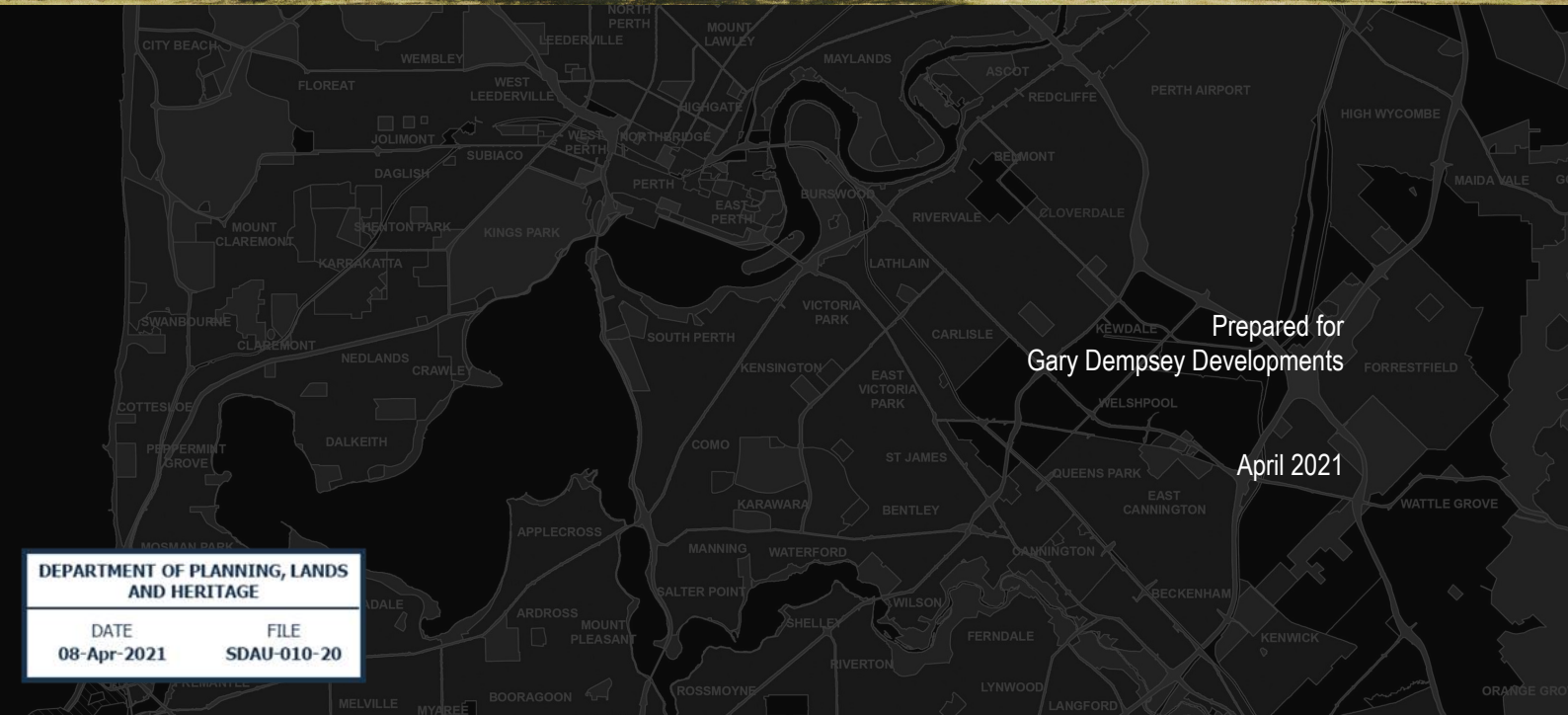


Development Application
Mixed Use Development - Cafe & 14 Apartments
Application under Section 271 of the Planning and Development Act 2005

Strata Lots 1-7, 120 Marine Parade,
Cottesloe, WA

PLANNING SOLUTIONS
URBAN & REGIONAL PLANNING

PS



Prepared for
Gary Dempsey Developments

April 2021

DEPARTMENT OF PLANNING, LANDS
AND HERITAGE

DATE FILE
08-Apr-2021 SDAU-010-20

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Appendices

1 Preliminary

1.1 Introduction

Planning Solutions acts on behalf of Gary Dempsey Developments, the proponent of the proposed redevelopment of the site at 120 Marine Parade, Cottesloe comprising strata lots 1-7 (**subject site**). Planning Solutions has prepared the following report in support of an Application for Approval to Commence Development for an eight storey mixed use development on the subject site.

This application is made pursuant to the significant development pathway under s.271 of the *Planning and Development Act 2005* and requires determination by the Western Australian Planning Commission (WAPC).

This report will discuss various elements pertinent to the proposal, including:

- Site details.
- Proposed development.
- Statutory planning framework.
- Development assessment.

This report is accompanied by a Residential Design Codes Volume 2 assessment (refer **Appendix 1**).

1.2 Pre-Lodgement Engagement

The applicant and proponent have undertaken pre-lodgement consultation with the Department of Planning, Lands and Heritage (DPLH), the State Design Review Panel (SDRP), the Town of Cottesloe (**Town**) officers and Design Review Panel to discuss the development proposal, obtain feedback on the proposed concept plans, and confirm matters to be addressed through the development application.

An initial design concept was presented to senior officers from the Town on 25 August 2020.

A Form 17A preliminary planning application was lodged with DPLH on 24 August 2020. Through the course of the Form 17A application, the concepts were considered by the State Design Review Panel (refer section 1.3 below) and meetings were held with the officers of the DPLH's State Development Assessment Unit (SDAU) on 24 September 2020, 4 November 2020 and 12 November 2020.

DPLH has also consulted with the Town of Cottesloe with regard to planning, engineering, waste management and other technical matters.

DPLH provided written feedback to Planning Solutions on 14 October 2020 which included a summary of technical advice from the Town of Cottesloe. The written feedback is addressed through this report and the accompanying technical reports.

2 Site details

2.1 Land description

Refer to **Table 1** for a description of the land subject to the proposed development.

Table 1: Lot details

Parent Lot	Strata Lot	Plan/Diagram	Volume	Folio	Site Area (m ²)
500	1	SP11863	673	1660	561
	2		674	1660	
	3		675	1660	
	4		676	1660	
	5		677	1660	
	6		678	1660	
	7		679	1660	

Refer **Appendix 2** for a copy of the Certificates of Title.

2.2 Regional context

The subject site falls within the municipal boundaries of the Town of Cottesloe (**Town**) in the suburb of Cottesloe. It is located approximately 11km south west of the Perth CBD, and approximately 1.5km west of the Cottesloe Town Centre. Cottesloe is an established suburb within Perth's inner metropolitan area and offers a premier beach environment, which serves as a major regional tourist attraction.

The subject site has frontage to Marine Parade to the west. Marine Parade provides a north-south connection to Curtin Avenue, Eric Street and North Street, which link the site to the broader Perth metropolitan region.

The subject site is well serviced by public transport. Bus services are provided along Marine Parade connecting the subject site to the Perth CBD and the Fremantle City Centre. A bus stop is located approximately 70m from north of the site. The Cottesloe Train Station is located approximately 900m south-east of the subject site – approximately a 12 minute walk.

2.3 Local context

The subject site is situated on Marine Parade located directly opposite Cottesloe Beach to the west. It is approximately 130m north of the Cottesloe Beach Hotel and 300m south of the Ocean Beach Hotel; two local landmarks. The immediate surrounds are generally characterised by a mixture of commercial and residential development, including various restaurants, cafes, shops and accommodation options. The height of the beach front commercial precinct along Marine Parade ranges from two to six storeys.

Immediately adjoining the subject site is the following:

- To the north, a three storey mixed use development including the Beaches café at the ground floor;
- To the south, a two storey building comprising the Cottesloe general store;
- To the east, two single houses (one fronting Overton Gardens and one fronting Napier Street), both comprising two storey boundary walls facing the subject site.

The area enjoys high amenity with ocean frontage and a foreshore which is characterised by the existing Norfolk Island Pines, heritage buildings and open spaces. The subject site has convenient access to the beach, public transport, open spaces and town centre, making it an attractive and sought-after area to live, work and recreate.

2.4 Land use and topography

The subject site currently contains a three storey mixed use building with a retail outlet/hire shop on the ground floor and six apartments located on the second and third storeys.

The subject site is generally flat, comprising a gentle slope upwards from Marine Parade to the rear of the site, with a level difference of approximately 400mm.

Photographs 1 to 5 depict the subject site and surrounds. Refer to **Figure 1** aerial photograph depicting the subject site and surrounding area.



Photograph 1: View north along Marine Terrace footpath with subject site to the right



Photograph 2: View of Marine Parade facing south



Photograph 3: View from the opposite side of Marine Parade



Photograph 4: View north along Marine Terrace



Photograph 5: View of Cottesloe Beach public open space opposite subject site

2.5 Cottesloe Foreshore Masterplan

The Town of Cottesloe has endorsed a master plan for upgrades to the foreshore adjoining Cottesloe Beach. The Cottesloe Foreshore Masterplan (the Masterplan) will guide the enhancement and management of the Cottesloe Foreshore in the future.

The portion of the foreshore opposite the subject site is earmarked for 'active recreation'. With regard to the active recreation area, the Masterplan states: *"the existing play areas is to be expanded and enhanced into an active recreation and fitness area that will include intergenerational play and fitness areas for a range of users."*

Approximately 20m to the south (diagonally opposite the subject site), a civic plaza is proposed. This will involve the redevelopment of the existing car park no. 1 to a civic plaza incorporating tree planting, street furniture, shade canopies lawn areas and a parking area (weekdays only).

The Masterplan has been reviewed and the design appropriately coordinates with the proposed public realm upgrades. Further detail on the integration with the masterplan is included on page 5 of the Architectural Design Report (**Appendix 4**).



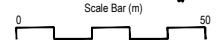
LEGEND
 - - - - - Subject Site

NAPIER STREET

OVERTON GARDENS

WARNHAM ROAD

MARINE PARADE



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3 Proposed development

The proposal seeks to demolish the existing mixed use development and replace it with a contemporary eight (8) storey mixed use building comprising a ground floor commercial tenancy and 14 apartments on the floors above with a two level basement car park..

Table 2 below summarises the particulars of the development.

Table 2: Development Particulars (floor by floor)

Level	Development Particulars
Basement 2	14 car bays 12 wall mounted bicycle racks 4 storerooms
Basement 1	13 car bays 12 wall mounted bicycle racks 4 storerooms 12m ² communal storage room (for surfboards, surf skis, etc)
Ground Floor	Commercial tenancy (100m ²) with an alfresco dining forecourt. Residential lobby. Car lift to basement. 6 car parking spaces at the rear of the site, accessed through the car lift. 8 bicycle parking spaces. Parcel store. Letterbox / mailroom Communications rooms Pump room.
Level 1	2 x one-bedroom apartments (109m ² & 60m ² respectively) with the ability to function as a dual key apartment 1 x three bedroom apartment
Level 2 – 6	2 x three-bedroom apartments per floor
Level 7	1 x four-bedroom penthouse apartment

Refer **Appendix 3**, development plans.

The design outcomes are shown visually in **images 1 – 9** below.



Image 1: View of the ground floor café from Marine Parade



Image 2: View of ground floor from Marine Parade



Image 3: View of the ground floor from Marine Parade facing south



Image 4: High level view of the ground floor from Marine Parade



Image 5: View of the proposed development from the foreshore with compliant building envelopes shown either side



Image 6: View from apartment balconies



Image 7: View of rear façade



Image 8: View of the 1st and 2nd floors of the proposed development from Marine Parade



Image 9: Proposed development in context with the Cottesloe Foreshore, as viewed from the beach to the north of the site.

3.1 Design Outcomes

The design of the proposed mixed use development cleverly integrates character of the existing area whilst recognising the future intention for the area to contain boundary-to-boundary development along Marine Parade. Through articulation, carefully considered apartment layouts, landscaping and materiality; the intent of the development is to enhance the overall amenity of the area.

The proposed redevelopment of the existing building, which is at the end of its economic lifespan, will enhance the streetscape and the area by providing an active land use at ground floor, bringing additional residents to support the local economy, and incorporating a landmark design.

Refer to **Appendix 4**, for a copy of the Architectural Design Report which includes 3D Perspectives depicting the proposed development.

3.2 Dual Key Apartment

As outlined in **Table 2** above, the proposed development comprises a dual key apartment (two dwellings which may be occupied together or separately). It is intended that the dual key apartment will be titled and sold as one strata title. In this respect, it is anticipated that future owners will typically use the larger (Marine Parade facing) portion of the dual key apartments as their primary residence and use the smaller portion in a variety of ways, which may include:

- For mature children desiring independence;
- Accommodating live-in carers for elderly residents; or
- For family members who are staying with the resident on a temporary basis (e.g. visiting from overseas).

As per the definition of dual key apartment under *Residential Design Codes Volume 2 – Apartments*, each key is to be counted as a separate dwelling for the purpose of assessing the number of apartments within the development.

3.3 Commercial Tenancy

The ground floor commercial tenancy is proposed to be used as a café. However, there is no confirmed operator as yet and specific details will be reliant upon the needs of the future occupants.

By undertaking a comparison of approved developments, it has been assessed that the café would have a capacity of approximately 40 persons based on an estimated seating area of 70m².

3.4 Landscaping

The proposed development provides landscaping throughout the development, comprising both on-structure and deep soil planting. The proposed landscaping will enhance the overall presentation of the development and improve the visual appearance of the development and streetscape.

The landscaping plan makes provision for five new trees in a deep soil zone along the rear boundary of the subject site.

The deep soil area makes up 30m² of the subject site (5.3%). Tree species have been considered to ensure growth is possible in the nominated space.

A total of 109m² on-structure planting is proposed, of which 91m² (16% of the site area) is 1m in depth and suitable for many plant species. These trees are located to assist in mitigating south-west winds.

Refer **Appendix 5**, Landscaping Plan, prepared by Plan E.

3.5 Parklet

The plans depict two on-street parking bays being converted to an alfresco dining area (known as a parklet). Any parklet would form part of a separate application with the Town, outside of the DA process, given it is on public land. The parklet is intended to include a public art piece.

3.6 Vehicle Access

Vehicle access will be provided via a single crossover from Marine Parade. The vehicle entrance to the basement car park is via a car lift. 27 bays are provided in the two basement car parks. These bays will be used only by residents.

The car lift is openable on both the east and west sides and cars can drive straight through the car lift to access the six bays provided at the rear of the ground floor. The car bays at the ground floor level include two bays to be assigned to the commercial tenancy and four bays for residents.

The car lift is to be fitted with a traffic light system which alerts drivers when others are using the car lift. A green light indicates the lift is available and the red light indicates the lift is occupied.

Refer to **Appendix 6** for a copy of the Transport Impact Statement. Refer to **Appendix 7** for a copy of the Access Strategy which details the operations, procedures and strategies for the operation of the car lift and the priorities with regard to the single driveway and crossover.

3.7 Waste Management

Talis Consultants have prepared a Waste Management Plan to support this application. Bins will be collected from Marine Parade with the waste collection vehicle reversing into the site from Marine Parade and exiting in a forward gear. Whilst reversing into the site is not the preferred method of access, it is necessary due to the size of the site, recognising Marine Parade is the only available point of access. As per the Waste Management Plan, the complex/strata manager will oversee the relevant aspects of waste management.

Refer **Appendix 8** for a copy of the Waste Management Plan.

3.8 Sustainability

Cadds Group has prepared a sustainability report that details the NATHERs ratings achieved by the proposed development. The assessment confirms the apartments with proposed upgrades incorporated would achieve an 8-star average, which is 2 stars higher than current NCC requirements. Additionally, the minimum rating for any given apartment is 7 stars, which is 1.5 stars greater than the R-Codes Volume 2 Acceptable Outcomes. This would demonstrate a 48% improvement in thermal performance of apartments when compared to NCC Minimum compliance.

Refer to the sustainability report in **Appendix 9**.

3.9 Acoustics

Lloyd George Acoustics has prepared an acoustic report that outlines the minimum acoustic criteria that the development must achieve and provides a basis for the proponent to incorporate acoustic requirements into documentation.

Refer to the acoustic report in **Appendix 10**.

4 Design Review

4.1 State Design Review Panel

As a significant development and a project of regional or state significance, preliminary concepts of the proposed development were revised by the State Design Review Panel (**SDRP**). The SDRP assessed the plans against the 10 principle of good design, pursuant to State Planning Policy No. 7.0 – Design of the Built Environment (**SPP7**).

The SDRP considered an initial concept on 10 September 2020 and a revised concept on 20 October 2020.

Overall, the DRP supported the proposal with respect to aesthetics and legibility, did not support the built form and scale and requested further information on the remaining design principles. The plans have since been revised to reduce the building by one storey and set back the top floor to reduce its prominence from the street. Additional information has been provided in relation to the items where the SDRP requested further information. However, discretion is sought on built form and scale.

Summary review	DR1	DR2	DR3
Principle 1 - Context and character			
Principle 2 - Landscape quality			
Principle 3 - Built form and scale			
Principle 4 - Functionality and build quality			
Principle 5 - Sustainability			
Principle 6 - Amenity			
Principle 7 - Legibility			
Principle 8 - Safety			
Principle 9 - Community			
Principle 10 - Aesthetics			

	Supported
	Pending further attention
	Not yet supported
	Yet to be addressed

Figure 2: State Design Review panel summary of preliminary proposal

Justification for the proposed built form and scale is provided in section 6 of this report with design studies included in **Appendix 4**.

4.2 Town of Cottesloe Design Review Panel

A preliminary set of plans were presented to and considered by the Town's Design Review Panel (**DRP**) on 30 September 2020. DRP members asked questions pertaining to the height and the economic viability of development. The DRP did not provide feedback to the proponent and as at the date of this report, the Town had not provided minutes of the meeting to the proponent.

5 Strategic Planning Framework

5.1 Perth and Peel @ 3.5 Million

Perth and Peel at 3.5 Million is the overarching spatial planning framework applicable to the Perth and Peel regions. The document provides guidance on where development should occur to ensure sustainable urban growth, protect the environment and heritage and make the most effective use of existing infrastructure. The Perth and Peel @ 3.5 million documents sets the context for four draft sub-regional planning frameworks, including the Central Sub-Regional Planning Framework relevant to the subject site (refer section 4.2 below). The framework guides infill development, with the aim to deliver a compact and connected city.

The proposed development involves an increase in the residential density of a site in close proximity to commercial activities. The development optimises existing civic and community infrastructure within the locality, consistent with the intent of the Perth and Peel @ 3.5 million documents.

5.2 Central Sub-Regional Framework

The Perth and Peel @ 3.5 million Central Sub-Regional Planning Framework (**Sub-Regional Planning Framework**) builds upon the principles and vision articulated in the WAPC's *Directions 2031 and Beyond* and is a key instrument for achieving a more consolidated urban form that will reduce dependence on new urban greenfield developments. The Sub-Regional Planning Framework provides the spatial framework which will guide local governments in achieving optimal urban consolidation over the long term. The Sub-Regional Planning Framework supports the orderly and proper development of infill through the region by encouraging development adjacent to activity centres, station precincts and urban corridors.

Whilst it is acknowledged that careful planning is required to preserve streetscapes and neighbourhood character, new housing is required in a sustainable urban form to promote housing choice and diversity in response to changing community needs.

The Sub-Regional Strategy identifies Cottesloe Beach as a 'Metropolitan attractor', being a place which is not identified as an activity centre, but creating 'significant transport and other planning needs'. The Sub-Regional Strategy goes on to note that they will typically generate large numbers of visitors leading to employment growth and economic activity and 'in certain locations also provide opportunities for higher density living'.

The Sub-Regional Strategy identifies a crucial role for private sector developers to invest in higher density housing projects and for Local Government to encourage innovative infill and be advocates for the housing needs of future generations. Appendix 3 of the Sub-Regional Planning Framework provides existing and projected dwellings and population for the local government areas within the Central Sub-Regional area. **Table 3** below summarises the projected dwelling and population statistics provided for the Town of Cottesloe.

Table 3 – Existing and projected dwellings and population 2011-2050 – Town of Cottesloe

Local government	Existing dwellings	Existing population	Additional dwellings	Additional population	Total dwellings	Total population
Cottesloe	3,520	8,240	970	2,140	4,490	10,380

As shown in Table 3 above, the Town of Cottesloe is required to provide an additional 970 dwellings to house and additional 2,140 persons by 2050. The proposed development, comprising 14 dwellings, will make a small but valuable contribution to meeting the infill targets. Furthermore, the location of the subject site means that these dwellings will be situated in an area close to public open space, public transport, shops and local services.

5.3 Local Planning Strategy

The Town of Cottesloe's Local Planning Strategy was endorsed by the Western Australian Planning Commission in January 2008. The Local Planning Strategy sets out the long term planning directions for Cottesloe, covering the main aspects and trends influencing future development of the district over the next 10 to 15 years.

The Local Planning strategy states *"the Cottesloe and North Cottesloe beaches, their public foreshores and the adjoining beach-side development are the defining element of the district and its primary asset."* The strategy also recognises that there is a need to *"consider and facilitate the provision of better tourist/visitor facilities along with more short-term and permanent residential accommodation."*

The objectives for the beachfront area include

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

The proposed development is a mixed used development with ground floor commercial that meets the first two objectives outlined above. Variations are proposed to building height requirements under LPS3, but the development is not considered to adversely impact existing or future amenity (refer to Section 5 of this report for further discussion). Accordingly, the proposed development is consistent with the strategic vision of the Local Planning Strategy.

6 Statutory planning framework

6.1 Metropolitan Region Scheme

Under the provisions of the MRS the subject site is zoned Urban. The purpose of the Urban zone is to provide for residential development and associated local employment, recreation and open space, shopping, schools and other community facilities. The subject site is not affected by land reserved by the MRS, nor is it subject to any resolution or declaration made under the MRS or the PD Act. The proposed development is consistent with the intent of the MRS and may be approved accordingly.

6.2 Town of Cottesloe Local Planning Scheme No. 3

The local planning scheme applicable to the subject site is the Town of Cottesloe *Local Planning Scheme No. 3 (LPS3)*. This subject site is zoned 'Foreshore Centre' and is located within Special Control Area No. 2 (**SCA 2**). No Residential Density Code (**R-Code**) applies to the subject site. Refer **Figure 3**, LPS3 zoning map.

LPS3 details four objectives for the Foreshore Centre Zone and two additional objectives for SCA 2. A response to these objectives is provided in **Table 4** below.

Table 4: Response to objectives of the Foreshore Centre Zone and Special Control Area No. 2

Objective	How the proposed development meets the objective
Foreshore Centre Zone Objectives	
a) <i>provide the opportunity for a wide range of residential and community uses and a limited range of commercial, shopping, tourism, recreational and entertainment uses which are compatible with the character and amenity of the beachfront locality;</i>	The proposed development includes both residential uses (14 apartments) and commercial uses (ground floor café). The cafe use is compatible with other restaurants, cafes and bars along Marine Parade and will help to enhance the area as a tourism and entertainment precinct. Furthermore, the active frontage and the carefully thought-out design outcomes and will contribute to the amenity of the beachfront.
b) <i>ensure that the predominantly residential and recreational nature of the locality is maintained;</i>	The proposed development is predominately residential with apartments occupying 90% of the total proposed floorspace. The recreational nature of the locality is maintained with an active ground floor commercial tenancy.
c) <i>ensure that the urban character, aesthetics and amenity of the locality are not compromised by inappropriate land use or development; and</i>	Both land uses the subject of this application are considered highly appropriate as discussed in section 5.2.1 below. Both land uses are already prevalent in the Foreshore Centre zone. In terms of the development, the architecture responds appropriately to its surroundings, taking cues from the beachfront and the surrounding character, as referenced in the Architectural Design Report in Appendix 4 .
d) <i>give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.</i>	The proposed development is not considered to unduly impact views of significance. The view analysis in Appendix 4 generally confirms little to no impact from the Cottesloe Civic Centre.

Objective	How the proposed development meets the objective
Special Control Area 2 Objectives	
a) <i>the development, subdivision and strata subdivision of these sites is compatible and consistent with its regionally important beachfront location, surrounding development and the amenity of the locality; and</i>	The proposal is considered to be a high-quality development which reflects the beachfront location. The building includes feature sandstone tiles and shimmering blue-green tiles, which compliments the coastal theme. The design and articulation are representative of the adjacent sand dunes and ocean. Floor to ceiling windows will help to reflect the ocean and the Norfolk Pines directly opposite the subject site.
b) <i>the Building Design Control Diagrams which form the basis of development, subdivision and strata subdivision control in this special control area appropriately guide and manage built form, bulk and scale, amenity impacts, the type, mix, location and arrangement of land uses, and other relevant considerations accordingly.</i>	The proposed development seeks a 6.1m variation to the height requirements under the building control diagrams. Sunlight studies, view studies and analysis of the amenity impacts demonstrate there is no undue impact caused by the additional height. This is discussed further in Section 6 of this report.

The proposed development includes a commercial tenancy on the ground floor, with residential uses on the upper levels. The building is consistent with the zone objectives and will improve the amenity of the area with a contemporary apartment building that provides a flexible commercial tenancy that will provide street activation and enhance the beachfront locality.

6.2.1 Land Use Permissibility

The proposed development comprises the following land uses:

- A café tenancy on the ground floor, which most closely fits the **'Restaurant'** land use definition pursuant to LPS3; and
- **'Multiple Dwellings'** on levels 1 – 7.

Both 'Restaurant' and 'Multiple Dwelling' are discretionary ('D') uses within the Foreshore Centre zone, meaning the exercise of discretion is required by the decisionmaker.

It is considered the proposed land uses are appropriate for the following reasons:

- Two of the objectives of the Foreshore Centre zone specifically encourage the development (or retention) of residential land uses within the locality;
- The restaurant land use will provide an additional facility on the Cottesloe foreshore which will help to encourage visitors to the area;
- The restaurant land use is situated at ground level, whilst the multiple dwellings are situated above ground level, ensuring the development maintains an active relationship with the street;
- Both land uses are consistent with existing and prevailing land uses within the immediate locality.
- The Local Planning Strategy and the strategic planning framework encourage mixed use development within high amenity, activity centre locations such as this.



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6.2.2 Development Control Provisions

LPS3 provides a series of provisions applicable to SCA2 and the Foreshore Centre Zone. The permitted height and setbacks are shown in Diagrams 3 and 4 of schedule 15 of LPS3. Diagram 3 is shown below with the subject site delineated in red for clarity.

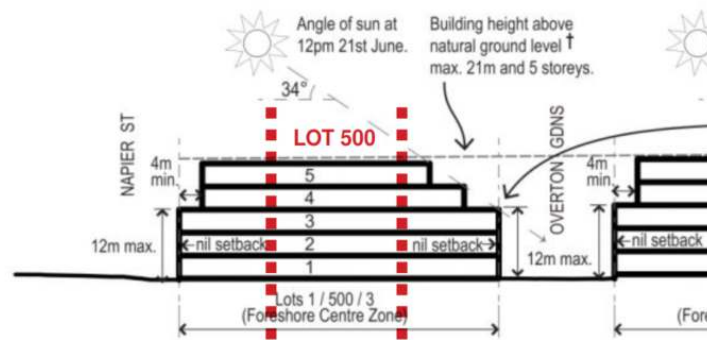


Diagram 3. North-South section through Foreshore Centre Zone

A full assessment of the Development Control provisions is provided in Section 6.1 of this report.

6.2.3 Vehicle Parking Requirements

The proposed development contains residential and commercial land uses, requiring separate parking assessments. A summary of the vehicle parking requirements is provided in **Table 5** below.

Table 5: Summary of vehicle parking requirements from LPS3

Activity / Use	Parking requirement	Bays required	Provided
Restaurant	1 space to every 8 persons the development is designed to accommodate	4 bays (with 20% reduction)	2 bays
Residential Visitor Parking	Nil (pursuant to 6.4.3.1(c) of LPS3)	Nil	Nil
Residents' Parking	As per R-Codes 1 bay per dwelling (1-2 bedrooms) 1.25 bays per dwelling (3+ bedrooms)	17 bays	31 bays

Clause 5.8 of LPS3 states that a variation to the parking requirements of up to 20% may be considered where a traffic impact assessment has been provided to the satisfaction of the Council. *The City's Local Planning Policy No. 1 – Parking Matters (LPP1)* contains additional parameters for the assessment of a parking credit. A full assessment against LPP1 is contained in **section 6.4.1** of this report.

The parking for the residential component is discussed in the R-Codes Volume 2 assessment (**Appendix 1**).

6.3 State Planning Policies

6.3.1 State Planning Policy 7.0 – Design of the Built Environment

State Planning Policy No.7 – Design of the Built Environment (SPP7) is the lead policy that elevates the importance of design quality, and sets out the principles, processes and considerations which apply to the design of the built environment in Western Australia, across all levels of planning and development.

SPP7 establishes a set of ten ‘Design Principles’, providing a consistent framework to guide the design, review and decision-making process for planning proposals. Refer **Appendix 4** for the Architectural Design Report comprising an assessment against the ten design principles of SPP7.

6.3.2 State Planning Policy 7.3 Volume 2 – Apartments

State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments (R-Codes) applies to the development of multiple dwellings in areas coded R40 and above in Western Australia. The aims of the policy include:

- *to provide residential development of an appropriate design for the intended residential purpose, land tenure, density, place context and scheme objectives.*
- *to encourage design consideration of the social, environmental and economic opportunities possible from new housing, and an appropriate response to local context.*
- *to encourage design that considers and respects local heritage and culture.*
- *to facilitate residential development that offers future residents the opportunities for better living choices and affordability when seeking a home, as well as reduced operational costs and security of investment in the long term.*

Volume 2 of the R-Codes pertains to the design outcomes for developments involving apartments (multiple dwellings). An assessment against the design element objectives of the R-Codes and relevant local planning policies (where provisions depart from the R-Codes) is provided in **Appendix 1** of this report. In contrast with the R-Codes pertaining to residential development in areas R40 and below, there is no deemed-to-comply provisions with all design outcomes requiring a merit assessment against the relevant criteria.

6.3.3 State Planning Policy 2.6 – State Coastal Planning Policy

As the proposed development is located within the coastal foreshore area, consideration is required against State Planning Policy 2.6 – State Coastal Planning Policy (**SPP2.6**).

SPP2.6 seeks to ensure development within the coastal area takes into account coastal processes, hazard, sea level rise, climate change, visual impacts and other coastal considerations. SPP2.6 comprises the following objectives:

1. *ensure that development and the location of coastal facilities takes into account coastal processes, landform stability, coastal hazards, climate change and biophysical criteria;*
2. *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities;*
3. *provide for public coastal foreshore reserves and access to them on the coast; and*
4. *protect, conserve and enhance coastal zone values, particularly in areas of landscape, biodiversity and ecosystem integrity, indigenous and cultural significance.*

SPP2.6 notes that heights for coastal areas should be established in a local planning framework. Clause 5.4(iii) of SPP2.6 states:

“When determining building height controls in a local planning scheme and/or structure plan, building heights should have due regard to the following planning criteria:

- (a) development is consistent with the overall visual theme identified as part of land use planning for a locality or in an appropriate planning control instrument such as a local planning strategy;*
- (b) development takes into account the built form, topography and landscape character of the surrounding area;*
- (c) the location is part of an identified coastal node;*
- (d) the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and*
- (e) there is overall visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.”*

It is noted heights have already been established in the local planning framework. As is discussed in Section 8.1 of this report, a variation of 6.1m from the local planning framework is not considered to impinge on coastal amenity. Extensive studies of shadowing have demonstrated there is no undue impact on the beach or the foreshore reserve with shadowing less than 1 hour per day between 9am and 3pm on June 21. With regard to visual amenity, the building is substantially screened from view of the beach by existing vegetation in the foreshore reserve (Norfolk Pine trees). **Image 10** below provides a view of Marine Parade, demonstrating the proposed development would not be prominent as viewed from the ocean.



Image 10: View of Marine Parade from the ocean, with the proposed development superimposed

Additionally, Cottesloe Beach is listed as a heritage place. A heritage assessment has been undertaken by Griffiths Architects to consider the impacts of the development on Cottesloe beach (**refer Appendix 12**). The assessment concludes:

“The redevelopment of 120 Marine Parade has a minor positive visual impact on the backdrop to the Cottesloe Beach Precinct by improving the appearance of the streetblock in which it is located, set as it is in a streetblock that generally detracts from the presentation.”

Owing to the above, it is considered the proposed development is not at risk from processes, nor does it cause impacts on the coastline. As such, the development is consistent with the objectives of the policy.

6.4 Local Planning Policies

6.4.1 Town of Cottesloe Local Planning Policy No. 1 – Parking Matters

Local Planning Policy No. 1 (LPP1) deals with particular parking matters under LPS3 that involve discretion and require a policy to become operative. As demonstrated in Table 6 below, the proposal seeks a parking shortfall of two bays.

Table 6: Parking calculations for commercial tenancy

Assessment	Requirement	Parking Calculation
Total No. of bays required	1 bay per 8 persons	40 persons at 1 bay per 8 persons = 5 bays required
Reductions	20% reduction for provision of Traffic Impact Statement	20% of 5 bays = 1 bays reduction = 4 bays required
Number of bays provided on site		2 bays for exclusive use of the commercial tenancy = 2 bay shortfall

Parking Credit for Tourism Use

Clause 5.8.3 of LPS3 allows for the consideration of a parking credit for existing tourism uses stating:

“...In the Town Centre, Hotel, Foreshore Centre, Restricted Foreshore Centre and Development zones, when considering redevelopment or new development or change of use applications, the local government may credit towards the amount of parking required to be provided as specified in Table 3, the parking deficiency that an existing tourism use may have when calculated against those provisions applicable to the subject site and its uses under this Scheme, having regard to the size and shape of the land, the number and availability of parking spaces in the vicinity, the likelihood of traffic congestion, and the opportunity to improve the appearance, amenity, function and accessibility of the locality provided that the decision to credit such a deficiency is made in the context of a Local Planning Policy adopted pursuant to Part 2 of this Scheme...”

LPP1 prescribes that this credit may be up to 50% in the Foreshore Centre zone.

The parking requirements of the existing development are assessed in **Table 7** below.

Table 7: Assessment of existing parking shortfall

Parking Requirement	Parking Calculation
1 bay per 20m ² gross floor area:	114m ² gross floor area = 6 bays (refer to strata plan for evidence of tenancy area)
Existing number of bays on site:	1 bay assigned to tenancy 1 (refer to strata plan for evidence of parking allocations).
Existing shortfall:	6 bay requirement – 1 bay on site = 5 bay existing shortfall

Including a shop as a tourism use

It is acknowledged that a shop is not specifically listed as a tourism use as it is described in Clause 5.8.3 of LPS3. However, in this instance, the shop that has operated from the subject site is clearly a tourism use. It sells beachwear, surfing gear and other paraphernalia associated with the beach.

In circumstances such as this, the SAT has adopted the reasoning in the decision of *Chiefari v Brisbane City Council [2005] QPEC 9*, which advocated for an approach considering purpose or intent of the planning framework, as follows:

[502] [The definitions under review] are included in [sic] to provide an explanation of the meaning of terms used in the Scheme. They are obviously of general application and intended to cover a variety of circumstances. They will ordinarily be construed in a manner which acknowledges that planning schemes are largely the work of town planners, not parliamentary counsel; ergo, they should be read as a whole and applied in a practical and common sense, and not an overly technical way, and in a fashion which will best achieve their evident purpose.'

Clearly, the purpose and intent of this clause was to make allowances for existing tourism uses that have managed with their existing parking shortfall and to give consideration to this in the assessment of new applications. In this case, the existing shop has managed with less than 20% of its required parking for a number of years, providing one bay for staff on site with all customers utilising public parking. The proposed development seeks for a similar arrangement.

Justification for parking credit

As outlined above, the application seeks a two bay parking credit, noting the parking shortfall for the existing tourist shop is five bays. In granting a parking credit, LPS3 requires consideration of:

- the size and shape of the land,
- the number and availability of parking spaces in the vicinity,
- the likelihood of traffic congestion, and
- the opportunity to improve the appearance, amenity, function and accessibility of the locality

Size and shape of the land

The subject site is small (561m² in area). Providing parking on site is therefore a challenge, particularly noting the requirements in clause 6.4.3.5(a) of LPS3 that parking is provided in a basement or in a limited portion of the ground floor.

The number and availability of parking spaces in the vicinity

The area contains a significant number of publicly available parking spaces. It includes:

- Car Park One (opposite the subject site on Marine Parade) comprising approximately 150 bays.
- Car Park Two (located at the intersection of Marine Parade and Napier Street), comprising approximately 350 bays.
- Marine Parade has on-street parking both sides of the street immediately in front of the subject site.
- The western end of Napier Street has approximately 130 designated bays.
- The western end of Forrest Street has approximately 130 designated bays.

There is a substantial number of car bays in the immediate vicinity of the subject site. Furthermore, persons visiting the café are likely to do so in conjunction with another trip. For example, it is likely that a number of patrons will visit the beach, then go to the café. The café will leverage off existing visits rather than creating a substantive demand on its own.

The likelihood of traffic congestion

The likelihood of traffic congestion is considered low, as identified in the transport impact statement (**Appendix 5**). The traffic generated by this development is insignificant compared to the beach and other surrounding facilities.

The opportunity to improve the appearance, amenity, function and accessibility of the locality

The proposed development maximises the number of spaces on site, comprising a full basement car park with a highly efficient layout. All car parking on site is limited to staff and residents; no bays are provided for visitors.

The two commercial bays on site are to be used by the staff of the café. With the subject site having frontage only to Marine Parade, this restricts the ability for visitors to utilise parking on the subject site. If this were to occur, visitors may have challenges navigating the car lift. It also would not be reasonable to provide visitor bays within view of the street as this would be detrimental to the streetscape. The current design involves a single crossover to Marine Parade, maximising the proportion of active frontage that can be achieved.

Summary

Owing to the above, it is considered appropriate that discretion is exercised to allow a two bay parking credit, particularly noting the existing shop currently operates with a five parking shortfall (and has for some time).

7 Development assessment

7.1 Local Planning Scheme No. 3 Development Requirements

Table 8: Assessment against relevant provisions of LPS3

Clause	Requirement	Assessment	Compliance
6.4 – Special Control Area 2 – Cottesloe Beach Hotel site, Ocean Beach Hotel site and Foreshore Centre Zone			
6.4.3	<i>In Special Control Area 2, the following development standards and requirements shall be applied. These Building Design Controls comprise specific controls that apply in addition to any other applicable provision, development standard or requirement under the Scheme. Where there is any inconsistency between a specific Building Design Control provision and any general provision, development standard or requirement of the Scheme, then the specific Building Design Control provision shall prevail.</i>		
6.4.3.1 General Provisions Applicable to Special Control Area 2			
(a)	<i>The height of all development for any use, at the Marine Parade frontage, shall be a maximum of three storeys (12 metres); except for Lot 101 Eileen Street on the corner of Marine Parade, which may have a maximum height of 4 storeys within 12m.</i>	The height of the first three storeys is 10.6m.	✓
(b)	<i>The maximum extent of development on each site shall comply with the building heights, form, storeys, setbacks and other requirements prescribed in the Building Design Control Diagrams for the Cottesloe Beach Hotel and Ocean Beach Hotel sites, and for the Foreshore Centre zone, contained in Schedule 15, notwithstanding the requirements of any other provision of the Scheme;</i>	Refer to Table 9 for an assessment against the requirements prescribed in Schedule 15.	Refer to Table 9
(c)	<i>In respect of vehicle parking requirements, the provisions of the Residential Design Codes are modified for the Grouped Dwelling and Multiple Dwelling use classes, with no visitor parking being required; and</i>	No visitor parking has been provided.	✓
(d)	<i>Of the total number each of Multiple Dwellings or Grouped Dwellings on a site overall, a minimum of:</i> <ul style="list-style-type: none"> i. 25% shall comprise a maximum plot ratio area of 70 square metres; and ii. 25% shall comprise a maximum plot ratio area of greater than 70 square metres but no greater than 90 square metres. 	One apartment has a plot of ratio area less than 70 square metres.	Variation

6.4.3.5 Provisions Applicable to the Foreshore Centre Zone

(a)	<i>Consistent with clause 5.12, the first storey (ground floor) of any development in the Foreshore Centre zone (except for Lots 101-103 Eileen Street) shall be used for uses of a commercial nature including, but not limited to, Restaurant, Shop, Small Bar and Hotel uses, but shall not be used for residential purposes. On-site vehicle parking shall be provided in a basement or otherwise shall occupy a limited area of the first storey portion of the site. All commercial frontages to a street must have a minimum depth of 9.0 metres;</i>	<p>The ground floor of the proposed building contains a 100m² commercial tenancy with all residential dwellings located on the upper levels.</p> <p>On-site vehicle parking is provided in the basement and at the rear of the site on the ground floor. The parking at the rear of the ground floor occupies 175m². This equates to just over 30% of the site area and is considered to constitute a 'limited area'.</p> <p>The commercial tenancy has a depth of 7m in lieu of 9m.</p>	Complies except for variation to commercial tenancy depth
(b)	<i>Any storey that may be developed above the first storey in the Foreshore Centre zone may be used for other purposes permissible in Table 1, including Multiple Dwelling, Hotel, Motel, Short- stay Accommodation and Serviced Apartments or permissible as an Additional use designation in Schedule 2.</i>	All storeys above the ground floor are to be used for residential dwellings.	✓
(c)	<i>No vehicular ingress from or egress to Marine Parade is permitted, except in the case of Lot 500, where temporary access directly from Marine Parade may be approved, but only in the event that rear vehicular access is not at that time possible. Such temporary access must be immediately closed and the rear access implemented if rear access becomes available through the redevelopment of adjoining Lots 1 or 3, and in this regard, any redevelopment of Lots 1, 3, or 500 shall grant a 4 metre wide rear cross easement for vehicular access to each of the other lots, prior to the occupation of any such redevelopment. Any proposed alternative arrangement that provides access to Lot 500 from either Napier Street or Overton Gardens may also be considered by the local government in lieu of the above requirement;</i>	<p>Access is required from Marine as there is no available access from adjacent properties.</p> <p>A variation to the requirement to provide an easement is sought.</p>	Variation sought for rear access requirements
(d)	<i>Where a rear laneway exists adjacent to a site within the Foreshore Centre zone, all vehicular ingress and egress to the site shall be via the laneway once the site has been redeveloped, and as part of any redevelopment of the site, the laneway shall be upgraded and widened where it abuts the development site so that the total width of the laneway becomes 6 metres. Such widening area shall be ceded to the Crown free of cost from the development site. Setbacks indicated on the Building Control Diagrams are from the post-widened boundary of a development site.</i>	No rear laneway exists adjacent to the site.	N/A
(e)	<i>Development, subdivision and strata subdivision proposals within the Foreshore centre zone shall have due regard to any adopted Detailed Area Plans, Local Planning Policies and Local Planning Policy Design Guidelines that provide more detailed planning and design guidance and implementation measures. Any Detailed Area Plans prepared shall be formulated and adopted in accordance with clause 6.2.7.</i>	No Local Development Plans, Local Planning Policies or Design Guidelines apply.	N/A

7.1.1 Schedule 15 – Building Control Diagrams for Special Control Area 2

Pursuant to clause 6.4.3.1 of LPS3, Schedule 15 contains the building envelope for the subject site. An assessment against the development controls as derived from the relevant diagrams contained within Schedule 15 is provided in **Table 9** below.

Table 9: Summary of controls derived from Diagrams 3 & 4 of LPS3 Schedule 15

Item	Schedule 15 Requirements	Proposed	Compliance
Number of Storeys	Five storeys (21m above natural ground level)	Eight storeys.. 27.1 to top of roof structures; 24.4m to external wall at street frontage.	✓
Street Setbacks	Nil setback for the first 3 storeys (max height 12m) 4m setback for fourth and fifth storeys	Nil setback for the first 3 storeys (to a height of 10.6m). Setback ranging from 2m – 5m for fourth storey – seventh storey. Eight storey has a setback of 2m to the balcony and 5.75m – 6.75m to the wall.	Variation
Rear Setbacks (from property boundary)	Nil setback for the first 3 storeys (max height 12m) 4m setback for storeys 4-5	3.5m setback from the lot boundary to the rear of the building on all levels. Refer to assessment note 2.	Variation
Side setbacks	Northern boundary Nil setback (storeys 1-5)	Nil setback (first seven storeys); 1m-2.7m setback (eighth storey)	✓
	Southern boundary Nil setback (storeys 1-5 subject to setback on upper levels so as not to add to shadow of 3 rd storey of Lot 3 according to 34° winter noon sun angle.	Nil setback (first seven storeys); within the 34 degree winter sun angle. 1m – 2m setback (eighth storey); protruding above the 34 degree winter sun angle.	Variation

Assessment Notes:

1. Setback measured from lot boundary (not the easement boundary) in accordance with advice from the Town.

Variations identified in Table 8 and Table 9 above are discussed in the following section of this report.

8 Performance Assessment

This section provides an assessment against the relevant provisions of the local planning framework where the exercise of discretion is required.

In making a determination on the suitability of a proposal, regard was had to the following:

- a) any relevant purpose, objectives and provisions of LPS3;
- b) any relevant objectives and provisions of the R-Codes and other State Planning Policies;
- c) orderly and proper planning.

8.1 Built Form and Scale

The proposed development is seeking approval for a eight storey mixed use development on the subject site. This is a variation to the heights/building envelopes prescribed under LPS3, as outlined in the Table 9 above.

The proposed building height is considered reasonable and justified after having considered the view impacts, the overshadowing and the general amenity of the surrounding area. Furthermore, the Local Planning Scheme has not delivered redevelopment in the Cottesloe Beachfront Precinct and requires a more flexible approach to enable development. These matters are discussed further below.

The current proposal has been reduced from the previously proposed nine storeys in order to more closely correspond with the Local Planning Scheme requirements. The current proposal incorporates a total building height of:

- 27.1m to the top of the roof;
- 24.4m to the top of the parapet at the Marine Parade frontage.

The following is a discussion of the context and the amenity impacts of the proposed height.

The Context

Cottesloe is one of the state's prime beaches and arguably Perth's best tourism opportunity. The Cottesloe Beachfront Precinct is identified as a 'Metropolitan Attractor' under the *Central Metropolitan Perth Sub-Regional Strategy*, being a place which is not identified as an activity centre, but creating 'significant transport and other planning needs'. The Sub-Regional Strategy goes on to note that they will typically generate large numbers of visitors leading to employment growth and economic activity and '*in certain locations also provide opportunities for higher density living*'. We consider Cottesloe is one of these locations.

Whilst blessed with a marvellous beach, a number of developments on the opposite side of Marine Parade are reaching the end of their economic lifespan. Most of these buildings were developed in the 1960s and 1970s and do not have heritage significance, with a few notable exceptions such as the Cottesloe Hotel.

Despite this, the Cottesloe beachfront precinct is failing to attract new development. Meanwhile, there has been a miniature boom in the western suburbs apartment market. Significant development proposals are under construction in Claremont, Mosman Park, Nedlands, North Fremantle and other surrounding suburbs. Despite otherwise favourable conditions, we contend Cottesloe's lack of development is due to the overly restrictive nature of the Local Planning Scheme. The significant development process requires the WAPC to give due regard to LPS3, but the WAPC is not bound by LPS3. These considerations are discussed in Section 9 of this report below.

Local Planning Scheme Building Envelopes

LPS3 came into effect in 2014, though the height provisions were formulated prior to that via an enquiry-by-design exercise in 2008-2010. LPS3 identifies height limits for properties in the Foreshore Centre Zone (being the stretch of Marine Parade between the Sea View Golf Course and the Ocean Beach Hotel).

However, the LPS3 provisions are highly prescriptive – many of the provisions are non-discretionary. This causes a lack of flexibility in design outcomes and significantly constrains sites along the foreshore precinct. The existing scheme provisions pre-date Design WA initiatives and do not take into account current apartment design expectations. Under Design WA, a more flexible approach is required to deliver optimal apartment design outcomes. The scheme provisions have not been reviewed since they came into effect.

There has been no redevelopment in the Foreshore Centre since the implementation of LPS3. There has been only one development approval which did not proceed. Overall, LPS3 has not enabled suitable development to replace the ageing, unseemly building stock. The longer these buildings sit in their current state, the more run-down they become and the more it detracts from the character of the locality.

The five-six storey permissible building heights along Marine Parade are considered insufficient to foster redevelopment of the precinct. Greater height should be considered in order to encourage redevelopment and investment in the precinct, balanced with the protection of the surrounding character and amenity.

Marine Parade frontage

The proposed development has been modified from an earlier version of the proposal to reduce the height by one storey. Additionally and importantly, the new upper level (eighth storey) has been setback from the street in order to reduce its visibility from Marine Parade. This upper level is setback 3m behind the line of the balcony balustrading which means it is not visible from the footpath on Marine Parade. The upper level will still be visible from some vantage points, but the setback behind the main façade line will reduce its visibility from the west and will help the building present more like a seven storey development at the street frontage.

Assessment of Amenity Impacts

The key amenity impacts to be considered with the proposed development are views, sunlight/shadowing of surrounding sites and the character/context of the locality. These are discussed below.

Views

Most properties along Napier Street and Overton Gardens have a view corridor to beach down their respective road reserve. Due to the site being located in the middle of the street block, the development has minimal impact on views from most of these properties.

Noting LPS3 requires the consideration of views from public places, a detailed analysis has been given to understand the impacts from the Cottesloe Civic Centre (109 Broome Street, Cottesloe) approximately 180m east of the subject site. Following feedback from the SDRP, Klopper and Davis Architects undertook an analysis to illustrate the view impacts from the Civic Centre gardens (refer pages 13-34 of the Architectural Design Report, **Appendix 4**). The view analysis demonstrates that the building is not visible from most angles and is screened by existing development or vegetation. When the building is visible, impacts on views are negligible.

Even if the adjoining properties on Marine Parade were to develop to the same height as the proposed development, the Civic Centre would continue to receive views of the ocean down Overton Gardens and Napier Street.

Despite assertions raised by the Town through the preliminary application process, these views are not protected by any heritage listing. The State Heritage Register entry for the Civic Centre does not mention views at all. The Scheme Heritage List does not mention views at all. A detailed review of heritage impacts has also been

undertaken by Griffiths Architecture affirming the views are not heritage listed and the development does not cause impacts on heritage (**Appendix 12**).

Shadowing

Careful analysis has been undertaken on the shadow cast by the proposed development at different times of the day and different times of the year. The overshadowing analysis in **Appendix 4** (pages 57-73) compares the shadow cast by the proposed development compared with that of a theoretical compliant development. The analysis demonstrates the shadow cast from the ‘additional height’ would not adversely affect the amenity of the surroundings. The specific impacts are discussed below:

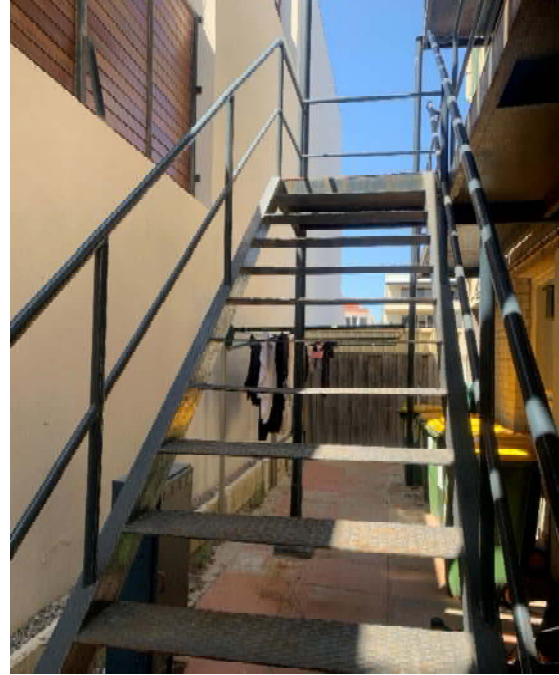
To the east, the two adjoining single houses will be overshadowed by the proposed development in the late afternoon. This is an impact that occurs with a compliant development. Even so, both these properties contain two storey boundary walls abutting the boundary of the subject site (refer to **photographs 6 – 9** below) and are not considered to be unduly affected.



Photograph 6: Development to the east of the subject site (viewed from Overton Gardens)



Photograph 7: Development to the west of the subject site (viewed from Napier Street)



Photographs 8 & 9: View of boundary walls from rear of subject site

To the west, careful consideration has been given to avoid any overshadowing of the beach sand from 9am onwards at all times of the year. Again, some shadowing over the foreshore park will occur, but this is to be expected from a compliant development.

The property most affected by the shadow is 118 Marine Parade, situated **directly south of the subject site**. However, this property would be affected by the same level of shadowing even if the building were lowered to a compliant height (21m).

The building heights in the Local Planning Scheme are based predominantly on the southern footpath on Overton Gardens receiving sunlight at midday on June 21. However, this approach considers just one time of the day and year. **The proposed development overshadows this space for less than 1 hour on June 21.** Additionally, the reduction in height from the previously proposed nine storeys to eight storeys has resulted in a situation where the proposed development protrudes only 1.8m above the 34 degree shadow line. This causes a very marginal increase to the shadow at the Overton Gardens footpath on June 21. Moreover, the shadow does not reach the southern footpath at midday on the equinox (March and September) when alfresco dining is likely to be more prevalent.

Figure 4 below shows the number of hours of sunlight received at surrounding spaces between 9am and 3pm on June 21. Videos are also included in the Architectural Design Report showing the shadow cast throughout different days of the year. The analyses demonstrate that despite the additional height, the proposed development does not adversely restrict sunlight to surrounding properties and public spaces with most areas continuing to receive five hours of sunlight between 9am and 3pm on the winter solstice.

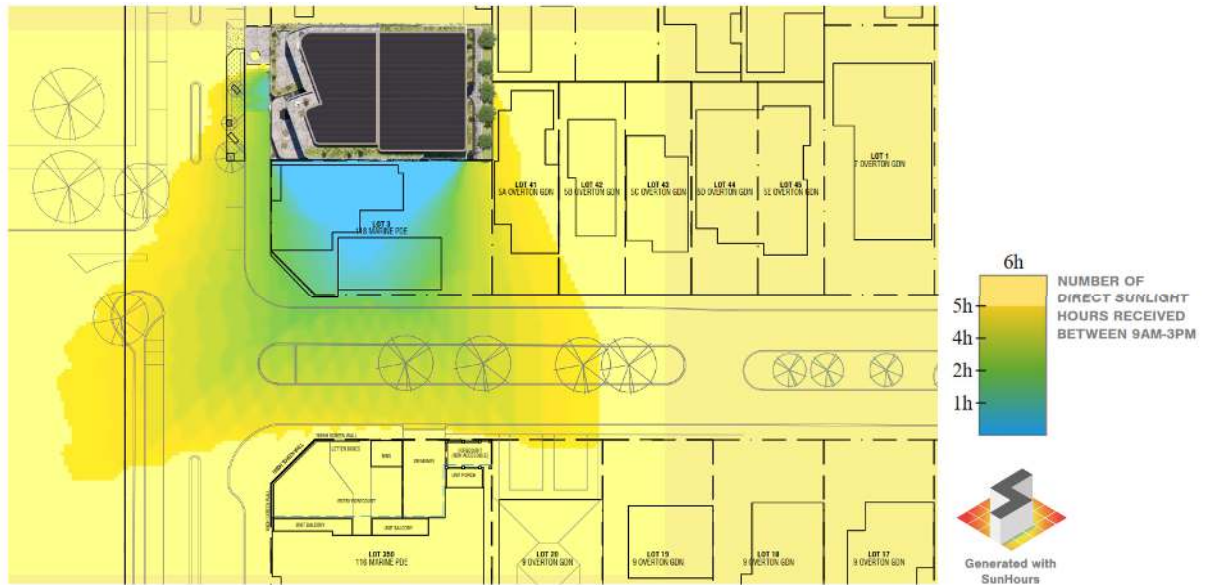


Figure 4: Sunlight hours received at adjoining properties and public spaces on June 21

Context and Character

Detailed consideration has been given to how the building fits in with the context and character of the locality – both current and future.

Modelling has been prepared by Klopper and Davis Architects (**Appendix 4**) which examines how the proposed development would be perceived if all other properties in the immediate locality were developed in accordance with the building envelopes set out in LPS3. The proposed development, whilst above the height of adjoining properties is not considered to ‘stand out’ in a manner which undermines the overall built form and scale envisaged for the area as can be seen from **Figure 5** below. Furthermore, the modelling indicates that the proposed development would not be prominent from the beach as it is predominately screened by vegetation.

Although we contend approval for the proposed development would **not** set a precedent, analysis has also been conducted to consider potential eight storey developments on adjoining properties. Again, the impacts are considered reasonable – views corridors are maintained and the height is considered contextually appropriate noting the designation of Cottesloe Beach as a ‘metropolitan attractor’.



Figure 5: Massing model showing permissible building heights in the Cottesloe beachfront precinct (refer to Appendix 4 for legend and methodology).

Summary

In summary, the proposed building height does not adversely impact the amenity of surrounding properties. The proposed height is 6.1m above the LPS3 requirements overall and is only 3.4m above the permissible height at the street frontage, with the top level of the building setback from the street. Compared with a compliant scenario, views from surrounding areas are not further interrupted. The extent overshadowing is also reasonable compared with a compliant scenario. The design has been revised in response to comments from the community and the SDRP.

8.2 Setbacks

The development proposes two minor setback variations:

- The balconies at Marine Parade have a setback of 2m, grading back to 5m in lieu of the minimum setback requirement of 4m under LPS3.
- The rear setback above the third storey is 3.5m in lieu of 4m.

Street Setback

Rather than providing a 'flat' 4m setback above the ground floor, the balconies have been angled to the street in order to:

- a) Open up the balconies to northern sunlight.
- b) Provide a barrier from the south-west prevailing wind.

This substantially improves the amenity of the apartments for the occupants. However, due to the angle, the northern portion of the balconies varies the setback requirement of LPS3 whilst the southern portion of the balconies **exceeds** the permissible setback.

Notwithstanding the variation, the development provides a clear podium and tower form as sought by LPS3. This podium and tower contrast is prevalent in the proposed development, with the colour and materials of the podium clearly contrasting with the tower.

As outlined above, the proposed development has been modified from an earlier version of the proposal to reduce the height by one storey and setback the new upper level (eighth storey) from the street. The upper level is setback 5.75m – 6.75m from Marine Parade, being 3m behind the line of the balcony balustrading. The upper level, though generally 'hidden' will be visible from some vantage points, but the setback behind the main façade line will reduce its visual impact at the street frontage.

In summary, the reduced street setback is considered to have no undue impact on the streetscape, nor the views or amenity of adjoining properties.

Rear Setback

The proposed setback of 3.5m is a minor variation and is likely to be indistinguishable from a compliant 4m setback.

To the rear, the proposed development is considered to an equal or better outcome compared to a 'baseline compliant' scenario. LPS3 permits a nil setback for the first three storeys. Instead, the proposal includes a 3.5m setback for these levels (and for the entire building). **Figure 6** below illustrates a compliant rear setback compared with the proposed rear setback.

The proposed setback of 3.5m provides sufficient space for light and ventilation between the existing and proposed buildings. Privacy is also maintained noting both properties to the rear have two storey boundary walls abutting the subject site. The rear setback area is also treated with a 1.5m wide deep soil landscaping strip for the full width of the property. This will include five trees which will help to soften the impact of the proposed development to the east.

In summary, both setback variations are aimed at providing an improved design outcome compared with a baseline compliant scenario and are considered acceptable accordingly.

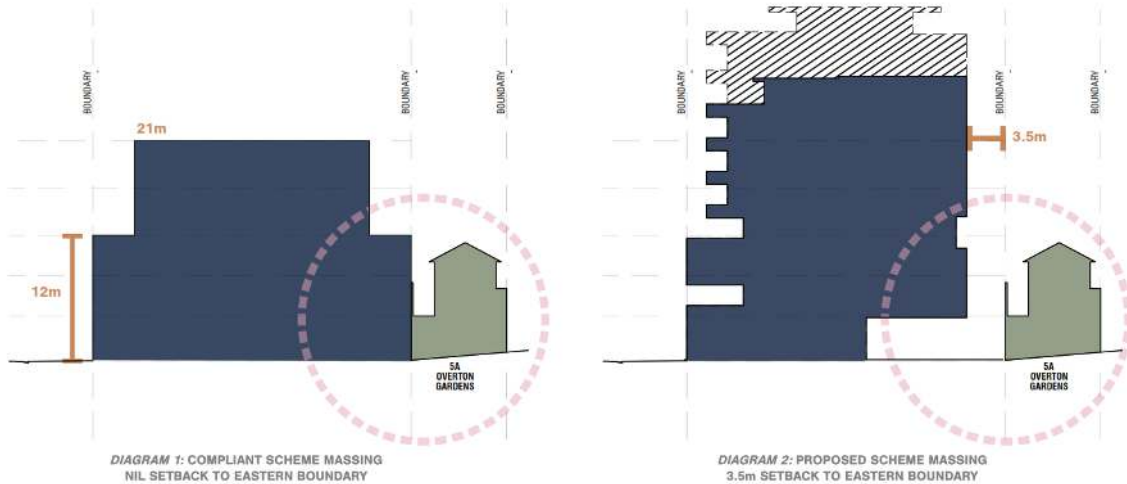


Figure 6: Compliant rear setback v proposed rear setback

8.3 Dwelling Sizes

Clause 6.4.3.1(d) of LPS3 requires 25% of apartments to be less than 70m² and a further 25% of apartments to be between 70m² and 90m². The proposed development provides one dual key apartment with one of the 'keys' less than 70m². The remainder of dwellings exceed 90m². This is considered acceptable for the following reasons:

Introduces diversity on a broader scale

The suburb of Cottesloe has a number of one and two bedroom apartments; it also has a number of large single houses which comprise three or more bedrooms. The proposed development is offering new, beachfront three-bedroom apartments – a product which has been almost completely absent from the market in the past three decades. It is compensating for a lack of this product in the area, meaning it would improve diversity on a precinct scale.

Diversity through accessible housing

Diversity has been introduced through differing apartment sizes with consideration being given to the provision of accessible housing over and above the recommended standards in the R-Codes Volume 2. Specifically, the apartments have been designed to meet the Gold standards of the Livable Housing Design codes and a further 25% reach Platinum standards. The development therefore provides diversity by opening up opportunities for people with disabilities or aged persons.

Dual key apartment

The proposed development includes a dual key apartment (comprised of two x one-bedroom apartments). The dual key apartment will be strata titled and sold as one strata lot. It is anticipated that future owners will typically use the larger (Marine Parade facing) portion of the dual key apartments as their primary residence and use the smaller portion in a variety of ways, which may include:

- For mature children desiring independence;
- Accommodating live-in carers for elderly residents;
- For family members who are staying with the resident on a temporary basis (e.g. visiting from overseas).

This offers diversity from the remainder of the product which is either three or four bedrooms.

The size required by Clause 6.4.3.1 (d) does not align with current demographic and social needs

Clause 6.4.3.1(d) is considered outdated and is not reflective of current market trends for larger apartments. It has the effect of limiting the development to 50% single bedroom or small two-bedroom apartments which according to Gary Dempsey Developments, is completely inconsistent with demand in the locality.

LPS3 was gazetted in 2014. The Enquiry by Design report which informed the content of LPS3 dates back to 2009. Since that time, the apartment market has changed significantly and the apartment sizes and dwelling mix deemed appropriate in 2009, or even 2014, are no longer consistent with the current trends and market expectations in 2020.

Since 2014, there has been a reduction in the proportion of apartments purchased for investment purposes and an increase in apartments purchased for owner-occupiers¹. Owner-occupiers tend to purchase larger, and more luxurious / high end apartments. In high amenity locations such as there, there has been an increased demand for downsizers and an increased demand for 3-bedroom apartments. The proposed development, which offers 13 three bedroom apartments is response to these demographic needs.

Downsizers and aged persons' dwellings

Apartment sizes are considered appropriate as they are reflective of the demographics and the 'downsizer market' in this locality.

Increased floor area is particularly valuable for downsizers and for the ageing population. Apartments catering for aged persons should contain wider hallways, doorways, bathrooms and living areas to aid in manoeuvrability and access. It is important to cater for the ageing population and maximise opportunities for people to downsize but remain in their existing suburb. 70m² - 90m² apartments do not achieve this and to require at least half the development is dedicated to these sized apartments is inconsistent with current planning objectives and market expectations.

The proposal is consistent with SPP7.3 objectives

The R-Codes Volume 2 is a more contemporary planning instrument and has provisions requiring a diverse mix of apartment sizes and types. However, LPS3 prevails over R-Codes Volume 2 to the extent of any inconsistency.

Section 4.8 of the R-Codes Volume 2 provides requirements for dwelling mix. The relevant objective in this section states:

***"O 4.8.1** A range of **dwelling** types, sizes and configurations is provided that caters for diverse household types and changing community demographics."*

The objective is also accompanied by detailed design guidance, including the following statement:

"When considering the preferred dwelling mix appropriate to the development location, take into consideration:

- *objectives and demographic trends identified in a local housing strategy or other relevant local planning instrument current and*
- *projected community demographics, the profile of existing housing stock and market data..."*

¹ The West Australian, 30 May 2018 (<https://thewest.com.au/business/commercial-property/perth-apartments-lure-more-owner-occupiers-ng-b88846319z>)

The ability to meet the objective of section 4.8 would be constrained if one were to actually comply with the LPS3 requirement. Market research conducted by the proponent suggests that there is little to no demographic need for one bedroom apartments in this location, particularly noting this product is available in the immediate area.

In summary, it is considered the proposed development delivers diversity by providing opportunities for aged persons or people with disabilities, as well as the provision of a dual key apartment. The requirement under LPS3 is inconsistent with current demographic and social needs and the proposal will introduce a product which is undersupplied in the area. Therefore, variation to Clause 6.4.3.1(d) is warranted.

8.4 Vehicle Access

Clause 6.4.3.5(d) requires that any access to Lot 500 is temporary only and that access is closed once an adjoining property redevelops and provides an easement which makes rear access available in the future.

Access could (theoretically) be provided from the rear in the future. The rear of the ground floor is proposed to be constructed at grade with no permanent structures in the rear setback area and a 4m height clearance to the first floor. However, the proponent is seeking a variation to this requirement.

Providing access from the rear would require the removal of the deep soil zone which is proposed to include trees to soften the rear elevation. Removal of the deep soil area would result in greater areas of driveway and 'hardscape' on the site, creating a poorer design outcome.

Access to Marine Parade is proposed via a single crossover. This ensures the vehicle access point is innocuous and development maintains a predominately active street frontage. Furthermore, with the only users of the car park being residents and staff of the commercial tenancy, turnover is expected to be low.

The Access Management Strategy (**Appendix 6**) identifies that demand is likely to be in the order of five vehicle movements in the peak hour. Furthermore, with 31 of 33 car bays being for residents' use, it can be expected that:

- in the morning peak, most vehicles will be exiting the site;
- in the afternoon peak, most vehicles will be entering the site.

With a low turnover and most vehicles travelling in the same direction, the likelihood of opposing movement conflicts is low.

Owing to the above, it is considered a permanent crossover to Marine Parade is warranted and Clause 6.4.3.5(d) should be varied accordingly.

8.5 Commercial Tenancy Depth

The café at ground level has a depth of 7m from the Marine Parade frontage in lieu of the LPS3 requirement of 9m.

The proposed café is considered to provide sufficient depth to enable an active frontage. The 7m depth allows for at least two rows of tables in the café. The café is a size which provides a small but functional space for the local community. It is anticipated that several patrons will purchase take-away food and coffee and enjoy this in one of the many public spaces in the local area.

Additionally, there is 1m forecourt between the glazing line and the property boundary, allowing further space for tables and chairs and offering further activation of the street.

9 Significant Development Considerations

This development application is made pursuant to Part 17A of the *Planning and Development Act 2005*. Part 17A includes the requirements for what is known as ‘significant development’ applications being those with a construction value over \$20 million in the metropolitan area or \$5 million in a regional area. The following sections discuss the rationale for lodging this application via the Part 17A pathway and provide an analysis against the four considerations under Section 275(6) of the Act.

The proposed development is within the Town of Cottesloe municipal area which is within an area defined as ‘the Metropolitan Region’. The project has an estimated development cost of \$22 million.

9.1 Section 275(6) considerations

Pursuant to s.275(6) of the Planning and Development Act 2005, in considering and determining the development application, the Commission must have due regard to several key matters. These are addressed in detail as follows:

(a) The purpose and intent of any planning scheme that has effect in the locality to which the development application relates

The proposed development is subject to the Town of Cottesloe Local Planning Scheme No. 3 (**LPS3**). Whilst, pursuant to s.275(3) of the Act, the decision-maker is not necessarily bound to make a decision consistent with LPS3, it is required to give due regard to LPS3, being proper, genuine and realistic consideration when considering an application for development approval.

This report contains a detailed assessment against the provisions of LPS3, including, but not limited to land use permissibility and applicable development standards. The proposed development is demonstrated to be consistent with LPS3, with the exception of building height, apartment sizes and minor built form variations that have been appropriately justified in the preceding sections of this report.

Clause 1.6 of LPS3 lists the aims of the Scheme, two of which relate to development on Marine Parade and are pertinent to the proposal:

“(j) ensure that land uses and development adjacent to Marine Parade are compatible with the residential and recreational nature of their setting and the amenity of the locality;

“(k) ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront environment.”

In response, the proposed application seeks to deliver an aesthetically pleasing mixed use development on Marine Parade, which will provide a home for 14 persons or families within this high amenity location. It will also deliver a café, providing an asset for the local community – both socially and economically.

With regard to the objectives of the Foreshore Centre Zone and Special Control Area 2, **Table 10** below details how the development responds to each objective.

Table 10: Response to Foreshore Centre zone and Special Control Area 2 objectives

Objective	How the proposed development meets the objective
Foreshore Centre Zone Objectives	
e) <i>provide the opportunity for a wide range of residential and community uses and a limited range of commercial, shopping, tourism, recreational and entertainment uses which are compatible with the character and amenity of the beachfront locality;</i>	The proposed development includes both residential uses (14 apartments) and commercial uses (ground floor café). The cafe use is compatible with other restaurants, cafes and bars along Marine Parade and will help to enhance the area as a tourism and entertainment precinct. Furthermore, the active frontage and the carefully thought-out design outcomes and will contribute to the amenity of the beachfront.
f) <i>ensure that the predominantly residential and recreational nature of the locality is maintained;</i>	The proposed development is predominately residential with apartments occupying 90% of the total proposed floorspace. The recreational nature of the locality is maintained with an active ground floor commercial tenancy which is located immediately opposite parkland, a playground and a beach.
g) <i>ensure that the urban character, aesthetics and amenity of the locality are not compromised by inappropriate land use or development; and</i>	Both land uses the subject of this application are considered highly appropriate as discussed in section 5.2.1 below. Both land uses are already prevalent in the Foreshore Centre zone. In terms of the development, the architecture responds appropriately to its surroundings, taking cues from the beachfront and the surrounding character, as referenced in the design report in Appendix 4 .
h) <i>give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.</i>	The proposed development is not considered to unduly impact views of significance. The view analysis in Appendix 4 generally confirms limited impacts from the Cottesloe Civic Centre.
Special Control Area 2 Objectives	
c) <i>the development, subdivision and strata subdivision of these sites is compatible and consistent with its regionally important beachfront location, surrounding development and the amenity of the locality; and</i>	The proposal is considered to be a high-quality development which reflects the beachfront location. The building includes feature sandstone tiles and shimmering blue-green tiles, which compliments the coastal theme. The design and articulation is representative of the adjacent sand dunes and ocean. Floor to ceiling windows will help to reflect the ocean and the Norfolk Pines directly opposite the subject site.
d) <i>the Building Design Control Diagrams which form the basis of development, subdivision and strata subdivision control in this special control area appropriately guide and manage built form, bulk and scale, amenity impacts, the type, mix, location and arrangement of land uses, and other relevant considerations accordingly.</i>	The proposed development seeks an approximate 10.5m variation to the height requirements under the building control diagrams. Sunlight studies, view studies and analysis of the amenity impacts demonstrate there is no undue impact caused by the additional height, as discussed in detail above.

In light of the above, the proposed development is consistent with the purpose and objectives of LPS3 and warrants approval accordingly.

(b) the need to ensure the orderly and proper planning and the preservation of amenity, of that locality

All planning instruments have been given due and proper regard in this assessment and local amenity has been a key considered in this design.

Under the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, amenity is defined as:

“...all those factors which combine to form the character of an area and include the present and likely future amenity”.

The design has given due consideration to the existing character of the area. Noting this section of Marine Parade contains a number of buildings nearing the end of their economic lifespan, the future of the area has been a key consideration. This proposal is considered to represent the future of Marine Parade, comprising well-designed multi-storey buildings with active street frontages which pay homage to the location through design cues. The design reflects that of the coastal theme; with its shimmering tiles and sandstone base, it is considered to provide a high quality architectural feature for the Cottesloe foreshore.

Most notably and arguably the key consideration in this application, the proposed development seeks a performance-based approach with regard to building height. As outlined earlier in this report, the height is deemed to be appropriate because:

1. The additional height does not unduly impact views of significance. Properties to the east would not receive a view to the ocean over a compliant 21m building so the development does not impinge on views any further. A view analysis from the Cottesloe Civic Centre Gardens also confirms no undue impacts;
2. The additional height does not cause undue impacts by way of shadow with all public spaces receiving adequate sunlight through summer and winter months;
3. The additional height is not considered to be out of context with the future character of the locality. The podium-tower design ensures there is interaction with the street at lower levels whilst the tower is setback to limit the impact of building bulk to Marine Parade; and
4. All adjoining properties are considered to maintain a suitable degree of privacy, sunlight and ventilation.

The proposed development is consistent with the objectives of the local planning framework, including the City's local planning policies and approval would be consistent with orderly and proper planning.

(c) the need to facilitate development in response to the economic effects of the COVID-19 pandemic

The State Development Unit Guidelines state that a proposed development seeking determination through the WAPC pathway must clearly demonstrate the need for the development in response to the economic effects of the COVID-19 pandemic. In this regard, the following information is provided:

- All strata lots have been transferred into a single entity under the collective control of the developer.
- All seven strata lots are owned by one party with an agreement in place with a local developer-builder (Gary Dempsey Developments). The project has undergone preliminary expressions of interest with local real estate agents. The initial feedback indicates there is significant demand for these apartments. Feedback from prospective purchasers indicates this is due to the fact there has been no new apartment developments in this locality for several years.
- Construction of the development is estimated to support a total of 65 full-time equivalent direct & indirect jobs during construction of the development, with many accruing locally. The development is estimated to add approximately \$9.9 million in gross value added (GVA) to the WA economy on an annual basis.
- The development will include a ground floor café, which can directly support eight ongoing jobs. There will be an estimated \$800,000 per annum direct and indirect value-added contribution generated from the daily operation and management of the development which will support further employment and economic activity in Western Australia.

- In addition, this development will accommodate approximately 29 residents in the area. This development will additionally:
 - Attract further investment to the precinct;
 - Support additional visitation to Cottesloe and existing businesses in the area;
 - Provide employment diversity to the Cottesloe area, including training and apprenticeship opportunities.

Refer to **Appendix 13** for a copy of the Economic Benefits Statement.

(d) any relevant State planning policies and any other relevant policies of the Commission

Relevant state planning policies have been identified in this submission. In particular, a detailed assessment against the element objectives of the R-Codes Volume 2 has been provided in **Appendix 1**. It is demonstrated that the proposed development achieves the element objectives of the R-Codes.

10 Conclusion

This application seeks approval for a eight storey, mixed-use development with a ground floor café and 14 apartments on upper levels. The proposed development meets the objectives of the R-Codes Volume 2 and offers an excellent design outcome for the foreshore.

The current proposal has been reduced from the previously proposed nine storeys in order to more closely correspond with the Local Planning Scheme requirements. Additionally, the new upper level (eighth storey) has been setback from the street in order to reduce its visibility from Marine Parade.

Some provisions of the local planning framework require the exercise of discretion from the WAPC but warrant approval for the following reasons:

- The innovative and well-integrated architectural design created through the use of materials, varied setbacks, colours and layout will positively contribute towards and enhance the streetscape amenity.
- Sunlight and shadowing studies suggest that the proposed development would enable sufficient sunlight at key public and private spaces. When compared with a compliant, 21m high development, the additional shadow does not pose undue impacts.
- View studies demonstrate the proposed development would not impact views of significance. The views from the Civic Centre are already impacted by development on Overton Gardens and Napier Street.
- Dwelling mix and sizes are consistent with demographic and social needs. The development will offer a product (new, three bedroom beachfront apartments) which is lacking in the local area.
- Existing development requirements under Local Planning Scheme No. 3 have failed to enable redevelopment of the foreshore precinct. This proposal would provide a catalyst for development and investment in the precinct.

The proposal is also consistent with the four considerations under Section 275(6) of the *Planning and Development Act 2005*. Importantly, the development is 'shovel ready' and will generate 65 direct and indirect construction jobs and seven permanent jobs. This will provide significant economic benefits to the construction and hospitality sector in response to the impacts of COVID-19.

Having regard to the above, it is considered the proposed development warrants approval.