

# City of Fremantle

## MINUTES

### Planning Services Committee

Wednesday, 6 May 2009  
6.00 pm

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#### COMMITTEE MEMBERS

Mayor Peter Tagliaferri  
Cr Les Lauder  
Cr Jon Strachan  
Cr John Dowson  
Cr Bill Massie  
Cr John Alberti  
Cr Robert Fittock

City Ward  
South Ward  
East Ward  
Hilton Ward  
Beaconsfield Ward  
North Ward

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**PLANNING SERVICES COMMITTEE**

Minutes of the Planning Services Committee  
held in the Council Chambers, Fremantle City Council  
on 6 May 2009 at 6.00 pm.

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**DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Deputy Presiding Member declared the meeting open at 6.00 pm.

**NYOONGAR ACKNOWLEDGEMENT STATEMENT**

"We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar people as the custodians of the greater Fremantle/Walyalup area and that their cultural and heritage beliefs are still important to the living Nyoongar people today."

**IN ATTENDANCE**

Cr Robert Fittock	Deputy Presiding Member / North Ward
Cr Donna Haney	City Ward ( <i>entered 6.03pm</i> )
Cr Georgie Adeane	South Ward
Cr John Dowson	East Ward ( <i>entered 6.03pm</i> )
Cr Bill Massie	Hilton Ward
Cr John Alberti	Beaconsfield Ward
Mr Philip St John	Director Planning and Development Services
Ms Kathy Bonus	Manager Development Services
Mr Steve Sullivan	Statutory Planning Coordinator
Mrs Tanya Toon-Poynton	Minute Secretary

*There were approximately 11 members of the public and 1 member of the press in attendance.*

**APOLOGIES**

Mayor, Peter Tagliaferri  
Cr Jon Strachan

**LEAVE OF ABSENCE**

Nil

**RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**PUBLIC QUESTION TIME**

Nil

**DEPUTATIONS / PRESENTATIONS**

**The following member of the public spoke in favour of item PSC0904-68:**

Andy Zubowicz

**The following member of the public spoke against item PSC0904-68:**

Jerry Cullity

**The following member of the public spoke in favour of item PSC0905-76:**

Gerard McCann

**The following members of the public spoke against item PSC0905-77:**

Michael Willicombe

Tony Young

**The following member of the public spoke against item PSC0905-78:**

John Pacey

**DISCLOSURES OF INTEREST BY MEMBERS**

Nil

**LATE ITEMS NOTED**

Nil

**CONFIRMATION OF MINUTES**

**MOVED: Cr J Alberti**

That the Minutes of the Planning Services Committee dated 15 April 2009 as listed in the Council Agenda dated 22 April 2009 be confirmed as a true and accurate record.

**CARRIED: 4/0**

<b>For</b>	<b>Against</b>
Cr John Alberti Cr Robert Fittock Cr Bill Massie Cr Georgie Adeane	

**TABLED DOCUMENTS**

Nil

**DEFERRED ITEMS (COMMITTEE DELEGATION)**

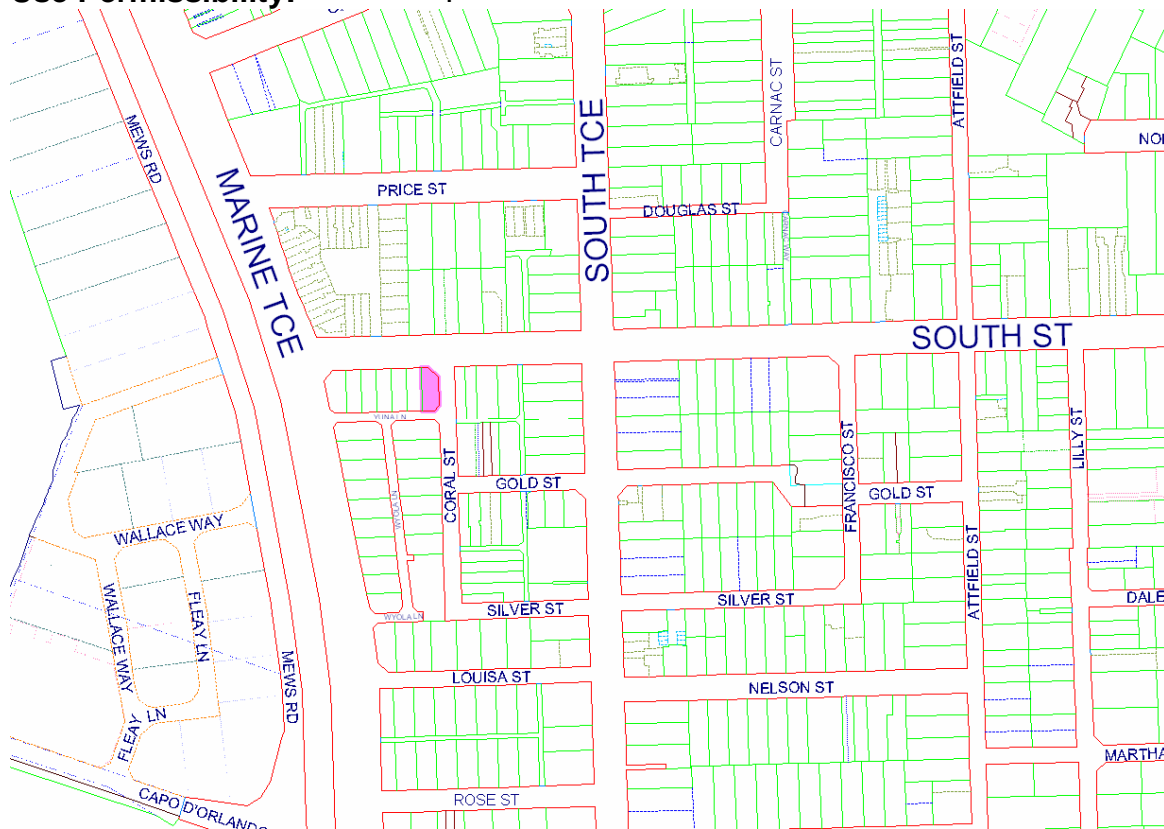
The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

Cr D Haney arrived at 6.03 pm prior to consideration of the following item.

Cr J Dowson arrived at 6.03 pm prior to consideration of the following item.

**PSC0904-68 SOUTH STREET NO. 5/B (LOT 310), SOUTH FREMANTLE - THREE STOREY SINGLE HOUSE - (BC DA653/08)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** Nil  
**Attachments:** Development Plans  
**Date Received:** 8 December 2008  
**Owner Name:** James & Teresa Laurie  
**Submitted by:** Allguard Pty Ltd  
**Scheme:** Residential R35  
**Heritage Listing:** South Fremantle Heritage Area  
**Existing Landuse:** Vacant Land  
**Use Class:** Single House  
**Use Permissibility:** P



## **EXECUTIVE SUMMARY**

The application is presented before the Planning Services Committee as the City of Fremantle (the City) received submissions during the consultation period concerning various aspects of the proposal that cannot be resolved via conditions of planning approval.

The applicant is seeking Planning Approval for a three storey Single House at No. 5/B South Street, South Fremantle.

The proposed development has been assessed against the requirements of the Local Planning Scheme No. 4 (LPS4), Residential Design Codes 2008 (R-Codes) and relevant local planning policies. The proposed development requires Council's discretion regarding the following variations:

- boundary wall,
- open space,
- building height, and
- visual privacy.

Overall the proposed variations are considered relatively minor and are not anticipated to significantly impact on the amenity of the area by way of size, scale and building bulk.

Accordingly the application is recommended for conditional approval.

## **BACKGROUND**

The subject site is 255m<sup>2</sup> in area and is located on the southern side of South Street, South Fremantle. The site is bounded by three streets, those being South Street, Coral Street and Yuna Lane. The subject site is 10.2 metres wide and 26.4 metres long, with a 6m x 6m truncation at the corner of South Street and Coral Street and a 3m x 3m truncation at the corner of Coral Street and Yuna Lane. Vehicle access is gained from the rear of the site – Yuna Lane. The site is orientated in a north-south direction, facing South Street.

The site is zoned Residential R35 and is located within the South Fremantle Local Planning Area (South Fremantle LPA) as described in Schedule 12 of LPS4. The site forms part of the Wills Transport Site subdivision. The site is not individually listed on the City's Heritage List however is located within South Fremantle LPA which is a Heritage Area under LPS4.

The extant development on the southern side of South Street within the former Wills Transport Site is reflective of the design guidelines of the City's local planning policy, *D.G.S5 Wills Transport Site*. These developments are two storey Single Houses, some with a third floor element, with an average front setback of 1.5 metres from South Street. The subject site is adjacent to a two storey with loft Single House at No. 5/A South Street. There exists a boundary wall along the entire length of the common lot boundary that is 7.8 metres high.

On 17 August 2005, conditional Planning Approval was granted for a two storey Single House at No. 5/B (Lot 310) South Street, South Fremantle (refer DA743/04). This Planning Approval was not acted upon as construction never commenced. The site is currently vacant.

The current development application was presented before the Planning Services Committee on 15 April 2009. However the item was referred to the Ordinary Meeting of Council for determination as clauses 1.1 or 2.1 of the City of Fremantle Delegated Authority Register require at least 5 members of the committee to vote in favour of the Committee Recommendation in order to exercise its delegation. However, at the Ordinary Meeting of Council on 22 April 2009, Council resolved to defer consideration of the item to the next available Planning Services Committee meeting at the request of the City's officers due to an anomaly in the Scheme mapping that was relevant to the assessment of the proposed development.

## **DETAILS**

The applicant is seeking Planning Approval for a three storey Single House at No. 5/B (Lot 310) South Street, South Fremantle. The development consists of three storeys fronting the corner of South Street and Coral Street with a rear two storey element addressing Yuna Lane with an additional roof top garden on the second storey element. The development provides open space and outdoor living areas in the form of three ground level courtyards as well as the roof top garden.

The applicant is seeking discretionary approval for the following variations to the City's local planning policy, *D.G.S5 Wills Transport Site*, and R-Codes:

- boundary setbacks,
- open space,
- building height, and
- visual privacy.

## **STATUTORY AND POLICY PROVISIONS**

### **Local Planning Scheme No. 4**

The site is located within the South Fremantle Local Planning Area as described in Schedule 12 of LPS4. Schedule 12 requires residential development within the South Fremantle LPA to comply with the building height requirements of the R-Codes.

### **Council Policies and Residential Design Codes 2008**

The City's local planning policy, *D.G.S5 Wills Transport Site – 122 Marine Terrace & 3 South Street, South Fremantle (Wills Transport Site)*, provides specific design guidelines for development within the policy area. The policy does not provide performance criteria where the development does not meet the specific requirements of the policy. The proposed variations from the requirements of the policy have been assessed against the performance criteria of the R-Codes. The development is seeking variations from the requirements of the *Wills Transport Site* policy regarding boundary setbacks, open space, building height and privacy.



## CONSULTATION

### Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and the City's *LPP1.3 Public Notification of Planning Proposals* policy, as the development requires discretionary decisions regarding the boundary setbacks and visual privacy requirements of the R-Codes. At the conclusion of the advertising period, being 5 January 2009, the City had received 4 submissions. The following issues were raised:

- Impact of three storey development on streetscape characteristics
- Potential overlooking to eastern and southern properties
- Incompatible with existing streetscape and traditional cottages
- Overshadowing.

## PLANNING COMMENT

As previously mentioned, the City's local planning policy, *D.G.S5 Wills Transport Site*, provides design guidelines for development within the policy area. Where the development does not meet the specific requirements of the policy, the proposed variations have been assessed against the performance criteria of the R-Codes.

### Building Setbacks

The City's *D.G.S5 Wills Transport Site* local planning policy allows for a third floor provided that the third floor is setback 4 metres from the front of the building. The proposed third floor bedrooms are setback accordingly however the development proposes an unroofed balcony on the third floor that is in line with the front of the building and thus is not setback the required 4 metres.

The definition of "floor" is not clearly defined in the R-Codes or the City's LPS4. However the proposed balcony area is considered to form part of the third floor of the proposed dwelling as it is capable of active use by the inhabitants. Therefore the proposed balcony is required to be setback 4m from the front of the building in accordance with the City's local planning policy.

However it should be noted that the proposed balcony also forms the roof cover for the second floor balcony. The proposed third floor balcony could be replaced with a permanent roof cover for the second floor balcony without requiring a 4m setback from the front of the dwelling, under the provisions of the policy. A roof cover over the second floor balcony would offer a similar impact on the visual appearance of the dwelling, by way of building bulk, from the street as the proposed third floor balcony. As the impact on the streetscape of the proposed balcony is considered to be comparable to a permanent roof cover, the proposed balcony should then be assessed with regard to potential impacts on the amenity of the adjoining properties.

The proposed third floor balcony is adjacent to a roof top open terrace on the western adjoining property (No. 5/A South Street) that has a floor level at approximately the same level as the proposed balcony. Separation between the two outdoor living areas is to be provided by a proposed 1.8 metre high (above the floor level of the balcony) boundary wall. The proposed wall is considered to alleviate the potential impact of the proposed third floor balcony on the adjoining property. As such the proposed third floor balcony is supported, as a variation to the required setback for the third floor is not considered to impact on the streetscape or amenity of the adjoining western property.

### Buildings on Boundary

The City's local planning policy, *LPP2.4 Boundary Walls in Residential Development*, replaces the Acceptable Development requirements of the R-Codes pertaining to buildings on a boundary. A boundary wall is defined as a wall built up to, or within 750mm of, a boundary behind the front setback line. A proposed boundary wall meets the Acceptable Development requirements of the policy *'where the wall is proposed to abut an existing or simultaneously constructed boundary wall of similar or greater dimensions'*.

The proposed western boundary wall varies in height from 1.9m to 9m. The majority of the proposed wall is to abut an existing boundary wall on the adjoining western lot of similar dimensions. However a 5.5m length of the proposed western boundary wall that is 9m high does not abut the existing boundary wall for its entirety and is therefore not considered to meet the Acceptable Development requirements of the policy.

The City's local planning policy, *LPP2.4 Boundary Walls in Residential Development*, states:

*'In considering any application under the performance criteria in clause 6.3.2 P2 of the Residential Design Codes, the Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties, and will only consider these criteria to be met where it is satisfied that no adverse impacts on the amenity of the neighbouring property will occur.'*

The performance criteria of the R-Codes regarding buildings on boundaries state:

*'Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:*

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development;*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.'*

The proposed development is considered to make effective use of space by building up to the western boundary. The subject site is relatively narrow (10.2m) and there exists a 7 high boundary wall on the western boundary. Constructing up to the existing boundary wall is considered acceptable given these circumstances.

As previously mentioned, the majority of the proposed western boundary wall is to abut an existing boundary wall of similar dimensions. The 5.5m length of the proposed boundary wall that does not abut the western existing boundary wall is to be adjacent to the roof of the western adjoining property. The proposed boundary wall is therefore not considered to pose any significant adverse impact on the amenity of the adjoining western property. Furthermore the proposed boundary wall will not restrict the availability of direct sun to any major openings or outdoor living areas.

The adjoining landowner was notified of the development and no submission was received.

It is considered that the proposed boundary wall satisfies the performance criteria of the R-Codes and the requirements of the City's *Boundary Walls in Residential Development* policy for the reasons outlined above.

### Open Space

The City's local planning policy, *D.G.S5 Wills Transport Site*, permits up to 60% site cover, as measured by roof space. The proposed development has site coverage of 65%.

The performance criteria of the R-Codes pertaining to open space states:

*'Sufficient open space around buildings*

- *To complement the building;*
- *To allow attractive streetscapes;*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.'*

It should be noted that the site coverage calculation as required by the local planning policy differs from calculation of open space as required by the R-Codes. Under the open space calculation of the R-Codes, the proposed development provides 72% open space, due to the inclusion of the second and third floor balconies and garden roof top in the open space calculation.

The provided open space, in the form of ground level open space as well as the terraces on the upper levels is considered to complement the design and character of the proposed dwelling. The proposed open space, particularly that provided for within the primary and secondary street setback areas, is considered to contribute to an attractive streetscape. The combination of ground level and upper level open space is considered to suit the future needs of the residents. Consequently the proposed development is considered to satisfy the performance criteria regarding open space.

### Outdoor Living Area

The City's local planning policy, *D.G.S5 Wills Transport Site*, requires a ground level courtyard of 4m x 4m at the rear of the development. The proposed development provides three separate ground level courtyards facing the northern, eastern and western boundaries. The northern facing courtyard measures 3.5m x 3.5m. The eastern facing courtyard measures 5m x 3.3m. The western facing courtyard measures 2.5m x 4m.

The performance criteria of the R-Codes pertaining to outdoor living area states:

*'An outdoor living area capable of use in conjunction with a habitable room of the dwelling, and if possible, open to winter sun.*

*An outdoor area that takes the best advantage of the northern aspect of the site.'*

The proposed outdoor living areas, in the form of the three ground level courtyards, are readily accessible from the ground floor habitable rooms. The northern facing courtyard takes advantage of the northern aspect of the site which is optimal for accessing the winter sun. The proposed development is considered to satisfy the performance criteria with regards to outdoor living areas.

### Building Height

The City's local planning policy, *D.G.S5 Wills Transport Site*, provides a maximum height limit of 6m (including the height of roofs) within 12m of the rear boundary. The external wall height of the development is 6m high within 12m of the rear boundary with the exception of the glass balustrade around the garden roof top and the external wall around the stairwell leading to the third floor. The glass balustrade around the garden roof top is 1m high. The external wall around the stairwell has a maximum height of 8.4m and is located 10m from the rear boundary.

The performance criteria of the R-Codes pertaining to building height state:

*'Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:*

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance.'*

The proposed height of the glass balustrade and external wall of the stairwell are considered to be generally consistent with the overall height of the constructed buildings within the former Wills Transport Site.

The glass balustrade is not considered to impact on the amenity of the locality by way of excessive building bulk due to the clear construction material proposed. Furthermore the *Wills Transport Site* local planning policy encourages *'surveillance from private property in to the public areas on site and surrounding the site'*. As the subject site is bounded by three public roads, the proposed roof top garden area would enhance the surveillance of these public areas as encouraged by the policy.

As previously mentioned, the proposed external wall of the stairwell is setback 10m from the rear boundary. The wall is situated in the middle of the lot and therefore will present no minimal impact on the adjoining properties by way of building bulk or overshadowing.

The proposed glass balustrade and external wall of the stairwell are not considered to create any adverse impact on the amenity of the adjoining properties, streetscape or immediate locality. The proposed development is therefore considered to satisfy the performance criteria of the R-Codes pertaining to building height.

### Visual Privacy

The Acceptable Development requirements of the R-Codes require unenclosed active habitable spaces (balconies, verandahs and terraces) to be setback 7.5m from the lot boundary. The proposed garden roof top area is located on the western lot boundary, thus providing a nil setback from the boundary. Also the proposed garden roof top area and second floor balcony are setback 6.76m from the lot boundary of No. 3 Coral Street, South Fremantle.

The performance criteria of the R-Codes regarding visual privacy states:

*'Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.*

*Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass.*

*Where these are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.*

*Where opposite windows are offset from the edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.'*

The area of potential overlooking from the proposed garden roof top is the roof of the western adjoining property. There is no potential for overlooking from the proposed garden roof top into any active habitable spaces or outdoor living areas. The proposed variation from the Acceptable Development requirements of the R-Codes is therefore supported as the area of potential overlooking is not into any sensitive areas.

The area of potential overlooking from the roof top garden area and second floor southern facing balcony is the proposed northern facing outdoor area of No. 3 Coral Street, South Fremantle. Whilst No. 3 Coral Street is currently vacant, Planning Approval was granted on 4 September 2007 for a two storey Single House at the site however construction is yet to commence. Nevertheless the potential overlooking of the outdoor living area of No. 3 Coral Street is considered unacceptable.

A condition of Planning Approval requiring appropriate screening to the proposed second floor balcony is recommended. Screening is not recommended for the southern elevation of the roof top garden area, rather the proposed glass balustrade should be setback 0.75m from the southern edge of the building (1.5m from southern lot boundary) which would then satisfy the 7.5m setback requirement of the R-Codes (7.51m from the lot boundary of No. 3 Coral Street).

The setting back of the glass balustrade is preferable to screening for the roof top garden area given that such screening will increase the building bulk and mass of the southern elevation of the proposed development.

## **Submissions**

### Impact of three storey development on streetscape characteristics

The City's local planning policy, *D.G.S5 Wills Transport Site*, permits two storey developments along South Street with a third floor included provided the third floor is setback 4m from the front of the building. As previously discussed, the proposed third floor balcony is not setback the required 4m from the front of the building however the impact on the streetscape of the unroofed balcony is considered to be equivalent to that of a roof space over the second floor balcony and is therefore supported.

The proposed development is generally in accordance with the *Wills Transport Site* local planning policy and is considered to be sympathetic and comparable to the existing developments within the former Wills Transport Site subdivision area.

### Potential overlooking

The submitters raised concern about potential overlooking eastwards from the proposed roof top garden area and proposed balconies. The distance from these balcony areas to the lot boundary of the nearest eastern property is approximately 14 metres and therefore complies with the required setback of the Acceptable Development provisions of the R-Codes.

As previously discussed, the provided setbacks from the western boundary and southern adjacent property do not meet the required setback distances of the Acceptable Development provisions. A condition of Planning Approval has been recommended for suitable screening to be installed to the second floor balcony and the setting back of the glass balustrade for the roof top garden area to protect the outdoor living area of No. 3 Coral Street. The area of overlooking towards the western adjoining property is over roof space which is not regarded as a visually sensitive area.

### Incompatible with existing streetscape and traditional cottages.

The streetscape of the northern side of South Street is typically characterised by single storey heritage dwellings, with the exception of a two and three storey Multiple Dwelling complex on the corner of South Street and Marine Terrace. This streetscape contrasts with the recently developed southern side of South Street that forms part of the former Wills Transport Site, which is typified by two and three storey developments. The proposed development is consistent with the type of recent development along the southern side of South Street as part of the former Wills Transport Site. The proposed development generally satisfies the provisions of the *Wills Transport Site* local planning policy and is therefore considered compatible with the desired streetscape of the Wills Transport Site and immediate area.

## Overshadowing

The majority of the resultant overshadowing from the proposed development falls on the road reserve of Yuna Lane. Approximately 20m<sup>2</sup> (5.7%) of the southern adjacent site (No. 3 Coral Street) is affected by the shadow cast from the proposed development. This is well within the 35% of overshadowing permitted by the R-Codes for a R35 coded Residential property.

## **Conclusion**

The proposed development satisfies the relevant requirements of LPS4 and the City's local planning policy, *D.G.S5 Wills Transport Site*, with the exception of building setbacks, building height, open space and visual privacy. The proposed variations from the City's local planning policy, *D.G.S5 Wills Transport Site*, have been assessed against the relevant performance criteria of the R-Codes. Overall the proposed variations are considered relatively minor and are not regarded to significantly increase the impact of the development on the amenity of the area by way of size, scale and building bulk.

The proposed development does not satisfy the visual privacy requirements of the R-Codes with regards to the potential overlooking from the roof top garden area and second floor balcony towards the southern adjacent property (No. 3 Coral Street). A condition of Planning Approval is recommended requiring suitable screening to the second floor balcony and the setting back of the glass balustrade on the roof top garden area to ensure compliance with the visual privacy design element of the R-Codes.

Accordingly the application is recommended for conditional approval.

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr R Fittock**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Single House at No. 5/B (Lot 310) South Street, South Fremantle, subject to the following condition(s):**

- 1. The development hereby permitted shall take place in accordance with the approved plans dated 8 December 2008.**
- 2. All storm water discharge shall be contained and disposed of on-site.**
- 3. The proposed structures shall be wholly contained within the subject lot and shall not encroach over the lot boundary.**
- 4. Prior to occupation, 80% solid surface area / obscured balustrade to a minimum height of 1.6m above the floor level shall be provided to the southern elevation of the proposed second floor balcony in accordance with clause 6.8.1 of the Residential Design Codes Variation 1.**
- 5. Prior to occupation, the proposed glass balustrade on the southern elevation of the roof top garden area shall be setback a minimum distance of 0.75m from the southern edge of the building to provide the visual privacy setback distance in accordance with clause 6.8.1 of the Residential Design Codes Variation 1.**

**Advisory Notes:**

- (i) This approval does not authorise the commencement of any building/demolition works. A building/demolition licence must be obtained prior to the commencement of construction works. Please contact Building Services on 9432 9778.**
- (ii) This Planning Approval is for a Single House only, as defined by the Residential Design Codes Variation 1.**

**CARRIED: 5/1**

<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Bill Massie Cr Georgie Adeane	Cr Donna Haney

**REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION**

**Cr D Haney requested the item be referred to the Ordinary Meeting of Council. Seconded by Cr J Dowson.**

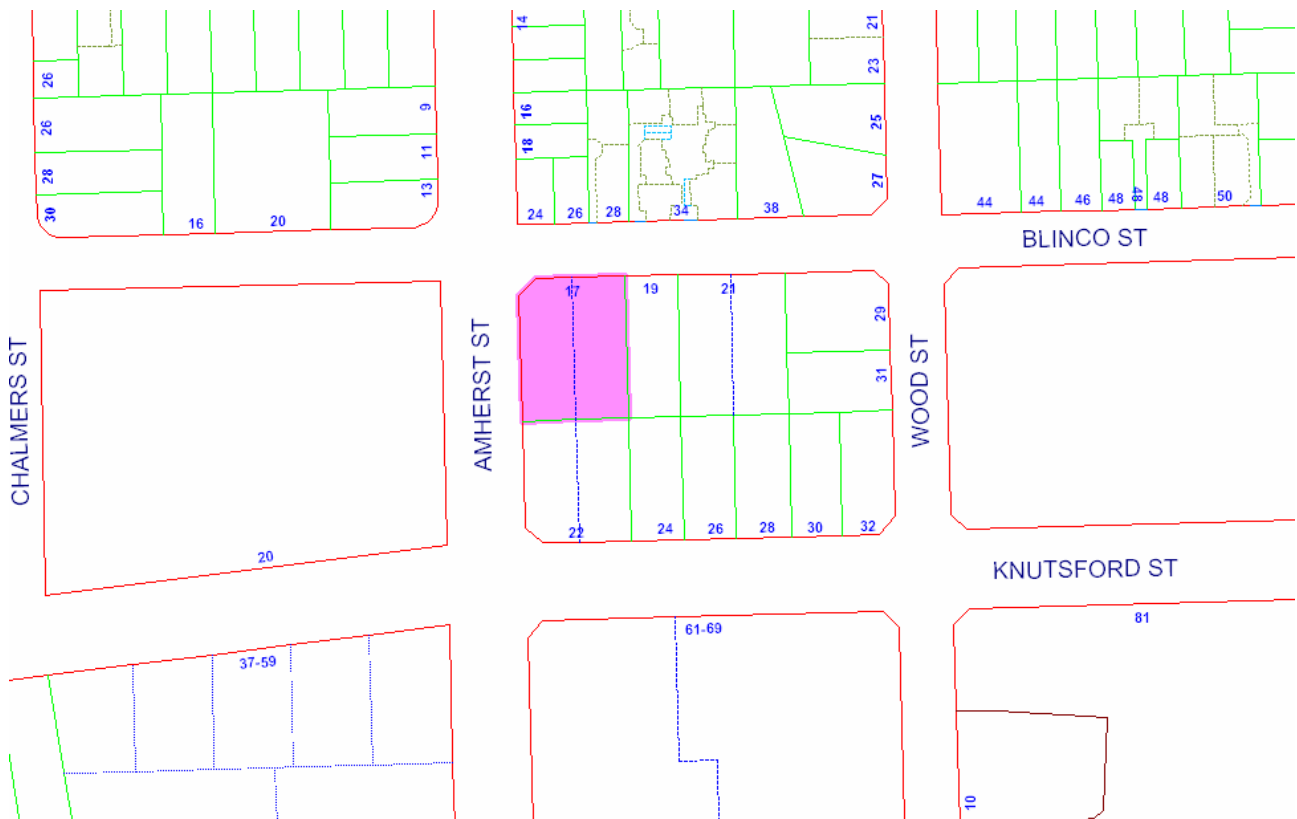


**REPORTS BY OFFICERS (COMMITTEE DELEGATION)**

The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

**PSC0905-76 BLINCO STREET, NO.17 AND 17A (LOTS 13 AND 14), FREMANTLE - CHANGE OF USE TO WAREHOUSE, EXHIBITION CENTRE (ANTIQUES SHOWROOM), LIGHT INDUSTRY, & ALTERATIONS TO EXISTING BUILDING - CL DA75/09**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** N/A  
**Attachments:** Applicant's Submission  
 Development Plans  
**Date Received:** 3 March 2009  
**Owner Name:** Les Lauder and Mark Howard  
**Submitted by:** Gerard McCann Architect  
**Scheme:** Development Area 1 (Knutsford Street East)  
**Heritage Listing:** Not Listed  
**Existing Landuse:** Auction Centre  
**Use Class:** Exhibition Centre, Light Industry, Warehouse  
**Use Permissibility:** D, D, Not Listed



## EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the subject site is within the Knutsford Street East Structure Plan Area.

Planning Approval is sought for a change of use from an 'auction centre' to exhibition centre, light industry and warehouse uses. In addition, the application proposes some external and internal alterations to the existing building.

The proposed development and land uses are not considered to prejudice the specific purposes and requirements of the Structure Plan area, as the works and land uses proposed do not include any substantial building works, and the degree of permanence is such that the implementation of the structure plan is unlikely to be compromised.

The applicant is requesting that Council exercise its discretion and grant planning approval for the provision of 11 on site car parking bays in lieu of the 24 parking bays required by LPS4.

The application is recommended for approval.

## BACKGROUND

The site consists of two separate lots and is located at No. 17 and 17A Blinco Street, Fremantle (corner of Amherst Street and Blinco Street). The site has a total area of approximately 2152m<sup>2</sup> and slopes down from south to north. The current improvements on the site include a large brick industrial building of single storey design.

Under the provisions of Local Planning Scheme No. 4 (LPS4) the subject site is zoned Development Zone – Development Area 1: Knutsford Street Industrial Area (East of Amherst Street). LPS4 requires that a Structure Plan be adopted for this Development Plan Area to guide subdivision, land use and development prior to approval of development applications.

On 27 February 2008, Council resolved to adopt the Knutsford Street East Structure Plan as a "*guiding document to facilitate redevelopment within the designated area*" (refer PSC0802-52). The subject site is located within Precinct 1 of the Structure Plan. The Structure Plan notes that all of the properties within this precinct are currently privately owned and used for industrial or commercial purposes, including warehousing, storage, plumbing and gas services, furniture manufacturing, crayfish pot building and automotive repair.

Planning approval was granted retrospectively in November 1999 for a change of use to 'auction centre' on the subject site.

## **DETAILS**

Planning Approval is sought for a change of use from 'Auction Centre' to an antique showroom, light industry, and warehouse. Specifically, the applicant proposes to divide the existing building into three separate uses, consisting of an antiques showroom, a workshop and storage for restoring antiques, and a separate 'dry store' warehouse to store goods not associated with the other proposed uses. In addition, it is proposed to convert part of the existing building into an 'artisan's studio'.

The original application also proposed a 'caretaker's apartment' to be located within the existing building, however the applicant has since requested that this be removed from the application.

The application consists of the demolition and construction of internal dividing walls to accommodate the proposed uses. In addition it is proposed to alter the external appearance of the building by replacing two roller doors on the Blinco Street elevation with windows to match existing, constructing a pedestrian ramp from the car park to the Blinco Street entrance, and construction of a new roller door into the western elevation to allow access from Amherst Street.

It is also proposed to construct a second crossover to access the site from Amherst Street. The construction of this crossover in the location indicated will necessitate the removal and relocation of a street light and verge tree.

## **STATUTORY AND POLICY ASSESSMENT**

### Local Planning Scheme No. 4

#### *Zoning*

As outlined above, the subject site is contained within Development Area 1. Clause 6.2.2.1 of LPS4 prescribes the purpose of a Development Area as an area requiring comprehensive planning, with subdivision and development being coordinated by a Structure Plan. In this case, a Structure Plan was adopted by the Council on 27 February 2008 and thus, pursuant to clause 6.2.3 of the scheme, this document is that in which the assessment of this application should be based.

The Structure Plan broadly proposes that Precinct 1 be zoned for mixed use/residential, with a residential density coding of R60/R100. The Structure Plan also has a requirement that Detailed Area Plans (DAP) be developed for each of the precincts to outline more specific development controls and provisions for each of these precincts. No DAP has been submitted for Precinct 1 to date. Notwithstanding this, the adopted Structure Plan still provides a clear basis for determination of the broad planning intent of the Council.

Clause 6.2.4.1 of LPS4 provides for the interim development of land within a development area in cases where a neither a Structure Plan or DAP has been adopted, although in this case as a Structure Plan is in existence, the default position of LPS4 is that development should be consistent with this document and with the intent of the zone.

### *Use*

The proposed uses fall within the scheme definitions of 'exhibition centre', 'warehouse', and 'light industry'.

Within the adopted Structure Plan, the use classes mentioned above are included within the 'Discretionary Land Uses' category. A note is included in the Structure Plan which denotes that the Discretionary Land Uses are to be dealt with in accordance with the 'D' use provisions of LPS4 which means that they require the discretion of Council to approve.

### *Car Parking*

LPS4 does not provide any car parking standards for the 'exhibition centre' use class. Given the obvious similarities between an exhibition centre and a showroom, it is considered appropriate to apply the car parking standard for the 'showroom' use class of 1 bay per 50sqm of gross floor area.

The car parking requirements for the proposed Warehouse use under LPS4 are 1 bay per 100m<sup>2</sup> gross floor area.

The car parking requirements for the proposed Light Industry use under LPS4 are 1 parking bay per 50sqm gross floor area

Car parking requirements can therefore be summarised as shown below:

Exhibition Centre (showroom):	9 bays
Light Industry:	9 bays
Warehouse:	4 bays
Artisan's Studio:	2 bays
<b>Total:</b>	<b>24 bays</b>

There are currently 6 bays located on the subject site fronting Blinco Street, 3 tandem bays accessed from Amherst Street, and 2 bays located within the warehouse portion of the building. This creates a total of 11 bays leaving a shortfall of 13 on site parking bays. Further discussion in relation to provision of car parking is included in the 'Planning Comment' section of this report.

## **CONSULTATION**

The application was required in accordance with Clause 9.4 of LPS4 to be advertised to the surrounding landowners/occupiers as the proposal includes a number of discretionary decisions under the provisions of LPS4. At the conclusion of the advertising period being 25 March 2009, no submissions had been received.

## **PLANNING COMMENT**

### **Implementation of the Knutsford Street East Structure Plan**

The key considerations in determining whether to exercise discretion in respect of this proposal are:

- a) the extent to which the development being proposed may prejudice or compromise the eventual implementation of the Structure Plan, and
- b) the extent to which the development undermines the coordination of development in the area as provided for in Clause 6.2.2 of LPS4.

Critical to the eventual implementation of the Structure Plan and the coordination of development within the area is the required upgrading of existing infrastructure through a development contribution plan. The concern with granting planning approval prior to the implementation of a development contribution plan is that landowners benefiting from such approvals have less interest in participating in a future infrastructure contribution scheme, making the overall implementation of such a scheme less viable. The Scheme currently provides the City with the ability to pre fund infrastructure, and subsequently charge landowners for their proportional contribution upon submission of a development application or subdivision. Experience has shown that landowners are understandably less willing to participate in any contribution scheme when their individual site is already developed. Therefore, every individual planning approval that is granted is potentially further undermining the development contribution scheme, and subsequently forcing the City and/or other land owners to carry a greater share of total infrastructure costs. As individual development approvals are granted, the cumulative impact will continue to undermine the objectives of the Structure Plan.

Current officers' assessment has been that the City's prime objective in relation to development of this area is to promote coordinated development through the provisions of the Scheme. Coordinated development involves a comprehensive approach to land development across multiple land parcels to achieve an integrated development for the area. It is fair to say that the adopted Structure Plan was not explicit on the matter of coordinated development, and this is considered to be a significant deficiency in the Structure Plan. Comprehensive planning requires the coordinated development of areas. Clause 6.2.1 of the City's Scheme states that the purpose of a Development Area (and consequently a Structure Plan or DAP) is to:

- (a) identify areas requiring comprehensive planning; and
- (b) to co-ordinate subdivision and development in areas requiring comprehensive planning.

Notwithstanding this, it is recognised that there are some circumstances in which a development application may be approved without the need for a coordinated approach to development. For example, an adaptive reuse of an existing building, a small ancillary outbuilding, or a hard stand parking area may be acceptable on planning merits. The difficult question of judgment facing Council is the point at which development reaches an intensity or scale that will ultimately compromise the objectives of the Structure Plan.

Factors to consider in determining whether to allow development in the interim would therefore include issues such as:

1. The degree of permanence of and level of investment being proposed in the development;
2. The extent of new buildings or earthworks;
3. Any fragmentation of the land.

The proposed development involves only small scale alterations and additions to the existing buildings on the subject site and consequently there is no substantial new development or earthworks. As a result, the level of investment being proposed is not considered to be significant in comparison with the scale of the redevelopment of the overall Structure Plan area. The external works proposed are predominantly cosmetic in nature, whilst the internal works consist predominantly of lightweight stud walls which can be easily erected and removed as required.

The change of use to Exhibition Centre, Light Industry and Warehouse will result in the fragmentation of the use of the building however this is not permanent or formalised as in the subdivision of the building or site.

Overall, it is considered that the proposed development will not compromise the implementation or application of the approved Structure Plan.

### Use

As outlined above, under the Structure Plan, the land uses proposed are included within the 'Discretionary Land Uses' category. A note is included which denotes that the Discretionary Land Uses are to be dealt with in accordance with the 'D' use provisions of LPS4 which means that they require the discretion of Council to approve.

As the Structure Plan indicates the area is to be zoned for mixed use purposes and for lack of other assessment criteria relating to the uses, the proposed change of use is assessed against the objectives of the Mixed Use zone within LPS4.

The land uses proposed are all considered consistent with the objectives of the Mixed Use zone in that the uses provide a range of cottage and light industry, wholesaling and small scale retailing of goods.

The existing building is not of cultural heritage significance and is not required to be significantly modified to facilitate the proposed changes of use. This building is also considered to be of similar scale and character to that existing on the surrounding properties.

### Car Parking

When assessing the current application against the provisions of LPS4 there is a shortfall of 13 on site car parking bays. Clause 5.7.3 states that Council may waive or reduce the standard parking requirement specified where there is an existing surplus or shortfall associated with the existing use of the land.

As previously stated, the site has a current approval to operate as an 'auction centre'. The City's records indicate that the use was assessed as 'Retail – Other' under TPS3, which had a parking requirement of 4 bays for every 100sqm of sales area. This requirement under TPS3 equated to a total parking requirement of 36 bays, based on a sales area of 891sqm. The previous application was approved with the provision of 9 on site parking bays, meaning a parking shortfall of 27 bays was approved.

The current proposal reduces the parking shortfall from 27 bays to 13 bays. It is common planning practice to allow shortfalls in car parking where a proposed use is reducing the car parking shortfall from those uses previously approved. It is considered that the uses currently proposed are likely to generate less demand for car parking during peak times than the previously approved 'auction centre'.

It is noted that the application proposes to locate two bays inside the existing building, to be accessed from Amherst Street via the new crossover. Internal parking is not generally supported from a planning perspective, as the bays are not always accessible and permanently available to all visitors to the site. Notwithstanding this, Internal parking may be appropriate in certain circumstances. In this particular example, the internal parking is limited to two bays, which are likely to be used solely by the proprietor and/or staff of the antiques showroom. Furthermore, the two bays have adequate manoeuvring room to allow vehicles to access the parking bays without obstruction. For these reasons, the internal parking arrangement can be supported, subject to an appropriate condition.

#### Additions and Alterations

The proposed alterations and additions do not include any changes to the footprint or height of the existing buildings. The removal of the roller doors and addition of windows to the Blinco Street façade will improve the appearance of the building from the street. Other proposed external changes to the building are cosmetic in nature, and will also assist to improve the overall appearance of the building.

#### Access from Amherst Street

The application proposes the construction of a new vehicle crossover to access the site from Amherst Street. In order to construct this crossover, the applicant will need to relocate a light pole, and remove a verge tree. The City's technical officers have advised that the construction of this crossover and the resultant removal of the verge infrastructure and tree is acceptable.

### **CONCLUSION**

The proposed development is considered to satisfy all of the relevant requirements of LPS4 and the City's policies. In addition the proposed development is not considered to prejudice the specific purposes and requirements of the Structure Plan area. The application is therefore recommended for approval.

**COMMITTEE AND OFFICER'S RECOMMENDATION****MOVED: Cr R Fittock**

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Change of Use to Exhibition Centre (Antiques Showroom), Light Industry, Warehouse and Additions and Alterations to the Existing Building at No. 17 and 17A (Lots 13 and 14) Blinco Street, Fremantle, subject to the following condition(s):

1. This approval does not include approval for the 'Caretaker's Flat' on drawings 08 539 MD 01, and 08 539 PA 02 of the approved plans.
2. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer.
3. Prior to occupation of the development, on site car parking shall be provided in accordance with Clause 5.7 of the City of Fremantle Local Planning Scheme No. 4 to accommodate a minimum of 11 vehicles at any given time.
4. The two parking bays and associated vehicle manoeuvring area located within the 'antiques restoration workshop' shown on plan 08 539 PA02 must be kept permanently available for the purpose of parking and manoeuvring of vehicles.

**Advice Notes:**

1. The applicant being advised that the granting of this approval in no way removes the obligation for the landowner to comply with current or future provisions of the City's Local Planning Scheme 4 in relation to coordinated development in the Knutsford St East Structure Plan area, and associated contributions to the upgrading of infrastructure.
2. Any costs arising from the relocation of the light pole and verge tree in Amherst Street shall be borne by the landowner.
3. Any works within the road reserve such as crossovers, pathways, or removal of verge trees require a separate application to the City of Fremantle. Please contact Technical Services on 9432 9758.



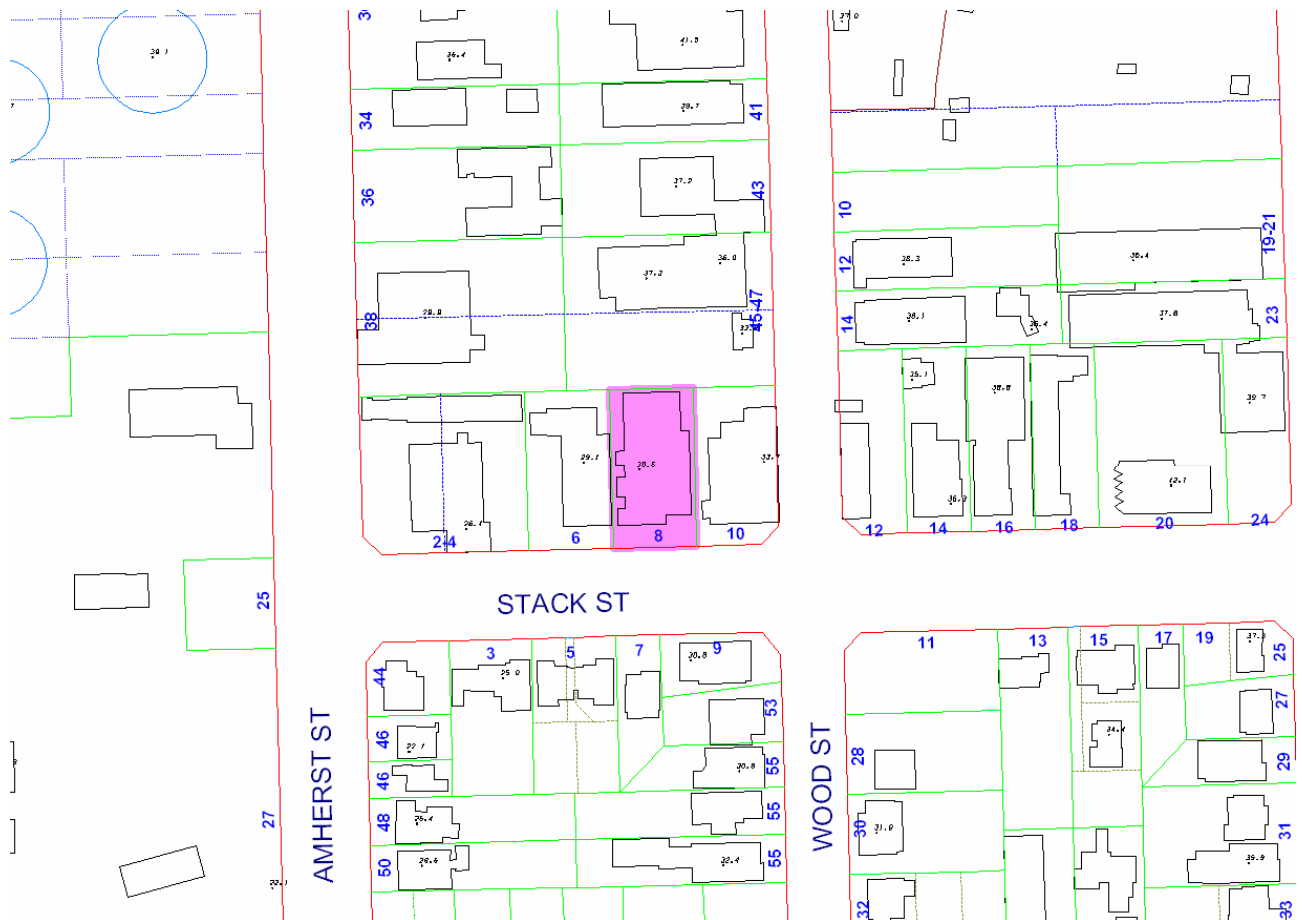
**CARRIED: 4/2**

<b>For</b>	<b>Against</b>
Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Georgie Adeane	Cr John Alberti Cr Bill Massie

**The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.**

**PSC0905-77 STACK STREET NO. 8 (LOT 1220) FREMANTLE - RESIDENTIAL DWELLING AND OFFICE ADDITIONS TO EXISTING LIGHT INDUSTRY BUILDINGS - (CLBC DA633/08)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Coordinator Planning Projects  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** Nil  
**Attachments:** Development Plans  
**Date Received:** 27 November 2008, revised plans 10 March 2009  
**Owner Name:** Anthony Young  
**Submitted by:** Anthony Young  
**Scheme:** Development Zone – DA1  
**Heritage Listing:** Not Listed  
**Existing Landuse:** Light Industry  
**Use Class:** Light Industry/Multiple Dwelling (Mixed Use)  
**Use Permissibility:** D (Knutsford Street East Precinct Five)



## EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the subject site is within the Knutsford Street East Structure Plan Area.

The applicant is seeking planning approval for a residential dwelling and office additions to existing light industry buildings at No. 8 (Lot 1220) Stack Street, Fremantle.

The proposed development is considered to prejudice the specific purposes and requirements of the Structure Plan area. Furthermore, the application is not consistent with the staging requirements of the adopted Detailed Area Plan for Precinct 5 of the Structure Plan area. As such the application is recommended for refusal.

## BACKGROUND

The site is located at No.8 Stack Street, Fremantle. The subject site is approximately 1525m<sup>2</sup> and is located on the northern side of Stack Street. The site contains an office building, approximately 53m<sup>2</sup> and a storage warehouse approximately 575m<sup>2</sup> in floor area.

The site is zoned Development Zone - Development Area 1: Knutsford Street Industrial Area (East of Amherst Street) under LPS4. LPS4 requires that a Structure Plan be adopted for this Development Plan Area to guide subdivision, land use and development prior to approval of development applications. The site is also located within the Fremantle Local Planning Area under LPS4.

On 27 February 2008 Council resolved to adopt the Knutsford Street East Structure Plan (the 'Structure Plan') as a "*guiding document to facilitate redevelopment within the designated area*" (refer PSC0802-52). The Structure Plan broadly proposes that the locality be generally zoned for mixed use/residential, with a residential density coding of R60/R100. The Structure Plan also identifies five precincts and has a requirement that Detailed Area Plans (DAPs) be developed for each of these precincts. These DAPs are to outline more specific development controls and provisions for each of these precincts.

On 26 November 2008, Council resolved to adopt a Detailed Area Plan (DAP) for Precinct 5 subject to some minor modifications. The City has since received a further proposed DAP from other land owners within Precinct 5, however this DAP has yet to be determined.

The subject site is located within Precinct 5 of the Structure Plan. The Structure Plan notes that the land in this precinct is privately owned and is used for a range of industrial and commercial activities including container storage and transport, automotive wrecking, boat building, mechanical engineering, truck haulage and storage, automotive engine repair and cabinet making. The built form ranges in type and age and comprises mostly warehouse buildings with various 'add-ons' and other supporting structures.

## **DETAILS**

The applicant is seeking Planning Approval for the partial demolition of existing warehouse buildings and the construction of replacement office facilities, with a two bedroom dwelling on the second level.

The replacement development consists of a new two storey building. The ground floor consists of approximately 210sqm of office, to be associated with the Light Industry (plumbing) use, which was approved on 10 July 2008. The first floor includes a kitchen, laundry, bathroom and two bedrooms, which are capable of being let and operated separately from the office use below.

The applicant submitted revised development plans on 10 March 2009 to address some of the design guidelines of the adopted DAP.

## **STATUTORY AND POLICY ASSESSMENT**

### Local Planning Scheme No. 4

#### *Zoning*

As outlined above, the subject site is contained within Development Area 1. Clause 6.2.2.1 of LPS4 prescribes the purpose of a Development Area as an area requiring comprehensive planning, with subdivision and development being coordinated by a Structure Plan. In this case, a Structure Plan was adopted by the Council on 27 February 2008. On 26 November 2008 Council resolved to adopt Detailed Area Plan - Precinct 5 of Knutsford Street East Structure Plan, subject to a number of relatively minor modifications (PSC0811-317). Pursuant to clause 6.2.15.7 of LPS4, the adopted Detailed Area Plan has the effect of varying the Structure Plan. Therefore, pursuant to clause 6.2.3 of the Scheme, the Structure Plan including variations by the Detailed Area Plan, is the document by which the assessment of this application should be based.

### Development Area Plan

The critical aspect of the DAP is the prohibition of construction of buildings (excluding civil works) and subdivisions until such times as developer contributions towards the cost of infrastructure as identified in the Knutsford Street East Structure Plan have been secured through a development contribution scheme or other arrangement.

The DAP also requires that remediation works must be undertaken in liaison with DEC, prior to development approval for any buildings.

## **CONSULTATION**

### **Community**

The application was not required to be advertised in accordance with Clause 9.4 of the LPS4 and *LPP1.3 Public Notification of Planning Proposal Policy*.

**PLANNING COMMENT****Implementation of the Knutsford Street East Structure Plan**

The key considerations in determining whether to exercise discretion in respect of this proposal are:

- a) the extent to which the development being proposed may prejudice or compromise the eventual implementation of the Structure Plan, and
- b) the extent to which the development undermines the coordination of development in the area as provided for in Clause 6.2.2 of LPS4.

The concern with granting planning approval prior to the implementation of a development contribution plan is that landowners benefiting from such approvals have less interest in participating in a future infrastructure contribution scheme, making the overall implementation of such a scheme less viable. The Scheme currently provides the City with the ability to pre fund infrastructure, and subsequently charge landowners for their proportional contribution upon submission of a development application or subdivision. Experience has shown that landowners are understandably less willing to participate in any contribution scheme when their individual site is already developed. Therefore, every individual planning approval that is granted is potentially further undermining the development contribution scheme, and subsequently forcing the City and/or other land owners to carry a greater share of total infrastructure costs. As individual development approvals are granted, the cumulative impact will continue to undermine the objectives of the Structure Plan.

Current officers' assessment has been that the City's prime objective in relation to development of this area is to promote coordinated development through the provisions of the Scheme. Coordinated development involves a comprehensive approach to land development across multiple land parcels to achieve an integrated development for the area. It is fair to say that the adopted Structure Plan was not explicit on the matter of coordinated development, and this is considered to be a significant deficiency in the Structure Plan. Comprehensive planning requires the coordinated development of areas. Clause 6.2.1 of the City's Scheme states that the purpose of a Development Area (and consequently a Structure Plan or DAP) is to:

- (a) identify areas requiring comprehensive planning; and
- (b) to co-ordinate subdivision and development in areas requiring comprehensive planning.

The DAP for Precinct 5 implements these objectives through the creation of four development cells being Stage 1, 2(a), 2(b) and 2(c). Given this, there is a prima facie planning argument to refuse all development applications in development areas unless part of a coordinated plan, and with appropriate infrastructure contributions in place. This is reflected in the 'staging of development' section of the DAP.

Notwithstanding this, it may be considered appropriate to allow some minor development to occur within the Structure Plan area in the interim period, but only where it does not compromise the long term objectives of the Scheme and Structure Plan for this area.

Factors to consider in determining whether to allow development in the interim would therefore include issues such as:

1. The degree of permanence of and level of investment being proposed in the development;
2. The extent of new buildings or earthworks;
3. Any fragmentation of the land.

It is recognised that there are some circumstances in which a development application may be approved without the need for a coordinated approach to development. For example, an adaptive reuse of an existing building, a small ancillary outbuilding, or a hard stand parking area may be acceptable on planning merits. The difficult question of judgment facing Council is the point at which development reaches an intensity or scale that will ultimately compromise the objectives of the Structure Plan.

#### Degree of Permanence and Extent of Buildings

As stated previously, the applicant is proposing to demolish the brick building located at the front of the site, and in its place construct a two storey office building with a ground floor area (total area approx 210sqm) consisting of a reception, office, boardroom, storage and staff amenities. The first floor consists of a self contained dwelling including a kitchen, bathroom/laundry, and two small bedrooms of approximately 9sqm each, with a total of approximately 67sqm of floor area. It is also proposed to construct new masonry retaining walls on the front boundary, and the western side boundary.

It is considered that the proposed new buildings, whilst in part serving to improve the existing use on the site, go beyond the reasonable scope of providing an improved office facility for the plumbing business, and include provision for a residential dwelling, capable of being operated independently of the remainder of the site.

#### Fragmentation of the Land

The current application does not include any form of subdivision and therefore will not involve further fragmentation of the subject site.

### **Detailed Area Plan Requirements**

#### Development Staging

The DAP states that development, excluding civil works (retaining walls, bulk earthworks, remediation etc) is to be undertaken generally in accordance with the stages outlined in the DAP. The DAP goes on to state that the approval of development for construction of buildings shall not be granted until a mechanism to recoup infrastructure costs, such as a development contribution plan, is in place. Officers are currently progressing with the preparation of a scheme amendment to include a development contribution plan for the structure plan area, with a preliminary report likely to be presented to Council in May 2009. Given these staging requirements of the DAP, it may be considered premature to grant approval to this application in the absence of a development contribution plan.

### Contaminated Land and Remediation Works

It has been identified throughout the structure planning process that there are a number of historical land contamination issues within precinct 5. The adopted DAP requires that *'remediation works must be undertaken in liaison with DEC [Department of Environment and Conservation], prior to development approval for any buildings.'*

The applicant has provided the City with a Preliminary Site Investigation (PSI) undertaken by RPS Environment Pty Ltd in March 2008. Whilst preliminary investigations indicate that the site is free from contamination, the report recommends that a detailed site investigation be undertaken to ascertain that the land is suitable for development. If Council is of a mind to approve this application, then it is considered appropriate to require the landowner to obtain written clearance from the DEC, certifying that the land is suitable to support the development proposed. This certification should be submitted prior to granting planning approval, as its ability to be successfully enforced as a condition of planning approval is questionable.

### Detailed Area Plan - Built Form Design Guidelines

The proposed development satisfies the built form requirements of the DAP design guidelines with the exception of the building height for lots fronting Stack Street, which require a maximum wall height of 7.5m. If this application is to be approved, the plans should be amended to demonstrate compliance with the height provisions of the DAP.

## **LPS4 Requirements**

### Land Use

The proposed office additions are considered incidental to and a continuation of the approved light industry use on the site, and are therefore acceptable on planning grounds.

The proposed residential component is classified as a 'Multiple Dwelling' in accordance with the R-Code definition (any dwelling in a mixed use development is classified as a multiple dwelling). The proposed mixed use development is consistent with the intended land uses of the adopted DAP.

### Car Parking

The light industry use was approved with the provision of 12 parking bays provided on the site, and a further 7 bays located within the 10m wide road verge immediately adjacent to the site. In accordance with the LPS4 parking requirements for light industry uses, the proposed new office requires the provision of one additional parking bay, with the residential dwelling required to provide an additional on site parking bay in accordance with the Residential Design Code provisions for mixed use development. Whilst officers are satisfied that the additional commercial parking demand can be met through the availability of existing car parking on site and within the verge, it is considered appropriate to require that at least one on site bay be made permanently available for the use of the occupants of the dwelling. If Council is of a mind to approve this development, then an appropriate condition should be included to reflect this requirement.

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## **Residential Design Codes Requirements**

The proposed residential component is consistent with the Mixed Use provisions of the R-Codes with the exception of the provision of an outdoor living area with a minimum dimension of 1.5m x 4m. It is noted that there is a ground level courtyard indicated adjacent to the office boardroom and kitchen, however, there is no direct access to this courtyard from the dwelling without passing through the ground floor office. If this application is to be approved, an appropriate condition should be included requiring the design to be modified to incorporate a private courtyard or balcony to satisfy this requirement of the R-Codes.

### **Conclusion**

The determination of this application represents a difficult planning question. The assessment above is largely based on the current officers' opinion that the scheme and structure plan cannot be properly implemented without comprehensive development within identified cells. This will require co-ordination between landowners and presents a considerable constraint on development not experienced on regularly zoned land in that owners are effectively forced to develop in a cell with other owners.

It is acknowledged, however, that the requirement for comprehensive planning is not explicably stated in the Structure Plan document. Should the Council agree to the individual development of lots within this area, bearing in mind that it would need to take a consistent approach to this issue through this zone, then it is the officers view that the Structure Plan in its current form is far less likely to be successfully implemented and owners are less likely to participate in the contribution scheme.

Where development stops being a minor extension to existing uses and starts becoming a significant increase in intensity is of course, a matter of judgment. This report attempts to analyse this issue both from the point of view of this individual development being proposed, and the consequences of the consistent application of these principles to all development within this zone.

It is considered that the proposed development involves a significant increase in intensity on the site and is not a simple office addition to ensure the ongoing use of the approved plumbing business that operates from the site. Rather, it is a large scale development that incorporates a significant office addition, as well as a second storey comprising a self contained two bedroom dwelling. The permanent nature of the works proposed, and the level of investment in this development indicates that further redevelopment of the site in the near future is unlikely.

Approval of this application is considered likely to compromise the City's overall ability to successfully implement the Knutsford Street East Structure Plan. The intent of a development zone such as this is to require comprehensive planning, undertaken in a coordinated manner. Given the magnitude of the works proposed on this site, it is considered that approval of these works would significantly erode any attempts at coordinated development within the stage 2(c) development cell for the foreseeable future. It is considered that the approval of this development could become a catalyst for other landowners in the area, who may seek to avoid coordinated development and associated infrastructure costs by developing their land individually and incrementally over time. This cumulative effect will effectively make the Structure Plan unworkable.



Furthermore, if Council chooses to approve this development, then it will become increasingly difficult to refuse other planning applications in the area as they arise in the future.

As noted above, the development is consistent with the built form requirements of the DAP. This should not in itself be a reason for approval, as the DAP requirements for a development contribution plan, and site remediation works have not been satisfied. If Council is of a mind to approve this application in its current form, it is considered pertinent that the landowners obtain clearance from DEC certifying that the land is suitable to support the development proposed, prior to granting approval.

In order to ensure the successful implementation of the structure plan, and to avoid the erosion of the City's ability to recover infrastructure costs in the future, it is recommended that the application be refused.

**OFFICER'S RECOMMENDATION**

**MOVED: Cr R Fittock**

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Residential Dwelling and Office Additions to the Light Industry Building at No. 8 (Lot 1220) Stack Street, Fremantle, for the following reasons:

1. The development is not consistent with the purpose of the Development Zone under Clause 6.2.2.1 of The City of Fremantle Local Planning Scheme No.4 in that its approval would compromise the ability to achieve coordinated planning of development within this area.
2. The application is not consistent with the Detailed Area Plan for Precinct 5 of the Knutsford Street East Structure Plan Area, as a development contribution scheme has not yet been finalised.

**COMMITTEE DECISION**

**MOVED: Cr G Adeane**

**That the item be deferred to the next appropriate Planning Services Committee meeting to allow the applicant the opportunity to modify the application to a temporary planning approval, or to modify the plans to predominantly reuse the existing building.**

**CARRIED: 6/0**

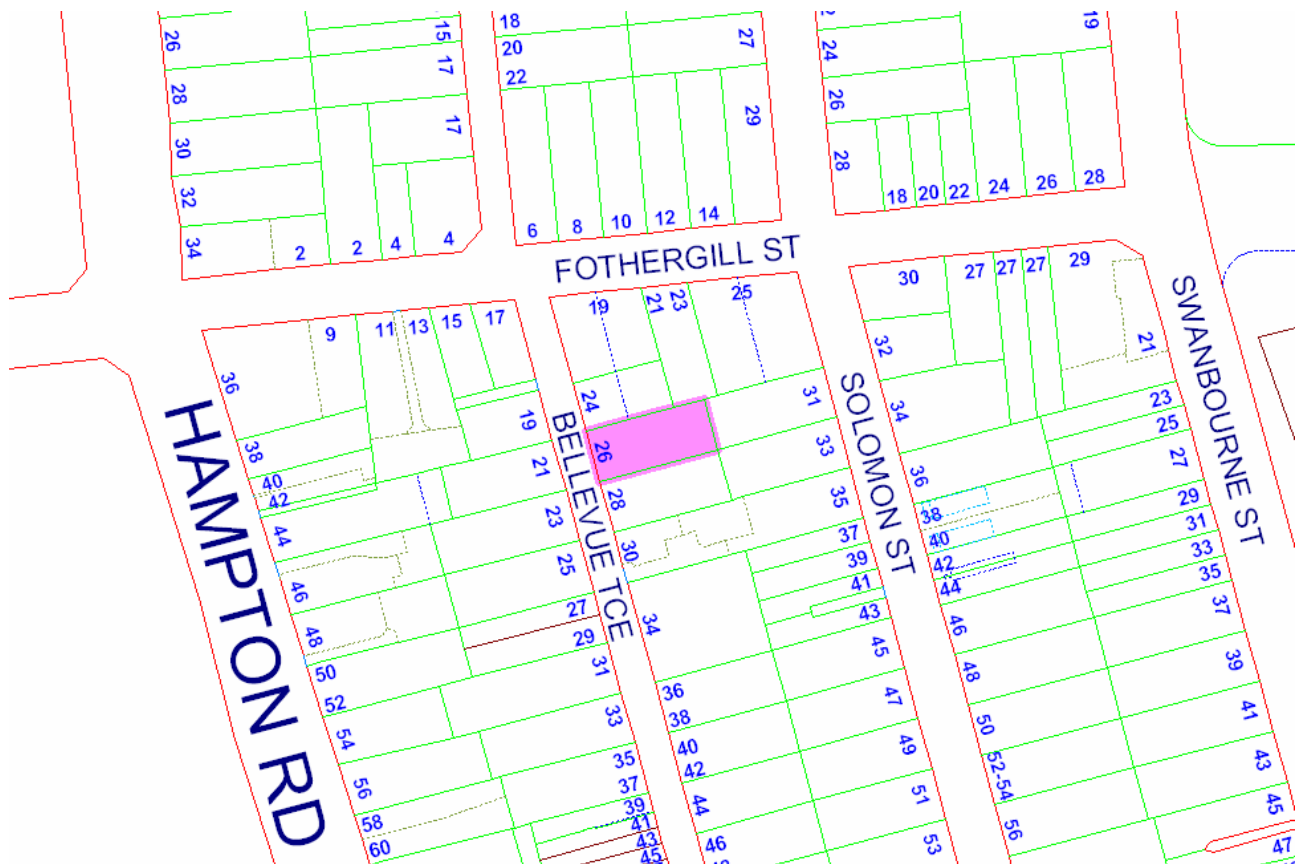
<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane	

**REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION**

To allow the applicant the opportunity to modify the application.

**PSC0905-78 BELLEVUE TCE, NO. 26 (LOT 50), FREMANTLE – RE-ROOF OF HERITAGE PROPERTY FROM CORRUGATED IRON TO COLORBOND IN CLASSIC CREAM (AH DA 88/09)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** N/A  
**Attachments:** Roof plan  
 Classic Cream Colour swatch  
 Heritage Advice  
**Date Received:** 6 March 2009  
**Owner Name:** Thomas John Pacey  
**Submitted by:** Advanced Roof Restoration  
**Scheme:** Residential R25  
**Heritage Listing:** Heritage List & Management Category Level 3 on the Municipal Heritage Inventory  
**Existing Landuse:** Single Dwelling  
**Use Class:** Residential  
**Use Permissibility:** P



## EXECUTIVE SUMMARY

The application is presented to Planning Services Committee for determination on the re-roofing of a heritage listed property from the colour 'red' to 'classic cream'.

The applicant seeks to use 'classic cream' as a roof colour as they contend it would have a higher thermal efficiency and aid in passive cooling for the dwelling.

The proposal has been referred to heritage consultants for advice on the proposal. The advice received does not support the use of 'classic cream' as a roof colour.

Local Planning Scheme No. 4 does not contain any specific clause to permit efficient design over heritage values, as such the application has been recommended for refusal.

## BACKGROUND

The site is known as No. 26 Bellevue Tce, Fremantle and comprises a Victorian Georgian stone residence that has undergone extensive remedial works in order to reinstate the original fabric of the building.

The building is on the City of Fremantle's Heritage List (HL) and on the Municipal Heritage Inventory (MHI) as a Management Category Level 3. Information about the building from the City's MHI states:

*A cottage on lot 50 of 750 was erected in 1894. The first owner and occupant was Thomas Box, a carter. In 1924/25 the street number changed from 10 to 26. (History Files, Fremantle Local History Collection). Single storey stone with brick quoining to the corners and window and door openings house which has a painted corrugated iron hipped roof.*

The Statement of Significance states:

*The place is a good example of a stone residence in the Victorian Georgian style, representing the expansion of Fremantle in the gold boom period of the late nineteenth and early twentieth centuries. The place contributes to a substantially intact late nineteenth and early twentieth century streetscape close to the centre of Fremantle.*

The property is zoned Residential R25 and located within the Fremantle Local Planning Area.

The street is characterised by a moderate number of heritage listed single storey dwellings and numerous grouped dwellings that have been created through the development of larger lots. The majority of these redeveloped sites comprise two storey dwellings that have been built in approximately the last 20 years. The predominance of light coloured roofs in the street has eroded the appearance of the traditional streetscape, however the application property along with the neighbouring property of No. 24 Bellevue Tce retains the 'red' coloured roof and maintains the traditional streetscape associated with the traditional roof appearance.

## **DETAILS**

The applicant seeks to replace the existing 'red' painted corrugated iron, which is in disrepair, with a colorbond roof of 'classic cream' colour. The 'red' and 'cream' bull-nose verandah and the rear skillion roof are to remain while the main roof structure is subject to this application.

The City's consultants have indicated that the current roof appears to have undergone a number of colour changes throughout its life. Originally a corrugated iron roof, the applicant has stated that there is evidence of a light green paint having been applied before the roof was re-painted in the red colour that currently exists.

The applicant has stated that the roof is now in a state of disrepair and requires replacement. The applicant is seeking to replace the red roof with colorbond 'classic cream' as the lighter colour would increase the thermal efficiency of the dwelling by absorbing less heat and would still retain the heritage value of the property by utilising a heritage colour that is already part of the dwelling, as seen in the bull-nose verandah.

## **STATUTORY AND POLICY ASSESSMENT**

### **Local Planning Scheme No. 4**

The following parts of Local Planning Scheme No. 4 (LPS 4) apply to this application:

#### *10.2 Matters to be considered by Council*

*10.2.1 The Council in considering an application for planning approval shall have due regard and may attach conditions relating to these, but not be limited to, such of the following matters as are in the opinion of the Council relevant to the use or development subject of the application –*

- (m) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (o) the preservation of the amenity of the locality;*
- (s) the way in which buildings relate to the street and adjoining lots, including their effects on landmarks, vistas, the landscape or the traditional streetscape, and on the privacy, daylight and sunlight available to private open space and buildings;*
- (zi) the Heritage List.*

#### *Local Planning Area 2 – Fremantle*

Local Planning Area 2 – Fremantle (LPA 2) outlines the relevant height requirements for the area and states all requirements as per Residential Design Codes.

## **Residential Design Codes of WA 2008**

The application does not propose any change to the height or pitch of the roof and as such complies with the relevant sections of the Residential Design Codes of WA 2008 (R-Codes).

## **Local Planning Policy**

### Local Planning Policy 1.6 – Preparing Heritage Assessments

Local Planning Policy 1.6 – Preparing Heritage Assessments (LPP 1.6) applies in this instance, as the property is on the City's Heritage List and the MHI as Management Category Level 3. LPP 1.6 states that a Statement of Heritage Significance and Statement of Heritage Impact is required for development where proposals are on the Heritage List.

The application was referred to consultants for a Statement of Heritage Impact. The heritage advice received by the City states:

*While the original roof sheeting appears to be corrugated iron that has been subsequently painted red, it is our professional opinion that the visual presence of the house in the street has predominantly been that of a red roof with a red and white striped bull-nosed verandah. Therefore a Classic Cream coloured roof would have a negative impact on the aesthetic values of the house in its streetscape context. A more appropriate replacement corrugated roof sheeting is one that matches as closely as possible the red on the front bull-nosed verandah, thus retaining its historic presentation.*

## **CONSULTATION**

City of Fremantle Local Planning Policy 1.3 – Public Consultation does not require the application to be advertised.

## **PLANNING COMMENT**

### **Local Planning Scheme No. 4**

The relevant sections of LPS 4 that the Council needs to consider include matters of the effect of the proposal on the natural environment, preserving the amenity of the locality, the way in which the building relates to the traditional streetscape and the heritage listing.

It is considered that whilst LPS 4 contains matters relating to the protection of the natural environment the clause does not relate specifically to the proposal at hand. Whilst the proposal may increase the thermal efficiency of the dwelling it does not specifically transpose to a direct decrease on the impact of the property on the natural environment.

Furthermore, it is considered that the thermal efficiency benefits that may be gained through the 'classic cream' roof colour could be achieved through other measures such as:

- Insulation batts within the roof space;
- Sisalation sheeting to the roof material; and/or
- Roof ventilation.

Given there could be other thermal efficient options that could be applied in order to reduce solar gain for the dwelling, it is considered that a change in the roof colour is not appropriate as it would have an adverse impact on the traditional streetscape and the heritage listing of the property.

Due to the traditional roof colour being retained by the application property and the neighbouring property it is considered that these dwellings maintained the traditional streetscape appearance. It is noted that there is little continuity of this roof colour being maintained by other dwellings in the street, however it is considered that this property alongside No. 24 Bellevue Tce do contribute to the traditional streetscape, and by permitting another dwelling in this street to remove its traditional red coloured roof would further erode the heritage value of the property and the traditional streetscape.

Therefore, on balance, the heritage significance and impact of the proposal on the traditional streetscape is considered paramount, in this instance, to the energy efficiency of the dwelling.

### **Residential Design Codes of WA 2008**

The application proposed no change to the height or pitch of the roof and therefore complies with the R-Codes.

### **Local Planning Policy**

#### *Local Planning Policy 1.6 – Preparing Heritage Assessments*

In order to guide Council in making its determination on the application, heritage advice was sought as per LPP 1.6.

The advice received indicated that the 'Classic Cream' roof colour would have a negative impact on the aesthetic value of the house in its streetscape context.

The applicant has been advised of the advice received by the City and appreciates the importance of preserving the heritage value of the property, however states that by retaining the red colour on the roof the thermal efficiency of the dwelling would remain compromised.

## CONCLUSION

Whilst it is recognised that the energy efficiency of the dwelling is likely to be improved through the use of a lighter coloured roof, LPP 1.6 and LPS 4 do not specifically and directly entertain the impact of a proposal on the efficiency a dwelling and as such, the proposal is not supported on these grounds.

On balance, having regard to the streetscape matters to be considered by Council contained within LPS 4 and the heritage advice received by the City in comparison to the energy efficiency qualities of the lighter coloured roof, it is considered that the heritage value of the property and the traditional streetscape should take precedence over energy efficiency issues in this instance.

It is considered that the proposed 'Classic Cream' roof colour would have a negative impact on the heritage value of the property and the traditional streetscape and as such the application is recommended for refusal.



**OFFICER'S RECOMMENDATION**

**MOVED: Cr R Fittock**

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the re-roof of heritage property from corrugated iron to colorbond in classic cream at No. 26 (Lot 50) Bellevue St, Fremantle, as detailed on plans dated 6 March 2009, for the following reasons:

1. The proposed change in roof colour is considered to have a detrimental impact on the:
  - a) heritage value of the property specifically; and
  - b) way in which the building relates to the traditional streetscape.

LOST: 6/0

For	Against
	Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane

**COMMITTEE DECISION**

**MOVED: Cr J Dowson**

**That the Committee:**

- 1 Note that the applicant is prepared to amend the roof colour to match as closely as possible the red on the bullnose verandah.**
- 2 Invite the applicant to submit revised plans reflecting the amended roof colour.**
- 3 Note that the Manager Development Services may exercise delegated authority to approve an amended application.**

**CARRIED: 6/0**

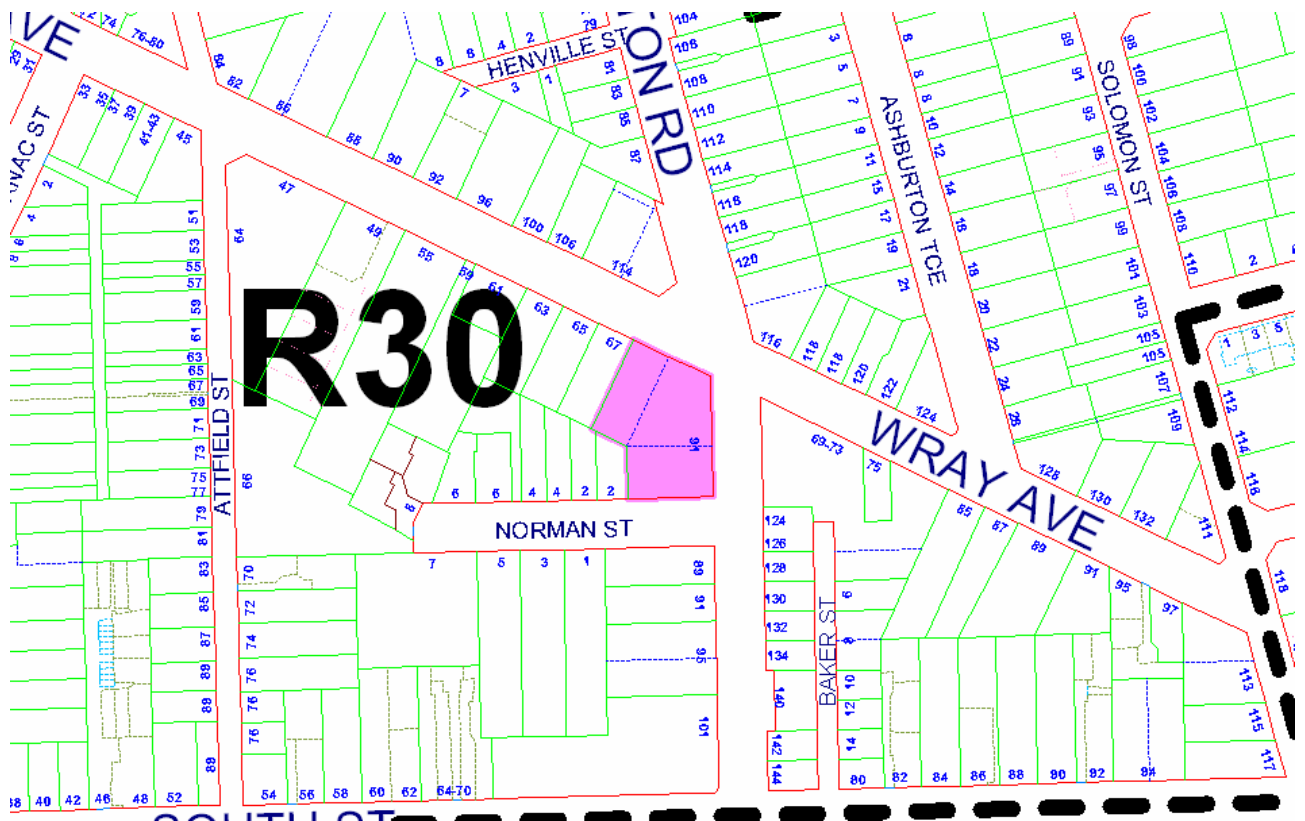
<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane	

**REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION**

To give the applicant the opportunity to submit amended plans.

**PSC0905-80 HAMPTON ROAD NO.91 (LOTS 4 & 5), BEACONSFIELD -  
RETROSPECTIVE PLANNING APPROVAL FOR EXTERNAL  
PAINTING OF EXISTING BUILDING AND NEW PROPOSED  
EXTERNAL PAINTING OF EXISTING BUILDING (JL DA78/09)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Senior Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Attachment 1:** Covering letter dated 27 February 2009 and Development Plans  
**Attachment 2:** Art Deco Society Picture  
**Date Received:** 3 March 2009  
**Owner Name:** Mileway Enterprises Pty Ltd  
**Submitted by:** Don Campanella  
**Scheme:** Local Centre R30  
**Heritage Listing:** Heritage Listed – MHI Level 1B  
**Existing Landuse:** Shop  
**Use Class:** Shop  
**Use Permissibility:** D



## EXECUTIVE SUMMARY

The application is presented before Planning Services Committee as the development involves No. 91 Hampton Road (Lots 4 and 5), Beaconsfield which is registered on the City's Heritage List and Municipal Heritage Inventory as a management category Level 1B.

The applicant is seeking Council's Planning Approval for partial retrospective and new external painting works to the existing building on the site (Beaconsfield Theatre).

The application is supported as the works are not considered to create any significant impacts on the heritage significance of the existing building.

Accordingly, the application is recommended for conditional approval.

## BACKGROUND

The subject site is located within the block bound by Hampton Road, Wray Avenue, South Street and Attfield Street, Beaconsfield. The site consists of three lots (4, 5 and 6) which equate to 2018m<sup>2</sup> total site area. Lots 4 and 5 are occupied by the original Beaconsfield theatre building and lot 6 is occupied by a new three storey mixed use building with commercial, residential and serviced apartment uses. The lots are zoned 'Local Centre' under the provisions of the City of Fremantle's (the City) Local Planning Scheme No.4 (LPS4).

No.91 Hampton Road, Beaconsfield, is registered on the City's Heritage List and Municipal Heritage Inventory as Management Category level 1B. The City's Municipal Heritage Inventory (MHI) states that only Lots 4 and 5 of the site have been identified as having cultural heritage significance. Lot 6 has not been identified and therefore is not included on the MHI. The place is considered to be of exceptional significance to the City and its conservation is required.

The City's Municipal Heritage Inventory database 'Statement of Significance' for this place states, that;

*The cinema demonstrates a way of life and a social lifestyle in the Fremantle area that is no longer practiced. The local community has been involved since its inception when a competition was held to name the theatre. The place has demonstrated a continuity of social functions throughout its history. The Beacon cinema was the first cinema in Western Australia to incorporate the streamline modern style. It is also the first in the Perth metropolitan area with a stadium style interior seat layout. The architect, Samuel Rosenthal, was a prominent cinema architect of the period. The sculptural massing, asymmetrical balance of vertical and horizontal elements, and stylised lettering and designs are characteristic of the Art Deco streamline modern architecture of the late 1930s. The place is a significant landmark, located on a rise at a prominent intersection in South Fremantle. The Beacon Theatre is an important element in the streetscape, responding to the corner location and the scale of the adjacent buildings. The projection box design was innovative, providing for fast changes between screening in the cinema or the open air gardens.*

*The Beacon Theatre was the first modern cinema in the Fremantle area. The integrity and authenticity of the extant Art Deco detailing both internally and externally represents a fine example of this cinema type which is the last remaining in the Fremantle area, and one of the few remaining in the Fremantle area, and one of the few remaining in the state of Western Australia.*

On 17 May 2005 the City granted Planning Approval for a mixed use development at No 91 Hampton Road (Lot 6), Beaconsfield (refer DA03/05). The approved development consisted of a three storey building with commercial, residential and serviced apartment uses.

On 13 June 2007, the City granted a 12 month extension of time to the Planning Approval granted 17 May 2005 for a mixed use development (Ref: DA03/05) at No. 91 (Lot 6) Hampton Road, Fremantle, subject to the same conditions.

On 18 December 2008, the City received a complaint regarding alleged unauthorised external painting works of the Beacon Theatre building.

On 14 January 2009, City Officers conducted a site inspection which made evident that the entire external surface of the building at No. 91 (Lots 4 and 5) Hampton Road had been painted. On 4 February 2009, the City contacted the landowner with regards to the unauthorised external painting works of the building. The applicant was invited to lodge a retrospective Development Application within 28 days.

Prior to submitting the retrospective development application, the applicant liaised with City staff with regards to seeking appropriate professional heritage advice on the external painting works for the subject building. City Officers advised the applicant to consult with the Art Deco Society of Western Australia for advice regarding recommended colour schemes for the existing heritage building as, at that stage, was considered to be in accordance with the provisions of Council's Policy *D.B.H13 – Impact of Development on Heritage Buildings* (D.B.H13).

On 28 February 2009 the City of Fremantle adopted *L.P.P1.6 – Preparing Heritage Assessments* policy which has superseded the provisions of D.B.H13, which previously provided guidance for assessing development applications relating to Heritage Listed properties.

On 3 March 2009 the City received a development application seeking Planning Approval based on the advice provided by the City in early 2009, for partial retrospective external painting and new external painting of the existing building (the 'Beaconsfield Theatre').

On 12 March 2009 the applicant submitted additional information.

## DETAILS

The City is in receipt of a development application for partial retrospective external painting and new external painting of the existing building (the 'Beaconsfield Theatre').

The unauthorised external painting works consist of the eastern and northern façade of the building. The paint colour utilised for these works is 'Solver – Sandbelt' which is consistent with the existing background colour of the building today.

The colour schedule proposed for the new external painting works is indicated below in 'Attachment 1' of this report.

In a letter dated the 27 February 2009 and received by the City on 3 March 2009, the owners set out the reasons why the painting of the building occurred and what action they subsequently took following contact from the City over this matter (Refer to Attachment 1).

## STATUTORY AND POLICY ASSESSMENT

### ***Local Planning Scheme No. 4 (LPS4)***

Clause 8.4.1 states that:

*Council may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.*

Clause 8.2 of LPS4 prescribes that painting on the external surface of any building is development which can be undertaken without planning approval excepting where the building or structure is;

- I. located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990,*
- II. the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990,*
- III. included on the Heritage List under clause 7.1 of the Scheme.*

The site is included on the City's Heritage List under clause 7.1 of LPS4 and therefore Planning Approval is required to be obtained for the retrospective and proposed works. Clause 8.1 of City of Fremantle Local Planning Scheme No.4 (LPS4), '*all development on land zoned and reserved under the Scheme requires the prior approval of the Council.*'

Clause 10.2.1 of LPS4 prescribes the matters to which the Council is required to afford due regard in considering a proposal. Included amongst these matters are any potential impacts that a proposal may have on the heritage values of an existing place and its context including the streetscape and/or heritage area.

Clause 7.4 of LPS4 prescribes that the Council may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List.

### **Council's Local Planning Policies**

#### *L.P.P2.5 - External Treatment of Buildings*

The purpose of this policy is to provide guidance for the assessment of planning applications for the treatment of heritage listed buildings and for new and infill development, to prescribe the circumstances where:

- a) *painting and treatment of finishes of buildings are to be considered as part of a planning application, and*
- b) *where it may be dealt with via a condition, and*
- c) *where no condition is considered to be necessary.*

Additionally, Clause 1.1.1 of this policy states that planning applications that propose the treatment of the external surface of a building shall include:

- a) *A 'painting methodology' to demonstrate that the type of paint, as well as the preparation of the building and application of the paint will contribute to the conservation of the building, and will not significantly compromise the significant heritage fabric of the building.*
- b) *Evidence of research into original colour schemes in the form of a paint scraping and/or historical research into the style of building.*

Furthermore, Clause 2.1 states that paint colours, *shall be compatible and complimentary to the heritage character of the existing building.*

The applicant has submitted a proposed colour schedule (see Attachment 1) and a historical picture/ evidence (see attachment 2) of the original colour schemes of the existing building.

## **CONSULTATION**

### ***Community***

The application was required to be advertised in accordance with Council's L.P.P1.3 Public Notification of Planning Proposals policy as application involves the semi permanent alteration to the original built fabric of the building that is located on a site that is registered as Level 1B on the City's Municipal Heritage Inventory. The proposal was advertised by way of written notification to adjoining and butting landowners. The advertising period commenced 31 March 2009 and at the conclusion of the advertising period, being 16 April 2009, the City had received nil submissions.

### ***Heritage - Art Deco Society of Western Australia***

As recommend by City Officers, based on *D.B.H13*, the applicant consulted with the Art Deco Society of Western Australia for advice regarding recommended colour schemes for the existing Heritage building. The Art Deco Society advised the applicant that the building should be repainted with the colour based on the colour of the building which was available from a 17<sup>th</sup> August 1937 souvenir program held at the building in 1937 (see Attachment 2). Furthermore the applicant sought additional expert advice regarding the development from a heritage consultant. The proposed colour scheme for the building recommended by the Art Deco Society and external heritage consultant can be seen below in Attachment 1.

### **PLANNING COMMENT**

It is drawn to Council's attention that leading up to the submission of the application for Planning Approval, the City and the applicant were consulting with each other using the provisions of *D.B.H13*. However, this Policy was subsequently revoked and Council's newly adopted *L.P.P1.6 Preparing Heritage Assessment* policy became effective just prior to the submission of the applicants development application. Having regard to the consultative process that had occurred with the applicant based using *D.B.H13*, Council's support to continue with the advice provided under *D.B.H13* rather than using *LP.P.1.6* is sought. The following advice provided to Council under this section is based on the advice provided to the applicant using the revoked Policy.

In determining this application, the key issue that requires Council's consideration relates to the heritage significance of the existing building on site and the immediate locality of Beaconsfield.

#### *Heritage*

As mentioned previously No. 91 Hampton Road (Beacon Theatre) is included on the City of Fremantle's Heritage List and has a management category on the Municipal Heritage Inventory (MHI) as a Level 1B. The place is considered by the City of Fremantle to be of exceptional significance to the City and its conservation is required. It is also Classified by the National Trust of Australia (WA).

The unauthorised external painting works consist of the northern and eastern façade of the building. The applicant stated that their intention was to tidy the façade of the building and cover the existing graffiti/vandalism damage which existed on the northern and eastern elevation of the building (Refer to Attachment 1). The paint colour which was utilised for these unauthorised works was 'Solver Sandbelt'. This paint colour has also been recommended by a heritage consultant and the Art Deco Society of Western Australia as an appropriate background colour of the entire building for the proposed new external painting works.

The specific details of the newly proposed external painting works are indicated below in Attachment 2. The applicant intends to retain the background colour (Solver Sandbelt) with an additional four further detail colours.



As advised by City Officers the applicant sought advice from the Art Deco Society of Western Australia and subsequently obtained professional advice regarding an appropriate external colour scheme for the building. In accordance with Clause 1.1.1 (b) of Council *L.P.P2.5 - External Treatment of Buildings*, a copy of the original opening night invitation was provided to the owner and the Art Deco Society and although not coloured, the brochure was also used as a guide to inform the paint details. The type of paint used and proposed is considered as acceptable given the era of the building that previous painting finishes are of a similar type and quality.

**CONCLUSION**

Overall the development is considered to be appropriate as the unauthorised and proposed colour choice is not only compatible with the heritage significance of the existing building but it is also complementary to the streetscapes of both Hampton Road and Wray Avenue, Beaconsfield. The unauthorised and proposed external colour scheme, which has been recommended by the heritage consultant with the support of the Art Deco Society of Western Australia, is supported on heritage grounds.

The application is supported as it is consistent with the provisions of LPS4 and Council *L.P.P2.5 - External Treatment of Buildings* policy and therefore the development is recommended for approval, subject to appropriate conditions.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr R Fittock**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the partial retrospective external painting and new external painting of the existing building at No. 91 (Lot 4 & 5) Hampton Road, Beaconsfield, subject to the following condition(s):**

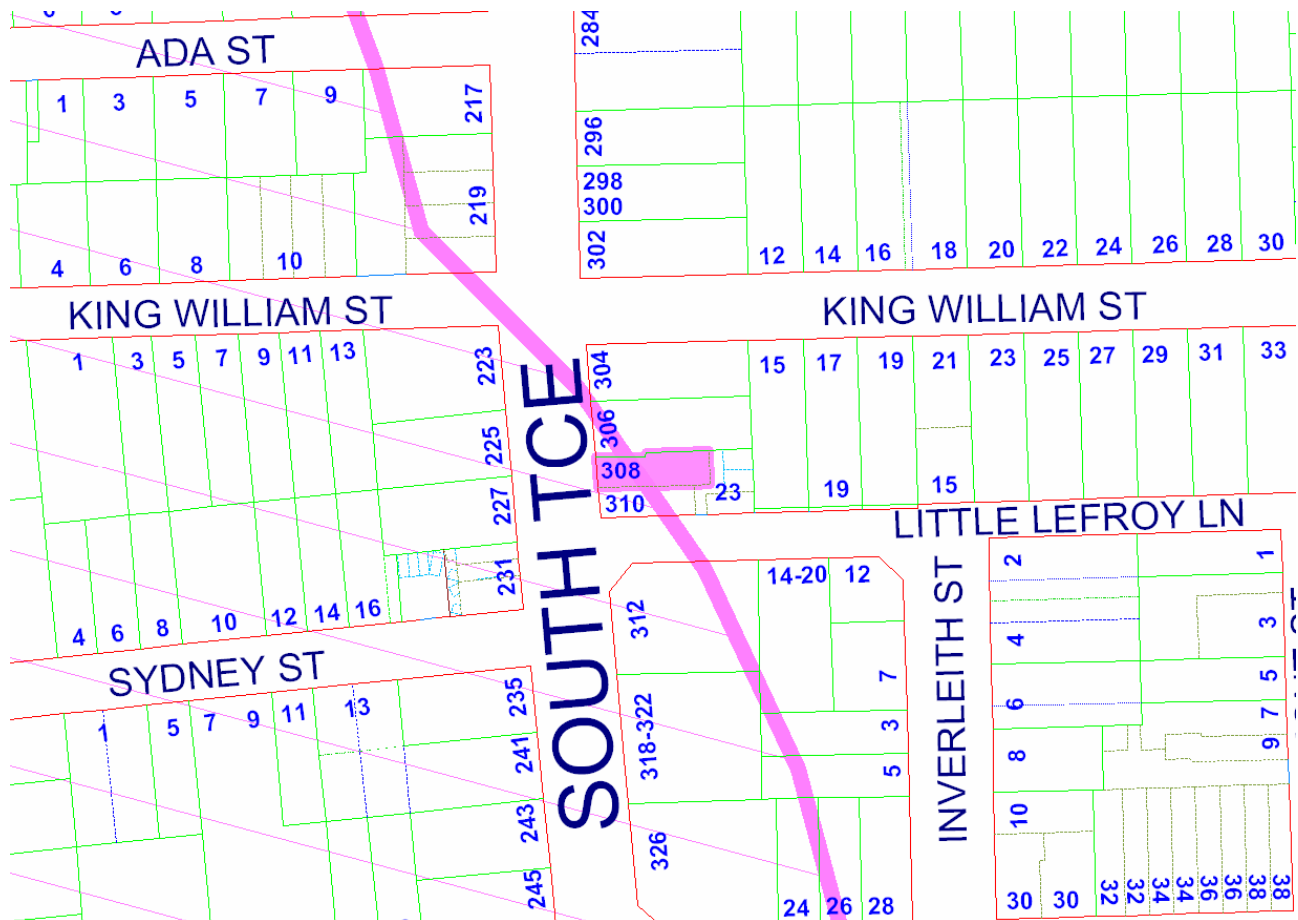
- 1. The development hereby permitted shall take place in accordance with the approved plans and colour scheme dated 3 March 2009 and 12 March 2009.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane	

**PSC0905-79 SOUTH TERRACE NO. 308 (LOT 1 ON SP24274) SOUTH FREMANTLE - CHANGE OF USE TO SHOWROOM AND TOURIST ACCOMMODATION AND INTERNAL ALTERATIONS TO EXISTING BUILDING - (BC DA509/08)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Development Services  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** Nil  
**Attachments:** Development Plans and Strata Plan  
**Date Received:** 25 September 2008, Revised Plans 3 March 2009  
**Owner Name:** Statewide Resources  
**Submitted by:** Dom Mariani Design  
**Scheme:** Mixed Use  
**Heritage Listing:** MHI Level 3  
**Existing Land use:** Restaurant  
**Use Class:** Tourist Accommodation & Showroom  
**Use Permissibility:** A & A



## **EXECUTIVE SUMMARY**

The application is presented before the Planning Services Committee as the City received submissions during the consultation period concerning various aspects of the proposal that cannot be resolved via conditions of planning approval.

The applicant is seeking Planning Approval for a change of use from Restaurant to Showroom and Tourist Accommodation and alterations to the existing building at No. 308 (Lot 1 on SP24274) South Terrace, South Fremantle.

The proposed Showroom and Tourist Accommodation land uses are classed as 'A' uses within a Mixed Use zone and as such are not permitted unless Council has exercised its discretion to permit the use.

The proposed change of use from Restaurant to Showroom and Tourist Accommodation is considered to satisfy the objectives of a Mixed Use zone as prescribed in Local Planning Scheme No. 4 (LPS4).

The applicant is requesting that Council exercise its discretion and grant planning approval for the provision of 2 on site car parking bays in lieu of the 6 parking bays required by LPS4.

The development application is recommended for conditional approval.

## **BACKGROUND**

The subject site is approximately 197m<sup>2</sup> and is located on the eastern side of South Terrace, South Fremantle. Lot 99, which includes No. 308 (Lot 1) South Terrace, No. 310 (Lot 2) South Terrace and No. 23 (Lot 3) Little Lefroy Road, was subdivided into a built strata arrangement (see Attachment 1). All three strata lots have part lots located at the rear of the parent lot. Lots 1 and 2 are under the same ownership.

The site is zoned Mixed Use and is located within Sub Area 4.3.4 of the South Fremantle Local Planning Area as described in Schedule 12 of the City's Local Planning Scheme No.4 (LPS4). The site is listed on the City's Municipal Heritage Inventory as a management category level 3.

The subject site is adjacent to Restaurant land uses on the northern and southern adjoining properties (No.306 South Terrace – Café Falduzzi and No.310 South Terrace – Tasty Express). The adjoining properties to the east are both Residential land uses (No.23 Little Lefroy Road and No.15 King William Road). The properties on the western side of South Terrace are small scale retail and service land uses (bookstore, antiques and real estate office).

The property was granted Planning Approval for a Restaurant use on 4 February 1986 under Town Planning Scheme No.2 (TPS2). The subject site has most recently traded as the "Mandalay Restaurant". The building is currently vacant. The existing development on site fronts South Terrace with one doorway and two windows. Vehicle access is obtained via Little Lefroy Road to the rear of the site.

Planning Approval was granted on 21 August 1991 for the construction of a two storey residence at the rear of the subject site (Lot 99 South Terrace). Under Town Planning Scheme No. 3 (TPS3) the combined land uses on the subject site, those being the two Restaurant uses at Nos. 308 and 310 South Terrace and the residential development at No. 23 Little Lefroy Road, would have been required to be provided with a total of 37 on-site car parking bays. The subject site provided a total of 6 on-site car parking bays. The officer's report makes reference to an agreement with the adjoining landowner at No. 312 South Terrace that would allow part of this site to be used for car parking for patrons of the Restaurants at Nos 308 and 310 South Terrace. However the City's records fail to show a formalised agreement to that effect.

The original application submitted on 25 September 2008 initially proposed a change of use to Tourist Accommodation consisting of two single bedroom apartments and a two bedroom apartment. The applicant was advised that the proposed change of use would not be supported at officer level as the proposed use was considered as 'residential' activity and should be limited to the upper levels within the Mixed Use zone as prescribed in LPS4. Furthermore the proposed Tourist Accommodation would not contribute to the desired streetscape as encouraged within a Mixed Use zone. The applicant requested that the application be deferred until such time that an alternative proposal could be submitted. The applicant submitted the current application on 3 March 2009, reducing the proposed Tourist Accommodation from 3 apartments to 1 apartment and proposing the front section of the building to be used for a Showroom use.

## **DETAILS**

The applicant is seeking Planning Approval for a change of use from Restaurant to Showroom and Tourist Accommodation at No. 308 South Terrace, South Fremantle.

The proposed Tourist Accommodation business is to provide a two bedroom apartment for short stay self contained accommodation at the rear of the premises. The application proposes a Showroom land use for the front section of the building that faces the street.

Four car bays are provided for at the eastern side of the parent lot. These areas are depicted on the strata plan as part lots 1 & 2 – part lot 1 being for the use of Lot 1 and part lot 2 being for the use of Lot 2. Part lot 1 of Lot 1 is to be used for the car parking requirements for the proposed Showroom and Tourist Accommodation. The residence at Lot 3 (No. 23 Little Lefroy Road) has a 2 car garage on the ground level (beneath the dwelling).

The application includes minor internal restoration work to the walls, doors and windows to facilitate the proposed uses. The application does not propose any signage.

## **STATUTORY AND POLICY ASSESSMENT**

### Local Planning Scheme No.4

Tourist Accommodation means *'land and buildings used for the purpose of short term accommodation primarily for tourists visiting the district and includes: backpackers, cabins, chalets, short stay self contained accommodation and similar forms of tourist accommodation, together with uses ancillary to the primary use.'*

Showroom means *'premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, part supplies, swimming pools or goods of a bulky nature.'*

The proposed uses are consistent with Tourist Accommodation and Showroom as described in Schedule 1 of LPS4.

The subject site is zoned Mixed Use under LPS4.

*'Development within the mixed use zone shall-*

- (i) provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small scale retailing of goods and services (ie. showrooms, cafes, restaurants, consulting rooms), small scale offices and administration, entertainment, residential at upper levels and recreation.*
- (ii) ensure future development within each of the mixed use zones is sympathetic with the desired future character of each area,*
- (iii) ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
- (iv) conserve places of heritage significance the subject of or affected by the development.'*

Clause 5.7.2 (Table 3) of LPS4 requires the provision of 1 car parking bay for every unit or bedroom for Tourist Accommodation use. Additionally, Table 3 requires Tourist Accommodation to provide 1 delivery bay per administration centre. The Tourist Accommodation proposes 1 unit totalling 2 bedrooms. The Tourist Accommodation does not propose an administration centre. Accordingly, the Tourist Accommodation use is required to be provided with 2 car parking spaces.

Clause 5.7.2 (Table 3) of LPS4 requires the provision of 1 car bay for every 50m<sup>2</sup> of gross floor area, with a minimum of 4 car bays for Showroom use. Additionally, Table 3 requires a Showroom use to provide 1 delivery bay per unit. The proposed Showroom has a gross floor area of 106.4m<sup>2</sup>. Accordingly, the Showroom use is required to be provided with 4 car parking spaces and 1 delivery bay.

There are two car parking spaces included on part lot 1 of Lot 1. The applicant is therefore seeking Council approval to reduce the required on-site car parking bays from 6 to 2 as per clause 5.7.3 of LPS4 given that the proposed land uses are of lesser intensity than the existing Restaurant land use and the availability of public transport and public parking within the locality.

## **CONSULTATION**

### **Community**

The original application, which was for Tourist Accommodation for 3 units, was required to be advertised in accordance with Clause 9.4 of the LPS4 and the City's *LPP1.3 Public Notification of Planning Proposals* as Tourist Accommodation is an 'A' use within a Mixed Use zone. At the conclusion of the advertising period, being 23 October 2008, the City had received 3 submissions.

The following issues were raised during the first consultation process:

*Incompatible land use with surrounding uses*

The 3 submissions received were all concerned that the proposed Tourist Accommodation use will be incompatible with the adjacent Restaurant land uses. The business at No. 310 South Terrace trades from 6am with staff arriving approximately 5.30am to set up. The business at No. 306 South Terrace trades until midnight on weekends and until 10-11pm on weeknights. The Restaurant provides for outdoor dining and plays live music during the evening. The submitters consider the proposed Tourist Accommodation use incompatible with the existing Restaurant land uses, particularly regarding noise and general activity.

*Inconsistent with desired land uses of area*

Two submissions stated that the area should be restricted for Office or Retail use. One submission states that *'accommodation will only unbalance the row of shops.'*

*Parking*

One submitter has stated that one of the car bays on part lot 2 of Lot 2 is part of the Restaurant lease at No. 310 South Terrace.

The revised application, received on 3 March 2009, was also required to be advertised in accordance with the City's *LPP1.3 Public Notification of Planning Proposals* policy as the proposed Showroom use is an 'A' use within a Mixed Use zone. At the conclusion of the advertising period, being 13 April 2009, the City had received no further submissions.

## **HERITAGE**

The commercial building, Nos. 308-310 South Terrace is included on the Heritage List and Municipal Heritage Inventory (MHI) as a Level 3 and as such the City of Fremantle has identified this place as being of cultural heritage significance for its contribution to the streetscape, local area, and Fremantle as a collective whole. Nos. 308 - 310 South Terrace is a single storey rendered masonry group of shops. The front facades are located on the front boundary line. These walls are rendered masonry parapet walls with very low pitched or flat roofs behind.

The statement of significance notes that the place is a modest example of a commercial building dating from c1915 that makes a contribution to the Fremantle Town Centre streetscape.

The City's local planning policy, *LPP1.6 Preparing Heritage Assessments*, does not require the preparation of a heritage assessment for minor development on a category level 3 building. The proposed internal works are *'non structural internal changes'* and are therefore regarded as minor development under the policy.

## **PLANNING COMMENT**

### Land Use and Zone

Showroom and Tourist Accommodation are 'A' uses within a Mixed Use zone. The uses are not permitted in a Mixed Use zone unless Council has exercised its discretion.

The Mixed Use zone along South Terrace, South Fremantle is an example of a traditional street-based mixed use centre. The zone is characterised by an array of small businesses (retail, service and entertainment) that cater for a reasonably dense urban population. South Terrace is frequented by numerous public bus routes, is readily accessible to pedestrians and cyclists and provides on and off street car parking facilities.

The Mixed Use zoning of the area under LPS4 is anticipated to reinforce and enhance these existing characteristics and qualities. A Mixed Use centre is able to create a public realm with a sense of place and community ownership, leading to better urban and streetscape amenity. Integral to the success of creating a public realm is the ability for street level uses to provide an interface between the building and street. Retailing, service and entertainment uses enable the public to interact with the buildings and uses along the street, thus enhancing the sense of place and community ownership.

### *Showroom*

The proposed Showroom use is considered an appropriate land use within a Mixed Use zone. A Showroom use is listed in the objectives of a Mixed Use zone under LPS4 as an example of the small scale retailing of goods and services encouraged within the zone. Furthermore the use will provide and encourage interaction between the building and the street, thus contributing to a sense of place. The proposed Showroom use is not anticipated to be detrimental to the amenity of the adjoining Restaurant uses, rather is considered to be complementary to these services.

### *Tourist Accommodation*

The objectives of a Mixed Use zone as described in LPS4 provide for '*residential at upper levels*'. This provision is based upon the notion that ground level uses need to contribute to the interaction between building and street, as previously discussed. Ground floor uses such as retailing, cafes and restaurants are able to provide such interaction and are therefore encouraged within the Mixed Use zone. Residential uses do not provide a similar level of interaction and are therefore not considered appropriate at the street level. Tourist Accommodation is considered a residential type use given the use involves activities generally associated with residential occupation – i.e. sleeping, cooking, washing etc.

However in this circumstance, the existing building is unable to provide for such residential type uses at an upper level given its single storey construction. The applicant has revised the application so that the proposed Tourist Accommodation will be located at the rear of the building and the building will retain its interaction with the street through the proposed Showroom use. The proposed Tourist Accommodation use, located at the rear of the building, is considered sympathetic to the traditional street based characteristics of South Terrace and the underlying principles of a Mixed Use zone regarding streetscape amenity.

It is considered that Tourist Accommodation is an appropriate use within a Mixed Use zone. Tourist Accommodation provides lodgings for persons who tend to utilize and frequent the service, entertainment and commercial uses that are characteristic of a Mixed Use zone. As such, Tourist Accommodation is regarded as a compatible and complimentary use to the other uses encouraged within a Mixed Use zone and is not anticipated to be detrimental to the adjoining Restaurant land uses.

Overall the revised development application proposing Showroom and Tourist Accommodation uses is considered appropriate for the Mixed Use zone along South Terrace, South Fremantle.

### Vehicle Parking

Table 3 of LPS4 requires a Showroom use to provide 1 car bay per 50m<sup>2</sup> of gross floor area, with a minimum of 4 car bays for Showroom use, and for Tourist Accommodation to provide 1 car bay per unit or bedroom. Accordingly the proposed uses are required to be provided with 6 car bays. The site provides 2 car parking spaces on part lot 1 of Lot 1. The applicant is therefore seeking that Council reduce the on-site car parking requirements from 6 to 2.

As stated previously, Council granted Planning Approval on 21 August 1991 for the construction of a two storey residence at the rear of the subject site (Lot 99 South Terrace). The residence was required to be provided with 2 car bays and the Restaurant uses provided with 25 car bays for every 100sqm of dining floor area under TPS3. Therefore the required and provided car parking bays for the existing land uses under TPS3 are as follows:

<b>Existing Land Uses</b>	<b>Required Car Bays</b>	<b>Provided Car Bays</b>
Residence – No. 23 Little Lefroy Road	2	2
Restaurant – No. 308 South Tce	17.5	2
Restaurant – No. 310 South Tce	17.5	2
<b>Total</b>	<b>37</b>	<b>6</b>

Council approved the two storey residence with the provision of six on-site car bays for all the land uses, thus representing a shortfall over the entire site of 31 bays. The car parking shortfall for the existing Restaurant use at No. 308 South Tce is 15.5 bays under the provisions of TPS3.

The current proposed uses at No. 308 South Tce require 2 bays for every 100sqm of gross floor area for the Showroom use and 1 car bay per unit/bedroom for the Tourist Accommodation under LPS4, totaling 6 on-site car bays. These car parking requirements are considerably less than the previous parking requirements for the Restaurant use. It is therefore considered that the proposed land uses are likely to generate less demand for car parking than the previously approved 'Restaurant'. Whilst there remains a shortfall in the on-site car parking associated with the proposed land uses, the shortfall is less than the current shortfall associated with the existing land use (15.5 bay shortfall compared to 4 bay shortfall).



Furthermore the subject site is located within close proximity to public transport and public on street parking facilities. South Terrace is frequented by numerous public bus transit routes and there exists on-street parking along South Terrace. The hard surface at the rear of the site is considered sufficient as a delivery bay area to cater for the anticipated deliveries associated with the proposed Showroom use.

Clause 5.7.3 states that Council may waive or reduce the standard parking requirement specified where there is an existing surplus or shortfall associated with the existing use of the land. Furthermore, Council may take into account the close proximity of the site to public transport and the availability of car parking in the locality including street parking.

It is therefore recommended that Council reduce the required number of on site car parking bays from 6 to 2 due to the proposed land uses being less intense than the current Restaurant use, the close proximity of the site to public transport and the availability of on-street car parking.

### Submissions

The following issues were raised during the community consultation period for the originally proposed change of use to Tourist Accommodation.

#### *Incompatible land use with surrounding uses*

As previously discussed the proposed Tourist Accommodation, to be located at the rear of the building, is considered a compatible and appropriate use within the Mixed Use zone. The revised application, incorporating a retail ground floor element, is regarded as sympathetic to the existing and desired land uses within the locality.

With regards to the potential implications regarding noise restrictions, Tourist Accommodation is classified as a "Noise Sensitive Premises" under the Environmental Noise Regulations 1997. This classification is the same broad category as Residential land uses and accordingly the noise protection offered to such land uses is generally higher than that offered to commercial type uses. Restaurant uses are classified as "Commercial Premises". The implication of the proposed change of use is that the existing Restaurant uses located at No.306 and No.310 South Terrace potentially could be subjected to stricter noise regulations than if the land use at No. 308 South Terrace remained as a "Commercial Premises".

#### *Inconsistent with desired land uses of area*

The Mixed Use zone provides for a number of service, commercial and entertainment type uses. Tourist Accommodation and Showroom are discretionary land uses within the Mixed Use zone under LPS4. As previously discussed the proposed uses are considered to satisfy the objectives of a Mixed Use zone and are consistent and compatible with the existing and desired land uses in the area

### *Parking*

The tenants of Lot 2 (No. 310 South Terrace) stated that one of the proposed car parking bays to be used for the Tourist Accommodation is part of their lease agreement. However the applicant has provided the City with a copy of the lease agreement for No. 310 South Terrace which does not specify any parking arrangement. The lease further enables the Strata Company to *'restrict parking by Lessees their agents and employees in respect of the whole or any part of any parking area.'* As previously discussed the applicant intends to use part lot 1 of Lot 1 for the proposed uses. Furthermore the shortfall in the provided on site car parking for the proposed uses is supported in accordance with clause 5.7.3 of LPS4 as previously discussed.

### Conclusion

The proposed change of use from Restaurant to Showroom and Tourist Accommodation satisfies the objectives of a Mixed Use zone as prescribed in LPS4. The revised application incorporates a ground floor retail element that encourages the interaction between the building and the street, thus promoting community engagement and a sense of place.

It is recommended that Council exercise its discretion and reduce the number of on site car parking bays from 6 bays, as required by LPS4, to 2. The shortfall in on-site car parking is supported as the proposed land uses are considered to generate a lesser demand on parking than the previously approved 'Restaurant' use. Furthermore the subject site is within close proximity to public transport and street parking.

Accordingly the application is recommended for conditional approval.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr R Fittock**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Change of Use to Showroom and Tourist Accommodation and Internal Alterations to Building at No. 308 (Lot 1 on SP24274) South Terrace, South Fremantle, subject to the following conditions:**

- 1. The uses hereby permitted shall take place in accordance with the approved plans dated 3 March 2009.**
- 2. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or rare fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Fremantle.**

**Advisory Notes:**

- (i) Unless otherwise exempted, all signage associated with the development, including signs painted on the building are to be approved by the City of Fremantle prior to the erection or painting.**
- (ii) The applicant is advised that the subject site is located in close proximity to commercial development and maybe subject to noise and activity not normally associated with residential use.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane	

**PSC0905-81 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY**

Acting under authority delegated by the Council the Manager Development Services determined, in some cases subject to conditions, each of the applications listed in the Attachments and relating to the places and proposal listed.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr R Fittock**

**That the information is noted.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr John Alberti Cr John Dowson Cr Robert Fittock Cr Donna Haney Cr Bill Massie Cr Georgie Adeane	

**REPORTS BY OFFICERS (COUNCIL DECISION)**

Nil.

**CONFIDENTIAL MATTERS**

Nil.

**CLOSURE OF MEETING**

**THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 7.21 PM.**

**SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION**

The Council adopted a Participation Policy in August 2001 to give effect to its commitment to involving citizens in its decision-making processes.

The City values citizen participation and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective participation requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

<b>How consultative processes work at the City of Fremantle</b>	
<b>The City's decision makers</b>	1. The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
<b>Various participation opportunities</b>	2. The City provides opportunities for participation in the decision-making process by citizens via its Advisory Committees and Task Forces, its Community Precinct System, and targeted consultation processes in relation to specific issues or decisions.
<b>Objective processes also used</b>	3. The City also seeks to understand the needs and views of the community via scientific and objective processes such as its annual Community Survey.
<b>All decisions are made by Council or the CEO</b>	4. These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
<b>Precinct focus is primarily local, but also city-wide</b>	5. The Community Precinct System establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.

<b>How consultative processes work at the City of Fremantle</b>	
<b>All input is of equal value</b>	6. No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
<b>Decisions will not necessarily reflect the majority view received</b>	7. Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.
<b>Decisions made for the overall good of Fremantle</b>	8. The Local Government Act requires decision-makers to make decisions in the interests of "the good Government of the district". This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
<b>Diversity of view on most issues</b>	9. The City is wary of claiming to speak for the 'community' and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
<b>City officers must be impartial</b>	10. City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City Officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City's management to defend those City officers.
<b>City officers must follow procedures</b>	11. The City's consultative processes must be clear, transparent, efficient and timely. City officers must ensure that policies and procedures are fully complied with so that citizens are not deprived of their rights to be

How consultative processes work at the City of Fremantle	
	heard.
<b>Consultation processes have cut-off dates that will be adhered to.</b>	12. As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, consultative processes need to have defined and rigorously observed cut-off dates, after which date officers will not include 'late' input in their analysis. In such circumstances, the existence of 'late' input will be made known to decision-makers. In most cases where citizen input is involved, the Council is the decision-maker and this affords citizens the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.
<b>Citizens need to check for any changes to decision making arrangements made</b>	13. The City will take initial responsibility, via 'Consultation Process notifications', for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a> , checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.
<b>Citizens are entitled to know how their input has been assessed</b>	14. In reporting to decision-makers, City officers will in all cases produce a Schedule of Input received that summarises comment and recommends whether it should be taken on board, with reasons.
<b>Reasons for decisions must be transparent</b>	15. Decision-makers must provide the reasons for their decisions.
<b>Decisions posted on <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a></b>	16. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a> or at the City Library or Service and Information counter.

### Issues that Council May Treat as Confidential

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
  - a) all council meetings; and
  - b) all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:
  - a) a matter affecting an employee or employees;
  - b) the personal affairs of any person;
  - c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - e) a matter that if disclosed, would reveal –
    - i) a trade secret;
    - ii) information that has a commercial value to a person; or
    - iii) information about the business, professional, commercial or financial affairs of a person.Where the trade secret or information is held by, or is about, a person other than the local government.
  - f) a matter that if disclosed, could be reasonably expected to -
    - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - ii) endanger the security of the local government's property; or
    - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
  - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



