

Draft Planning Assessment

**'Wellington Street Neighbourhood Centre' Lots 9, 10,
11, 20, 21, 50 and 411 – 412 (No. 46) Manning Street
and Lots 2, 3 and 570 – 576 (No. 116 – 130)
Wellington Street, Mosman Park**



August 6, 2021

Prepared for MHAG

Project Details

'Wellington Street Neighbourhood Centre' Lots 9, 10, 11, 20, 21, 50 and 411 – 412 (No. 46) Manning Street and Lots 2, 3 and 570 – 576 (No. 116 – 130) Wellington Street, Mosman Park

Prepared for MHAG

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Prepared by: AH

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Planning Assessment

Preliminaries

CLIENT'S CLIENT:	MHAG
ZONING:	'Centre - R60'
ADDRESS:	'Wellington Street Neighbourhood Centre' Lots 9, 10, 11, 20, 21, 50 and 411 – 412 (No. 46) Manning Street and Lots 2, 3 and 570 – 576 (No. 116 – 130) Wellington Street, Mosman Park
PROPOSED DEVELOPMENT:	83 x Multiple Dwellings 2,208m ² NLA Commercial Total plot ratio area of 2.55
LOT AREA:	5,229m ²
METROPOLITAN REGION SCHEME ZONING:	Urban
BUSHFIRE PRONE?:	No
LAND USE PERMISSIBILITY:	Dwelling – Multiple – Discretionary ('D') means that the use is not permitted unless the local government has exercised its discretion by granting development approval; Restaurant/café – D Shop (Bakery Florist Bookstore chemist, grocer etc.) – D Small Bar (wine bar) 281m ² – 'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions; Liquor Store – Small - D
SPECIAL CONTROL AREA:	-
LOCAL DEVELOPMENT PLAN:	Not prepared.

AERIAL VIEW



STREET VIEW



SPP7.3 RESIDENTIAL DESIGN CODES VOL. 2

EXTENT TO WHICH THE PROPOSAL MEETS OR DEVIATES FROM THE SITE'S UNDERLYING R60 ZONING

To illustrate the extent to which the proposal differs from the applicable development controls we provide a comparison of key proposed development outcomes sought by the Mos Lane development with alternate higher densities intentionally not allocated to the subject site during the implementation of the new Town of Local Planning Scheme No. 3 (LPS3) in 2018.

R-CODES VOL. 2 - PRIMARY CONTROL TABLE

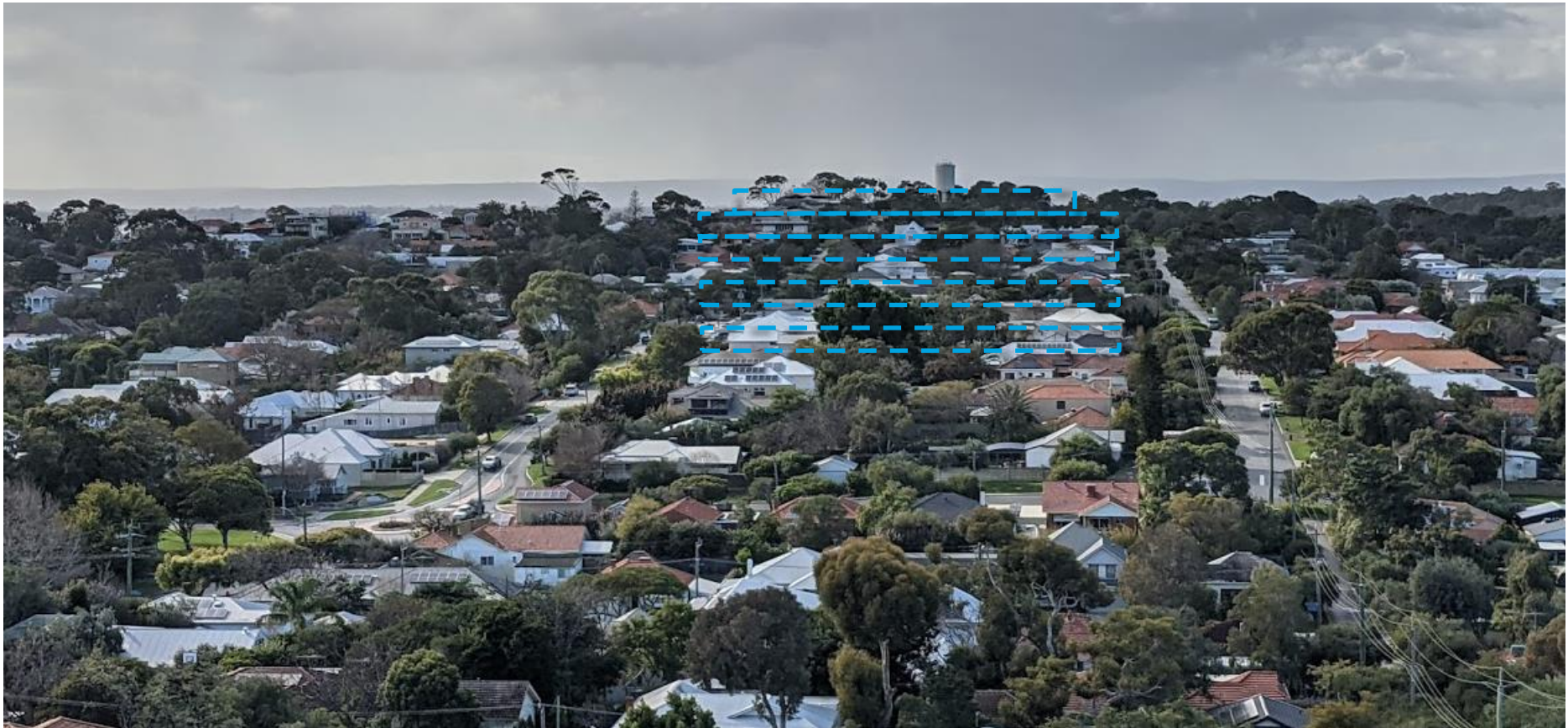
Proposed	Streetscape contexts and character	Low Rise Residential	Low Rise Residential	Medium Rise Residential	Medium Rise Residential	High Density Urban Residential	High Density Urban Residential	Neighbourhood Centre	Medium Rise Urban Centres	Higher Density Urban Centres	Higher Density Urban Centres
R60 (Centre)	Site R-Coding	R40	R50	R60	R80	R100	R160	R-AC4	R-AC3	R-AC2	R-AC1
6 (7 comparative)	Building Height (Storeys)	2	3	3	4	4	5	3	6	7	9
2 (6m) to Adjoining Dwelling / 6 Storey to ROW	Boundary Wall Height (Storeys)	1	1	1	2	2	2	2	3	4	4
2.5m	Minimum Primary and Secondary Street setbacks (m) LPS Provision	4	2	4	2	2	2	2 or Nil	2 or Nil	2 or Nil	2 or Nil
Nil	Minimum Side setbacks (m)	2	3	3	3	3	3	Nil	Nil	Nil	Nil
Nil	Minimum rear setback (m)	3	3	3	3	6	6	6	Nil	Nil	Nil
Nil	Minimum average side/rear setback where building length exceeds 16m (m)	2.4	3.5	3.5	3.5	3.5	4	N/A	N/A	N/A	N/A
2.07	Plot ratio	0.6	0.7	0.8	1	1.3	2	1.2	2	2.5	3
10,667	Plot ratio area (m2)	3,113	3,632	4,150	5,188	6,744	10,376	6,226	10,376	12,970	15,564

KEY AREAS OF CONCERN

An assessment of the proposal against SPP7.3 was performed. The areas of concern relevant to external aspects of the proposal are building height and plot ratio, on boundary wall height and lack of appropriate community benefit.

BUILDING HEIGHT & PLOT RATIO

The proposed building height is of primary concern, however the additional 6,517m² of plot ratio area in excess of the R60 zoning is obviously related and a symptom of this variation.



The subject site is located at a mid-point of a local topographic highpoint at the peaking at the water tower. The additional height sought does not reflect accepted urban design practises which seek to accentuate existing topography. Planning principles dictate that natural topography should not be obscured by development. Buildings should be higher when located on natural elevations to accentuate the natural topography to maintain a sense of place. Extremely massive buildings near hill crests can overwhelm the natural land forms, block views, and generally disrupt the character of an area.

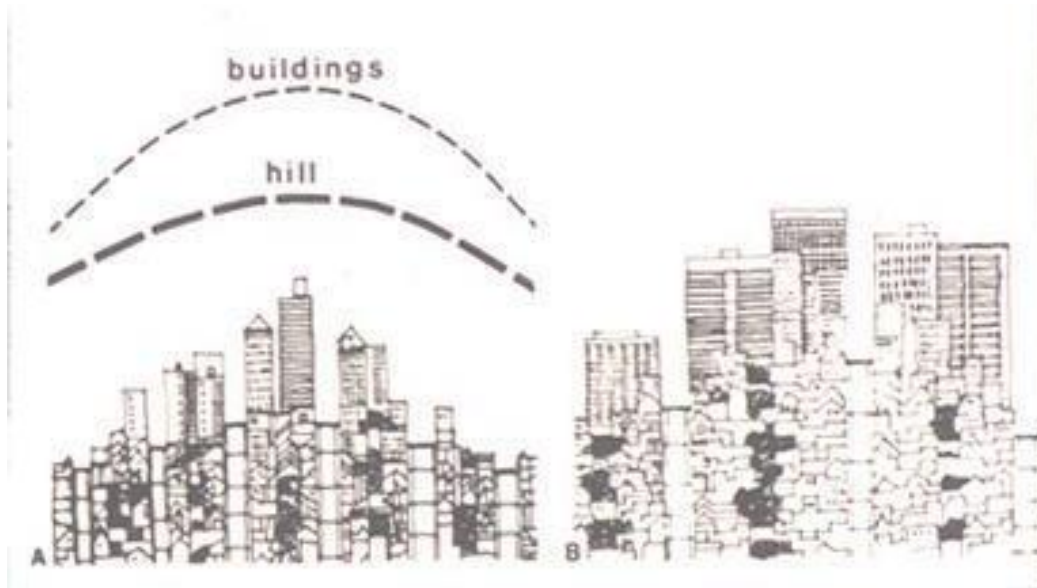


Figure 1 Explanation of skyline composition from the San Francisco Urban Design Guidelines of 1971, created under the City Planning Department's Richard Hedman.

SPP7.3 Vol 2 Design Objective O 2.2.1 and O 2.2.2 are performance criteria which we believe are unable to be met. They are as follows:

O 2.2.1 *The height of development responds to the desired future scale and character of the street and local area, including existing buildings that are unlikely to change.*

O 2.2.2 *The height of buildings within a development responds to changes in topography*

The new Local Planning Scheme was introduced very recently in 2018. The entire area surrounding the site is zoned R20 and will remain this way in accordance with the central sub-regional planning strategy. The height difference of all surrounding two storey development cannot be considered to respond to the desired future scale and character of the street and local area.

The proposal is 6.5 – 7 Storeys. The plate height for the commercial space is 6.5m. This ceiling height is more than sufficient for mezzanine levels to be installed as is typical practise in most grocery stores. As an example, the two levels of the terrace style dwellings proposed in the development are accommodated in this same ceiling height space. SPP7.3 Vol 2 calls for a commercial/ground floor ceiling heights of 3.5m and the minimum ceiling height for residential to be 2.7m. A six storey development would be expected to have an overall height of 18.5m whereas the proposal is 22.60m + 0.9m for plant. The effective height as intended by SPP7.3 volume 2 is therefore more reflective of 7+ storeys.

ON BOUNDARY WALL HEIGHT

The on boundary wall height proposed is equivalent to two storey high (6m). The on boundary wall adjoins a single dwellings zone R20 for a significant length. Whilst this variation may have been tolerable in an area adjoining other R60 zoned properties, the context of the on boundary wall deems it unable to address the relevant element objectives. The significant scale of the wall is evident in the figures below.



Figure 2 On boundary wall location identified on site plan by blue line (left)

LACK OF APPROPRIATE COMMUNITY BENEFIT

Development incentives are a method through which additional development potential or flexibility (such as additional plot ratio and/or building height) is offered in exchange for tangible community benefit, such as public amenities, culture and recreation facilities or affordable and/or accessible housing. It is important that the cost and value of the community benefit can be objectively measured and assessed as the local government will need to determine whether the incentive is sufficient to attract investment in the desired community benefit, and also demonstrate that the value of the community benefit is broadly commensurate with the additional development entitlement.

State Planning Policy 7.3 Residential Design Codes Volume 2 – Apartments provide planning guidance on this in Clause 2.8 Development incentives for community benefit which requires careful scrutiny given the development seeks more than double the building height and plot ratio permitted.

CONSIDERATIONS FOR LOCAL GOVERNMENTS PLANNING GUIDANCE	COMMENTARY
PG 2.8.1 <i>The following are examples of community benefit that may be considered in exchange for additional development potential or flexibility incorporated into a local planning scheme, local development plan or local planning policy.</i>	
— <i>Affordable housing: development commits to deliver affordable dwellings in partnership with an approved housing provider or not-for-profit organisation recognised by the Housing Authority.</i>	There is not a shortage of affordable accommodation in Mosman Park. The proposal does not appear to contribute affordable accommodation in any event. The provision of affordable housing would see the developer working in collaboration with the State Government or not for profit housing provider.
— <i>Dwelling diversity: where providing a dwelling type identified as a priority by the local government, such as aged and dependent dwellings, universal access dwellings, one-bedroom apartments, key-worker dwellings or other innovative housing models to meet demand.</i>	The proposal delivers the minimum required levels of housing diversity, an expectation is that a proposal would offer subsidised key worker accommodation or apartments restricted by caveat to be occupied by over 55's and dependant persons only. The proposal does not do this.
— <i>Heritage: where a proposal delivers an exceptional outcome with regard to conserving and/or enhancing a place listed on the State Register of Heritage Places, a local planning scheme register or Local Government Heritage Inventory under the Heritage of Western Australia Act 1990 (or the equivalent under the Heritage Act 2018) or a place that is located within a heritage area designated under the local planning scheme.</i>	There is no heritage component existing such that this element is unable to be aspired to.
— <i>Retention of vegetation: where significant mature or native vegetation is retained within a development site in excess of the Acceptable Outcomes at 3.3 Tree canopy and deep soil areas.</i>	A single tree is available for retention on site and is proposed to be retained. Again, this is a standard design objective in SPP7.3 Vol. 2.

<p>— <i>Public facilities: development includes one or more of the following public facilities or amenities where identified as a priority by the local government:</i></p> <ul style="list-style-type: none"> • <i>public open space</i> • <i>public car parking</i> • <i>public pedestrian access ways and site linkages</i> • <i>provision of public facilities on private land, such as cultural facilities, public toilets, change rooms, end of trip facilities, meeting places, public pre-school or child care facilities and associated open space Consider whole of life costs including maintenance where public facilities are proposed.</i> 	<p>No public open space is proposed.</p> <p>Public carparking is proposed within the verge area, on land already vested to the Town of Mosman Park being a community asset. On site parking provided is at a shortfall to the Scheme requirements as it promotes shared use with residents visitor parking bay requirements.</p> <p>A site linkage to the ROW is proposed however the linkage is over no benefit to pedestrian permeability as there is no amenity in the ROW or benefit to using the ROW to reduce a journey length. The linkage fulfills CPTED objectives.</p>
<p>— <i>Energy efficient design: proposal demonstrates exceptional energy efficient design and a significant reduction in energy consumption.</i></p>	<p>The proposal only attempts a 'stretch' goal of a 5 star green energy rating, with no mechanism to enforce this goal being achieved in lieu of an as built 4 star green energy certification. The certain outcome is only considered 'best practice'.</p>
<p>— <i>Water conservation: where the proposal demonstrates exceptional water management and conservation and a significant reduction in mains water use.</i></p>	<p>The submitters landscape plan offers to provide the following in respect of water conservation:</p> <p><i>Water Efficient Irrigation System</i></p> <p><i>Trees and plants will be irrigated by a water efficient irrigation system. The irrigation water demand volumes will not be excessive, however, a constant and uninterrupted supply must be maintained especially during dry and hot periods.</i></p> <p>The ESD report targets 20% reduction in water consumption over benchmark as yet specified. This is intended to be achieved through low flow tap ware and waterwise irrigation.</p> <p>We consider neither of these initiatives as 'exceptional'.</p>

	Blackwater and greywater recycling being achieved through innovative filtration and disinfection to ensure water is of a suitable quality for its intended use would be an example of 'exceptional' method to significantly reduce water consumption.
PG 2.8.2 <i>When preparing planning provisions, local governments should give consideration to the weight that may be applied to individual elements and setting an 'upper cap' for allowable additional development. Weighting should be applied according to the local governments' desired outcomes and the amount of community benefit provided in exchange for the additional development potential or flexibility.</i>	Expected community benefit outcomes do not appear to have been set by the community or LGA. We submit that were planning provisions prepared in an LDP an 'upper cap' for additional building height and plot ratio would not have extended near to the amount of additional yield and decision making discretion being sought by the proponent.

EXTENT TO WHICH THE PROPOSAL MEETS OR DEVIATES FROM SPP 7.2 PRECINCT DESIGN GUIDELINES

SPP7.2 Precinct Design was gazetted and became operational on 19 February 2021. The policy and its guidelines applies to precincts throughout Western Australia and guides the preparation, assessment, determination and implementation of precinct structure plans, local development plans, and subdivision and development applications. These planning proposals are to be prepared and determined in accordance with this policy and the Precinct Design Guidelines.


A local development plan (LDP) is a mechanism that may be used in limited situations to facilitate the design and coordination of development where detailed built form, public realm and access guidance is needed, but is not to be used to guide density increases. An LDP is required by the Scheme to be prepared for this site prior to considering an application for development approval. In considering development proposals within a precinct where a local development plan has not yet been prepared, if it is made possible by the Scheme to determine an application without this instrument being prepared, the responsible authority should also consider the objectives, measures and outcomes of this policy, the objectives and considerations of the Precinct Design Guidelines, and any other relevant requirements.

We have performed an objective assessment against the SPP 7.0 Design Principles cross referenced against the Precinct Design Elements which the policy considers applicable to an LDP which is otherwise required to be prepared for the subject site by the Scheme.

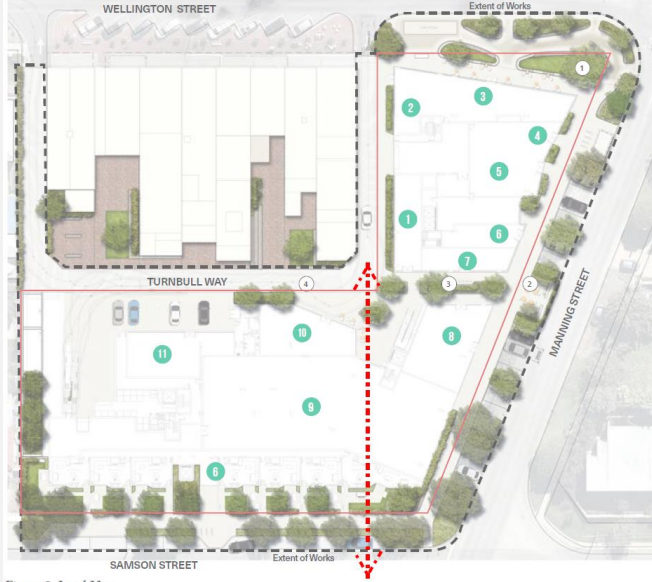
Precinct Design Elements	
Design Quality Evaluation	
	Design Element Met
	Pending further attention – refer to detailed comments provided
	Design Element Not Achieved
	Insufficient information for comments to be able to be provided.

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
Context and character				<p><i>The precinct design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place. New development is integrated into its setting and is shown to respond positively to the intended future character of an area.</i></p>	<p>Presently the proposal is objectively unable to deliver height and massing which can be considered to appropriately respond to the existing built form, topography and the intended future character of the area. The surrounding area was zoned R20 in the recent Local Scheme gazetted in 2018. The local planning strategy and sub regional planning frameworks do not suggest the surrounding built form context is likely to change such that the future character will be materially different.</p> <p>A three-storey built form external appearance is considered an appropriate response to the existing and future development context. A fourth level may be capable of being accommodated on the southern portion of the site on account of the more substantial depth of the lot in this location.</p>
Landscape quality		n/a		<p><i>Development within precincts integrates landscape design that enhances sustainability outcomes and contributes to community wellbeing. The local environment is enhanced through the:</i></p> <ul style="list-style-type: none"> <i>protection of water and soil resources</i> <i>retention and/or enhancement of the green network</i> <i>protection and/or restoration of fauna habitat, where appropriate</i> <i>consideration of microclimate and urban heat island impacts.</i> 	<p>The design is reliant upon areas external (verge) to the development site to achieve a more appropriate level of greenery and green space. The community and developer have no certainty landscape objectives as illustrated and relied upon in the submission will be capable of being met, or funded.</p>

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
Built form and scale		n/a		<i>Built form height and massing (bulk and scale) across the precinct is responsive to existing built form, topography, key views and landmarks, and the intended future character of the area. Buildings are suited to their purpose, contribute positively to the character of the public realm, and provide good amenity at ground level.</i>	<p>The proposed development is not integrated into its setting and is not shown to respond positively to the intended future character of an area. The proposal will itself become a landmark.</p> <p>The proposal offers adequate ground level amenity.</p>
Functionality and build quality				<i>The precinct design facilitates development that meets the needs and expectations of the community and provides for change over time. Required services infrastructure is integrated in a manner that mitigates amenity impacts. Development considers the intended full lifecycle and is robust, resilient to wear and easy to maintain over time.</i>	<p>The developer proposes underground power supply. This will allow the proposal to reduce setbacks which were otherwise limited to being 6m from the power line alignment.</p> <p>The proposed location of fire hydrants and parking for a fire truck is proposed at the expense of three verge car parking bays which presently service the existing strip of shops. Being developed at a time before widespread adoption of cars, these shops are highly reliant on proximate verge bays. A well prepared LDP would have resolved issues such as this prior to the preparation of a Development Application.</p>

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
					 <p>Figure 3 Existing verge bays to be removed. Reducing verge parking for 8 retail tenancies from 12 to 9 bays.</p> <p>The indicative build quality appears high.</p>
Sustainability				<p><i>Planning and development of precincts delivers a sustainable built environment through:</i></p> <ul style="list-style-type: none"> <i>passive environmental design measures</i> <i>water sensitive urban design</i> <i>enhancement of the green network</i> <i>harnessing opportunities for renewable energy sources and precinct-wide energy savings</i> <i>adaptive reuse of existing structures where feasible</i> <i>promotion of active and public transport modes.</i> 	<p>The proposal requires only 101 residential parking bays. However it promotes the use of the private vehicle by providing 127 dedicated parking bays. The additional basement excavation required to provide the 26 car parking bays further compromises the sustainability credentials sought.</p> <p>The proposal is only guaranteed to achieve a 4-star rating. To put into perspective these ratings, a 2-star rating is considered by the Green star building council as being 'average', a 3-star rating is considered as being 'Good practise', 4-star rating (as proposed) is considered as being 'Best practise', whilst a 5 star would deliver 'Australian Excellence'.</p>

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
					Any proposal seeking to more than double the plot ratio yield by being reliant on sustainability measures should be expected to deliver a 5 star as built green star rating or higher.
Amenity				<i>The precinct design provides comfortable public spaces that encourage physical activity, enable a range of uses and are accessible to all.</i>	<p>The works proposed in the verge area are not proposed with any certainty or funding details.</p> <p>Pedestrian access to the laneway is supported however the pedestrian environment in the laneway will be hostile as the width of the ROW is less than 4.3m wide and it is designed to accommodate two-way traffic and commercial deliveries.</p>
Legibility				<i>The precinct design provides for places that are easy to navigate, with clear connections, good lines of sight to key locations and a logical, intuitive layout.</i>	The sheer height of the proposal will make for a prominent visual cue within the urban skyline by acting as a wayfinding marker to the wider area, visually communicating from some distance the spatial layout and geography of the area. The legibility within the urban skyline is achieved at the expense of suburbs general amenity.

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
					 <p>Figure 4 The design has missed an opportunity to deliver a context responsive movement network to deliver line of site and better connection to ROW.</p>
Safety				<p>Planning and development optimises safety and security within precincts by:</p> <ul style="list-style-type: none"> maximising opportunities for passive surveillance 	<p>The ROW area is not sufficiently provided with surveillance and an opportunity is lost to provide a north-south linkage along the ROW.</p>

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
				<ul style="list-style-type: none"> integrating safety requirements in manner that does not compromise intended uses following Crime Prevention through Environmental Design (CPTED) design principles. 	
Community			n/a	<p>The precinct design provides for development that responds to local community needs and the wider social context by delivering an appropriate mix of land uses, dwelling types and public spaces.</p>	<p>The public spaces proposed within the subject site do not deliver a worthy benefit to the community, instead acting to benefit the trading conditions of the ground floor commercial tenancies.</p> <p>Other recently prepared Community Benefit bonus provisions in the City of Belmont's Draft RSACP detail the provision of Publicly Accessible Private Open Space in exchange for developers achieving additional yield as being required to deliver the following outcomes:</p> <p><i>'Alfresco eating areas <u>adjacent</u> to the open space' (but not forming part of the open space benefit and '[s]ubstantial landscaping to provide a high level of amenity.'</i></p> <p>The works proposed in the verge area are not proposed with any certainty or funding details and are within publicly owned land. Design issues have been identified which relate to obstruction of the bus stop and the inability for bays to accommodate fully within the existing verge.</p>

SPP 7.0 Design Principles	3: PUBLIC REALM	4: MOVEMENT	6: BUILT FORM	SPP 7.2 Policy Outcomes	Commentary
Aesthetics		n/a		<i>The precinct is attractive and inviting, with a coherent identity and cultural relevance. The scale, arrangement, articulation and material quality of buildings and spaces together create a high level of amenity.</i>	<p>The tremendous scale of buildings will generate a diminished level of external amenity.</p> <p>The quality of the materials appears high.</p>

Summary

Fundamental and significant changes need made to the proposal to positively affect the scale of the development such that the design is able to preserve the amenity of the location.

The design is heavily reliant on areas external to the site (verge) to respond to public realm elements. These areas are not subject to the control of the determining authority (SDAU) or applicant/landowner. In the absence of an approved LDP, there is no pathway available to fulfill these aspirations which would only go some way to mitigating against the detrimental amenity impacts of the proposal on the location.

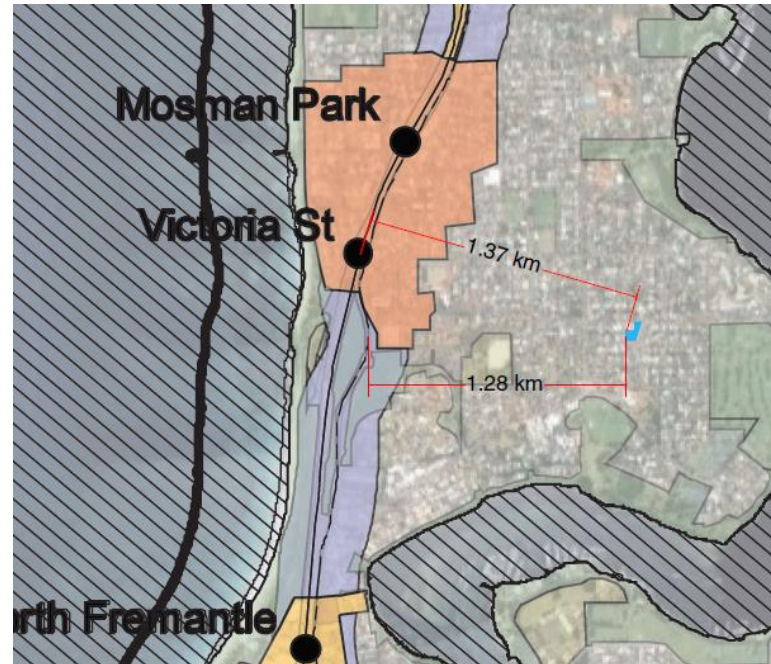
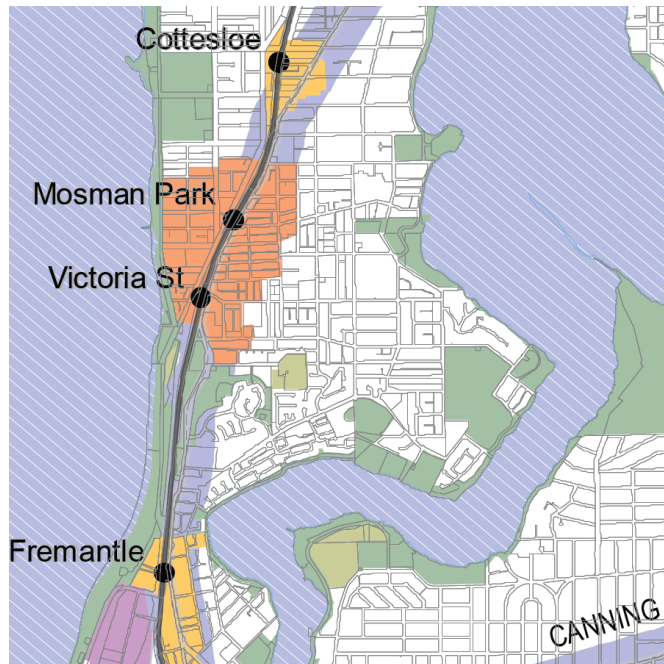
ORDERLY AND PROPER PLANNING AND OTHER MATTERS OF RELEVANT CONSIDERATION

NO DEVELOPMENT APPROVAL WITHOUT LDP

In addition to requiring 4m street setbacks, LPS3 requires the preparation of an LDP prior to an application for development approval being made. An applicant for an LDP may make an application for review to the Tribunal when an LDP is refused as was the case, however, the proponent has not chosen to pursue this course of action. The document now it is refused is not 'seriously entertained' and it likely never was as it was not initiated and prepared by the LGA. In relation to any other proposed planning instrument (being a local development plan), the test is not whether the proposed planning instrument is "seriously entertained" but, rather, whether the local government is "seriously considering adopting or approving it."

INCONSISTENT WITH CENTRAL SUB REGIONAL PLANNING STRATEGY

The subject site is not located within any of the Urban Consolidation Precincts identified in the Central Sub-regional Planning Framework. The proposal is located 1.37km from Victoria Street station and 1.28km from Stirling Highway, yet the development proposal seeks to achieve a yield and built form consistent with R-AC3 (Medium Rise Urban Centres) and R-AC2 (Higher Density Urban Centres). Placement of a development of this scale outside of high frequency transport route precinct and employment centres does not reflect orderly and proper planning.



- Framework land uses
- Green network (MRS only)
 - Activity centre
 - Urban corridor
 - Station precinct

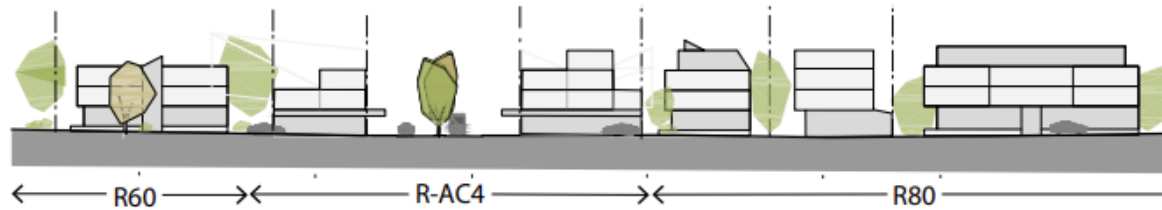
Figure 5 Adapted graphic depicting Central Sub Regional Planning Strategy Precinct Plan.

The figures below depict the intended development crosssection for an R60 centre in SPP7.3 Vol. 2, this is in comparison to the effective RAC3/RAC2 density sought by the proposal.

Neighbourhood centre

Context: A local or neighbourhood centre within a low – medium rise residential area. Neighbourhood centres should be located within a short walk of transport and other amenities and include built form and uses that activate the **street**. Land uses within a neighbourhood centre may include residential, community facilities, local shopping and commercial activities.

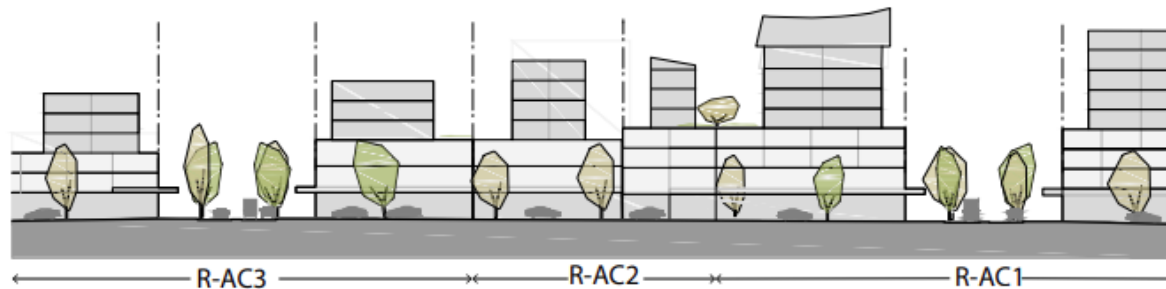
Character: Neighbourhood centres have a compact and cohesive urban form that complements the surrounding residential character in scale and style. New **development** should contribute to the public realm by enhancing and activating the **streetscape** and contributing to creating a distinct and appealing character for the centre.



High density urban centres

Context: High density urban centres are largely commercial centres with some residential **development**. They have excellent multi-modal transit services and include **public open space** and a high concentration of community infrastructure. High density urban centres may include the CBD, city centres, strategic metropolitan centres, secondary centres, inner-city urban corridors, and designated specialised centres and station precincts.

Character: High density urban centres are characterised by **podium** and tower developments that support highly activated and pedestrianized **street frontages**. New residential development should contribute to an attractive, dynamic and liveable city environment.



ACOUSTIC IMPACT

We are not qualified to dispute technical aspects of the Acoustic Impact **Assessment we note the report does not consider the following potential impacts** caused by:

- The elevated pool; and
- Acoustic impacts from vehicles accelerating up the exit ramp, accelerating upwards and amplified by tunnel.

These impacts could be material to the proposal

A fundamental flaw of development is its apparent reliance upon a recommendation in the Acoustic Impact Assessment requiring acoustic mitigation measures installed on the side of the post office building to limit traffic noise. This solution requires the consent of the owner of that property and further narrows vehicle access.

RIGHT OF WAY WIDENING

It is recognised that vehicles can pass safely (at low speed) in a 5 metre wide right of-way. The ROW behind the proposal is as narrow as 4.3m. Whilst aspects of the proposal are setback from the ROW to achieve a more appropriate width this is not a prevailing feature of the development and the airspace above these setbacks are occupied. Considering a ROW less than 5m wide is not considered appropriate for two way traffic, we consider that in line with Liveable Neighbourhoods a width of 6 metres for a right-of-way for vehicular access would have been specified in an LDP had it been approved.

Sections 168 of the Planning and Development Act 2005 can be used to require private right-of-way or narrow dedicated laneway widening. Given the volume of traffic proposed to be discharged onto the laneway the determining authority should apply the provision which can require that whenever a development gains access from a right-of-way less than 6 metres wide (or 5 metres, if appropriate), the approval can require that the land required to widen the laneway to 6 metres will be given up free of cost to be dedicated to public use.

PROVISIONS OF PLANNING & DEVELOPMENT AMENDMENT ACT 2020

It is not disputed that the Planning & Development Amendment Act 2020 has discretionary powers to vary the Local Planning Scheme's development standards and requirements; however, having regard to orderly and proper planning we do not believe the intent, provisions and objectives of the Local Planning Scheme and Design WA *should* be varied to the extent being sought.

The Planning and Development Amendment Bill 2020's Explanatory Memorandum prepared by the Department of Planning, Lands and Heritage in May 2020 articulated the restraints of these powers as follows: *[W]hile the Commission is not strictly bound by any planning or non-planning law, rule or other requirement, it must still give due regard to relevant considerations in making a determination. These relevant considerations include the purpose and intent of any planning scheme, orderly and proper planning, amenity, relevant State planning policies ('SPPs') and other policies. Importantly, the Commission is also required to give due regard to the need to facilitate development in response to the economic effects of the COVID-19 pandemic.'*

To extrapolate this explanation we respond to each item the Commission must have due regard to:

Item for due regard	Comment
<i>(6) In considering and determining the development application, the Commission must [our emphasis] have due regard to —</i>	
<i>(a) the purpose and intent of any planning scheme that has effect in the locality to which the development application relates; and</i>	<p>LPS3 was gazetted on 28/03/18 by the current Government. We do not consider the proposal is capable of meeting the purpose and intent of the Scheme with respect to the following CI 9.Aims of Scheme</p> <p>The [Relevant] aims of this Scheme are –</p> <p><i>(d) to consolidate commercial activities in appropriate locations and facilitate a diversity of activity in identified activity centres; and</i></p> <p><i>(e) to protect residential areas from non-residential uses that would disrupt desired residential character and amenity; and</i></p> <p><i>(f) to enhance the amenity of residential areas and maintain the lifestyle enjoyed by residents; and</i></p> <p><i>(k) to maintain and enhance the amenity and quality of streetscapes throughout the Town; and</i></p>

Item for due regard	Comment
<i>(b) the need to ensure the orderly and proper planning, and the preservation of amenity, of that locality; and</i>	<p>A proposal for a six (seven storey effective) development in an immediately adjoining low-density (R20) residential setting in incapable of preserving the amenity of the locality and cannot objectively be considered to conform to the principles of orderly and proper planning.</p> <p>The Town of Mosman Park's LPS3 (2018) explicitly requires a Local Development Plan (LDP) be approved to guide development of the site. An approval has not been granted. To determine an application for development approval without the approval of an LDP would be inconsistent with the principles of orderly and proper planning.</p>
<i>(c) the need to facilitate development in response to the economic effects of the COVID-19 pandemic; and</i>	<p>The pretence of Economic Benefit to the state being delivered by the proposal is now flawed given the Act was drafted when the State considered itself to face the '<i>greatest economic crisis since the Great Depression</i>' however the State is suffering a skills and materials shortage crisis due to the unexpected and immediate success of other stimulus measures and demonstrating there is no need to facilitate development in response to the economic effects of the COVID-19 pandemic.</p> <p>The relevant purpose of this Bill as detailed in the current Government's own Explanatory Memorandum prepared when introduced to the Legislative Assembly was to:</p> <p>1. Provide an urgent response to the COVID-19 pandemic, as it relates to planning and development impacted by the greatest economic crisis since the Great Depression, by:</p> <ul style="list-style-type: none"> <i>o facilitating significant development projects;</i> <i>o removing regulatory road blocks and significantly reduce red tape</i> <p>Recent comments attributed to Premier Mark McGowan as well as recent economic data demonstrate there is no longer a 'need' to facilitate development to respond to the economic effects of the COVID-19 pandemic.</p> <p><i>"In the face of the COVID-19 pandemic we've delivered the strongest business confidence in the nation, the strongest retail growth, job ads, building approvals and housing finance in the nation, while ensuring the WA health system has been strengthened to manage possible future outbreaks."</i></p> <p><i>"The WA Recovery Plan and its initiatives have exceeded our expectations and is the result of so many people and their hard work and perseverance."</i></p>

Item for due regard	Comment
	<p>Premier Mark McGowan Thursday, 24 December 2020</p> <p>Economic Data per the State Government's "WA Impact Statement - COVID-19 pandemic - July 2021"</p> <p><i>Underpinned by support from the WA and Australian Governments, residential construction continues to show exceptional strength. Building approvals are up a record 81% annually to May 2021, while finance for new dwelling construction was up 145.8% – also a record.</i></p> <p><i>Residential construction and housing market</i></p> <p><i>Activity in the residential construction sector has picked up strongly following the announcement of construction grants in early June 2020. Residential building approvals reached a total of 24,982 in the 11 months to May 2021 compared to 13,183 over the same period a year earlier, representing an increase of 89.5%. Demand in the established housing market has also been robust with total sales for detached homes and units increasing by an annual average of 54% in June 2021.</i></p> <p><i>Skills shortages have emerged as a pressing issue across a range of industries, exacerbated by the restricted availability of labour from interstate and overseas. There are reports of skills shortages in industries that are central to the state's economic recovery, including mining, construction and transport, as well as in the health and hospitality sectors.</i></p>
(d) any relevant State planning policies and any other relevant policies of the Commission.	The proposal is inconsistent with SPP7.3 Vol. 2. SPP7.2 and SPP7.0 as previously established.