, website and mail-outs was comprehensive and consisted of the following:

1. The official public notice.
2. A detailed document: *Guide to the Proposed Modifications Advertised for Submissions*; which contained the beachfront provisions in the Scheme as adopted by Council, the major modifications proposed by the Minister and a comparative table of the main changes.
3. An extract of the Local Planning Strategy for the Scheme: section 3. *Local Planning Framework*.
4. The Scheme Text and Map as originally advertised.
5. The *Cottesloe Enquiry by Design Report* (EbD; March 2009).
6. Two letters from the WAPC highlighting omissions and errors in the proposed major modifications, which it requested be publicised.
7. A leaflet drawing attention to extension of the advertising period; enclosing a pair of 3D indicative images of the beachfront building heights as supported by Council; and elaborating on the omissions and errors as advised by the WAPC.

It is noted that this consultation by Council covered the whole district, constituting wide community awareness of and involvement in the Scheme.

Community actions

In addition, the following community-instigated actions contributed to dissemination and debate regarding the proposed major modifications:

Public meeting

A public meeting was convened by the Keep Cott Low Inc (KCL) and SOS Cottesloe Inc (SOS; residents and ratepayers association) community interest groups and held at the Civic Centre on 16 March 2011, prior to the commencement of advertising. This stimulated awareness, canvassed opinions and answered questions in anticipation of the submission period.

The Member for Cottesloe and Premier (Hon Colin Barnett MLA) attended and spoke to the audience. The Chairman of the WAPC (Mr Gary Prattley), accompanied by an

officer of the Department of Planning (DoP), attended to observe only, declining invitations to participate in discussion.

Importantly, the meeting moved to support the beachfront height controls pursuant to the EbD in the Scheme as adopted by Council and lodged for final approval, and to reject the proposed major modifications to them by the Minister, as follows:

- 1. This meeting supports the proposed Cottesloe Local Planning Scheme 3 for a 12 metre / 3 storey height limit on Marine Parade with 4 storeys on the Cottesloe Beach Hotel site and 5 storeys on the OBH site in accordance with the outcomes of the Enquiry by Design process (2009).*
- 2. This meeting rejects the imposition by the Minister for Planning of further changes to the proposed Cottesloe Local Planning Scheme 3 for a 12 metre / 3 storey height limit on Marine Parade with 4 storeys on the Cottesloe Beach Hotel site and 5 storeys on the OBH site in accordance with the outcomes of the Enquiry by Design process (2009).*

Citizens' Petition

A Petition as mentioned above was gathered by KCL during the Sculpture by the Sea exhibition over three weeks in March 2011 when there were many visitors to Cottesloe Beach. The total of 13,436 signatories was collected from a wide spectrum of people who wished to register their support for a low-rise beachfront in accordance with the EbD and Council's Scheme, rather than for higher-rise development based on the proposed modifications.

PROFILE OF SUBMISSIONS

Statistical summary

Below is a statistical summary of the submissions, which predominantly relate to the beachfront, by way of those originating from either inside or outside Cottesloe; and being essentially in support of either Council's Scheme, the Minister's proposed major modifications, or improvement generally. A few submissions are about matters separate from the modifications.

It is emphasised that this is a quantitative overview only, ie the categorisation does not convey the submissions qualitatively, which is the more important part. It is also emphasised that Council's ultimate conclusions for the Scheme are not confined by its findings on the submissions, which while certainly a significant consideration are to be taken into account together with other relevant inputs on the aspects involved.

The term *pro* in the table means that the submissions are clearly in that category, although they contain a range of comments and are not necessarily absolute.

Statistical table of submissions from inside and outside Cottesloe, being principally about the beachfront and either pro Council's Scheme, pro Minister's Modifications or pro improvement generally; plus some others:

Inside Cottesloe (individual submissions)	Numbers pro Council's Scheme	Numbers pro Minister's modifications	Numbers pro improve generally	Numbers other matters	Overall numbers
Local residents/owners	403	114	38	3	558
SOS (ratepayer group)	1				1
<i>Sub-totals</i>	<i>404</i>	<i>114</i>	<i>38</i>	<i>3</i>	<i>559</i>
Outside Cottesloe (individual and pro forma submissions)					
Non-local residents/owners	347	265	49	3	664
Non-residents via OBH		642			642
<i>Sub-totals</i>	<i>351</i>	<i>907</i>	<i>49</i>	<i>3</i>	<i>1306</i>
Totals	751	1021	87	6	1865

Overall profile

The advertising period for the proposed major modifications led to a sizeable number of 1865 submissions. This is more than twice the amount received when the entire Scheme then the Building Design Controls (BDC) were advertised (ie, 553 and 359 respectively, totalling 912).

However, of the overall total of current submissions, 642 are identified as derived via the OBH and account for 34%. That is, one third of all submissions are pro forma type solicited via a campaign apart from the advertising undertaken by the Town. These are analysed in more detail below.

Further, of the total 1306 submissions originating from outside Cottesloe, the 642 associated with the OBH represent 49%. That is, virtually half of all submissions from outside Cottesloe are attributed to the same source.

In this respect, it is pointed-out that the Petition to Parliament of 13,436 signatures, in terms of volume of invited signatures, is almost 21 times the number of OBH-solicited submissions as an indication of wider public sentiment on the Scheme.

It is also pointed-out that the previous advertising of the Scheme and BDC similarly received a great many solicited submissions. This included hundreds of pro forma or standardised submissions regarding the beachfront development sites, in particular the OBH. It was claimed that the then submission from planning consultants Greg Rowe & Associates had been read and agreed with as the basis of objection to the proposed BDC, but Council considered it questionable whether the consultant's submission had been read or understood.

Excluding the submissions derived via the OBH, it can be seen that the number of submissions from inside Cottesloe (559) and outside Cottesloe (664) are not that far apart. It can also be seen that for the submissions from both inside and outside Cottesloe the amount pro Council's Scheme outweighs those pro the Minister's modifications.

Local residents / owners**Local submissions supporting Council's Scheme**

It can be seen that of the submissions from inside Cottesloe, the significant majority or some 72% or nearly three-quarters support Council's Scheme. This is consistent with local community opinion surveyed, expressed and reiterated over many years.

A distinguishing feature of the submissions from local residents / owners in support of Council's Scheme is that they comprise a multitude of individually-expressed comments, displaying familiarity with and well-considered points of view on the matter. This is as opposed to the various pro forma submissions, which indicate a more superficial appreciation of the situation and less-substantiated comments.

Local submissions supporting Minister's modifications

Only 20% of the submissions from inside Cottesloe register support for the proposed major modifications.

Several of these include the statement: *I have also read the Greg Rowe & Associates' submission dated 18 April 2011 relating to the OBH Hotel and Lido sites and fully support their contents* – which also appears in some of the submissions from outside Cottesloe, particularly the OBH-derived pro forma submissions. It is detected that the handwriting of this statement at the bottom of the forms appears the same on several submissions and contrasts with the other handwriting on them, which suggests that it may have been added to the submissions, either with consent or perhaps after collection without knowledge.

As mentioned above, this same situation of solicited or pro forma submissions claiming to be familiar with a related submission by the planning consultants arose previously when the Scheme and BDC were advertised, but was considered to be dubious.

Local submissions supporting improvement generally

A small amount of 7% of the submissions from inside Cottesloe register support for improvement of the beachfront generally, although are not distinctly in favour of either Council's Scheme or the Minister's proposed modifications.

Some contain standardised statements (ie pre-typed comments with the submitter details handwritten) reflective of the OBH-derived submissions, suggesting that they also may have been solicited. In one such instance the submitter has added handwritten comment which qualifies or dilutes their support for redevelopment.

Some of the submissions contain more detailed comments, in accordance with local knowledge of the matter. Several discuss building height and some indicate support for controlled additional height, with five-storey tending to be cited as the preferred maximum. Several also make the point that up to eight-storey for the Il Lido/Seapines site is excessive and would be detrimental to the locality.

Local submissions about other matters

Three submissions are about other matters, as follows:

- Increasing traffic/congestion, especially at railway crossings, which high-rise apartments would exacerbate. This is a general comment.
- The Council Depot site was previously intended to be R20, but the prospect of increased density and fill (hence height of development) would cause negative impacts by way of traffic, noise and visual interference. This comment relates to the modifications for Development Zone 'B'.

Council may note these and where applicable recommend upon any specific aspect.

Non-local residents / visitorsStatistical breakdown

An amount of 1306 submissions from outside Cottesloe were received, many comparatively short and stating a position, although some elaborate.

At first glance they comprise 27% in support of Council's Scheme and 69% in support of the Minister's modifications, plus 4% supporting improvement generally. However, as mentioned a large proportion of 49% or almost half are the pro forma replies identified as from patrons or allies of the OBH, all with similar broad comments stating support for redevelopment of the beachfront, as outlined further below.

Three submissions are about other matters entirely, as follows:

- A brief comment in favour of more flexible building guidelines, to enable replacing a four-unit site of outdated dwellings with four or more apartments. This relates to clause 5.3.5.
- A comment about the density coding for the former Seaview Garage site at 443 Stirling Highway, seeking R60. Council previously adopted a modification to support an increase from R50, which the Minister has agreed to.
- One simply states "increase urban density – Directions 31" (sic). As the person states being a barman, it may be associated with the OBH.

Council may note these and where applicable recommend upon any specific aspect.

Origins of non-local submissions supporting Council's Scheme

The geographical distribution of these submissions is shown in the table below.

<i>Origins of submissions</i>	<i>No. of submissions</i>	<i>No. of localities</i>
Perth metro:	303	93
Country WA:	34	19
Eastern States: ACT, NSW, SA, Tas	6	6
Overseas: NY, NZ, Singapore, UK	4	4
<i>Total</i>	<i>347</i>	<i>122</i>

Most are from the Perth metro area, with the remaining from country WA, the eastern states and overseas. They originate from some 122 localities outside Cottesloe, mainly metropolitan suburbs and country Towns.

The relatively nearby western suburbs of Claremont, Dalkeith, Mosman Park, Mount Claremont, Nedlands, Peppermint Grove, Shenton Park, Subiaco and Swanbourne each generated larger numbers of submissions (119 from sub-total of 136 for all western suburbs), most likely due to these populations tending to be more regular users of Cottesloe and familiar with the issues (eg, through local press coverage).

Submissions from elsewhere in Perth range between 1 and 11 for each postcode, showing a wide spread of visitors to Cottesloe and people interested in the matter motivated to make submissions. This attests to the enduring attraction of Cottesloe and the desire that it not be spoiled by overdevelopment.

Origins of non-local submissions supporting Minister's modifications

The geographical distribution of these submissions is shown in the table below.

<i>Origins of submissions</i>	<i>No. of submissions</i>	<i>No. of localities</i>
Perth metro	782	191
Country WA:	40	24
Eastern States: NSW, Qld, SA, Tas, Vic	29	28
Overseas: NY, UK	2	2
Unknown:	54	-
<i>Total</i>	<i>907</i>	<i>245</i>

Most are from the Perth metro area, with the remaining from country WA, the eastern states and overseas. They originate from some 245 localities outside Cottesloe, mainly metropolitan suburbs and country Towns, with a sizeable number of unknown origin. This range is owing to those solicited by the OBH, which attracts visitors from far afield; however, as explained further below, the sheer numbers derived via the OBH should be treated with caution.

The relatively nearby western suburbs of Claremont, Dalkeith, Mosman Park, Mount Claremont, Nedlands, Peppermint Grove, Subiaco and Swanbourne and to a lesser extent others each generated larger numbers of submissions (158 from sub-total of 191 for all western suburbs).

Submissions from elsewhere in Perth range between 1 and 14 for each postcode, echoing the wide spread of visitors to Cottesloe. This also reflects the attraction of Cottesloe as a destination and indicates interest in its future; although it is evident that many of these submissions were derived via the OBH, as discussed further below.

The Town has detected that at least six of these submissions are from professional staff of the planning consultancy (Greg Rowe & Associates) that has made submissions on behalf of the OBH and Il Lido sites/owners. At least another three are from professional staff of the architectural consultancy (Oldfield Knott Architects) that also represents development interests in the Il Lido and Seapines sites, as it did

at the EbD. Whilst these persons may hold a point of view, their submissions are obviously in favour of their clients, so can be seen as contrived.

A significant number of 54 contain names but no addresses so are of unknown origin. As such they are less valid and could be discounted.

Origins of non-local submissions supporting improvement generally

Another 49 submissions from outside Cottesloe indicate general support for improvement of the beachfront, but are not specific enough as being clearly in support of either Council's Scheme or the Minister's modifications. Almost all are from various Perth suburbs (again widely spread). Two are of unknown origin hence less valid and could be discounted.

<i>Origins of submissions</i>	<i>No. of submissions</i>	<i>No. of localities</i>
Perth metro:	47	39
Unknown:	2	-
<i>Total</i>	<i>49</i>	<i>39</i>

They are mostly very brief, make similar comments and some are pro forma repetitions or variations on a theme. As such their nature, tone and origins suggest that they may well have been derived via the OBH along with all of those solicited submissions – three identify the OBH as the subject, albeit with general comments.

Their gist is to favour improvement and redevelopment of the locality, including managing aspects such as parking, and with some encouragement of enhanced tourism.

The Scheme as adopted by Council and the Minister's modifications are both aimed at creating improvement of the beachfront, albeit to differing degrees and with varying development controls.

Submissions derived via OBH

The submissions seen to be solicited from patrons of the OBH consist of several pro forma statements and are attributed to the OBH site by a number of those submissions, including the motel and backpacker accommodation.

They are from visitors at the time, some of whom may frequent Cottesloe; however, as non-residents they were not consulted directly by the Town hence most likely had limited exposure to the advertising material so would tend to be less well-informed.

The dates on the submissions include 159 from 24 April 2011, being Easter Sunday, while clusters of submissions are also dated on other Sundays, Fridays and Saturdays. There are also three mid-week clusters in May. This pattern is taken to indicate both patron attendance and soliciting of submissions.

Amongst the submissions dated 24 April 2011, there are 35 where the headings *Subject of Submission* and *Address of Property Affected by Scheme* on the submission form are crossed-out, which is inexplicable. On the back of one is written

in large letters: *Please write your – name – address – signature to state that you are happy for these changes. Thank you.* It finishes with a hand-drawn smiling face.

One submission is dated in March and one in June, both well outside the official advertising period, while another 17 are undated and at least 5 are unsigned. While all of these have been included as a matter of record, they are less valid and could readily be discounted.

All of these submissions, while briefly stating a similar point of view, do not offer fully-expanded reasons or demonstrate any real depth of understanding of the Scheme or proposed major modifications. In short, the standardised comments mention:

- *In support of the proposed modifications.*
- *The beachfront/foreshore is in need of upgrade/redevelopment.*
- *This is in the interests of the local and wider community.*
- *The height of buildings envisaged is acceptable and an incentive.*
- *Balancing local and regional aspects.*
- *Government foresight, common sense and bravery.*
- *Have read and support the submissions by the consultants.*

The repetitive statements contained in the pro forma submissions are variations on a theme and evidence of their contrived construction, whereby it is apparent that a choice of comments was provided, while their tone is that of an opinion or position rather than considered comment. The assertion by submitters that: *I have also read Greg Rowe and Associates' submissions dated 18 April 2011 for the OBH and Il Lido sites and fully support their contents* is considered dubious. While it indicates that such information may have been made available, it is doubtful that people would have been given a copy or taken the time to properly digest those submissions, and even more doubtful that they would fully understand it or unanimously support it. It is noted that the large number of submissions dated 24 April 2011 were collected less than a week after the date of the Greg Rowe submission.

It has been claimed that patrons were offered a free beer if they filled out a submission form, and that forms were placed in the accommodation rooms. It has also been claimed that patrons were potentially misled by forms being handed-out.

It is further apparent that some pro-higher-rise submissions were solicited at other locations. In one case, it is advised that a number of young footballers at training were approached and signed submissions on the presumption of being pro low-rise, then only later was it realised that the submissions may have been cast as pro higher-rise. One of these submitters lodged a subsequent pro low-rise submission in favour of Council's Scheme and specifically retracted the previous submission, as follows:

*Please accept this as my submission regarding Town of Cottesloe LPS 3.
Please disregard any other submission that is lodged on my behalf.*

I previously signed a submission some time ago. At that stage I was still 17 years old. My date of birth is 2 May 1993. I was approached, along with other footballers, at Collegians Football Club Training by someone wanting us to sign a

submission on LPS 3. I signed it, and so did a lot of the other guys at footy training.

I was led to believe that I was supporting a low-rise outcome for Cottesloe beachfront, which is my strong preference. Sometime later, I realised that I may have signed a submission for a high-rise outcome. I made enquiries about the situation with the Cottesloe beachfront, and I am now aware of the outcomes of the Enquiry by Design, and I fully support those outcomes. I do not support anything above 3 storeys on the Cottesloe beachfront, apart from 4 storeys at the Cottesloe Beach Hotel site, and 5 storeys at the OBH in accordance with the Enquiry by Design report.

In summary, the evidence of orchestrated submissions derived via the OBH is clear and disconcerting. It is apparent that a large number of submissions claiming support for the proposed modifications were generated by dubious means from this single source in a deliberate manner. It is most improbable that so many people would automatically hold such similar narrow and repetitive opinions about the matter as stated in the hundreds of pro forma submissions. Therefore these submissions are of lesser validity.

Submissions from outside Cottesloe excluding OBH

Once the OBH-associated submissions are set aside, the balance of *bona fide* submissions from outside Cottesloe is as follows.

<i>Pro Scheme or Modifications</i>	<i>Tally</i>	<i>%</i>	<i>Proportion</i>
Pro Council's Scheme	347	53%	majority
Pro Minister's modifications	265	40%	minority
Pro improvement generally	49	7%	least
<i>Total</i>	<i>661</i>	<i>100%</i>	

This reveals that more than half of the submissions from outside Cottesloe, ie representing the wider public, are in support of Council's Scheme, whereas only two-fifths favour the Minister's modifications. In addition, less than one tenth would like to see some improvement of the beachfront locality, which both the Scheme and modifications address, but these submissions do not suggest going to the extent of the modifications.

This finding, that the majority of people from outside Cottesloe, when correctly consulted, register support for a low-rise height regime and low-key beachfront character is consistent with the results of the series of surveys, polls, forums, public meetings and submission phases, at both the local and regional levels, carried out over a decade.

Approach to evaluation of submissions

Advertising of the proposed major modifications has resulted in a sizeable number of submissions being received. However, as with the previous statutory advertising periods, a large proportion of the submissions are short and standardised or pro forma; in other words deliberately solicited, whereby they have limited weight (although the opinions expressed may be noted).

Certainly those from outside Cottesloe ascribed to the OBH can be attributed less weight as a rule (albeit offering a profile of OBH patrons particularly and their impromptu attitudes). Furthermore, most of them simply record a point of view and do not address the proposed major modifications directly or in detail, which was the focus of the statutory advertising.

What can be called contrived submissions, therefore, obviously reflect vested interests and usually assume lower validity. This is not just because they have been collected and tend to be superficial, but also that they exhibit several dubious practices as described, which is disconcerting.

The submissions of substance comprise mainly quite substantial local community comments regarding the Scheme as adopted by Council compared with the proposed major modifications, with the emphasis on the beachfront development parameters; as well as those submissions from consultants on behalf of the two hotel sites and the Il Lido/Seapines site. Only one other commercial property in the vicinity made a submission in favour of significant redevelopment.

Applying proper weightings to submissions is desirable to ensure a balanced appreciation of their relevance and validity as a guide to how Council and the State authorities ought to treat the submissions. In this regard Council's solicitors have outlined several useful principles found in case-law for giving weight to public submissions. These include:

- A degree of caution in connection with petitions generally as basically lists of signatures – as the KCL Petition includes the detail of its preamble and prayer, then names, addresses and signatures, and as the circumstances of collecting the signatures are clear, its veracity can be considered fundamentally sound.
- Pure numbers of supporters or objectors needs to be tempered by the merits and relative objectivity of comments – the report elaborates on this.
- Avoiding duplications or repetitions – this has been done in compiling the submissions.
- Vested interests are a fair basis to discount submissions – this applies to the OBH-derived submissions in several respects as described.

Bearing in mind such principles assists in determining the reasonableness of submissions and identifying those that are difficult to sustain or give any real weight to.

Summary of aspects raised

As the advertising concentrated on planning for the beachfront, this was the main topic responded to, although other aspects advertised, as well as some not advertised, featured in the submissions to a minor extent and also need to be considered.

The submissions have been collated and categorised for recording, assessment and reporting. The broad qualitative profile of the submissions is as follows:

1. The main focus is on the beachfront planning provisions in accordance with the advertising, although some submissions refer to other aspects of the Scheme elsewhere in the district.

2. The approximately one third that are local comment in substance on the matter in supporting the Scheme as adopted and lodged by Council. They include a number of detailed submissions from concerned citizens and community groups and largely express strong concern that the EbD outcomes have been dismissed and departed from.
3. The approximately two-thirds from outside Cottesloe are predominantly pro-forma and evidently derived from patrons of the Ocean Beach Hotel, where it is understood submission forms were made available, encouraged to be filled-out and collected; then lodged in batches.
4. Several detailed submissions from planning consultants for beachfront landowners, which while tending to be pro-redevelopment are not entirely in support of the proposed major modifications.
5. The complexity of the proposed major modifications and confusion over the complicated provisions is a feature of the submissions.

In addition to the submissions, it is noted that over time various persons/parties have written to the local press, Town, Minister and Premier to voice their comments about the proposed major modifications and Scheme issues, evidencing ongoing public concern about the matter.

What stands out about the submissions overall is the:

- Strength of feeling in the community, reflecting the legacy of genuine participation and intimate appreciation of the urban genre and sense of place for which Cottesloe is renowned.
- Depth of knowledge and awareness about the planning process and issues, including belief in the numerous consultations undertaken and support for the EbD as the pivotal study for determination of the beachfront development parameters. Hence the volume of genuine local submissions.
- Many of the individual, local submissions are articulate with well-considered comments, offering constructive feedback and reasoned opinions; despite the complexity involved.
- Indication that, while LPS3 as originally adopted by Council and based on the EbD outcomes is supported as the preferable planning framework, some carefully formulated further concessions may be acceptable, within clearly defined limits and closely guided controls, but not to the extremes proposed by the modifications.
- Handful of suggestions for further study in relation to the beachfront, including the basic concepts, climate change, tourism economics, architectural quality (eg design guideline), and traffic and parking; as well as the ideas of a possible design competition and inputs by experts.
- Extent of revisions sought by the submissions from consultants for the beachfront landowners. While promoting redevelopment and maximum

heights, they find significant faults with the feasibilities of a range of provisions prescribed by the WAPC in the proposed modifications.

Building height comments

As mentioned, the aspect of beachfront building height attracted a range of comments in many submissions, although wasn't specifically referred to in all submissions. While this was expressed in various ways, together with other aspects, the broad pattern of opinions regarding maximum height of development is as follows:

Inside Cottesloe – supporting Council's Scheme

- Considerable support for the three-storey limit.
- Moderate support for four to five storeys on the two hotel sites.
- Considerable objection to eight storeys, due to its impacts.

Inside Cottesloe – supporting Minister's modifications

- Not many of these submissions refer to specific heights and they contain a diversity of comments.
- There is some support for five, six or seven storeys on prescribed sites.
- There is some support for taller buildings generally and five to eight storeys on selected sites.

Inside Cottesloe – supporting improvement generally

- Some support for three storeys except for the hotel sites.
- Some support for five storeys, mainly on the hotel sites.
- Little support for more than five storeys and some opposition to eight storeys.

Outside Cottesloe – supporting Council's Scheme

- Considerable support for three storeys, and even less.
- Moderate support for four to five storeys, mainly on the hotel sites, but also some opposition.
- Little support for five to eight storeys.
- Considerable objection to five to eight storeys.

Outside Cottesloe – supporting Minister's modifications

- Not many of the individual submissions refer to specific heights and there is no particular concentration of preferences stated.
- The mixture of comments includes considering five storeys as optimum and encouraging greater height up to eight storeys.
- The OBH pro forma submissions *en mass* state positions in favour of the modifications and refer to the submission by Greg Rowe & Associates, without specifying heights.

Outside Cottesloe – supporting improvement generally

- No reliable height comment.

This profile, while covering a spectrum of heights, demonstrates that building height is a leading development parameter of concern to submitters, as a core determinant of built form and its implications. In this respect it must be emphasised that building

height should not be considered in isolation as a planning imperative. To function effectively without detrimental impacts height needs to be part of an equation of factors including setbacks, streetscape, views, amenity, sustainability, heritage, architectural articulation and so on.

It is only when building height is properly dealt with in this manner having regard to the context of sites, surrounds and settings that pre-existing qualities of human scale, character, ambience and sense of place can be protected and augmented by intelligent design and sympathetic development. Therefore, any increase in height limits contemplated as suitable for the Cottesloe beachfront feasibly would be marginal rather than substantial, and ought to be justified on orderly and proper planning grounds.

The obverse is that building height when applied as the dominant measure to the development of a locality tends to cause dramatic and often severe long-lasting changes. Any approach that arbitrarily nominates height limits instead of formulating them in accordance with credible criteria cannot be held as legitimate and carries a high risk of creating a damaging urban design outcome. Hence the notion of five storeys as a compromise height limit for the Cottesloe beachfront is off-the-cuff and too simplistic.

OVERVIEW SUMMARIES OF SUBMISSIONS

Below are selected overview summaries from analysis of the submissions, arranged in various categories as examples of comments received.

Local business owners / operators

Several brief submissions in relation to the beachfront.

Murray Quinlivan, owner; Badjon Park, Davstan P/L, Larralee P/L, Obee P/L & Stanmar P/L, all shareholder companies – re Ocean Beach Hotel site

Support the modifications to LPS3.

Have read and support the submissions by Greg Rowe & Associates re the OBH and Il Lido sites.

Duncan Butterworth – re Cottesloe Beach Chalets, John St

Supports increased height for the beachfront with a minimum of five storeys, including tapering-back from the CBH site to the chalets behind. The beachfront has changed little over 30 years and deserves development to its full potential for all to enjoy, including his property. Does not consider shadow on the beach is an issue.

Dean Capelli – re Seapines, Marine Pde

Supports the modifications as advertised, to provide better amenities/facilities for the area for residents and visitors. Also supports the submission/s by Greg Rowe & Associates re the OBH and Il Lido sites.

Dawson's Garden World – of 153 Railway St, re beachfront

Supports the Minister's modifications as necessary to rejuvenate the area in the wider public interest. Doesn't consider the modifications to be high-rise and good

planning within the new parameters should achieve a good outcome for all.

Consultants for landowners / prospective developers

Four detailed submissions by planning and other consultants on behalf of beachfront property owners.

TPG Town Planning & Urban Design – re Cottesloe Beach Hotel site

Supports general intent of Minister's modifications for more intense development. Requests additional modifications as follows:

- 1. CBH site height limit of six storeys and 23m, plus 2.5m for roof form – to give development potential.*
- 2. Remove requirement for minimum 50 hotel rooms in transition area between existing hotel building and any new rear development – because unworkable economically, practically and design or amenity-wise.*
- 3. Requirement for conservation of the heritage building concurrent with the development of multiple dwellings should be revised to allow conservation within two years of completing the new development. Subdivision/strata restriction should be deleted.*
- 4. Requirements for provision of additional parking – amend so Council must provide a credit for existing development; add no parking required for new commercial purposes (eg restaurant, hotel); consider viability of cash in lieu.*

Greg Rowe & Associates, town planners, with Makay Urban Design and Oldfield Knott Architects – re Ocean Beach Hotel site

Generally supportive of modifications to facilitate redevelopment of locality and potential of OBH site. Contends planning, urban design and governance supremacy. Claims EbD process flawed.

Yet says some details of modifications are flawed, particularly re this site, including: SCA2 General Provisions, OBH site provisions, Foreshore Centre Zone provisions, tourism and parking provisions, Schedules 14 Development Zone Provisions and Schedule 15 Building Design Controls; then critiques them and requests numerous revisions.

Also discusses staging of development; and Napier St car park.

Greg Rowe & Assoc, town planners, with Makay Urban Design and Oldfield Knott Architects – re Il Lido site

Generally supportive of modifications to facilitate redevelopment of locality and potential of Il Lido site. Contends planning, urban design and governance supremacy. Claims EbD process flawed.

Yet says some technical details of modifications need to be addressed for redevelopment viability, including: SCA2 General Provisions, Foreshore Centre Zone provisions, parking, Schedule 15 Building Design Controls; then critiques them and requests several revisions.

Also discusses Napier St car park.

Allerding & Assoc, town planners – re 118 Marine Pde, Cottesloe General Store

Supports Minister's five storey height limit and setbacks for site and locality – sees proposed eight storeys to facilitate development as not balanced with

amenity.

Objects to cl 6.4.3(d) modification for rear access easement as unreasonable imposition which should be removed.

Supports parking modifications for reductions; but not mandatory cash in lieu, which should be discretionary and a policy to deploy funds be in place first.

Objects to any intensification of parking west of the CBH.

Highlights traffic concerns and advocates structure planning to manage. Marine Pde should be low-speed, traffic-calmed and pedestrian-friendly.

Comments variously on Town's comparative table re main modifications.

Allied professionals

Three short submissions from allied professionals, in support of beachfront redevelopment.

Ian Oldfield, non-resident architect (and principal of above firm)

Supports modifications as advertised. Scale and height proposed is appropriate and will encourage redevelopment, otherwise area will stagnate. Have read and support the submissions by Greg Rowe & Associates re the OBH and Il Lido sites.

Peter Airey, non-resident engineer

Supports modifications as advertised, to improve area. Population growth requires larger developments, so capping heights (ie three-storey) is short-sighted.

Peter Webb, non-resident planner

Supports modifications as development incentive to realise full potential of area and benefit all. Sees proposed scale and height of buildings as appropriate. Just do it.

Local professionals

Submissions from three local planning consultants, contributing informed comment on the matter.

Peter Goff, resident planner

Considers key issues to be: development scale, traffic and parking, short-stay accommodation, quality of built environment, size of apartments, technical aspects of proposed modifications.

Minister's Office has advised the modifications were in part modelled on provisions for redevelopment of the Rockingham beachfront.

Eight storeys unacceptable due to shadow and visual impacts so should be abandoned. Five storeys may be acceptable on the three main sites but upper-level setbacks should be increased to prevent shadow.

Traffic is very congested at peak times hence proposed parking reductions can't be supported.

Cash in lieu provisions (cl 6.4.3.2) are unworkable and Napier St 'A' class reserve can't be used for commercial parking. Lack of parking would affect

functioning of locality and inhibit development.

Short-stay accommodation mixed with permanent residential causes amenity conflicts and the prescriptions in the modifications for short-stay are counter-productive.

The existing character, inevitable weathering of coastal buildings and lower scale of development create an appeal which distinguishes Cottesloe from modern architecture and materials such as at Leighton and Scarborough, which are not suitable for the locality.

Size of apartments (cl 6.4.3.1(d)) should be left to market forces so such control deleted.

Technical concerns re a number of provisions including uses, cash in lieu, parking, definitions and height standards.

Comparisons with Rockingham are assessed and do not stand up.

DR White, resident planner

Advocates world-class regeneration based on international best practice and Perth's regional planning framework.

Supports modifications as offering economic motivation, subject to their enhancement to provide more specific guidance re: architectural quality, street life and activity, public space, visitor attraction, residential community, culture and heritage, environmental leadership, form and massing.

Describes principles and suggests measures to achieve such in terms of urban design, development requirements and place activation.

Promotes intensive built form of five to eight storeys.

Mike Hulme, resident planner, developer, and former WAPC committee member

Cottesloe EbD was well-conducted, informative and decisive. Supports EbD outcomes as correct re existing built scale, view corridors, shadow impacts and human scale. Especially because EbD achieved consensus from divergence.

Supportive of potentially four storeys elsewhere, eg Il Lido site, but opposed to blanket five storeys.

Has done a CBH site feasibility which found best use and return to be boutique hotel.

Increased density development in the western suburbs needs to not compromise local amenity, sense of place and human scale.

Informed citizens

Several detailed submissions from informed and active community members, with a key example summarised below.

Ms P Carmichael – Marine Pde residential owner-occupier

Flawed modifications should be withdrawn and re-advertised – objects to undemocratic process, errors and ambiguities.

Specifies preferred wording for particular clauses and seeks several clarifications.

Disagrees with building heights and setbacks prescribed for SCA2, for a range of reasons.

Disagrees with proposed parking reductions and consequential impacts, including cash in lieu provisions as drafted; as well as with short-stay

accommodation and tourism provisions.

Lists inconsistencies in WAPC approach regarding relevant State Planning Policies.

Lists anticipated amenity impacts.

Highlights history of consultations demonstrating community preferences and urges proper consultation.

Supports the EbD, sense of place and Cottesloe as "A Town of Distinction".

Community groups

A thorough submission from SOS Inc.

SOS Inc

Recommends LPS3 as agreed by the EbD and adopted by Council.

Proposed major modifications have not been properly formulated.

Suggests an independent professional review group to further a foreshore/beachfront plan in consultation with all.

Majority of Cottesloe residents and visitors have maintained that they want the existing low-rise panorama preserved.

Opposed to modifications, which would overwhelm this valued coastal character.

DoP and beachfront landowners haven't advanced any real planning grounds to support redevelopment of five to eight storeys.

State Government has taken a big-stick approach and declined to discuss proposals with Council or the community.

Submits compelling local and regional planning grounds for a three-storey height limit.

Summarises widespread, ample and sustained evidence of community support for such low-rise.

Provides good and bad examples of beachfront development in Perth and the eastern states, illustrating low-rise development as protective of character.

In a professional paper comprehensively describes the sense of place pertaining to the Cottesloe beachfront, as a model for future coastal development.

Defines the multiple impacts on amenity which would be caused by the modifications.

Lists concerns with the process pursued by the State authorities, including political direction, ignoring character, dismissing community opinion, avoiding consultation, need for FoI requests, contradicting facts and planning guidance, superficial assessment and limited justifications.

Keep Cott Low Inc (KCL)

On behalf of KCL by its President and for the entire suburb of Cottesloe.

Cottesloe residents and West Australians generally are opposed to development comprising "high-rise" in the district.

"High-rise" means any height exceeding the Enquiry by Design recommendations.

Don't change Cottesloe to a modern, densely-constructed beachfront.

Council should consider legal action if the State Government does not observe the EbD.

Note:

As an adjunct to its submission KCL also wrote to the Premier, Parliament, the Town and the Post newspaper providing a professionally-prepared diagram depicting cross-sections the Minister's proposed building heights at the beachfront in contrast with the typical two-storey residential heights extending inland.

The letter lists the negative effects of such beachfront height increases as: widespread severe loss of amenity, overbearing buildings, concrete wall effect along Marine Parade, loss of views for many residents, visual damage from all directions, and overwhelming the architecture of the suburb.

The letter requests that the State Government review its position in relation to the heights it seeks for the Cottesloe beachfront and contends that the best solution is LPS3 as proposed by the Town.

Local residents

Numerous submissions from throughout the district, which shows wide interest in the matter. In relation to planning for the beachfront, the common themes and main points communicated by these submissions are summarised below.

Support for LPS3 as adopted by Council

- Based on the EbD outcomes, ie predominantly three-storey maximum building height, with some controlled additional height.
- As illustrated by Council's 3D images of the built form envisaged under LPS3.

Support for EbD outcomes

- A credible, comprehensive and creative study, endorsed by the community, which should be respected and adhered to.
- Outcomes have already made concessions and compromises, as a good consensus solution.
- Will deliver acceptable commercial results to the community and developers.

Sense of place

- Strongly felt and well articulated by locals and visitors as a very special place.
- Central purpose of beachfront is the beach and ocean itself.
- Precious and elusive essence of suburb offering quality of lifestyle for residents and visitors alike.
- Sense of place starts with the experience of this natural beauty and environment (ie the ocean, beach, pine trees, green spaces and landform).
- Identity defined by nature and landscape, rather than man-made structures and built-form, where aesthetics are vitally important
- Coastal village character, distinct and truly unique charm, human-scale with understated development skyline, relaxed ambience, casual atmosphere, friendly for families and all age groups, heritage and cultural history (the area merits listing).
- Availability and sharing of views – this should be fully studied.

- All this needs to be preserved and protected as the actual tourist asset, so must avoid irreversible mistakes, destruction and spoiling of the locality.

Support for proposed major modifications

- Procrastination over planning for area.
- Rejuvenation of area.
- Economics of making improvements; although better quality does not necessitate or equate with additional height.
- Address licensed premises and antisocial behaviour.

Object or opposed to proposed major modifications

- Absence of explanation, reasons or justification supplied.
- Diagrams provided incomplete and misleading, eg re shadows cast, so conclusions can't be drawn.
- Not credible, lack foresight and understanding of locality.
- No faith they would deliver a quality product; should be reconsidered.
- Would worsen rather than improve the locality.
- Offer no real benefit to the community, only to developers, investors and big business.
- Concerns about the following aspects:

Planning process concerns

- Disappointingly undemocratic and unjust; corrupted and hijacked; abuse of power and interference by Government; Minister's arrogant disregard for and ignoring of expert advice and community concerns; developer-influenced – driven by profit-motive and greed; vested interests rather than public interest.
- The findings of extensive community consultation over many years, including various surveys, the EbD report, several submission periods and the recent Petition to Parliament, should not be dismissed, nor public opinion overridden.
- Lack of integrity, transparency and balance.
- The omissions and errors should be redressed.
- State planning policy incorrectly interpreted/applied.
- Has generated uncertainty.

Climate change and sea level rise

- Forecast significant loss of beach for long-term future.
- Threats to fragile environment and public domain infrastructure.
- More study is urged to address this phenomenon.

Land use and intensity of development

- Excessive population and residential densities – social and physical overcrowding.
- Area would become exclusive rather than remain inclusive and egalitarian as has prevailed historically.
- Traffic congestion and parking problems.
- Development is not synonymous with better.

Licensed premises

- Chronic antisocial and amenity impacts would be perpetuated and

exacerbated.

- Potential for night clubs, which would be incompatible with residential usage and neighbourhood security.

Tourism arrangements

- Locality is a suburban playground and regional recreation venue, rather than a tourism commercial or entertainment destination – it is not a resort.
- Amount and type of short-stay accommodation would be excessive and cause conflicts with permanent residential, including traffic, parking, noise, litter, antisocial behaviour and security.
- Limited evidence of demand and oversupply could occur, as the market is seasonal only – independent expert feasibility study suggested.
- The existing lower-rise built-form and human scale is part of the inherent attraction of Cottesloe, whereby higher-rise development would erode the intrinsic appeal of the locality.

Built form and architecture

- Emphasise quality as the critical ingredient over quantity.
- Even have an international architectural design competition.
- Ensure an attractive suitable streetscape – don't create a concrete jungle city-scape.
- Avoid generic, one-size-fits-all, monolithic, repetitive, dominant buildings leading to significant visual impact, unsympathetic bulk, eyesores – including on buildings immediately behind and extending inland.
- Don't seek to impose glamour.

Building height

- Don't aim to revitalize or diversify simply via building height; as a range of good and bad examples cited testify.
- Height per se won't overcome the licensed premises and antisocial behaviour problems.
- Undesirable impacts of height include overshadowing of foreshore and beach, solar access reduced, sea breeze blocked, loss of private and public shared views (both to ocean and from beach).
- Avoid continuous wall of buildings effect.
- Eight storeys is too high in general and entirely inappropriate at the Il Lido site; which would destroy the heart of the precinct – the entry statement notion is a fallacy.
- Lower rise is preferred, however, but some compromise may be acceptable for a mix of uses up to five storeys.

Parking provisions

- No cash-in-lieu as actual supply is needed (and CIL is not very workable).
- Parking should be ample, accessible and free.

Public open space

- Planning for locality must also focus on the public domain foreshore, beach and recreation facilities, which are the reason for being of the beachfront development zone.
- Essential to offer respite from built-up areas and places of work or commerce, ie green breathing space and natural environment.

- Consider enhanced al fresco, shelter, a square, artworks, and palette of exciting rather than bland coastal colours.

In relation to the beachfront, what stands out about those submissions from the wider public outside Cottesloe who are essentially in support of LPS3 as adopted by Council is the:

- Genuine motivation to make submissions, with well thought-out comments.
- Geographic distribution of visitors to Cottesloe beach from the metropolitan area, country, eastern states and overseas.
- Longevity of their visits to Cottesloe beach over several decades, returning again and again to a cherished destination which has largely not changed for the worse.
- Intimate appreciation of the sense of place as the welcome connection with nature and a casual, relaxed, friendly, human-scale, low-key social and built environment away from the hustle and bustle of built-up urban areas; whereby the submitters can't fathom why it is intended to be changed and lost instead of preserved and enhanced.
- Frequent reference to many bad examples of higher-rise, higher-density beachside redevelopments in Perth, WA, the eastern states and overseas, pointing-out that the Cottesloe beach precinct is truly rare and precious in comparison.
- Familiarity with the gamut of amenity impacts caused by overdevelopment elsewhere and as embodied in the proposed major modifications, including: overshadowing of the beach/foreshore, al fresco areas and neighbouring buildings; disruption of sea breezes; loss of views; traffic congestion and parking problems; social frictions; heritage values and tourism attraction diminished; dominant buildings with unaesthetic facades and a manufactured streetscape; and so on.
- Dismay and dissatisfaction regarding the State Government's approach to the matter as undemocratic, biased, heavy-handed, short-sighted, flawed and unnecessary.

SCHEDULES OF SUBMISSIONS

In order to record the submissions and recommend upon them, they have been put into schedules by categories in accordance with the above summary table. Although at this stage of the Scheme-making process the Regulations do not require such schedules to be prepared, it is a conventional and convenient method of managing submissions. The schedules comprise:

Submissions from inside Cottesloe

- Beachfront:
 - Pro Council's Scheme.
 - Pro Minister's modifications.
 - Pro improvement generally.
- Other matters.

Submissions from outside Cottesloe

- Beachfront:
 - Pro Council's Scheme.
 - Pro Minister's modifications.
 - OBH pro forma types – pro Minister's modifications.
 - Pro improvement generally.
- Other matters.

SCHEME OUTCOMES**Decision-making context and framework**

Council's overall determinations regarding the proposed major modifications, submissions and desired final Scheme need to address the following:

- The Scheme provisions as originally adopted by Council following initial advertising and consideration of submissions.
- The proposed major modifications by the Minister that followed, as advertised.
- Feedback from the submissions on the modifications.
- Council's consideration of those submissions and all related inputs to the Scheme.
- Any draft revised provisions in response to the modifications.
- Any alternative proposals formulated by Council in order to reach agreement on the Scheme with the WAPC and Minister.

Council's consideration of the submissions on the proposed major modifications is a vital activity towards finalising the Scheme. There are also related legal and other aspects to be weighed-up.

The large volume of submissions reflects the wide community consultation carried out by Council and demonstrates sustained public interest in the future of Cottesloe, with the focus of concern being the beachfront development parameters and the complications associated with the changes contemplated to the Scheme provisions and building design controls.

The submissions indicate a range of issues emerging from examination of the proposed major modifications, which warrant review to ensure an understandable and workable Scheme consistent with community aspirations and proper planning.

This is in the context of the lengthy history of the Scheme Review, the depth of community consultation undertaken by the Town spanning several years and the advancement achieved by the EbD as the way forward.

The proposed major modifications constitute substantial changes from the Scheme as adopted by Council. The EbD, jointly funded and conducted by Council and the State planning department, was crucial in devising Scheme provisions for the beachfront and that action was written into the Scheme as the statutory intent, whereby it should be adhered to at ministerial level.

In this respect the framework for consideration of the proposed major modifications and evaluation of the submissions is the Scheme as a whole and Council's preferred approach to the planning aspects arising.

It is concluded that extensive deletion or revision of the proposed major modifications is called-for to ensure an appropriate and acceptable Scheme.

In Council considering the previous submissions and Scheme provisions the following framework for determination was outlined and this continues to be relevant in considering the proposed major modifications and submissions:

- *In order to give direction to decision-making, it is suggested that in approaching the submissions Council have regard to the following framework for their determination:*
 - *The decade that the proposed Scheme has been in the making, whereby it is desirable to reach completion.*
 - *The thrust of the proposed Scheme to ensure the orderly and proper planning of and preserve the amenity of the locality as secured under longstanding TPS2, whilst also introducing improvements.*
 - *The improved format, more comprehensive content and greater detail of LPS3, based on the Model Scheme Text as required, as well as legal guidance.*
 - *The nature and extent of modifications.*
 - *Whether any substantial modifications would be better held-over and considered by way of amendment to the new Scheme (ie allowing for more examination, formulation and consultation).*
 - *Being open to constructive suggestions taking into account the merits of submissions and the related context rather than simply their numbers on the topics covered.*
 - *The various studies and community consultation exercises undertaken in producing the proposed Scheme, as well as associated surveys/polls informing Council of community attitudes.*
 - *Dialogue with the DoP, WAPC and Minister in relation to reconciling the regional and local planning dimensions to be addressed by the Scheme.*
- *In considering the beachfront provisions Council should be mindful of the following framework:*
 - *The BDC are specialised provisions for the beachfront [hotel] sites comprising SCA2.*

- *They were carefully formulated through the EbD process involving community and stakeholder participation assisted by a range of consultants and professionals.*
- *The controls are thorough, detailed and sophisticated, and the statutory provisions were devised and agreed by the Town and DPI and endorsed by Council for advertising.*
- *They were drafted specifically for direct incorporation into the Scheme.*

This context is strong reference for finalisation of the Scheme.

Key conclusions

The Scheme adopted by Council evolved over a number of years through several studies and extensive consultation, and has wide support from the local community.

It is the product of active public participation, the expertise of contributing professionals and consultants, considerable legal advice, detailed technical drafting and in-depth deliberations by Council.

In particular, the Enquiry by Design activity was conceived by mutual agreement between Council and the Minister and written into the Scheme as a statutory mechanism to address important areas and aspects of the district, comprising the beachfront, foreshore and railway lands. This was an innovative, excellent and successful means to examine and plan for these localities and their phenomena.

The EbD outcomes report delivered majority consensus solutions that are credible, acceptable and achievable (subject to ongoing planning and implementation pursuant to the Scheme and other instruments). The EbD findings should be adhered to as the basis for the Scheme provisions and further planning actions. Departure from or dismissing of the EbD is unjustified, contradictory and wasteful.

Against this background, the attitude of a few beachfront landowners or prospective developers that large-scale, multi-storey redevelopment of their sites is necessary to rejuvenate the beachfront is misguided on the following grounds:

- It fails to take a collective approach to planning for the beachfront and ignores community-based determinism as central to the formulation of a scheme.
- It ignores the cornerstones of sense of place, place-making and community-spirited planning to responsible and democratic management of urban areas, coastal assets and the public domain.
- It falsely cites economic feasibility as the deciding factor for development parameters, divorced from planning principles, sustainability objectives and environmental aspects.
- It threatens to destroy the very values for which the beachfront is treasured, instead of respecting, protecting and enhancing them; which would cause lasting adverse impacts on the locality and ironically the developments themselves.
- In this respect it would lead to a complete change in the character of the locality and loss of the qualities that define its identity; with otherwise avoidable impacts on the scenic beauty, coastal landscape, heritage setting, built-form and recreational ambience.

- It is inequitable in exploiting benefits for a few at the expense of amenity and enjoyment for many.

The State authorities have incorrectly applied various regional planning strategies and policies in their consideration of the Scheme, the previous submissions and the proposed modifications.

Overall recommended outcomes on submissions and Scheme

The overall recommended approach to and outcomes on the submissions and Scheme are set out below. This covers Council's strategic directions, the categories of submissions, Council's initial modifications, the Minister's proposed major modifications, legal considerations and administrative actions.

In terms of the practicality of recording recommendations on the submissions as contained in the schedules, legal advice is that to require separate recommendations in respect of multiple, identical submissions would be unreasonable; that is, there would appear to be nothing contrary to the Regulations in providing a single recommendation in response to multiple, identical (or for that matter similar) submissions, provided the submissions are properly identified. Likewise, if a particular issue is raised in a number of submissions, there is nothing contrary to the Regulations in identifying the common issue and making a single recommendation in relation to it, which then applies to each submission in which the issue is raised.

In terms of the Minister's proposed major modifications, their intent and implications have been disseminated to and considered by Council via copies of the documentation, the advertising material, comments at the public meeting and Council meetings, briefing sessions, inputs from consultants, legal advice, summaries and copies of submissions, and reporting. This is against the background of the Scheme as adopted by Council, including minor modifications it sought, the EbD and the whole history of studies, formulation and consultation associated with the Scheme.

In addition, Council has been furnished with working documents addressing the technical details of the proposed major modifications, as a tool in examining the existing and proposed Scheme provisions and a basis for arriving at recommendations regarding both its and the Minister's modifications. In this respect the summary technical schedule is referenced in the recommendations below.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

Having considered the submissions received on the proposed major modifications to Local Planning Scheme No. 3 advertised to date as required by the Minister for Planning:

A. Global recommendations on submissions and Scheme

1. Note this report on the submissions regarding the proposed modifications and Council's consideration of them towards finalisation of the Scheme.
2. Accept the citizens' Petition tabled in State Parliament then lodged by SOS Inc as part of its submission on the proposed modifications to the Scheme, and include a copy of the Petition when providing copies of the submissions to the Western Australian Planning Commission.
3. Reserve the right to evolve final recommendations regarding its preferred modifications and Scheme provisions upon consideration of submissions on the additional advertising to be undertaken, in order to ensure a comprehensive and integrated response on the outcomes for the Scheme.
4. Adopt the legal submission prepared by its solicitors and include it as part of Council's response on the submissions and Scheme.

B. Specific recommendations on categories of submissions

1. In respect of the submissions from inside Cottesloe:
 - (a) Accept the submissions in support of Council's Scheme and opposed to the modifications proposed by the Minister.
 - (b) Not accept the submissions in support of the modifications proposed by the Minister.
 - (c) Note the submissions in support of improvement generally of the central beachfront locality, which the Scheme as proposed by Council will address.
 - (d) Note the submissions on matters other than the proposed modifications.
2. In respect of the submissions from outside Cottesloe:
 - (a) Accept the submissions in support of Council's Scheme and opposed to the modifications proposed by the Minister.
 - (b) Not accept the submissions in support of the modifications proposed by the Minister.
 - (c) Not accept the pro forma submissions identified as derived by the Ocean Beach Hotel.
 - (d) Note the submissions in support of improvement generally of the central beachfront locality, which the Scheme as proposed by Council addresses.
 - (e) Note the submissions on matters other than the proposed modifications.

C. Recommendation on Council's initial modifications

1. Determine its recommendations regarding the Minister's responses to its initial modifications as set out in the summary technical schedule, and request staff to frame final recommendations to the Minister based on Council's decisions on these matters.

D. Recommendations on Minister's proposed modifications

1. Determine its recommendations regarding the Minister's proposed modifications as set out in the summary technical schedule, and request staff to frame final recommendations to the Minister based on Council's decisions on these matters.

E. Administrative recommendations

1. Request staff to prepare and forward the necessary documentation to the WAPC by the due date.
2. Request staff to arrange a meeting(s) of Council representatives with the Department of Planning, WAPC and Minister at an appropriate juncture, to discuss the Scheme, modifications and submissions towards reaching agreed outcomes. The meeting(s) should include, but not necessarily be limited to:
 - (a) the significance of the history of extensive consultation associated with the Scheme, including the recent Citizens' Petition delivered to State Parliament and included in a submission on the proposed major modifications;
 - (b) the importance of the Enquiry by Design study;
 - (c) Council's concerns with the intent and detail of the proposed major modifications;
 - (d) Council's preferences for its previous modifications;
 - (e) the issues enunciated in the legal submission by Council's solicitors, including the operation of SPP2.6;
 - (f) climate change and sea level rise, including the related study by Ecotect Architects; and
 - (g) the scope for some carefully located and controlled additional building height, subject to associated development measures (such as setbacks), for certain sites within the central beachfront.
3. Requests staff to carry out the additional advertising in accordance with the arrangements confirmed with the WAPC, unless in the interim the Minister and Council decide that it is no longer essential as a result of agreement reached regarding the beachfront development parameters and overall Scheme.

COUNCIL DISCUSSION

Mayor Morgan highlighted to Council the importance of a unanimous decision to present a united front and to do what is best for the community and that an undivided Council would send a strong message to the Commission and Minister as well as show leadership to the community. Mayor Morgan again stated that the new Recommendation F would work towards long term sustainability for the sites in question and would ensure the unique qualities of Cottesloe are retained as it is likely Council's feedback on design outcomes would be regarded.

Mayor Morgan advised that staff had been encouraged to apply and extrapolate the EbD principles along the beachfront to ensure these objectives were met to the highest degree.

Cr Strzina stated that from the start he has not been in favour of any more than 3 storeys, but believed that by voting in favour of the officer recommendation, the outcome would be faithful to the original principles of the EbD and as such there would be minimal impact to the beach.

Cr Boland spoke against the new Recommendation F being included and stressed that in his opinion Council was in danger of not listening to those Cottesloe residents who want low rise on the beachfront. Cr Boland further stated that he believed Council was doing a back flip and that the numerous submissions received should be presented to the Minister.

Cr Woodhill advised that in his opinion Council had “fought a good fight” with respect to LPS3 and agreed that Council needed to provide leadership on the matter. Cr Woodhill expressed his view that Council needed to accept that it would never achieve 100% of what it desired, but that the current officer recommendation came very close and is extremely realistic and a good compromise that will retain the integrity of the beachfront.

Cr Walsh referred back to the letter from SOS, and advised that he traditionally has supported recommendations that he believes in. He mentioned that in this instance, whilst he would be supporting the officer recommendation, it is not personally what he would like for Cottesloe.

Mayor Morgan concurred with the sentiments of Cr Walsh and advised that this was probably the case for all Councillors.

Mayor Morgan made comment that this should be Council’s best and only offer to the Minister and that Council should not engage in “horse-trading” and that this is therefore the most transparent way to act.

OFFICER COMMENT

In relation to item 11 (page 56) and item 16 (page 57), The Manager Development Services advised that it was his recommendation that “Council seek reconsideration to retain Council’s provisions as part of its preferred scheme”.

Item 11 on page 56 and item 16 on page 57 of the Master Schedule of Technical Details and Comments on all Modifications Proposed to Scheme Provisions were withdrawn for voting purposes.

Cr Carmichael declared a financial interest in item 11 and 16 from the Master Schedule of Technical Details (pages 56 & 57) due to owning property at 14/116 Marine Parade, Cottesloe, and left the meeting at 7.25PM. Cr Carmichael returned to the Council Chambers after the vote was cast at 7.26PM.

Moved Mayor Morgan, seconded Cr Strzina

THAT Council:

- 1) Seek reconsideration to retain Council's provisions as part of its preferred Scheme. (Item 11)
- 2) Seek reconsideration to retain Council's provisions as part of its preferred Scheme. (Item 16)

Carried 10/0

Item 44 on page 41 of the Master Schedule of Technical Details and Comments on all Modifications Proposed to Scheme Provisions was withdrawn for voting purposes.

Cr Boland declared a proximity interest in item 44 from the Master Schedule of Technical Details (page 41) due to owning property at 70 Napier Street, Cottesloe, and left the meeting at 7.30PM. Cr Boland returned to the Council Chambers after the vote was cast at 7.31PM.

Cr Goldthorpe declared a financial interest in item 44 from the Master Schedule of Technical Details (page 41) due to owning property at 73 Napier Street, Cottesloe, and left the meeting at 7.30PM. Cr Goldthorpe returned to the Council Chambers after the vote was cast at 7.31PM.

Moved Mayor Morgan, seconded Cr Strzina

THAT Council accept the R30 density zoning.

Carried 9/0

Item 42 on page 40 of the Master Schedule of Technical Details and Comments on all Modifications Proposed to Scheme Provisions was withdrawn for voting purposes.

Mayor Morgan declared a financial interest in item 42 from the Master Schedule of Technical Details (page 40) due to owning Cottage 2, 1 Pearse Street, Cottesloe, and left the meeting at 7.31PM. Mayor Morgan returned to the Council Chambers after the vote was cast at 7.33PM.

Mayor Morgan left the Chamber and Deputy Mayor Cr Walsh assumed the Chair for this item.

Moved Cr Walsh, seconded Cr Strzina

THAT Council seek reconsideration to retain Council's provisions as part of its preferred Scheme, for sound reasons as stated.

Carried 10/0

Item D in the Officer Recommendation was withdrawn to be voted on separate to the other items in the recommendation.

Cr Carmichael declared a financial interest in Recommendation D due to owning property at 14/116 Marine Parade, Cottesloe, and left the meeting at 7.35PM. Cr Carmichael returned to the Council Chambers after the vote was cast at 7.36PM.

Moved Mayor Morgan, seconded Cr Strzina

D. Recommendations on Minister's proposed modifications

1. That Council determine its recommendations regarding the Minister's proposed modifications as set out in the summary technical schedule, and request staff to frame final recommendations to the Minister based on Council's decisions on these matters.

Carried 10/0

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That Council delete E Administrative Recommendation 2. (g) and include a new recommendation F that states:

F. Suggested modified beachfront provisions recommendation

In noting that the *bona fide* submissions received in response to the proposed major modifications required by the Minister for Planning demonstrate wide public support for the Enquiry by Design outcomes and the Scheme as subsequently adopted by Council for final approval:

- (a) accept in-principle the suggested modified development parameters as formulated by Dr Linley Lutton and presented to date, in order to permit some carefully located and controlled additional development potential for particular and appropriate sites within the central beachfront;
- (b) request staff to draft corresponding Scheme provisions defining and specifying (a) above, for Council endorsement then presentation to and discussion with the Department of Planning, the Western Australian Planning Commission and the Minister for Planning, towards incorporation into the Scheme as the agreed solution; and
- (c) confirm that the modified Scheme provisions are to:
 - (i) include the following planning and design principles:
 - *Minimise visual impact at pedestrian level.*
 - *Minimise disruption to view-sheds.*
 - *Minimise shadow on beach.*
 - *Minimise impacts on neighbouring properties.*
 - *Minimise impact on horizon line.*
 - *Minimise impact on public parking.*
 - *Minimise impact on village scale.*

- (ii) include prescribed building height maxima of:
 - three storeys and 12m fronting Marine Parade, as already provided;
 - two or three storeys for other street frontages, as applicable;
 - four storeys and 15m for a portion of each identified site; and
 - five storeys and 18m for a portion of each identified site;
- (iii) include prescribed minimum boundary setbacks for the fourth and fifth storeys of 5.5m and 11.5m respectively; and
- (iv) include other relevant development requirements to manage the form, function, amenity impacts and quality of buildings.

Carried 9/2

Mayor Morgan requested that the votes be recorded:

Cr Boland and Cr Carmichael voted against the Amendment.

AMENDMENT

Moved Cr Walsh, seconded Cr Strzina

That Council amend the officer recommendation by adding a new recommendation E.(2)(f) as a continuation of E.2.(e) and to renumber the existing point (f), that states: “note that SPP2.6 resulted from widespread community consultation by the State Government in deliberative forums from Joondalup to Rockingham.

Lost 4/7

Having individually resolved the above parts of the overall officer recommendation, the remainder of the recommendation was moved “en bloc” as part of the Amended Substantive Motion i.e. Parts A,B,C,E and F.

COUNCIL RESOLUTION

Moved Mayor Morgan , seconded Cr Strzina

That Council:

Having considered the submissions received on the proposed major modifications to Local Planning Scheme No. 3 advertised to date as required by the Minister for Planning:

A. Global recommendations on submissions and Scheme

- 1. Note this report on the submissions regarding the proposed modifications and Council’s consideration of them towards finalisation of the Scheme.**

2. Accept the citizens' Petition tabled in State Parliament then lodged by SOS Inc as part of its submission on the proposed modifications to the Scheme, and include a copy of the Petition when providing copies of the submissions to the Western Australian Planning Commission.
3. Reserve the right to evolve final recommendations regarding its preferred modifications and Scheme provisions upon consideration of submissions on the additional advertising to be undertaken, in order to ensure a comprehensive and integrated response on the outcomes for the Scheme.
4. Adopt the legal submission prepared by its solicitors and include it as part of Council's response on the submissions and Scheme.

B. Specific recommendations on categories of submissions

1. In respect of the submissions from inside Cottesloe:
 - (a) Accept the submissions in support of Council's Scheme and opposed to the modifications proposed by the Minister.
 - (b) Not accept the submissions in support of the modifications proposed by the Minister.
 - (c) Note the submissions in support of improvement generally of the central beachfront locality, which the Scheme as proposed by Council will address.
 - (d) Note the submissions on matters other than the proposed modifications.
2. In respect of the submissions from outside Cottesloe:
 - (a) Accept the submissions in support of Council's Scheme and opposed to the modifications proposed by the Minister.
 - (b) Not accept the submissions in support of the modifications proposed by the Minister.
 - (c) Not accept the pro forma submissions identified as derived by the Ocean Beach Hotel.
 - (d) Note the submissions in support of improvement generally of the central beachfront locality, which the Scheme as proposed by Council addresses.
 - (e) Note the submissions on matters other than the proposed modifications.

C. Recommendation on Council's initial modifications

1. Determine its recommendations regarding the Minister's responses to its initial modifications as set out in the summary technical schedule, and request staff to frame final recommendations to the Minister based on Council's decisions on these matters.

E. Administrative recommendations

1. Request staff to prepare and forward the necessary documentation to the WAPC by the due date.
2. Request staff to arrange a meeting(s) of Council representatives with the Department of Planning, WAPC and Minister at an appropriate juncture, to discuss the Scheme, modifications and submissions towards reaching agreed outcomes. The meeting(s) should include, but not necessarily be limited to:
 - (a) the significance of the history of extensive consultation associated with the Scheme, including the recent Citizens' Petition delivered to State Parliament and included in a submission on the proposed major modifications;
 - (b) the importance of the Enquiry by Design study;
 - (c) Council's concerns with the intent and detail of the proposed major modifications;
 - (d) Council's preferences for its previous modifications;
 - (e) the issues enunciated in the legal submission by Council's solicitors, including the operation of SPP2.6;
 - (f) climate change and sea level rise, including the related study by Ecotect Architects; and
3. Requests staff to carry out the additional advertising in accordance with the arrangements confirmed with the WAPC, unless in the interim the Minister and Council decide that it is no longer essential as a result of agreement reached regarding the beachfront development parameters and overall Scheme.

F. Suggested modified beachfront provisions recommendation

In noting that the *bona fide* submissions received in response to the proposed major modifications required by the Minister for Planning demonstrate wide public support for the Enquiry by Design outcomes and the Scheme as subsequently adopted by Council for final approval:

- (a) accept in-principle the suggested modified development parameters as formulated by Dr Linley Lutton and presented to date, in order to permit some carefully located and controlled additional development potential for particular and appropriate sites within the central beachfront;
- (b) request staff to draft corresponding Scheme provisions defining and specifying (a) above, for Council endorsement then presentation to and discussion with the Department of Planning, the Western Australian Planning Commission and the Minister for Planning, towards incorporation into the Scheme as the agreed solution; and
- (c) confirm that the modified Scheme provisions are to:
 - (i) include the following planning and design principles:

- *Minimise visual impact at pedestrian level.*
- *Minimise disruption to view-sheds.*
- *Minimise shadow on beach.*
- *Minimise impacts on neighbouring properties.*
- *Minimise impact on horizon line.*
- *Minimise impact on public parking.*
- *Minimise impact on village scale.*

(ii) include prescribed building height maxima of:

- three storeys and 12m fronting Marine Parade, as already provided;
- two or three storeys for other street frontages, as applicable;
- four storeys and 15m for a portion of each identified site; and
- five storeys and 18m for a portion of each identified site;

(iii) include prescribed minimum boundary setbacks for the fourth and fifth storeys of 5.5m and 11.5m respectively; and

(iv) include other relevant development requirements to manage the form, function, amenity impacts and quality of buildings.

THE SUBSTANTIVE MOTION WAS PUT

Carried 9/2

Mayor Morgan requested that the votes be recorded.

Cr Boland and Cr Carmichael voted against the Motion.

10 REPORTS OF COMMITTEES

Nil

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

Nil

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED
MEMBERS/OFFICERS BY DECISION OF MEETING**

Nil

13 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8:00 PM

CONFIRMED MINUTES OF 21 SEPTEMBER 2011. PAGES 1 – 47 INCLUSIVE.

PRESIDING MEMBER: KEVIN MORGAN
POSITION: MAYOR

.....

DATE: / /