

TOWN OF COTTESLOE



DEVELOPMENT SERVICES COMMITTEE MINUTES

MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, MONDAY, 16 FEBRUARY 2015

CARL ASKEW
Chief Executive Officer

19 February 2015

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DEVELOPMENT SERVICES COMMITTEE

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:01 PM.

2 DISCLAIMER

The Presiding Member drew attention to the Town's disclaimer.

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

4 PUBLIC QUESTION TIME

Nil.

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.2 PUBLIC QUESTIONS

Nil.

5 PUBLIC STATEMENT TIME

Mr Peter Simpson, Director PTS Town Planning, for item 10.1.2, LPS3 Amendment No. 2

Mr Simpson represented the owner of 138 Marine Parade included in the Amendment, on which he had made a submission. He referred to his client's intended development of a family home and supported the modification to enable a single dwelling as an appropriate planning outcome. They looked forward to Council's favourable consideration.

Mr David Caddy, Managing Director TPG, for item 10.1.1, Nos 110-112 Marine Parade

Mr Caddy for the landowner expressed concern that the development application was recommended to be deferred in relation to the parking considerations, having engaged with the Town on the proposal so far. As the applicant he outlined why it was considered that the proposal should be afforded parking flexibility for concessions to enable the development.

Mr Caddy also outlined concerns regarding the recommended conditions in relation to bins, pool plant and privacy screens and why the proposal was considered satisfactory in these respects.

He requested that these matters be reviewed in Council considering the proposal for approval.

6 ATTENDANCE

Present

| | |
|------------------|--------------------|
| Cr Peter Jeanes | Presiding Member |
| Mayor Jo Dawkins | Arrived at 6:05 PM |
| Cr Philip Angers | |
| Cr Helen Burke | |
| Cr Jack Walsh | |

Officers Present

| | |
|-------------------|---|
| Mr Carl Askew | Chief Executive Officer |
| Mr Andrew Jackson | Manager Development Services |
| Mr Ed Drewett | Senior Planning Officer |
| Mr Ronald Boswell | Planning Officer |
| Mrs Liz Yates | Development Services Administration Officer |

6.1 APOLOGIES**Member Apologies**

Cr. Katrina Downes

Officer Apologies

Nil.

6.2 APPROVED LEAVE OF ABSENCE

Nil.

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

7 DECLARATION OF INTERESTS

Nil.

8 CONFIRMATION OF MINUTES

Moved Cr Walsh, seconded Cr Angers

[Minutes December 08 2014 Development Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Development Services Committee, held on 8 December 2014 be confirmed.

Carried 5/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

For the benefit of members of the public present, the Presiding Member determined to consider item 10.1.2 (LPS3 Amendment No. 2) first, and then return to the published order of the agenda.

10 REPORTS**10.1 PLANNING****10.1.1 NOS 110-112 (LOT 6) MARINE PARADE - FIVE-STOREY MIXED USE DEVELOPMENT (COMMERCIAL AND RESIDENTIAL)**

| | |
|---------------------------------------|--|
| File Ref: | 3084 |
| Attachments: | 110 112 Aerial 110 112 Marine Property 110 112 Marine TPG Submission 110 112 Marine TPG Parking Matters 110 112 Marine Neighbour Submissions 110 112 Marine Parade Parking Matters Policy 110 112 Marine Plans |
| Responsible Officer: | Andrew Jackson Manager Development Services |
| Author: | Ed Drewett Senior Planning Officer/Andrew Jackson Manager Development Services |
| Proposed Meeting Date: | 16 February 2015 |
| Author Disclosure of Interest: | Nil |
| Property Owner: | BWC Corporation Pty Ltd |
| Applicant: | TPG Town Planning, Urban Design and Heritage |
| Date of Application: | 28 November 2014 |
| Zoning: | Foreshore Centre |
| Uses: | D – Uses that are not permitted unless Council has exercised its discretion by granting planning approval |
| Lot Area: | 549m² |
| M.R.S. Reservation: | Not applicable |

SUMMARY

The existing Blue Waters Café, Cott's Takeaway and three residential units above, located on the corner of Marine Parade and Warnham Road, are to be demolished and replaced with a five-storey mixed-use development that will take advantage of new permitted building heights in the Foreshore Centre Zone.

The applicant has described the proposed development as a well-articulated architecturally designed built form, of exceptional design quality, that will make a significant contribution to the existing streetscape, housing diversity, and the amenity of the locality which is consistent with the desired character for the area.

The concept for the proposed development has evolved based on Local Planning Scheme No. 3 (LPS3) and in consultation with the Town, including the Design Advisory Panel. The building design is assessed as complying with the Scheme parameters; however, due to a shortfall of parking on the site for the proposed non-residential use(s) it is considered necessary for the applicant to satisfy the

requirements of LPS 3 and adopted Local Planning Policy No. 1 - Parking Matters, before the development can be approved. It is therefore recommended that the application be deferred at this stage to enable this to be further addressed.

PROPOSAL

The proposed redevelopment is described below:

| | |
|--------------|--|
| Basement | 10 car bays, access ramp, fire pump and tank rooms, two storerooms (for Apartments 1 & 6), two lifts and stairs. |
| Ground floor | 251.2m ² commercial floor space plus alfresco seating areas, access ramp, fire booster cabinet, four storerooms (for Apartments 2, 3, 4 & 5), bin store, resident's entry foyer, lift and stair access and a reflection pool. |
| First floor | Ground floor of Apartment 1 (157.5m ²) with balconies and plunge pool, Apartment 2 (70m ²), Apartment 3 (90m ²), balconies with operable perforated metal screens, lift and stair access. |
| Second floor | Upper level of Apartment 1 (106.7m ²) with balcony, Apartment 4 (70m ²), Apartment 5 (90m ²), balconies with operable perforated metal screens, lift and stair access. |
| Third floor | Ground floor of Apartment 6 (161.2m ²) with outdoor decks and glass balustrades, lift and stair access. |
| Fourth floor | Upper level of Apartment 6 (188.8m ²) with front balcony, lift and stair access. |
| Fifth floor | Roof deck for Apartment 6 with plunge pool and pergola structure with retractable shade cloth roof. |

STRATEGIC IMPLICATIONS

The principles of mixed-use, liveable neighbourhoods, good urban design, housing choice and residential amenity are all consistent with the proposed development and also in-keeping with regional and local planning strategies for diverse and sustainable urban development.

POLICY IMPLICATIONS

- LPS 3 Policy No. 1- Parking Matters

FINANCIAL IMPLICATIONS

No financial resource impact. The proposal may include improvements to the public domain such as tree planting and alfresco areas by the developer at no cost to Council.

STATUTORY ENVIRONMENT

- Metropolitan Region Scheme
- Local Planning Scheme No. 3
- Residential Design Codes

CONSULTATION

The application was advertised to 41 adjoining owners and occupiers by registered post in accordance with LPS 3. Five submissions were received during the advertising period which are summarised below, and staff and applicant's comments to the points raised are shown in italics:

Patricia Carmichael, 14/116 Marine Parade

- Building heights should be stepped back further up the hill;

The proposed building has a zero setback on Marine Parade for the first 3 storeys (to a height of 12m) and is then setback a minimum of 4m from Marine Parade which complies with Schedule 15 in LPS 3.

- Prime beachfront sites, with monolithic stone clad buildings or other materials, are being approved in WA, whilst (in other States) prime beachfront sites with existing height limits are being controlled;

LPS 3 has strict building control diagrams and statutory planning requirements for the Foreshore Centre Zone and all new development is required to conform with these regulations, as does the proposed development in terms of building heights.

- There is a potential privacy issue if the occupants overlook bedrooms at 116 Marine Parade (Units 5, 10 and 14);

The length and height of the proposed wall on the northern boundary will ensure that there is no loss of visual privacy to owners and occupiers in the adjoining units. However, it is recommended that the proposed 1.4m high balustrade on the northern elevation of the drying area to level 3 be increased to 1.6m and obscured, the proposed north-facing, anodized aluminium screen to the stairs and light well having no more than 25% permeability, and permanent screen planting be provided along the eastern side of the level 3 deck to minimise potential overlooking of adjoining properties. (NB: a higher balustrade could not be approved along the eastern elevation as this would exceed the maximum 12m height restriction). These recommended changes will be conditioned accordingly.

The applicant has advised:

The proposed development is compliant with the setback requirements under the Town of Cottesloe planning framework. In addition, privacy screens have been incorporated in the development to mitigate any potential overlooking from stairwells. As such overlooking should not be an issue.

- The building must be separate from 116 Marine Parade and an engineer's report is recommended;

The proposed development shows a separate wall along the northern boundary entirely within the lot boundary. However, details will be required to be submitted at the building permit stage and the need for an engineer's report will be determined at that time by the Principal Building Surveyor.

- Pool pumps (vibration etc), air-conditioning and extractor fans need to be carefully selected to reduce any noise pollution/vibration which will impact on the amenity of the area;

The location of plant and equipment shall be required to be approved at the building permit stage and will need to satisfy standard health (noise) regulations. This will be conditioned accordingly.

The applicant has advised:

The proposed pool area atop the building will not severely impact on the amenity of surrounding development. The proposed locations of pool pump/plant for both plunge pools are to be within or behind an enclosed store or plant room:

- *Level 1 plunge pool plant to be within the store on the ground level.*
- *Level 5 plunge pool plant to be located behind the screened plant area to south east of roof terrace.*

It is considered that the pools and equipment as proposed is appropriate and will not severely impact on the amenity of the surrounding properties. The air conditioner plant will be located in the screened plant room on Level 5.

- A dilapidation report is required;

This will be required prior to the issue of a demolition permit or building permit and will be conditioned accordingly.

- The proposed site plan should be viewed by a landscape architect to incorporate design features to ensure the foreshore does not become littered with stone-cladded block monolithic structures as seen elsewhere;

There is no requirement to have the development application assessed by a landscape architect under LPS 3. However, it has been reviewed by the Town's Design Advisory Panel which was supportive of the proposed design, materials and finishes. Any other changes to the public domain or on nearby lots will be subject to separate planning approval and assessment.

- Truck deliveries should have controlled times of entry after 7.30am/8.00am;

Details of delivery vehicle parking and loading/unloading areas, together with the nature and times of use of any special delivery vehicle parking, shall be required

at the building permit stage. However, all deliveries/pick-up (including bins) should be between 7.00am - 7.00pm Monday to Saturday, and directly from Warnham Road (or Marine Parade as an option). This will be conditioned accordingly.

The applicant has advised:

The relatively small delivery trucks that will service the restaurant will not severely impact on the amenity of the neighbours in terms of noise. The time of the deliveries can be conditioned to the satisfaction of the Town. Noise will therefore not be an issue to the occupants of the surrounding properties.

- There is potential danger to cars entering and exiting the parking entrance proposed and opposite the car park entry at 4 Warnham Street.

Details addressing the design and functionality of the parking area in the basement, the access ramp, bicycle parking and the bin area shall be required at the building permit stage. This will be conditioned accordingly.

James Dean, on behalf of the Body Corporate of No. 4 Warnham Road

- The owners of No.4 Warnham Road own the laneway that separates their building from the proposed development site and including a 3m² easement at the rear of No.2 Overton Gardens;
- Currently the laneway is used for bin storage and deliveries to the commercial properties on the development site commencing from 2.00am, creating a noise issue for the 3 units fronting the laneway;
- No.2 Overton Gardens approached the Body Corporate in 2013 regarding smell issues from the industrial bins stored in an alcove on the easement, in an attempt to remove the easement, but these issues have been placed on hold pending new development plans being presented;
- The owners of No. 4 welcome the proposed development, but wish to ensure:
 - (a) The laneway is no longer used for commercial or private deliveries to the proposed development and that the plans be amended to show this;
 - (b) All bins are to be contained on the development site and there be no access to the laneway.

The issue of bin storage and deliveries needs to be resolved prior to granting a building permit and may depend on the type of tenancy that occupies the ground floor. The Principal Environmental Health Officer has advised that bin pick-ups and deliveries should not be permitted along the rear driveway due to potential noise and smells affecting existing residents and, as the amenity of residents is also a planning consideration, revised plans are considered necessary to address this situation. This will be conditioned accordingly.

The applicant has advised:

The Certificate of Title of Nos. 110-112 Marine Parade lists an Easement Document (C660396) that benefits the owners of the property. The Easement document clearly states that the Grantor (registered proprietor of Lot 7 (No.4) Warnham Road grants access to the Grantees (registered proprietors of Lot 6 on the sketch included in the Easement document). Lot 6 is Nos. 110-112 Marine Parade, Cottesloe. The easement is over the whole of the western boundary of Lot 7 (No. 4) Warnham Road for a width of 3.66 metres. As such the access to the proposed development can legally occur over the area proposed in the development application.

The issues with bin storage being in the driveway area covered by the access easement are not relevant concerns as the bin storage proposed is wholly contained onsite. In addition, the intention of the development is for the bins to be collected from the verge on Warnham Road. The access proposed for the bin stores is appropriate as the access easement allows 110-112 Marine Parade to use the driveway for such a use. The bin storage being onsite will mitigate the potential impact of the bins. The (existing bins in the driveway) are not the property of No. 110-112 Marine Parade, but rather 116 Marine Parade, and as such the concern relating to these bins are irrelevant to this development application.

PM & PG Goff, 9 & 10/116 Marine Parade

- Visual privacy and protection from noise should be ensured through appropriate barriers between the existing and proposed development at roof-level.

As mentioned above, the length and height of the proposed wall on the northern boundary will ensure that there is no loss of visual privacy to owners and occupiers in the adjoining units. The upper roof-top area will be significantly higher than the roof of the adjoining units thereby eliminating any potential direct loss of privacy and a full height, north-facing, fixed anodized aluminium screen at the rear portion of the roof-deck will restrict overlooking and provide light to the proposed stairwell until the adjoining lot is redeveloped.

Furthermore, noise from outdoor activities, including the roof-top pools, will need to satisfy standard health (noise) regulations and additional privacy screening is recommended along the northern and eastern sides of the level 3 deck to address other privacy concerns raised. This will be conditioned accordingly.

- An engineer's report should be required to address noise and vibration issues and recommendations implemented to prevent noise and vibration problems;

As mentioned above, the proposed development will be required to satisfy Environmental Health (noise) regulations to the satisfaction of the Principal Environmental Health Officer. This will be conditioned accordingly.

- An independent dilapidation report should be prepared as well as a close-out report at completion with rectification of any problems which emerge as a result of the works;

This will be conditioned.

- The current practice of commercial bins being serviced from the eastern laneway causes considerable noise disturbance in the early hours of the morning. The bins should therefore be serviced internally or, at very least, only serviced between the hours of 7am to 6pm.

Bin pick-up and delivery times will be conditioned to satisfy health regulations.

Rosemary Green, on behalf of owners of No. 4 Warnham Road,

- Objects to the proposed development for the following reasons:
 - The driveway (at the rear of the lot) is owned by the owners of 4 Warnham Road and provides vehicle access to the units. However, delivery vehicles to the adjoining lot park in the driveway for periods up to 20 minutes, despite current "No Parking/Tow Away" sign being installed;
 - The existing rubbish bins currently pose a problem with the ongoing collection of inappropriately stored rubbish being blown into the adjoining properties and creating a haven for vermin and scavenging birds;
 - The noise pollution (120 dB+) created by the constant removal of waste, including but not limited to garbage and recycling trucks, the vacuum pumping of grease traps and food service delivery trucks is disturbing and interruptive to adjoining properties;
 - Currently the driveway is accessed before 7am at least 4 times a week by vehicles making deliveries or removing various waste products. In addition to general motor noises and exhaust fumes exacerbated by the confined space the noise pollution created by hydraulic machines and condenser units housed in refrigeration trucks is also an issue;
 - The proposed location of a perforated screened residential bin access point is facing kitchen and bedroom windows which will not only reduce property values but also diminish the ambience currently enjoyed;
 - The retail access point does not detail loading bays for the newly proposed retail precinct.

As mentioned above, this will be conditioned accordingly.

Marie Parekh, Units 2 & 4, 2 Overton Gardens

- Supports the proposed development, but raises the following points:
 - There should be no gates, doors or bin access to the shared laneway;

- Requests that any windows facing Units 2 & 4 be high level or obscure to avoid overlooking.

As mentioned above, this will be conditioned accordingly.

STATE HERITAGE COUNCIL

The Heritage Council of WA (HCWA) was notified of the proposed development as its location is directly opposite the Cottesloe Beach Hotel which is State Heritage Listed, and opposite the Cottesloe Beach Precinct which has a State Interim Listing.

The HCWA advised that the proposed development would not significantly impact on the identified cultural significance of the Cottesloe Beach Hotel or the Cottesloe Beach Precinct.

APPLICATION ASSESSMENT

Local Planning Scheme No. 3 available discretion sought

| Clause | Required | Proposed |
|--|--|--|
| Clause 5.8 – Vehicle parking requirements | <p>12.5 bays for the Restaurant use, based on 1 space to every 8 persons the development is designed to accommodate (including the existing number of patrons permitted in an alfresco area).</p> <p>This may be partly waived under Clause 5.8.3, provided that decision is made in the context of adopted Local Planning Policy No. 1 - Parking Matters, as the proposal is replacing an existing restaurant which was approved without the provision of bays.</p> <p>The existing Cott's Takeaway is excluded for the purpose of a parking credit calculation.</p> <p>7.5 bays required for the residential apartments (no visitor bays required under of LPS provisions for SCA2).</p> | <p>No bays proposed for commercial use.</p> <p>The applicant has not fully addressed Council's Local Planning Policy - Parking Matters.</p> <p>The proposed parking credit of 100% sought exceeds that of 50% permitted under the Policy.</p> <p>10 bays proposed in basement.</p> |

DESIGN ADVISORY PANEL

On 10 December 2014 the application was presented to the Panel members and Councillors for discussion.

The overall design of the proposed development was supported and there was specific mention regarding the good articulation to the facades and use of appropriate materials and finishes that will enhance its appearance on the streetscape.

Other comments made by the Panel included the possibility of looking at improvements to the public domain generally and considering how the proposed development could integrate with the Cottesloe Beach Hotel opposite. However, this relates to an area outside the development site and should therefore be considered as part of the Foreshore Redevelopment Plan rather than by the developer.

STAFF COMMENT

The proposed development is located within the Foreshore Centre Zone and Special Control Area 2 in LPS 3 and is in a prominent location on the corner of Marine Parade and Warnham Road, opposite the State-heritage listed Cottesloe Beach Hotel. Various Scheme provisions are applicable to this development as discussed below.

Objectives of the Foreshore Centre Zone

The objectives of this zone are to:

- (a) 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;*
- (b) ensure that the predominantly residential and recreational nature of the locality is maintained;*
- (c) ensure that the urban character, aesthetics and amenity of the locality are not compromised by inappropriate land use or development; and*
- (d) 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.*

Proposed land uses

The proposed uses of restaurant (or retail) and multiple dwellings are discretionary 'D' uses under LPS 3 in the Foreshore Centre Zone meaning that they are not permitted unless Council has exercised its discretion by granting planning approval. In this case, the uses are supportable as they satisfy the objectives of the zone, meet relevant development standards (except for parking), and appear consistent with the existing and desired character for the area.

General provisions applicable to Special Control Area 2

The proposed development has been assessed against Clause 6.4.3.1, the general provisions applicable to Special Control Area 2, and relevant comments addressing each criterion are provided in italics below:

- (a) The height of all development for any use, at the Marine Parade frontage, shall be a maximum of three storeys (12 metres);

The proposed development has a three-storey wall height of 11.15m at the Marine Parade frontage which extends to 12m to include proposed balustrading, all of which is compliant under LPS 3.

- (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 Foreshore Centre Zone, contained in Schedule 15, notwithstanding the requirements of any other provision of the Scheme;

The proposed development complies with Schedule 15 in LPS 3 in that the upper levels above the 3rd storey are setback a minimum 4m from the front and rear of the lot and the upper floors are setback from Warnham Road so as to not add to the shadow cast by the 3rd storey according to the winter noon sun angle of 34 degrees. The northern elevation also has a zero setback to the boundary, all as permitted under LPS 3.

The overall height of the development including the roof-top pergola structure is 19.625m which is 1.375m below the maximum permitted height of 21m, and levels 4 and 5 are also each below the maximum permitted building heights allowed under Schedule 15.

“Building Height” and “Storey” are as defined in Clause 5.7.1 of LPS 3. In this regard it is necessary to consider whether the proposed 2.675m high metal-framed pergola structure above the roof deck constitutes a separate storey as, if included, this would exceed the maximum number of storeys permitted.

“Storey” means that part of a building between the top of any floor and the top of the floor next above, or if there is no floor above, between the top of the floor and the ceiling above it; but does not include any undercroft space designed or used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartment, cellar, corridor, hallway, lobby, the parking of vehicles, storeroom without windows or workshop appurtenant to a car parking area, where that floor-to-floor or floor to-ceiling-space as defined herein is not higher than 1 metre above the footpath level measured at the centre of the land along the boundary to which the space has frontage, or where that floor-to-floor or floor to-ceiling-space as defined herein is below the level of the natural ground level measured at the centre of the site as determined by the local government.

LPS 3 does not define the term “building” and therefore the RDC definition applies given the predominant residential purpose. The definition states:

*Any structure whether fixed or moveable, temporary or permanent, placed or erected on land, and the term also includes dwellings and structures appurtenant to dwellings such as carports, garages, verandahs, patios, outbuildings and retaining walls, but **excludes** boundary fences, **pergolas**, and swimming pools.*

On this basis, the proposed pergola technically does not constitute a “building” and therefore does not constitute a storey and is permitted under Schedule 15 in LPS 3. However, the term “pergola” was probably conceived in the RDC as being at ground level rather than on roof-decks and this type of structure at higher levels could have implications for other residential developments.

The proposed structure will be conditioned accordingly.

- (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;

The parking for the proposed multiple dwellings are compliant as shown in the table below:

| Proposed residential development | Required parking bays | Proposed parking bays |
|---|------------------------------|------------------------------|
| <i>Apartment 1</i> | <i>1.5 bays</i> | <i>2 bays</i> |
| <i>Apartment 2</i> | <i>1 bay</i> | <i>1 bay</i> |
| <i>Apartment 3</i> | <i>1.25 bays</i> | <i>1.5 bays</i> |
| <i>Apartment 4</i> | <i>1 bay</i> | <i>1 bay</i> |
| <i>Apartment 5</i> | <i>1.25 bays</i> | <i>1.5 bays</i> |
| <i>Apartment 6</i> | <i>1.5 bays</i> | <i>3 bays</i> |
| Total | 7.5 bays | 10 bays |

- (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.

Two of the proposed apartments have a plot ratio of 70m², which represents 33% of the total residential development, and two of the proposed apartments have a plot ratio of 90m², which also represents 33% of the total residential development and therefore the proposal satisfies this requirement.

The proposed development also satisfies most other provisions applicable to the Foreshore Centre Zone, including that the ground floor shall only be used for commercial use such as a restaurant or shop, the commercial frontage must have a minimum depth of 9m, on-site parking is to be provided in a basement, and no vehicular ingress or egress is to be proposed via Marine Parade. However, the proposed development does not satisfy the parking credit requirements or have sufficient regard to Council's Parking Matters Policy as discussed in the Parking section below.

Residential development in Non-Residential zones

Clause 5.12 of LPS 3 advises:

Residential development in the Town Centre, Foreshore Centre, Restricted Foreshore, Residential Office, Hotel and Development A zones shall be located such that no habitable rooms are located at ground level with street frontage; however, some residential development (such as parking, entrances, ancillary rooms and minor habitable rooms), may be permitted at ground level, either all or predominantly behind non-residential uses and with only incidental street frontage, subject to Council having regard to design requirements, the interfaces with non-residential or other residential development, and the primary objective of encouraging active, non-residential street frontages

The proposed development has no habitable rooms located at ground level and the parking entry and entrance to the residential units at ground level are only incidental to the proposed non-residential use and will not detract from the street frontages. As such they are supported.

Parking

Parking is a key planning consideration and LPS 3 stipulates parking requirements for developments as well as gives Council discretion to grant concessions by way of a credit, cash-in-lieu or reduction, as prescribed in the Scheme and supported by a Local Planning Policy. This is the assessment framework for the subject application as now discussed.

The application plans show that the basement parking is entirely allocated to the residential apartments. No car bays have been allocated to the non-residential use. A restaurant on the ground floor would require 12.5 car bays were it restricted to the same number of customers as is currently permitted for the Blue Waters Restaurant. Were a retail use proposed 12.56 car bays would be required.

The application report initially submitted outlined the approach taken to parking provision and indicated broadly that a parking credit was seen as appropriate in replacing the existing restaurant with one of equivalent patron numbers, ie representing no increase in demand. In assessing the proposal Officers have liaised with the applicant who has submitted a letter (attached) elaborating on the parking credit requested, in response to the Policy guiding this Scheme provision as explained below.

Under LPS 3 Clause 5.8.3 makes the following provision for a shortfall to be considered:

*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.*

In this respect the existing Blue Waters restaurant has approval for 70 patrons internally and 30 patrons in the alfresco area. The adjacent existing Cott's Takeaway has approval for 20 patrons, inclusive of 6 patrons in its alfresco area; however, as the business is not defined as a "tourism use" under LPS 3 it cannot be included in considering a parking credit.

On 15 December 2014 Council adopted Local Planning Policy No. 1 - Parking Matters addressing such under LPS 3 and is required to have due regard to the objectives and provisions of the Policy before making its determination. The Policy elaborates on the operation of the Scheme provisions that allow Council to grant parking concessions, in order to guide proponents when formulating proposals and Council in assessing and determining them.

The Policy requires, amongst other things, that an applicant submit for Council's consideration a traffic and parking statement addressing the relevant criteria stipulated in the Policy.

The applicant's latest letter is aimed at this. Broadly, it suggests that the existing parking regime of no on-site parking and ample public parking nearby should be recognised, together with the constraints of the site and the limited magnitude of the proposed uses, whereby the development should not be unduly penalised. The submission expands on the parking concessions available under the Scheme and Policy and how they may be applied to the proposal. Officers have assessed this additional advice, and whilst the points made can be appreciated, the interpretation and application of the parking requirements and concessions warrant closer examination and further justification to facilitate an appropriate approval.

The Policy makes specific reference to the matter of parking credits and states that for redevelopment or new development a credit of up to 50% may be granted depending on the nature of development and ample parking being available. The Policy implies that the rationale for a partial credit in the Foreshore Centre Zone is that from a strategic planning viewpoint granting full credits would put too much pressure on the available public parking in the locality; ie redevelopment is an

opportunity to achieve more on-site parking (and/or perhaps cash-in-lieu) in the beachfront locality which has historically had an undersupply of that.

The proposed development is seeking a 100% parking credit for the non-residential use, which is not consistent with the Policy and is not considered to have been adequately addressed by the applicant.

Under LPS 3 Council may also consider development without the required number of parking spaces being provided on the land, subject to an applicant making satisfactory arrangements to provide public off-street parking in the vicinity, equivalent to the deficiency in parking spaces, or paying cash-in-lieu of parking spaces on the land.

The applicant has not applied to pay any cash-in-lieu and the Policy specifies that a maximum 25% of a parking deficiency may be considered in this way. Furthermore, for cash-in-lieu LPS 3 relies on a Local Planning Policy to identify planned infrastructure, including the land upon which it is planned to be located, and the planned timing of expenditure of payments; however, the current Parking Matters Policy does not address this in absolute detail and therefore appears required to be more specific in order to function effectively. In any case, when cash-in-lieu is calculated by the valuation method required under the Scheme, it tends to be costly for smaller developments in high land value localities

In summary, in assessing the proposal with a restaurant use on the ground floor by applying these potential parking concessions, if under the Policy Council granted a maximum 50% parking credit and 25% cash-in-lieu (depending on the details and the landowner's capacity) it is possible that the development may be able to satisfy the parking requirement or may result in a relatively small shortfall, which may be able to be addressed through design changes or further parking arrangements.

Overall, therefore, it can be seen that at this stage the parking requirements of the Scheme have not been met and that the parameters of the Policy are proposed to be significantly exceeded or are potentially prohibitive. The conclusion is that the parking situation needs to be reviewed in relation to what the application is proposing and Council's consideration of any concessions.

Engineering comments

The Manager Engineering Services has reviewed the proposal and advised that replicating the restaurant use with the same number of patrons can be supported without the provision of additional parking. Any future change of use may require additional parking provision and design in accordance with the relevant regulations.

Entry/Exit – Basement Parking and Retail Service Door

The proposed basement parking exits directly onto the footpath with solid walls either side up to the boundary. The result of this design is that vehicles exiting the basement car parking area will be on the footpath before there is an opportunity to sight any footpath user. The building also creates this problem for the adjacent driveway to the eastern adjoining apartment building. Similarly, the retail service door opens out onto the footpath without any opportunity to sight a footpath user.

It would be appropriate for the designer to determine a solution to this problem. However, in lieu of a design solution, a condition is recommended requiring a verge treatment that will push pedestrians away from the building (e.g. landscaping treatment) to allow vehicles exiting the driveway and basement carpark an opportunity to see footpath users before the vehicle is across the footpath. The door should have the addition of a peep-hole or, ideally, should open internally. Additional devices are signs, mirrors and CCTV for pedestrians and vehicles, as often used in built-up areas for commercial developments. (Note: the condition for a bin access corridor also discussed in this report is an alternative or additional solution in this respect.)

The proposed driveway ramp has been assessed against the Australian Standard for Off Street Parking. The grades proposed are within the limits of the standard for domestic driveways. The change of grades are also within the limits to avoid vehicle scraping without transitions or any further treatment. The architect has shown a pillar within the most south-west bay's offset from the wall. In this particular location, the pillar defeats the purpose of the one metre offset. This will need to be addressed at the detailed design phase to achieve compliance with the Australian Standards and to make the bay practically useable. Other than the location of the pillar, the parking layout and access arrangement is considered satisfactory. A general condition requiring the design and construction of the carparking and manoeuvring areas to the Town's satisfaction, and providing advice to the applicant with regard to the pillar location, is recommended.

Access for Deliveries – Retail/Restaurant

It is not clear how the commercial component will be serviced. It is recognised that the trading space is small, and deliveries are generally not likely to be bulky. It is also acknowledged that parking bays exist on the street in close proximity to the retail service door.

During the day in summer, parking near the beach, particularly in this area, is at a premium. The likelihood of a delivery vehicle being able to park in the bays adjacent to the door is low, and the result may be a challenging manoeuvring in a complex traffic environment. This being the case, it is appropriate to condition any approval such that there is a restriction placed on delivery times, particularly in the summer period. Alternatively, a loading zone could be created to service this and other uses/developments, including for deliveries to apartments.

Traffic Generally

This area is already busy. The proposal results in the addition of residential space, without a significant change to the existing access arrangements. While the residential component will result in a net increase in traffic, this is very minor in the context of the location.

Bin Storage

Bin storage, access and removal arrangements are important to the amenity of the development and adjacent properties. The rear driveway belongs to No. 4 Warnham

Road and is not a formal private or public lane. The driveway carries a right of access to the subject site used for bin and vehicular purposes by the existing commercial premises on site, despite apparent restrictions. This use of the driveway includes No. 4 Warnham Road for its own purposes and extends into the rear of No. 116 Marine Parade where large commercial bins are kept for those premises.

It is understood that these cooperative arrangements have existed for many years and are tolerated even with some amenity impacts, yet the concerns raised in the submissions can be appreciated given that a larger redevelopment would generate more waste and operate differently, with potentially greater impacts.

At the same time the redevelopment is an opportunity to provide modern bin storage to minimise noise, access, activity, smell, litter, vermin and visual impacts and to improve amenity in this respect. The proposal does this by providing full internal bin storage of a good standard, which would remove many of the concerns (including the commercial bins on No. 116 Marine Parade). However, the proposal continues to rely on the driveway for access, and apart from perpetuating noise and activity, there is no guarantee that the driveway will remain in the longer term, as No. 4 Warnham Road may undergo alterations/additions or redevelopment in the future.

To overcome this, the building could provide an internal corridor from the bin storage area directly to Warnham Road, which appears feasible with fairly minimal design alterations to spaces within the basement and ground floor, and offers the advantage of creating better separation between the basement ramp and adjacent driveway for improved vehicular and pedestrian safety. This is assessed as preferable and can be conditioned accordingly.

Residential Design Codes

The proposed residential apartments have been assessed against the RDC and satisfy all relevant deemed-to-comply standards, with the exception of bicycle parking.

Bicycle parking

The RDC require a minimum 1 bicycle space to each 3 dwellings for residents and 1 one bicycle space to each ten dwellings for visitors. The proposed development therefore requires a minimum 3 on-site bicycle spaces. The applicant has advised that the 6m² storerooms allocated to the apartments are of sufficient size to accommodate bicycles. On this basis, this is considered acceptable. Furthermore, as there are existing public bicycle stands directly opposite, the need for one additional on-site bicycle space could be waived.

CONCLUSION

The proposed development essentially satisfies LPS 3 (except for parking) and the RDC and is consistent with the Town's objectives for the beachfront and its Foreshore Redevelopment Plan. The development also represents a high quality, architecturally-designed mixed-use development that should enhance the existing beachfront by introducing new residential apartments and a commercial tenancy with

potential alfresco areas that will provide attractive, active street frontages along Marine Parade and Warnham Road.

A new Norfolk Island pine tree proposed on the south-west corner of the site should also complement the development and provide shade to customers dining outdoors, although alternative proposals such as an attractive, light-weight, fixed canopy structure could also be considered if proposed by the owner or a future owner/tenant of the commercial premises, subject to separate approval.

Documentation addressing the detailed planning, building, engineering and health requirements, including the design of the vehicle access ramp entry, the parking spaces in the basement, the location of a suitable loading zone, revised bin storage and access arrangements, tree planting, and potential changes to the public domain can be submitted at the building permit stage for approval by the Manager Development Services. However, as the applicant is still required to address the relevant Scheme provisions and Local Planning Policy criteria with respect to the provision of parking, it is recommended that determination of the application be deferred at this stage for that aspect to be satisfied.

Notwithstanding this, the following preliminary conditions have been drafted to address the standard or special aspects identified in the assessment for development control, which would be suitable for implementation via an approval once the parking is resolved.

1. Any additional use, change of use, or physical or aesthetic change proposed for the development in the future shall require further applications for planning determination.
2. The landowner shall be responsible for the costs of any changes to the public domain outside the site proposed by or due to the development, including (but not limited to) the removal of any redundant crossovers and reinstatement of the verge and kerb, construction of any new crossover, any upgrading of verge pavements or landscaping, and alteration of all services, signage and infrastructure. All such works shall be to the specification and satisfaction of the Town and the landowner shall liaise with the Town accordingly.
3. The landowner shall advise purchasers of the residential apartments within the development that their property is in close proximity to commercial and entertainment premises, and therefore is subject to noise not associated with a typical residential environment, and that in choosing to reside in this locality they must recognise and accept the noise, traffic (including service vehicles), activity and other characteristics associated with non-residential uses. This requirement shall be met by the landowner and/or real estate agent(s) specifically advising purchasers in writing accordingly, and by a specific formal notification being placed on each title worded accordingly to the satisfaction of the Town. Details evidencing this shall be lodged with the Building Permit.
4. The landowner applying to the Town for approval to construct a crossover in accordance with the Town's specifications, as approved by the Manager Engineering Services.

5. The Building Permit plans and supporting documentation shall be formulated in consultation with the Town and to the satisfaction of the Manager Development Services, and shall include:
- (a) Details of all proposed external materials, finishes and colours, including glazing, any awnings or screens and the roof cladding, all selected to be of low-reflectivity.
 - (b) Details addressing the design and functionality of the parking area in the basement, the access ramp, bicycle parking and bin access;
 - (c) Details of any intended changes within the road reserves, including verges, footpaths, kerbs, pavements, drainage, services, signs, infrastructure and landscaping.
 - (d) Details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations. The air-conditioning plant should be located in the screened plant room on Level 5.
 - (e) Details of all on-site and any off-site drainage management, including any necessary arrangements to utilise land outside the site and link into the public drainage system.
 - (f) Comprehensive dilapidation reports for the northern and eastern adjacent properties in relation to the development works, prior to issue of a Demolition Permit.
 - (g) A comprehensive Demolition and Construction Management Plan addressing (amongst other things): maintaining pedestrian and vehicle access, traffic management and safety for the streets and site, worker parking, and verge protection.
 - (h) Plans of the commercial food premises, if applicable, complying with all relevant Health regulations.
 - (i) Revised plans being submitted showing the bin storage area having direct access from Warnham Road, with no bin access, movements or openings being permitted onto the rear driveway.
 - (j) Details of delivery vehicle parking and loading/unloading areas, together with the nature and times of use of any special delivery vehicle parking, suitable line-markings, sign-posting, operational procedures and management measures to ensure appropriate standards of convenience, safety and amenity.
 - (k) Full details of the drainage design for the development comprising on-site provision and any necessary off-site disposal, including all building wastewater, stormwater runoff and pool wastewater or backwash, to the

satisfaction of the Principal Building Surveyor and Manager Engineering Services.

6. Any proposed signage shall require further approval under the Scheme or Signage Local Law as required.
7. The proposed northern and eastern boundary walls shall be properly finished-off to the satisfaction of the Manager Development Services.
8. All demolition and construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13, Construction Sites.
9. The pool pumps and filters shall be located closer to the proposed development than adjoining dwellings, and suitably housed or treated to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels in the Environmental Protection (Noise) Regulations 1997. In this regard, the proposed Level 1 plunge pool plant shall be located within the storeroom on the ground level and the Level 5 plunge pool plant shall be located behind the screened plant area to the south east of the roof terrace with both locations being fully compliant with all relevant health (noise) regulations. Details to be submitted at building permit stage to the satisfaction of the Manager Development Services.
10. The maximum number of patrons permitted to be accommodated in a restaurant use on the ground floor shall not exceed 70 internally and no more than 30 in any alfresco area (subject to separate approval), to reflect the maximum capacity permitted for the existing restaurant use on the site.
11. A fixed and obscure screen of 1.6m minimum height shall be provided along the northern elevation of the proposed drying area to level 3, to the satisfaction of the Manager Development Services.
12. The proposed north-facing, anodized aluminium screen to the stairs and light wells shall not exceed 25% permeability. Details shall be submitted at the building permit stage to the satisfaction of the Manager Development Services.
13. Permanent screen planting shall be provided along the eastern side of the level 3 deck. Details shall be submitted at the building permit stage to the satisfaction of the Manager Development Services.
14. All bin pick-ups and deliveries to the development shall be from Warnham Road (or Marine Parade with the approval of the Town) and shall only be permitted between the hours of 7.00am and 7.00pm, Monday to Saturday. Access along the rear driveway for bin storage or pick-up and deliveries shall not be permitted.
15. The proposed 'roofed' structure above the 5th floor level shall be consistent with the definition of a "pergola" as defined in the Residential Design Codes,

and therefore consist of an unenclosed structure covered in a water-permeable material or unroofed. Details shall be submitted at the building permit stage to the satisfaction of the Manager Development Services.

16. The proposed Norfolk Island pine tree shall be planted at the owner's cost prior to completion of the development in a location and manner agreed to by the Town. Details shall be submitted at the building permit stage for approval by the Manager Engineering Services.

Advice Notes:

1. The landowner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the property.
2. The development is subject to compliance with the Food Act 2008 and all other relevant legislation, as applicable.
3. The landowner and/or occupier are responsible for obtaining all relevant Eating Area Licences from the Town prior to occupation of a restaurant. This is separate from the planning approval process.
4. The landowner should consider the use of double-glazing to the residential apartments to ameliorate noise from uses, traffic and activities in the locality.

COMMITTEE COMMENT

Committee discussed the aspects raised at some length. The Manager Development Services explained the approach to parking under the Scheme and Policy and assessment of the proposal. He emphasised that the aim is to address the parking and other aspects of concern with the applicant to provide further advice to the Council meeting with a view to determination of the application.

Committee expressed that whilst parking is important to be carefully considered, development should also be facilitated; and indicated basic support for the proposed building design. In addition Committee discussed the operation of the driveway in relation to bins and the need for screening. The MDS undertook to address these considerations in reporting to Council.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Burke

THAT Council DEFER determination of the proposed five-storey mixed-use development (incorporating a shop or restaurant and six residential apartments) at Nos 110-112 Marine Parade (Lot 6), Cottesloe, as shown in the plans submitted on 28 November 2014, to enable the parking requirements for

the proposal to be fully-addressed by the landowner and/or applicant in liaison with the Town.

Carried 5/0

10.1.2 LOCAL PLANNING SCHEME NO. 3 - AMENDMENT NO. 2 (EILEEN ST LOTS 101-103) - FINALISATION.

File Ref: SUB/1888
Attachments: [Lots 101 103 GIS](#)
[Report Council Minutes 27 October 2014](#)
[Submission PTS Town Planning P L](#)
[Submission Dillon](#)

Responsible Officer: Carl Askew
Chief Executive Officer

Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 16 February 2015

Author Disclosure of Interest: Nil

SUMMARY

On 27 October 2014 Council received a report on this proposed Scheme Amendment and resolved to adopt the Amendment for the purpose of advertising and to undertake the statutory procedures accordingly.

Advertising has been completed and two submissions were received. Council is now required to make a recommendation to the Western Australian Planning Commission (WAPC) on the outcome of the Amendment, which this report addresses.

The recommendation is that Council adopt a modified Amendment for final approval.

BACKGROUND

The proposed Amendment is to enable changes to correct anomalies affecting Lots 101-103 Eileen Street (Nos 138 Marine Parade and 2 and 2A Eileen Street).

The amendment is necessary to apply appropriate zoning, land usage, development requirements and built form controls to the lots. Several zoning options were evaluated, with varied land use and development parameters, as well as implications for the operation of particular Scheme provisions.

The previous report to Council explaining the need for and details of the Amendment is attached for reference. The advertised proposal focused on applying the Foreshore Centre zone and amended Special Control Area 2 (SCA2) provisions to the three lots, with corresponding amendment of the Schedule 15 Building Control Diagrams in terms of building height.

A recent development proposal for a single dwelling on Lot 101, on the corner of Eileen Street and Marine Parade, has required further consideration of how the subject land is regulated under LPS3. This aspect is raised by the submissions received as discussed below. The Amendment provisions require refinement to permit this use whilst preserving the basic zoning and development control changes intended.

PROPOSAL

The proposed Amendment as advertised read as followed:

In pursuance of Section 75 of the Planning and Development Act 2005, [Council] hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3, to provide appropriate zoning and development controls for Lots 101-103 Eileen Street, Cottesloe, by:

- a. Amending the Scheme Map to exclude Lots 101-103 Eileen Street (Nos 138 Marine Parade and 2 and 2A Eileen Street) from Development Zone 'A' and to include them as Foreshore Centre Zone, and therefore Special Control Area 2.*
- b. Amending the Scheme Text in clause 6.4.3.1 (a), by adding the words “, except for Lot 101 Eileen Street on the corner of Marine Parade, which may have a maximum height of 4 storeys within 12m.*
- c. Amending Schedule 15 Building Design Controls for Special Control Area 2, in the text section in point 3 a), by adding to the line “4 storeys – maximum building height shall be 17m” the words “, except for Lots 101-103 Eileen Street, for which the four storey maximum building height shall be 12m.”*
- d. Amending Schedule 15 in the Building Control Diagrams to distinguish:*
 - i. A height limit and building envelope of four storeys within 12m for the whole of Lots 101-103 Eileen Street.*
 - ii. That Lots 101-103 Eileen Street are in a zone and building envelope separate from the Ocean Beach Hotel site.*

In summary, the Amendment proposed a Foreshore Centre zoning consistent with the beachfront along Marine Parade and amended development controls recognising the existing and anticipated built form on the subject lots.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

The *Planning & Development Act 2005* empowers amendment of town planning schemes and the *Town Planning Regulations* govern the procedure for this.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Following environmental clearance and notification of the WAPC as required, the Amendment was advertised for public comment, for a period of 42 days closing on 5 January 2015, by:

- letters to the owners and occupiers of the subject and nearby properties;
- a notice in the *Post* newspaper, on the Town's noticeboard/s and website, and at the Library; and
- displaying the proposed amendment at the Town's office, on the Town's website and at the Library.

The two submissions received are attached and discussed below.

SUBMISSIONS

PTS Town Planning

This town planning consultancy represents the owner of Lot 101 Eileen Street (No. 138 Marine Parade) on the corner of these streets. The submission supports an amendment that would enable single dwelling development on the lot and reviews the technical details in that regard. Whilst supporting the proposed Foreshore Centre zoning, it identifies that this would not permit a single dwelling which would become a non-conforming use, and that requiring non-residential use on the ground floor would conflict with the owner's intent. To address this, the submission proposes modifying the Amendment by:

- applying an Additional Use: Single House permission to Lot 101 and sensibly also Lots 102 and 103;
- in Clause 5.12 excluding the lots from the requirement for non-residential development at ground floor level;
- in Clause 6.4.3.3 clarifying that the lots are excluded from those provisions;
- in Clause 6.4.3.5 (a) also excluding the lots from that provision; and
- in Clause 6.4.3.5 (b) referencing the additional use permission allowing single houses on lots.

The submission then lists points of planning justification for this modified approach, reflecting the second submission.

Dr D Dillon

The owner of the abovementioned property has outlined his purchase of the site with the intent of building his family home and commented on the subsequent planning circumstances that have become apparent. His objectives are to ensure that planning approval can be granted for a single dwelling and that the requirement for non-residential use at ground floor level is not applied to the subject lots. He also refers to the history of proposals for the site and to the above supporting submission.

OFFICER COMMENT

The previous report recognised the existing residential development of the three lots, including the intended additional fourth storeys to the two completed dwellings and the opportunity for a development solution for the previously-approved but uncompleted dwelling on the corner Lot 101.

The Amendment as initially proposed sought to identify the preferred Foreshore Centre zoning and revised development provisions to cater for the circumstances, which at the time did not favour Residential zoning or contemplate purely residential land use in the longer term.

The subsequent proposal for a redesigned single dwelling (the use previously approved and reapproved) is to be welcomed in terms of achieving completed development on the lot and being compatible with the locality. Arising from the submissions this does, however, require further changes in order to retain the Foreshore Centre zoning and associated controls whilst allowing for that use. The Additional Use mechanism in the Scheme is considered appropriate, with corresponding refinements to certain clauses to allow Single House use at ground floor level for the subject lots.

These further changes to the Scheme Text and Map constitute modifications to the original Amendment. They are consistent with the basic intent of the Amendment and do not alter the Scheme in any fundamental or major way, being essentially technical changes catering to a specific situation.

The modified Amendment represents a logical and practical outcome, which maintains the status quo of residential use and development for the subject lots yet under the Foreshore Centre zoning provides planning flexibility for the future.

As set out in the recommendation, for continuity and ease of understanding the original Amendment text dealing with zoning and height control has been kept intact, after which the further changes (modifications) have been placed as a second set of changes, dealing with permitting single dwellings.

PROCEDURE

Following the advertising period, and if there are submissions, the Regulations require Council to:

- consider the submissions and adopt the Amendment with or without modification;
- sign and seal the Amendment documents; and
- lodge the Amendment documents with the WAPC.

The WAPC reviews the proposal, submissions and Council's consideration then reports and recommends to the Minister for Planning for determination of final approval. After that the Town is notified of any further modification required and submits the completed documents, following which final approval of the Amendment is published in the Government Gazette whence it comes into effect.

CONCLUSION

Amendment of the Scheme is required to correct the current anomalies for clarity of the Scheme zoning and provisions applying to the three lots.

The Amendment as advertised proposed changes considered appropriate at that stage, however, the submissions and further consideration support some modification to fine-tune the changes.

The Amendment as modified is in order for final approval, which will overcome the current anomalies in the Scheme and facilitate development proposals for the lots.

The modifications are assessed as minor and not warranting further advertising, given that the basic changes remain, the modifications are necessary, they relate only to the subject lots, and there were no submissions from any neighbouring owner or occupier.

COMMITTEE COMMENT

The Manager Development Services explained the need to include setbacks in the Amendment to be complete and provided the draft wording, which he advised would also refer to the relevant clause.

VOTING

Simple Majority

OFFICER RECOMMENDATION**Moved Cr Jeanes, seconded Cr Walsh**

THAT Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3 to provide appropriate zoning and development controls for Lots 101-103 Eileen Street, Cottesloe, by:
 - a. Amending the Scheme Map to exclude Lots 101-103 Eileen Street (Nos 138 Marine Parade and 2 and 2A Eileen Street) from Development Zone 'A' and to include them as Foreshore Centre Zone, and therefore Special Control Area 2.
 - b. Amending the Scheme Text in clause 6.4.3.1(a), by adding the words “, except for Lot 101 Eileen Street on the corner of Marine Parade, which may have a maximum height of 4 storeys within 12m.
 - c. Amending Schedule 15 Building Design Controls for Special Control Area 2, in the text section in point 3 a), by adding to the line “4 storeys – maximum building height shall be 17m” the words “, except for Lots 101-103 Eileen Street, for which the four storey maximum building height shall be 12m.”
 - d. Amending Schedule 15 in the Building Control Diagrams to distinguish:
 - i. A height limit and building envelope of four storeys within 12m for the whole of Lots 101-103 Eileen Street.

- ii. That Lots 101-103 Eileen Street are in a zone and building envelope separate from the Ocean Beach Hotel site.
- e. Amending Schedule 2: Additional uses by adding a new additional use designation as follows:

| No. | Description of land | Additional use | Conditions |
|-----|---|----------------|--|
| A8 | 138 Marine Parade, 2 and 2A Eileen Street (Lots 101-103 Eileen Street, respectively). | Single House | Each lot may be developed with one single dwelling, in accordance with the relevant Scheme provisions. |

- f. Amending the Scheme Map to indicate that an Additional use designation applies to the abovementioned lots.
- g. Amending clause 5.12 by adding after the words "Foreshore Centre" the words "(except for Lots 101-103 Eileen Street)".
- h. Amending clause 6.4.3.3 by adding at the end of the heading the words "(excludes Lots 101-103 Eileen Street)".
- i. Amending clause 6.4.3.5(a) by adding after the words "Foreshore Centre zone" the words "(except for Lots 101-103 Eileen Street)".
- j. Amending clause 6.4.3.5(b) by adding at the end the words ", or permissible as an Additional use designation in Schedule 2".
- (2) Adopt the Amendment with modifications as above.
- (3) Authorise the Mayor and Chief Executive Officer to sign the modified Amendment documents and affix the Town's seal thereto.
- (4) Forward the modified Amendment documents, together with a copy of Council's resolution on final approval and particulars of the steps taken to advertise the Amendment, to the Western Australian Planning Commission for presentation to the Minister for Planning for final approval of the Amendment.
- (5) Advise the Western Australian Planning Commission that Council considers that the modifications are minor and do not warrant further advertising, given that the basic changes remain, the modifications are necessary for completeness and clarity, they relate only to the subject lots, and there were no submissions from any neighbouring owner or occupier consulted.

AMENDMENT

Moved Cr Jeanes, seconded Cr Angers

That the following addition to the Amendment text be made, as a new point e., whilst keeping and renumbering existing points e. onwards:

Amending the Scheme Text in clause 6.4.3.1, by adding the following sentence at the end: "For Lots 101-103 Eileen Street, the permitted minimum setback from Marine Parade shall be nil, and the permitted minimum setback from Eileen Street shall be 2m, which may include porch and/or balcony elements."

Carried 5/0

COMMITTEE RECOMMENDATION**THAT Council:**

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3 to provide appropriate zoning and development controls for Lots 101-103 Eileen Street, Cottesloe, by:
- a. Amending the Scheme Map to exclude Lots 101-103 Eileen Street (Nos 138 Marine Parade and 2 and 2A Eileen Street) from Development Zone 'A' and to include them as Foreshore Centre Zone, and therefore Special Control Area 2.
 - b. Amending the Scheme Text in clause 6.4.3.1(a), by adding the words “, except for Lot 101 Eileen Street on the corner of Marine Parade, which may have a maximum height of 4 storeys within 12m.
 - c. Amending Schedule 15 Building Design Controls for Special Control Area 2, in the text section in point 3 a), by adding to the line “4 storeys – maximum building height shall be 17m” the words “, except for Lots 101-103 Eileen Street, for which the four storey maximum building height shall be 12m.”
 - d. Amending Schedule 15 in the Building Control Diagrams to distinguish:
 - i. A height limit and building envelope of four storeys within 12m for the whole of Lots 101-103 Eileen Street.
 - ii. That Lots 101-103 Eileen Street are in a zone and building envelope separate from the Ocean Beach Hotel site.
 - e. Amending the Scheme Text in clause 6.4.3.1, by adding the following sentence at the end: “For Lots 101-103 Eileen Street, the permitted minimum setback from Marine Parade shall be nil, and the permitted minimum setback from Eileen Street shall be 2m, which may include porch and/or balcony elements.”
 - f. Amending Schedule 2: Additional uses by adding a new additional use designation as follows:

| No. | Description of land | Additional use | Conditions |
|-----|---|----------------|--|
| A8 | 138 Marine Parade, 2 and 2A Eileen Street (Lots 101-103 Eileen Street, respectively). | Single House | Each lot may be developed with one single dwelling, in accordance with the relevant Scheme provisions. |

- g. Amending the Scheme Map to indicate that an Additional use designation applies to the abovementioned lots.
- h. Amending clause 5.12 by adding after the words “Foreshore Centre” the words “(except for Lots 101-103 Eileen Street)”.

- i. Amending clause 6.4.3.3 by adding at the end of the heading the words “(excludes Lots 101-103 Eileen Street)”.
 - j. Amending clause 6.4.3.5(a) by adding after the words “Foreshore Centre zone” the words “(except for Lots 101-103 Eileen Street)”.
 - k. Amending clause 6.4.3.5(b) by adding at the end the words “, or permissible as an Additional use designation in Schedule 2”.
- (2) Adopt the Amendment with modifications as above.
 - (3) Authorise the Mayor and Chief Executive Officer to sign the modified Amendment documents and affix the Town’s seal thereto.
 - (4) Forward the modified Amendment documents, together with a copy of Council’s resolution on final approval and particulars of the steps taken to advertise the Amendment, to the Western Australian Planning Commission for presentation to the Minister for Planning for final approval of the Amendment.
 - (5) Advise the Western Australian Planning Commission that Council considers that the modifications are minor and do not warrant further advertising, given that the basic changes remain, the modifications are necessary for completeness and clarity, they relate only to the subject lots, and there were no submissions from any neighbouring owner or occupier consulted.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 5/0

**10.1.3 DEVELOPMENT ASSESSMENT PANELS - LOCAL GOVERNMENT
MEMBER NOMINATIONS (THIRD ROUND)**

File Ref: SUB/843
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 16 February 2015
Author Disclosure of Interest: Nil

SUMMARY

This report relates to Development Assessment Panels (DAPs) and the need for each Local Government to again nominate elected member representatives for the DAP covering their area – Cottesloe comes under the Metropolitan West Joint Development Assessment Panel (JDAP) also including Peppermint Grove, Mosman Park, Claremont, Nedlands, Subiaco, Cambridge and Vincent.

The report informs Council about the requirement to nominate two of its members to sit on the DAP, plus two alternate members (deputies), for the Minister for Planning to approve. Nominations are required by 27 February 2015.

On 25 February 2013, Council nominated Cr Walsh and Cr Boland as its primary members to represent Council on the Joint DAP; and also nominated Cr Rowell and Cr Jeanes as its deputy members.

BACKGROUND

The appointment of all current local government DAP members expires on 26 April 2015. Members whose term expires are eligible for re-nomination.

Under the DAP regulations each local government is requested to nominate four elected members of the Council, comprising two local members and two alternate deputy local members to sit on the local DAP as required.

Following receipt of all local government nominations, the Minister will consider and appoint all nominees for up to a two-year term, expiring on 26 April 2017. All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement that all DAP members attend training before they can sit on a DAP and determine applications. Local government representatives who have previously been appointed to a DAP and received training are not required to attend further training.

Local DAP members are entitled to be paid for their attendance at DAP training and at DAP meetings, unless they fall within a class of persons excluded from payment. (Note: Members who are not entitled to payment of sitting, training and State Administrative Tribunal attendance fees include Federal, State and local government employees, active or retired judicial officers and employees of public institutions. These DAP members are not entitled to be paid without the Minister's consent, and

such consent can only be given with the prior approval of Cabinet. This position is in accordance with *Premier's circular. State Government Boards and Committees Circular (2010/02).*)

COUNCIL NOMINEES

The procedure for nominations is governed by the regulations for DAPs and entails:

- The Minister for Planning writing to Council requesting nominations.
- Two Council members and two alternate Council members (deputies) are required.
- The Minister must then appoint those nominated (ie accept Council's choice).
- He must also create a register of all such local government members.
- The term of appointment is up to two years, with provision for reappointment.

Council is free to nominate from its elected members whoever is willing and able to be a DAP member and is considered well-suited for the purpose. It is suggested that elected members with considerable experience on Council's Development Services Committee or with a leading role in the affairs of the Town would be the most appropriate.

Local Government elections may result in change of DAP members if councillors who are DAP members are not re-elected. If that occurs, the deputy local DAP members will take the place of the former local DAP members. If both local and deputy local members are not re-elected, the Local Government will need to renominate and the Minister to reappoint local DAP members.

Council should consider the above matters in selecting nominees as local DAP members.

ROLE OF MEMBERS

DAPs will deal with a limited number of significant development applications on an ad hoc basis and each Local Government's members will only sit when proposals for their district are being heard. For Cottesloe the frequency of such proposals is not expected to be great; however, such proposals will be of considerable significance and warrant sound assessment and decision-making.

Members are required to be trained and to abide by the regulatory and operational arrangements for DAPs. Keeping abreast of local and regional planning matters will be important in fulfilling this intermittent function.

Council's membership and active participation will be vital to the way in which DAPs operate and perform in managing major development proposals in accordance with the established planning framework.

DETAILED INFORMATION

For absolute detail the full Regulations may also be consulted via the website <http://daps.planning.wa.gov.au>.

COMMITTEE COMMENT

The Manager Development Services clarified that Cr Rowell is now a member (having replaced former Cr Boland) and Cr Birnbrauer is a deputy member.

Committee considered that the matter should be discussed at the Council meeting to enable all Councillors and current Panel members and deputies the opportunity to nominate. However, Committee also agreed that there was a responsibility to nominate from within the Committee, noting that all nominees have the right to withdraw and other nomination be made at Full Council. Committee acknowledged that, once all elected members had had an opportunity to consider the roles that, if required, the matter would be determined by ballot.

Simple Majority

COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council nominate Cr Walsh and Cr Jeanes to represent Council on the Joint Development Assessment Panel that includes Cottesloe, and Cr Downes and Cr Angers as deputy members, with the Administration to advise the Department of Planning of the details.

Carried 4/1

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

Nil.

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

12.1 ELECTED MEMBERS

Nil.

12.2 OFFICERS

Nil.

13 MEETING CLOSED TO PUBLIC

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

Nil.

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:11 PM.

CONFIRMED MINUTES OF 16 February 2015 PAGES 1 - 38 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: / /