

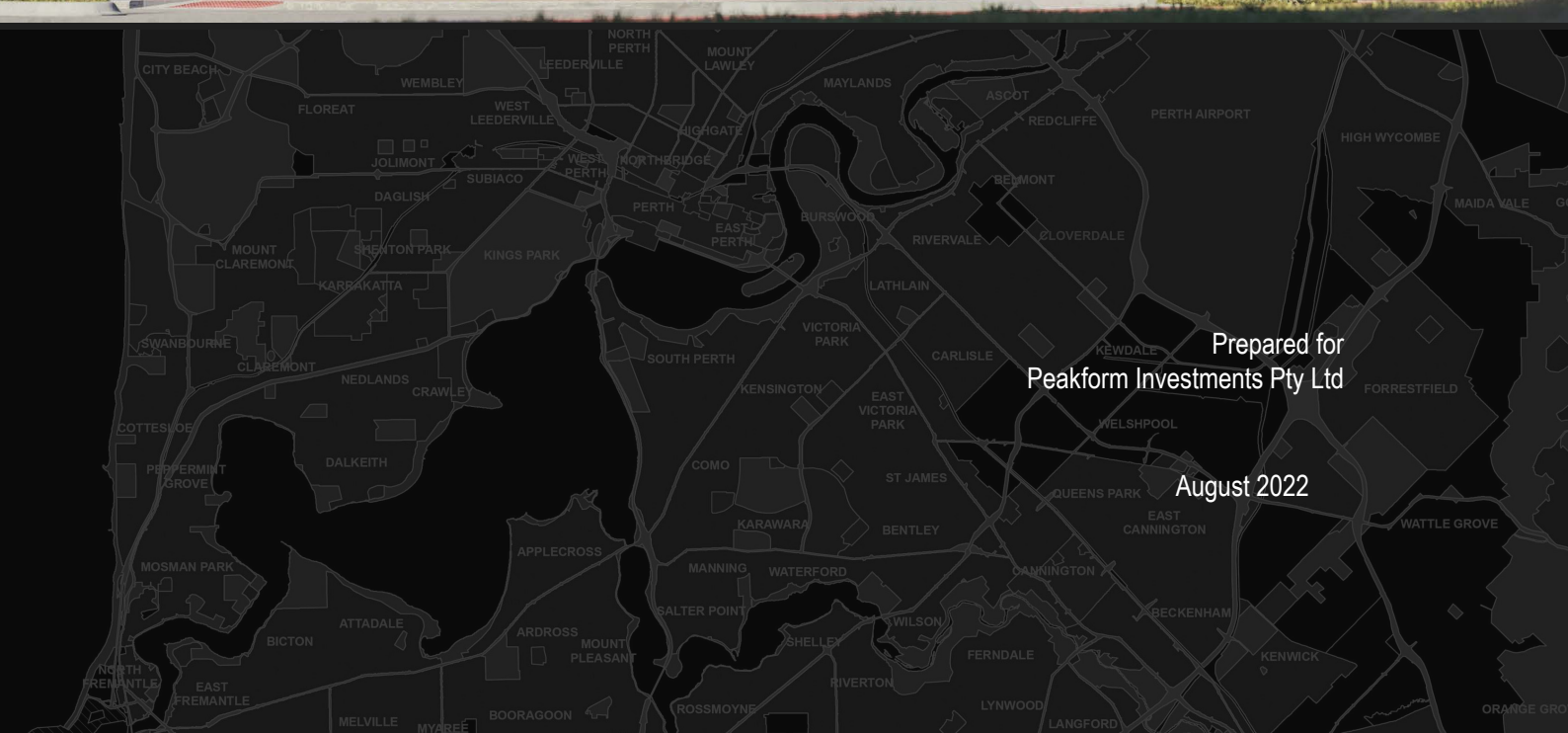
Development Application  
Mixed Use Development  
Application under Section 271 of the Planning and Development Act 2005

122 Marine Parade, Cottesloe, WA

DEPARTMENT OF PLANNING, LANDS AND HERITAGE	
DATE 24-Aug-2022	FILE SDAU-047-21

PLANNING SOLUTIONS  
| URBAN & REGIONAL PLANNING

PS



Prepared for  
Peakform Investments Pty Ltd

August 2022

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# 1 Preliminary

## 1.1 Introduction

Planning Solutions acts on behalf of Peakform Investments Pty Ltd, the proponent of the proposed redevelopment of 122 Marine Parade, Cottesloe (**subject site**). Planning Solutions has prepared the following report in support of an Application for Approval to Commence Development for a seven-storey mixed use development on the subject site.

**This application is made pursuant to the significant development pathway under Part 17 of the *Planning and Development Act 2005* (P&D Act) 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.
- Matters relevant to Part 17 of the P&D Act.

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

It is noted that works proposed external to the subject site do not form part of this development application and are subject to separate applications and approvals from the Town of Cottesloe.

## 1.2 Background

Consultation and pre-lodgement engagement has occurred with the State Development Assessment Unit (**SDAU**) with respect to the proposed development, including several pre-lodgement meetings and ongoing dialogue. The pre-lodgement advice received from the SDAU has been considered in the finalisation of the application package.

The application was subsequently lodged with the SDAU on 22 December 2021. The proposed development was considered by the State Design Review Panel (**SDRP**) on 15 February 2022.

Comments of the SDRP have been considered, with the development plans being subsequently refined in collaboration with officers of the SDAU.

In the interest of clarity and brevity, this report has been amended to reflect the revised plans in preparation of community consultation.



## 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 <sup>2</sup> )
1	2	SP6146	1508	191	549
	3			192	
	4			193	
	5			194	
	6			195	
	7			196	
	8			196	

Strata Lots 2-7 are under the single ownership of **Peakform Investments Pty Ltd**. Strata Lot 8 is in the ownership of **Theresa Incoronata Pty Ltd**. At its AGM 18 August 2021, the owners of the existing Strata Scheme (No. 6146) granted Peakform Investments Pty Ltd the authority to lodge a development application over the land.

Refer **Appendix 2** for a copy of the Certificates of Title, Strata Plan, and signed minutes.

### 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 southwest of the Perth city centre, 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 coastal environment, which serves as a major local and regional tourist attraction.

The subject site is a corner lot and fronts Marine Parade and Napier Street. 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 and Fremantle city centres. A bus stop is located approximately 50m north of the site. The Cottesloe Railway 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 the corner of Marine Parade and Napier Street, located directly opposite Cottesloe Beach to the west. The subject site is approximately 150m north of the Cottesloe Beach Hotel and 300m south of the Ocean Beach Hotel; two local landmarks. The Indiana Teahouse is situated 200m south of the subject site, along the foreshore. 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 generally ranges from two to four storeys, and up to six storeys.

The Town's Public Carpark No. 2 is situated on the opposite side of Napier Street. The subject site is immediately bound by a two-storey single detached dwelling, to the east, and by a three-storey mixed use development, to the south. It is noted that approval for a seven storey mixed use development exists on this site (120 Marine Parade).

The area enjoys high amenity with an ocean outlook and a beach foreshore which is characterised by existing Norfolk Island Pine trees, several nearby 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 cafe on the ground floor and six dwellings located on the second and third floors.

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 600mm.

Refer to **Figure 1** aerial photograph depicting the subject site and surrounding area.





LEGEND

Subject Site



## 3 Proposed Development

This application seeks development approval for a contemporary seven storey mixed use building. Specifically, the development comprises eight multiple dwellings, a 269m<sup>2</sup> commercial tenancy, as well as associated parking, access, storage, and landscaping. No signage is proposed as part of this development.

Table 2 and 3 below summarises the particulars of the development.

**Table 2: Development Summary**

Particulars	Proposed
Height:	Seven stories.  20.2 metres to the top of the sixth storey parapet.  23.4 metres to the seventh storey.  24.8 metres to the lift overrun.
Minimum Setbacks:	<b>Primary Street (Marine Parade):</b>  Nil up to the ground floor, 1.5m to the second and third storey, 3.5m to the fourth storey, 3.6m to the fifth and sixth storeys, 5.75m to the seventh storey, and 7.3m to the roof.  <b>Secondary Street (Napier Street):</b>  Nil up to the third storey, 2m from the fourth to the sixth storey, 4m to the seventh storey, and 3.4m to the roof.  <b>Rear:</b>  Nil up to the third storey, 3m from the fourth to the seventh storey, and 4.1m to the roof.  <b>Side:</b>  Nil up to seventh storey, and 4.1m to the roof terrace.
Car Bays:	19 bays, comprising 17 residential bays and two commercial bays.  <i>Note: Shared basement with neighbouring 120 Marine Parade development. Refer discussion Table 3 below.</i>
Bicycle Bays:	23 bays.
Landscaping:	468m <sup>2</sup> of landscaping (comprising 332.5m <sup>2</sup> deep soil outside the lot boundary, 124.65m <sup>2</sup> on-structure planting within the lot boundaries, with an additional 10.9m <sup>2</sup> of shallow plantings).
Land Uses:	Multiple Dwellings; Restaurant.

**Table 3: Development Particulars (floor by floor)**

Level	Development Particulars
Basement 2	Four residential garages comprising two car bays, stores, and two bike bays. Two commercial car bays. Three commercial bike bays. Lift lobby, comprising two lifts and stairs. Grey water treatment and water de-ionization tank room, services, and fire pump and tanks. Vehicle access is proposed via right of carriageway easement to the neighbouring 120 Marine Parade development basement level.
Basement 1	Four residential garages comprising two car bays, stores, and two bike bays. One residential garage comprising one car bay and one bike bay. End of Trip facility comprising lockers, accessible shower/toilet, and space for three bike bays. Lift lobby, comprising two lifts and stairs.



	Cleaners rooms, pump room, and transformer. Vehicle access is proposed via right of carriageway easement to the neighbouring 120 Marine Parade development basement level.
Ground Floor	Commercial tenancy (269m <sup>2</sup> ) with an alfresco dining forecourt. Landscaped public parklet (outside the subject site). Residential lobby, comprising two lifts, stairs, mailroom, and lounge area. Vehicle ramp to basement level. Dedicated residential and commercial bin stores. Commercial back of house comprising one universal accessible toilet and sanitary compartments. Accessway to neighbouring 120 Marine Parade, granting access to the shared bin stores.
Level 1 (2nd storey)	2 x three-bedroom dwellings (197m <sup>2</sup> & 184m <sup>2</sup> floor area with 22m <sup>2</sup> and 39m <sup>2</sup> balconies, respectively). Lift lobby, comprising two lifts and stairs. Landscaping on the ground floor canopy.
Level 2 (3rd storey)	2 x three-bedroom dwellings (197m <sup>2</sup> & 184m <sup>2</sup> floor area with 22m <sup>2</sup> and 33m <sup>2</sup> balconies, respectively). Lift lobby, comprising two lifts and stairs.
Level 3 (4th storey)	1 x three-bedroom dwelling (306m <sup>2</sup> floor area with a 114m <sup>2</sup> balcony). The lift lobby is contained within the dwelling.
Level 4 (5th storey)	1 x three-bedroom dwelling (306m <sup>2</sup> floor area with a 46m <sup>2</sup> balcony) The lift lobby is contained within the dwelling.
Level 5 (6th storey)	1 x three-bedroom dwelling (306m <sup>2</sup> floor area with a 50m <sup>2</sup> balcony). The lift lobby is contained within the dwelling.
Level 6 (7th storey)	1 x three-bedroom dwelling (262m <sup>2</sup> floor area with a 90m <sup>2</sup> balcony). The lift lobby is contained within the dwelling.
Roof Terrace	Private roof terrace (for Dwelling No. 8), accessed via stairs. Lift overruns. Solar PV cells.

Refer **Appendix 3**, development plans.

The design outcomes are shown visually in **images 1 – 4** below.



Image 1: Proposed development, as viewed from the corner of Marine Parade and Napier Street.



Image 2: Proposed development, as viewed from Marine Parade and in context of development at 122 Marine Parade.





Image 3: Proposed development, as viewed from Napier Street.



Image 4: Proposed development, as viewed from Cottesloe Beach.

### 3.1 Design Outcomes

The proposed replacement of the existing building, which is at the end of its economic life, will enhance the streetscape and broader area by providing a modern and highly functional active land use at ground floor as well as bringing additional residents to support the local economy, all within a landmark design.

Through articulation, carefully considered internal layouts, landscaping, and materiality, the intent of the development is to enhance the overall amenity of the area.

The texture and materiality of the proposed mixed use development directly responds to the Cottesloe Beach character. The local sands, harsh limestone, and seashells all combine to create the outer shell of the building. The form reflects movement in nature, creating random undulating form inspired by the local context, mirroring the movement of sand and water.

The arrangement of the built form respects the immediate locality and has been demonstrated to have no impact on privacy, view corridors, solar access, or overshadowing to nearby public space.

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

### 3.2 Landscaping and Public Realm Enhancement

The proposed development provides landscaping throughout the subject site and adjacent public space, comprising on-structure planting (including deep soil planters), the provision of a public parklet, and redevelopment of the adjacent public micro-park. The proposed landscaping will enhance the overall presentation of the development and enhance the quality of the public realm and streetscape. This includes the use of hanging vegetation on balconies and on the awning. The on-structure landscaping seeks to mimic the scattered landscaping on nearby dunes.

As the development has a 100% site coverage, no on-site ground floor deep soil zones are proposed. However, this is compensated by on-structure planting, as well as a significant investment in the adjacent public space. The development proposes a total of 468m<sup>2</sup> of landscaping (comprising 332.5m<sup>2</sup> deep soil outside the lot boundary, 124.654m<sup>2</sup> planting on-structure within the lot boundary, with an additional 10.9m<sup>2</sup> of shallow plantings).

The improvements to the adjacent public realm comprise:

- The redevelopment of the adjacent micropark. The space will centre around a sculptured feature installation with floating timber and steel bench seating. Various garden beds using endemic coastal species surround the space. The choice of materiality reflects both the development and character of the area.
- The removal of two on-street parking bays, to be converted to an alfresco dining area (known as a parklet).

The above upgrades to the public realm will form part of a separate application with the Town, outside of the DA process, given it is on public land.

The landscaping plan includes a species list that is appropriate to the site context and coastal conditions, providing a variety of textures and colours while being hardy enough to function within the coastal environment. Where possible, storm water will be stored and re-used on-site.

Refer **Appendix 5**, Landscaping Plan.



### 3.3 Heritage

The subject site is situated adjacent Cottesloe Beach and within the viewshed of the Cottesloe Civic Centre, both Stage Registered Heritage Places. As such, a Heritage Impact Assessment (HIA) has been prepared to support the development. The HIA concluded that both places remain unimpaired by the proposal. This includes the height of the development not impacting views from the Civic Centre or overshadowing of the beach, as well as the design of the development being reflective of the prevailing character of the locality.

Refer **Appendix 6**, for a copy of the Heritage Impact Statement.

### 3.4 Sustainability

The proposed development has been designed to achieve an 8-star NATHERs rating, with no dwelling being less than 6.9-stars. This is achieved through building material and design, including 100% cross ventilation and solar access, extensive water-wise planting and water harvesting, efficient fittings and fixtures, and the provision of solar PV cells and EV charging stations.

Refer **Appendix 7**, Sustainability Assessment.

### 3.5 Commercial Tenancy

The commercial tenancy is situated on the western portion of the ground floor and intended 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.

The space provides an active frontage to Napier Street and Marine Parade and will incorporate alfresco dining. Back of house areas include a dedicated bin store, as well as an End of Trip facility and bike parking in the basement.

By undertaking a comparison of approved developments, it has been assessed that the café would have a capacity of approximately 120 persons based on an estimated seating area of 200m<sup>2</sup>.

Refer **Appendix 8**, Economics Benefits Statement. Additional details on the economic benefit of the project are provided in **Section 7.1**.

### 3.6 Access and Parking

Pedestrian access is provided via a dedicated residential lobby accessed via Napier Street, as well as from the basement from internal lifts/stairs. The commercial tenancy fronts both Marine Parade and Napier Terrace, and will have access to both frontages. The pedestrian lobby entrance has been designed in a manner to provide strong legibility to the street.

23 bicycle bays are contained within the basement levels and will be accessed via the internal lift and ramp.

Vehicle access will be provided via a single crossover from Napier Street. The vehicle entrance to the basement car park is via a dedicated ramp into neighbouring 120 Marine Parade via way of Easement. The proposed basement levels will be shared with 120 Marine Parade, maximising manoeuvrability. Refer **section 3.9** below for additional commentary on the proposed Easement.

17 residential and 2 commercial bays are provided within the two basement car parks, replacing the existing surface car parking area. The vehicle crossover has been designed to integrate into the architecture of the building and streetscape.

Refer to **Appendix 9** for a copy of the Transport Impact Statement.

### 3.7 Waste Management

The development proposes a dedicated residential bin store and commercial bin store respectively on the ground floor.

Residential bins will be collected via the Town's residential service, whilst commercial bins will be collected via private contractor. Bins will be collected from the bin presentation area on Napier Street and will be managed by the complex/strata manager.

Both bin stores will be shared with 120 Marine Parade via way of Easement. Refer **section 3.9** below for additional commentary on the proposed Easement.

Refer **Appendix 10**, Waste Management Plan.

### 3.8 Environmental Noise

An Environmental Noise Assessment (**ENA**) was prepared in accordance with the *Environmental Protection (Noise) Regulations 1997 (regulations)*. As detailed within the ENA, the proposed development will comply with the regulations at all times. This includes the impact of service vehicles, residential dwelling noise attenuation measures, as well as the mixing of commercial and residential uses.

Refer **Appendix 11**, Environmental Noise Assessment.

### 3.9 Legal Considerations

The development proposes a shared basement, access, and waste management arrangement with the development on neighbouring 120 Marine Parade. As noted above, the shared arrangements improve the efficiency of the development, maximising the basement and ground floors.

The shared basement, access, and bin stores will be legally enforceable by way of an easement on the respective Certificates of Title for both lots, and can be addressed through a suitably worded condition of development approval.

## 4 Strategic Planning Framework

### 4.1 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 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.

### 4.2 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 proposed development, comprising eight 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.

### 4.3 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** and **6** of this report for further discussion). Accordingly, the proposed development is consistent with the strategic vision of the Local Planning Strategy.

#### 4.4 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'. 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 40m to the south, a civic plaza is proposed. This will involve the redevelopment of the existing car park no. 1 with 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 proposed development appropriately coordinates with the proposed public realm upgrades.

## 5 Statutory Planning Framework

### 5.1 Metropolitan Region Scheme

Under the provisions of the Metropolitan Region Scheme (**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 P&D Act. The proposed development is consistent with the intent of the MRS and may be approved accordingly.

### 5.2 State Planning Policies

#### 5.2.1 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.

#### 5.2.2 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 and mixed use development 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 and mixed use developments). 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.

#### 5.2.3 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 6.1** of this report, a variation of two storeys 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 relatively screened from view of the beach by existing vegetation in the foreshore reserve (Norfolk Pine trees), and does not dominate the streetscape or view corridor. **Image 5** below provides a view of Marine Parade, demonstrating the proposed development integrates into the established building line / tree line, and will not have a detrimental impact on the foreshore.

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 6**). The assessment concludes:

*“The redevelopment of 122 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 It will sit comfortably with the approved development at 120 Marine Parade to the south of it.”*

In light of 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.



Image 5: View of Marine Parade from the ocean, with the proposed development superimposed

### 5.3 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 2**, 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 5** below.

Table 5: Response to objectives of the Foreshore Centre Zone and Special Control Area No. 2

Objective	How the proposed development meets the objective
<b>Foreshore Centre Zone Objectives</b>	
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 (eight apartments) and commercial uses (ground floor café). The proposed Restaurant 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, focussed on the coastal amenity. Furthermore, the active frontage and the carefully thought-out design will contribute to the amenity of the beachfront.  The development also proposes the enhancement of the adjacent public realm, improving the overall amenity of the locality.
b) <i>ensure that the predominantly residential and recreational nature of the locality is maintained;</i>	The proposed development is predominately residential. The recreational nature of the locality is maintained with an active ground floor commercial tenancy, and proposed upgrades to the adjacent public realm.
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 which are 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

Objective	How the proposed development meets the objective
	character of the prevailing natural landscape, as referenced in the Architectural Design Report in <b>Appendix 4</b> .
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, including from the Cottesloe Civic Centre. Refer <b>Appendix 4</b> Architectural Design Report, and <b>Appendix 6</b> for a copy of the Heritage Impact Statement.
<b>Special Control Area 2 Objectives</b>	
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 materiality comprises limestone, ocean blue glazing, and dune coloured aggregate, referencing the prevailing coastal character. 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. The overall bulk and scale are consistent with the approved development on the neighbouring lot.
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 two storey variation to the height requirements under the building control diagrams of LPS3. Overshadow 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. It is noted that the proposed height is consistent with the approved development on the neighbouring lot.

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 incorporate a flexible commercial tenancy that will provide street activation and enhance the beachfront locality.

### 5.3.1 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 floors one through six.

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 additional amenity 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.





### 5.3.2 Development Control Provisions

Clause 6.4 and Schedule 15 of LPS3 provide a series of provisions applicable to development within SCA2 and the Foreshore Centre zone. Refer **Table 6** below for an assessment against the relevant provisions of Clause 6.4.

**Table 6: 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	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.		
6.4.3.1 General Provisions Applicable to Special Control Area 2			
(a)	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.	The development is setback from the fourth storey.	✓
(b)	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;	Seven storeys proposed in lieu of five storeys depicted in the building control diagrams.  The development proposes varying setbacks to each level. The setbacks exceed the minimum requirement depicted on the building design control diagram.  Refer to <b>Table 7</b> for an assessment against the requirements prescribed in Schedule 15.	<b>Discretion -</b> Refer to <b>Table 7.</b>
(c)	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	No visitor parking is proposed.	✓
(d)	Of the total number each of Multiple Dwellings or Grouped Dwellings on a site overall, a minimum of:  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.	All dwellings are proposed to exceed 184m² (based on strata area).	<b>Discretion.</b>
6.4.3.5 Provisions Applicable to the Foreshore Centre Zone			
(a)	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	The ground floor of the proposed building contains a 269m² commercial tenancy with all residential dwellings located on the upper levels.	✓

Clause	Requirement	Assessment	Compliance
	<i>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>	On-site vehicle parking is provided in the basement levels.  The commercial tenancy has a minimum depth of 16.15m.	
(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>	The development proposes Multiple Dwellings on the upper levels.	✓
(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>	The development proposes a single crossover from Napier Street. No access from Marine Parade is proposed.  The development proposes an easement.	✓
(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

The permitted height and setbacks for the subject site are provided by Diagrams 3 and 4 contained within Schedule 15. Diagrams 3 and 4 are reproduced in **Figures 3 and 4** below.



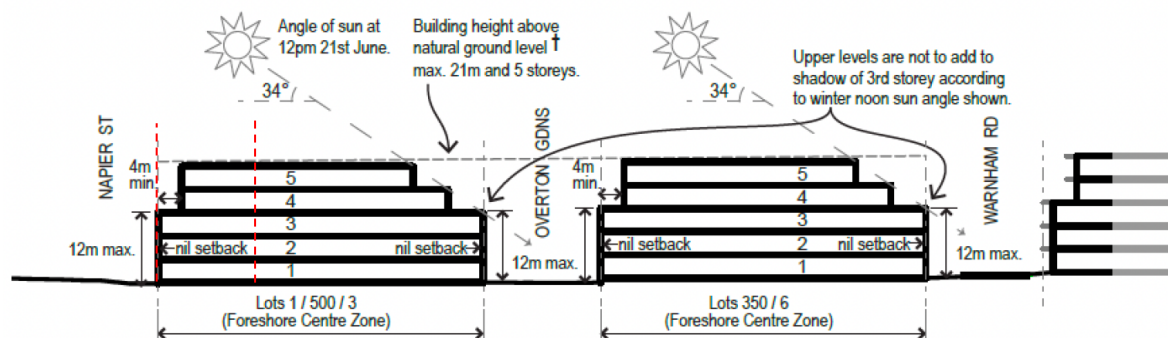


Figure 3 – Diagram 3 (north south section)

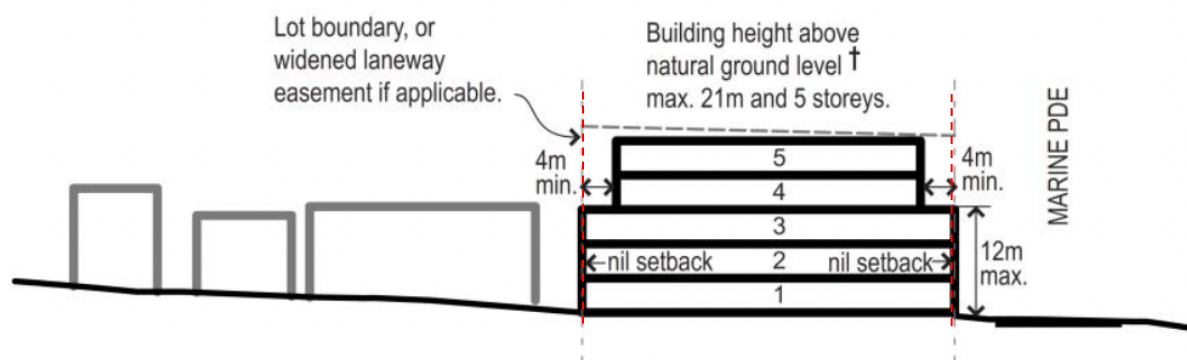


Figure 4 – Diagram 4 (east west section)

Refer **Table 7** for an assessment against the height and setbacks as derived from the building control diagrams contained within Schedule 15.

Table 7: 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).	Seven stories. <i>20.2 metres to the top of the sixth storey parapet.</i> <i>23.4 metres to the seventh storey.</i> <i>24.8 metres to the lift overrun.</i>	<b>Discretion</b>
Street Setbacks:	Nil setback for the first three storeys (max height 12m).  4m setback for fourth and fifth storeys.	Primary Street (Marine Parade): Nil up to the ground floor, 1.5m to the second and third storey, 3.5m to the fourth storey, 3.6m to the fifth and sixth storeys, 5.75m to the seventh storey, and 7.3m to the roof.  Secondary Street (Napier Street): Nil up to the third storey, 2m to the sixth storey, 4m to the seventh storey, and 3.4m to the roof.	<b>Discretion</b>
Rear Setbacks (from property boundary):	Nil setback for the first three storeys (max height 12m).	Nil up to the third storey, 3m to the seventh storey, and 4.1m to the roof.	<b>Discretion</b>

Item	Schedule 15 Requirements	Proposed	Compliance
	4m setback for fourth and fifth storeys.		
Side Setbacks (southern boundary):	Nil setback.	Nil up to the seventh storey, and 4.1m to the roof.	✓
<b>Assessment Notes:</b>			
1. Setback measured from the rear lot boundary (not the easement boundary).			

Variations identified in **Table 6** and **Table 7** above are discussed in **Section 6** of this report.

### 5.3.3 Vehicle Parking Requirements

Car parking requirements for the development are set out in the R-codes and in clause 5.8 and Table 3 of LPS3. As the proposed development comprises both residential and commercial land uses, separate parking assessments have been undertaken. A summary of the vehicle parking requirements of LPS3 are provided below.

#### Residential

The development comprises eight three-bedroom dwellings. A summary of the residential parking requirements is provided in **Table 8** below.

**Table 8: Summary of residential vehicle parking requirements**

Activity	Parking requirement	Bays required	Provided
<b>Resident Parking:</b>	As per R-Codes, 1.25 bays per dwelling (3+ bedrooms).	10 bays.	17 bays.
<b>Visitor Parking:</b>	Nil (pursuant to 6.4.3.1(c) of LPS3).	Nil.	Nil.
<b>Total:</b>			17 bays. <b>7 bay surplus</b>

As demonstrated in **Table 8** above, the development proposes a seven residential bay surplus.

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

#### Commercial

The development comprises a 269m<sup>2</sup> commercial tenancy which is proposed to be utilised by the 'Restaurant' land use. The space will accommodate 120 persons. The proposed development includes 2 commercial parking bays on-site.

Pursuant to Table 3 of LPS3, the parking rate for the 'Restaurant' land use is 1 bay per 8 persons. As such, the development has an on-paper requirement for 15 commercial bays.

Notwithstanding, LPS3 provides the ability for the decision maker to vary the parking rate. Specifically:

- Clause 7.2 of Schedule 13 granting a 20% reduction with the provision of a Transport Impact Statement.
- Clause 5.8 granting a parking credit for an existing parking shortfall associated with 'tourism' uses.

This is discussed below.

## Transport Impact Statement

Pursuant to Clause 7.1 of Schedule 13 of LPS3, the required parking rate as set by Table 3 may be varied as to reduce the number of required bays by 20% where a traffic impact assessment is provided.

A Transport Impact Statement has been prepared to support the development and is attached as **Appendix 9**.

With a 20% reduction, the required number of commercial bays is reduced from 15 to 12 car bays.

## Parking Credit for existing 'tourist' 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. For the purposes of this clause, tourism use means the "Hotel", "Motel", "Short-stay Accommodation", "Serviced Apartment", "Small Bar" and "Restaurant" uses [emphasis added]*

The City's *Local Planning Policy No. 1 – Parking Matters (LPP1)* is the relevant policy that implements this clause.

The existing development on the subject site contains a 98m<sup>2</sup> commercial tenancy (Beaches Café) which is currently used as a Café ('Restaurant' under LPS3). The space accommodates approximately 50 persons.

The parking requirements of the existing restaurant is assessed in **Table 9** below.

**Table 9: Assessment of existing parking shortfall**

Parking Requirement	Parking Calculation
1 bay per 8 persons:	98m <sup>2</sup> gross floor area / 50 persons = 6.25 (6) bays.
Existing number of bays on site:	Pursuant to the Strata Plan ( <b>Appendix 2</b> ), <u>0 bays</u> are assigned to Tenancy 1.
<b>Existing shortfall:</b>	<b>6 bay existing shortfall</b>

As outlined in **Table 9** above, there is an existing 6 bay shortfall on the subject site. However, to grant a credit for the existing shortfall, the decision maker is to have consideration to:

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

How the development meets the above criteria is discussed in **Table 10** below.



**Table 10: Assessment against criteria**

Criteria	Assessment
<i>Size and shape of the land</i>	The subject site is small (549m <sup>2</sup> 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.
<i>The number and availability of parking spaces in the vicinity</i>	<p>The area contains a significant number of publicly available parking spaces. It includes:</p> <ul style="list-style-type: none"> <li>• Car Park One (opposite the subject site on Marine Parade) comprising approximately 150 bays.</li> <li>• Car Park Two (located at the intersection of Marine Parade and Napier Street), comprising approximately 350 bays.</li> <li>• Marine Parade has on-street parking both sides of the street immediately in front of the subject site.</li> <li>• The western end of Napier Street has approximately 130 designated bays.</li> <li>• The western end of Forrest Street has approximately 130 designated bays.</li> </ul> <p>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 some 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.</p>
<i>The likelihood of traffic congestion</i>	In the context of the overall Cottesloe Beach foreshore and its level of visitation (particularly during the summer peak), the likelihood of the development causing, or creating a measurable impact on traffic congestion is considered low, as identified in the transport impact statement ( <b>Appendix 9</b> ). The traffic generated by this development is insignificant compared to the beach and other surrounding facilities.
<i>The opportunity to improve the appearance, amenity, function and accessibility of the locality</i>	<p>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.</p> <p>The two commercial bays on site are to be used by the staff of the café. Whilst the subject site has two frontages, LPS3 restricts vehicle access to Napier Street, restricting the ability for visitors to utilise parking on the subject site. 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 Napier Street, maximising the proportion of active frontage that can be achieved.</p> <p>Externally, the development proposes the removal of the existing verge parking on Napier Street, seeking to replace it with a high quality landscaping outcome. It is considered that this outcome improves the appearance and amenity of the immediate locality for pedestrians.</p>

As demonstrated in **Table 10** above, it is considered appropriate and reasonable that the existing 6 bay shortfall can be credited to the proposed development. As such, the number of required commercial bays may be reduced to 6.

A summary of the number of commercial bays required, including the variations as discussed above, is provided in **Table 11** below.

**Table 11: Summary of commercial vehicle parking requirements**

Assessment	Requirement	Parking Calculation
Total No. of bays required:	1 bay per 8 persons	120 persons = <b>15 bays required</b>
Reductions:	Schedule 13: 20% reduction for the provision of a Transport Impact Statement	20% of 15 bays = 3 bays reduction = <b>12 bays required</b>
	Clause 5.8: Parking Credit for existing shortfall	Six bay parking credit. = 6 bay reduction = <b>6 bays required</b>
<b>Number of bays provided on site and associated surplus / shortfall:</b>		2 bays for exclusive use of the commercial tenancy = <b>4 bay shortfall</b>

As demonstrated above, the development results in a 4 bay commercial shortfall.

For the reasons as outlined in **Table 10** above, it is considered that the shortfall is minor and warrants approval accordingly.

## 6 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.

### 6.1 Height

The proposed development is seeking approval for a seven storey mixed use development on the subject site. This is a variation to the maximum five storeys prescribed under LPS3, as outlined in preceding **Table 7**.

Taking into consideration the site context, the following analysis concludes the proposed building height is acceptable and compared with a compliant height and that of the approved adjoining development, would pose no more impact on views, overshadowing, and the amenity of the surrounding area. Furthermore, it is considered that the provisions of the Local Planning Scheme has resulted in the lack of redevelopment in the Cottesloe Beachfront Precinct and requires a more flexible approach to enable appropriate development.

The following is a discussion of the context and the amenity impacts of the proposed height. Proposed setback variations are discussed in **Section 6.2** below.

#### 6.1.1 The Statutory Context

Despite Cottesloe Beach being a prime tourism destination, a number of developments overlooking the coast 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.

Notwithstanding the amenity of the locality, LPS3 in its present form has failed to attract much new development. Meanwhile, significant development proposals are under construction in neighbouring localities such as Claremont, Mosman Park, Nedlands, North Fremantle. The restrictive nature of LPS3 has been a key barrier to the redevelopment of this section of Marine Parade.

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). 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 including State Planning Policy 7.0 and 7.3 which provide for more contemporary apartment and mixed use development outcomes. A more flexible approach is required to deliver optimal apartment design outcomes. It also noted these scheme provisions have not been reviewed since the suite of 'Design WA' documents came into effect.

In addition to 120 Marine Parade, approved by the WAPC under Part 17 of the P&D Act on 5 August 2021, 110 Marine Parade was granted approval for a mixed use development by the Metro Inner-North Joint Development Assessment Panel on 21 December 2021.

Following the approval for 120 Marine Parade, an application has since been lodged with the WAPC to redevelop the Cottesloe Beach Hotel site. Several other applications for development along Marine Parade have been lodged to the SDAU for approval under the significant development pathway, specifically 94 Marine Parade and 140 Marine Parade (both multi storey, mixed use developments).

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

### 6.1.2 Response to Marine Parade and the Cottesloe Beach Foreshore Reserve

The proposed development is consistent with the approved development at 120 Marine Parade. Accordingly, the proposed built form will provide a cohesive outcome to Marine Parade and consequently is considered acceptable for the following reasons.

Foremost, the parapet at the Marine Parade frontage, which will be visible from the public realm, is 21.2m above ground level. This is generally consistent with the 21m height limit under LPS3 at this point and the additional 200mm would be visually indistinguishable from a compliant development. It should be noted that elements of the building façade above the 21-metre recess is back into the site, further reducing the visual impact.

Importantly, the upper level (seventh storey) is setback from Marine Parade to reduce its visibility from Marine Parade. The wall of the upper level is setback behind the line of the balcony balustrading, further reducing visibility from the opposite footpath on Marine Parade. As one steps back into the foreshore parkland, the roof line of the seventh storey becomes visible. However, it presents as a subtle design element and is not considered to result in excessive building bulk as the development faces the street. This is illustrated in **Image 6** below.



**Image 6: Proposed development, as viewed from Cottesloe Beach.**

Beyond the footpath and parkland, the upper level is unlikely to be visible from most vantage points to the west as:

- The subject site is topographically higher than Cottesloe Beach and it would not be possible to see the upper floor when viewing from this lower angle.



- The subject site has a number of Norfolk Pine trees in the foreshore reserve immediately opposite the site to the west. These trees partially obscure the view of the development from the beach or the ocean when viewed from different angles.

The upper level may be visible from some areas, but the setback behind the main façade line will substantially reduce its prominence and will help the building present more like a six storey development from the west.

Given it is permissible to develop a five storey building at 21m under LPS3, it is considered a seven storey overall building height at 23.4m is generally consistent with the intended height for this area under LPS3. The proposed development seeks no greater building height than that approved by the WAPC on the adjoining site at 120 Marine Parade, and overall, the impact of the additional height has been minimised through design measures.

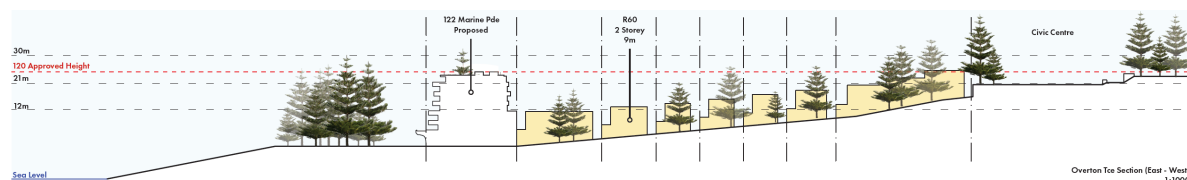
### 6.1.3 Assessment of Amenity Impacts

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 have a view corridor to the beach down the respective road reserve and across John Black Park and Car Park No. 2. Most properties have balconies at the street frontage to capture this view. Due to the site being at the bottom of Napier Street, the development will have minimal impact on views from these properties. It must also be noted that if properties on Napier Street (or Overton Gardens) currently have views across the subject site, a compliant (21m high) development would interrupt these views.

Noting LPS3 requires the consideration of views from public places, a detailed analysis has been prepared to understand the impacts from the Cottesloe Civic Centre (109 Broome Street, Cottesloe) approximately 180m east of the subject site. In response, a view analysis has been undertaken to illustrate what impact (if any) the proposed development will have on views from the Civic Centre to the coast. This analysis is provided in within the Architectural Design Report (**Appendix 4**), and **Figure 3** below.



**Figure 3: Street cross section demonstrating the view corridor from the Civic Centre**

The view analysis demonstrates that the building is not visible from the Civic Centre parkland as it is situated behind existing development on Overton Gardens and Napier Street. Glimpses from some parts of the parkland may exist, but these would be very limited and would not interrupt views. Furthermore, vegetation in the Civic Centre parkland would further screen the development from view. When the building is visible, impacts on views are negligible.

It is noted that 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 6**).

#### Shadowing

Shadowing is a key consideration under LPS3 and has informed building height controls. 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** provides a comparison between the proposed development and a theoretical development in accordance with LPS3. 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:

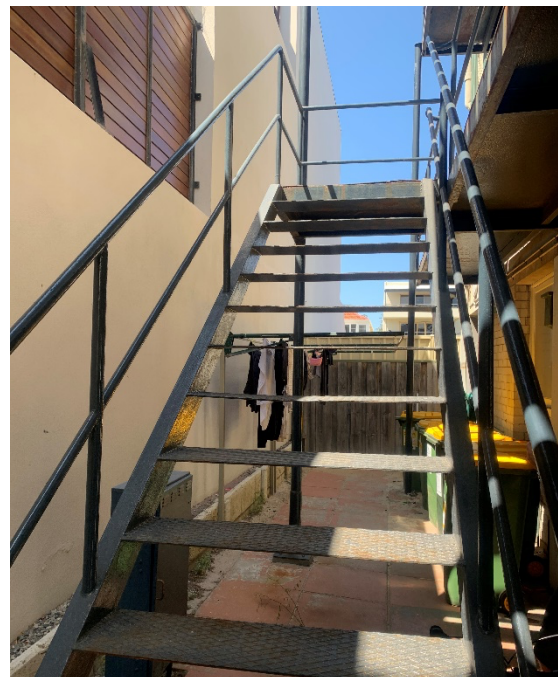
**To the south:** the property most affected by the shadow is 120 Marine Parade. However, this property would be affected by the same level of shadowing even if the building were lowered to a compliant height (21m). Notwithstanding, approved development on 120 Marine Parade has the same height as the proposed with a nil setback mitigating any overshadowing concerns.

**To the north:** the subject site abuts Napier Street with the Town's public car park number two being situated on the opposite side. Notwithstanding, the development will not cast a shadow to the north.

**To the east:** the adjoining single house will be overshadowed by the proposed development in the late afternoon. This is an impact that occurs with a compliant development. Notwithstanding, the property contains a two storey boundary wall abutting the boundary of the subject site (refer to **Images 6-8** below) and are not considered to be unduly affected.



Image 6: Development to the west of the subject site (viewed from Napier Street).



Images 7 & 8: View of boundary walls from rear of subject site



**To the west:** careful consideration has been given to avoid any overshadowing of the beach. Some minor shadowing over the foreshore parkland will occur between 9am and 10am in winter, but this is to be expected from a compliant development. The shadowing analysis, as shown in **Figure 4** below, and contained within **Appendix 4** clearly demonstrates the difference between the proposed development and a compliant development has negligible impact on the beach and public realm areas.



**Figure 4: Overshadowing from compliant development (top) and proposed development (bottom) to Cottesloe Beach on June 21 (7:30am, 9am & 10am)**

**Solar Analysis on Neighbouring Properties**  
Number of direct sunlight hours between 9am - 3pm



**Figure 5: Sunlight hours received at adjoining properties and public spaces on June 21**



**Figure 5** shows the number of hours of sunlight received at surrounding spaces between 9am and 3pm on June 21. 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.

### Context and Character

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

Currently, Marine Parade comprises a variety of forms, with heights varying between two and six storeys. The subject site currently comprises a development with a height of three storeys. As discussed above, the majority of existing development along Marine Parade was constructed in the 1960s and 1970s. There is no defined character derived from this development, with varying materiality, architectural style, setbacks, heights, and rhythm / flow. With the exception of the Ocean Beach Hotel and Cottesloe Hotel, there is no heritage status or value placed on any development along Marine Parade.

Modelling has been prepared (**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 6** below. Furthermore, the modelling indicates that the proposed development would not be prominent from the beach as it is predominately screened by vegetation.



**Figure 6: Massing model showing permissible building heights in the Cottesloe beachfront precinct**

### Consistency with Adjoining Approval

At its meeting 5 August 2021, the WAPC approved a seven storey development on the adjoining site at 120 Marine Parade. In its assessment, the WAPC considered that the proposed height was acceptable for the site and would not cause any undue impact to the public realm, neighbouring properties, and the overall Cottesloe beachfront. The proposed development has been designed in the same manner as this development, including the overall height and architectural merit.



This application has presented a detailed contextual analysis, view analysis, and shadowing analysis which comprehensively demonstrates that the proposed development will not have any undue impact. Furthermore, this proposal delivers an exceptionally high quality of design. The aesthetics and architecture are of a high standard and the proposal achieves the objectives of the R-Codes Volume 2.

## Summary

The proposed building height of seven storeys has been designed with a front parapet that is 21.2m high, which is within 200mm of the compliant height under the Town of Cottesloe Local Planning Scheme No. 3.

The additional height (up to 23.8m) does not adversely impact the amenity of locality. Compared with a compliant scenario, views from surrounding areas are not interrupted. Similarly, the shadow cast by the proposed development is similar to a compliant development.

Finally, the proposed building heights align with the approved development at 120 Marine Parade.

For these reasons, the scale and height of the proposed development is considered to meet the objectives of the Local Planning Scheme and the requirements of Section 275(6) of the *Planning and Development Act 2005*.

## 6.2 Setbacks

The proposed development incorporates a curved and articulated building form, resulting in varying setbacks to each respective storey. Whilst the primary street and side setbacks are generally consistent with the prescribed setback requirements, minor variations to the secondary street and rear setbacks are proposed.

The proposed setbacks are summarised in **Table 12** below.

**Table 12 –Setback Assessment**

Development Standard	Requirement	Proposed - Building	Proposed - Balcony
Primary Street (Marine Parade):	Nil setback for the first 3 storeys (max height 12m).  4m setback for fourth and fifth storeys.	Nil up to the ground floor, 1.5m to the second and third storey, 3.5m to the fourth storey, 3.6m to the fifth and sixth storeys, 5.75m to the seventh storey, and 7.3m to the roof.	Nil from the second to the fourth storey, 1.2m to the fifth and sixth storey, 1.8m to the seventh storey.
Secondary Street (Napier Street):		Nil up to the third storey, 2m to the sixth storey, 3.5m to the seventh storey, and 3.4m to the roof.	Nil from the second to fourth storeys, 0.85m to the fifth storey, 0.5m to the sixth storey, and 0.8m to the seventh storey.
Side setbacks	Nil setback permitted to 21m	Nil up to the seventh storey, and 4.1m to the roof.	
Rear Setbacks	Nil setback for the first 3 storeys (max height 12m).  4m setback for fourth and fifth storeys.	Nil up to the third storey, 3m to the seventh storey, and 4.1m to the roof.	Nil to the fourth storey.

These variations are discussed in detail below.

### Street Setbacks (Marine Parade and Napier Street)

The building control diagrams contained within Schedule 15 of LPS3 permit a nil setback for the first three storeys (12.0m), and a 4 metre setback for storeys four and five.

Rather than provide a 'flat' nil setback, stepping back to a four metre setback, the building incorporates a curved form which is progressively setback to the seventh storey. The curved form results in portions of the building protruding into and receding back from the required setback area.

The proposed variations are considered acceptable for the following reasons:

- The proposed curved / waved building form reflects the prevailing coastal character by replicating dunes and waves. This creates visual interest to the development when viewed from the street.
- The seventh storey is setback further, reducing the visibility from certain vantage points. As such, the development has a perceived building height of six storeys.
- As discussed in **Section 6.1** above, the building has been demonstrated to not create any undue impact on the amenity of the surrounding area, including overshadowing of the adjacent public realm and Cottesloe Beach.
- The proposed setbacks are consistent with the approved development at neighbouring 120 Marine Parade. This ensures that the development provides a continual rhythm and building form to the Marine Parade streetscape. Refer **Figure 7** below identifying that setbacks remain consistent with the adjoining development.



Figure 7: Comparison of proposed setbacks against the approved setbacks of 120 Marine Parade (fourth storey).

In light of the above, it is considered that the proposed street setbacks are acceptable and warrant approval accordingly.

## Rear Setback

The building control diagrams of LPS3 permit a nil setback for the first three storeys, and a four metre setback for storeys four and five. The setback is to be measured from the lot boundary, or from a rear access easement if one is provided in accordance with Clause 6.4.3.5(c) of LPS3. The development does not propose a full length ground floor rear access easement and as such, the rear setbacks are measured from the boundary line.

Similar to the street setbacks, the development proposes a nil setback to the third storey and progressive setbacks to the upper storeys. No portion of the building (excluding balconies) beyond the third storey has a setback less than 3 metres to the rear boundary.

The proposed variation is considered acceptable as the adjoining property on this boundary includes a two storey boundary wall. As such, the proposed development will have no perceived privacy or ventilation impacts. Additionally, as demonstrated in **Section 6.1** above, the proposed building provides sufficient space for light between the existing and proposed buildings.

Notwithstanding, the eastern elevation comprises a curved / waved building form, consistent with the Marine Parade / Napier Street elevations. This continuity of building form ensures the development presents as an integrated development and creates visual interest from all vantage points.

In light of the above, it is considered that the proposed rear setbacks are acceptable and warrant approval accordingly.

## 6.3 Dwelling Sizes

Clause 6.4.3.1(d) of LPS3 requires 25% of apartments to be less than 70m<sup>2</sup> and a further 25% of apartments to be between 70m<sup>2</sup> and 90m<sup>2</sup>. The development proposes eight three-bedroom apartments, each exceeding 184m<sup>2</sup>. 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, all dwellings have been designed to meet the Platinum standards of the Liveable Housing Design codes. The development therefore provides diversity by opening up opportunities for people with disabilities or aged persons.

### 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 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 a general increase in apartments purchased for use by owner-occupiers. 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 eight 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. 70m<sup>2</sup> - 90m<sup>2</sup> 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. 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..."*

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. 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.



## 7 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 \$27 million.

### 7.1 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 eight 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, refer **Table 5** for how the development responds to each objective.

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 Assessment 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:

- Six of the seven strata lots have been transferred into a single entity under the collective control of the developer. The seventh strata owner is a supportive party to the development.
- All seven strata lots are owned by one party.
- Construction of the development is estimated to support a total of 50 full-time equivalent direct & indirect jobs during construction of the development, with many accruing locally. The development is estimated to add approximately \$10.7 million in gross value added (GVA) to the WA economy during the construction phase.

- The development will include a ground floor café, which can directly support 11 ongoing jobs. There will be an estimated \$560,000 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 8** 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.

## 8 Conclusion

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

Some provisions of the local planning framework require the exercise of discretion from the WAPC but overall 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 indicate 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 facilitate 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 100 direct and indirect construction jobs and 11 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.