

# City of Fremantle

## MINUTES

### Planning Services Committee

Wednesday, 21 April 2010  
6.00 pm

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#### COMMITTEE MEMBERS

Mayor Brad Pettitt  
Cr Tim Grey-Smith  
Cr Andrew Sullivan  
Cr John Dowson  
Cr Bill Massie  
Cr Josh Wilson  
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 21 April 2010 at 6.00 pm.

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### DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The 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

Brad Pettitt	Mayor
Cr Doug Thompson	North Ward
Cr Andrew Sullivan	South Ward
Cr John Dowson	East Ward
Cr Bill Massie	Hilton Ward
Cr Josh Wilson	Beaconsfield Ward
Mr Philip St John	Director Planning and Development Services
Ms Kathy Bonus	Manager Planning Services
Mr Paul Garbett	Manager Planning Projects and Policy
Mr Stephen Sullivan	Statutory Planning Coordinator
Ms Rowena Amistad	Administration Team Leader/Minute Secretary

*There were approximately 18 members of the public and 1 member of the press in attendance.*

### APOLOGIES

Cr Tim Grey-Smith	City Ward
Cr Robert Fittock	North Ward

### LEAVE OF ABSENCE

Nil

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

Nil

**PUBLIC QUESTION TIME**

Nil

**DEPUTATIONS / PRESENTATIONS**

**The following member/s of the public spoke in favour of item PSC1004-72:**  
David Webb

**The following member/s of the public spoke against item PSC1004-73:**  
George Panakis

**The following member/s of the public spoke in favour of item PSC1004-73:**  
Kim Bevilaqua

**The following member/s of the public spoke in favour of item PSC1004-74:**  
Guy Stubbs

**The following member/s of the public spoke against item PSC1004-77:**  
Don Whittington

**The following member/s of the public spoke in favour of item PSC1004-78:**  
Jackie Holm  
Maryanne Goodlich  
Wendy Konowalow

**DISCLOSURES OF INTEREST BY MEMBERS**

Nil

**LATE ITEMS NOTED**

Nil

**CONFIRMATION OF MINUTES**

**MOVED: Cr A Sullivan**

**That the Minutes of the Planning Services Committee dated 07 April 2010 as listed in the Council Agenda dated 28 April 2010 be confirmed.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**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**

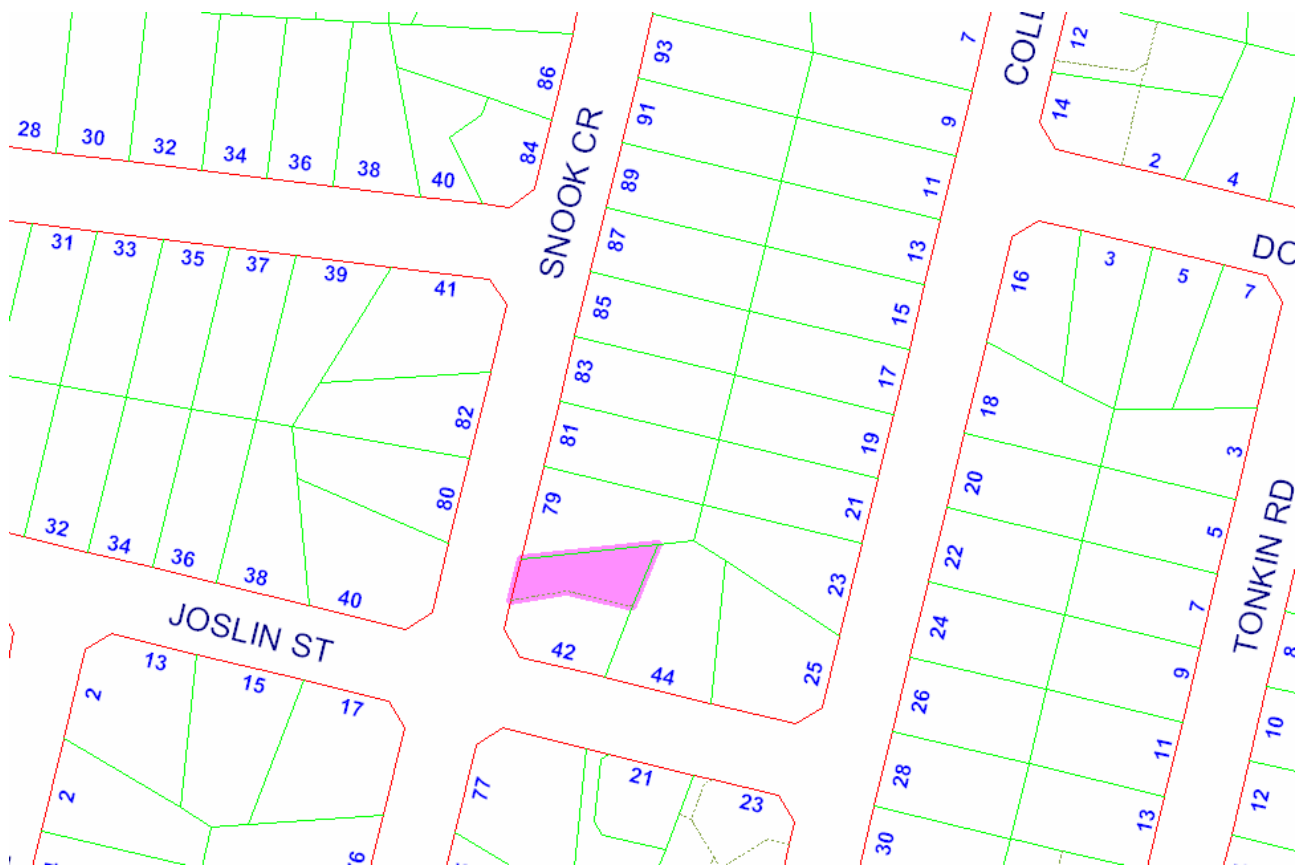
Nil.

**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

**PSC1004-72 SNOOK CRESCENT NO. 79B (LOT 2), HILTON - PROPOSED SINGLE STOREY GROUPED DWELLING (AH DA0154/10)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Acting Manager Development Services  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** Nil  
**Attachments:** Development plans (19 March 2010)  
**Date Received:** 19 March 2010  
**Owner Name:** D. Webb & L. Jones  
**Submitted by:** D. Webb & L. Jones  
**Scheme:** Residential – R20/R25  
**Heritage Listing:** N/A  
**Use Class:** Grouped Dwelling  
**Use Permissibility:** D



## EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the applicant is seeking Planning Approval for the erection of a single storey grouped dwelling, which was previously refused by Council at its February 2010 Meeting. The application was refused as it did not meet the provisions of the Hilton Local Planning Area Policy – D.G. H3.

On the 3 March 2010 a report was presented to Planning Services Committee in order to waive the planning fee associated with re-submitting whereby Planning Services Committee resolved:

*That Council APPROVE the request to waive the planning application fee for a new development application at no. 79/A (Lot 2 on SP S056861) Snook Crescent, Hilton subject to:*

- 1. The application being made by or on behalf of Mr David Webb and Ms Leann Jones;*
- 2. The application incorporating a minimum setback of 1.5 metres from the northern boundary and deletion of the double garage; and*
- 3. Such an application being received within three months of the date of this decision.*

The applicant has since resubmitted the application and has complied with the above resolution.

The application is considered to:

- a) comply with the Residential Design Codes of W.A. (2008);
- b) comply with Hilton Local Planning Area Policy D.G. H3;

and therefore recommended for Approval.

## BACKGROUND

The site was known as No. 79/A Snook Crescent, Hilton however between the time of the previous application being Refused by Council and submission of a new development application the street numbering of Snook Crescent has been altered and as such the property is now known as No. 79/B Snook Crescent.

Notwithstanding the above, the property remains the same and the application involves the same parcel of land as determined previously.

The property comprises a vacant lot created from the survey strata subdivision of the original parent lot of No. 42 (Lot 1388) Joslin Street, Hilton.



The survey strata subdivision was approved by the Western Australian Planning Commission (WAPC) on the 16 September 2008. The newly created lot, now known as No. 79/B Snook Crescent comprises 440m<sup>2</sup> and is 11.6m wide at the street, 18.29m wide at the rear, 37.62m long on the northern boundary and has two separate southern boundary lines.

The two separate southern boundary lines comprise a 15.34m long section at the front of the lot which angles in towards the site and an 18.68m long section at the rear of the lot which angles back out away from the site. The result being an irregular lot shape which has a 'pinch point' in the middle of the site where the lot is approximately 10m in width.

The site also slopes down from the rear of the lot to the street by approximately 1.61m.

The site is zoned Residential R20/R25. The property is not on the City of Fremantle's heritage list or municipal heritage inventory.

The site is within the Hilton Local Planning Policy Area (D.G. H3) and also the Hilton Local Planning Area (LPS 7).

The application was presented before the Planning Services Committee on 17 February 2010 which resolved:

*That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed single storey Grouped Dwelling at No. 79A (Strata Lot 2 on S056861) Snook Crescent, Hilton, subject to the following conditions:*

- 1. This approval relates only to the development as indicated on the approved plans dated 27 January 2010. It does not relate to any other development on the lot.*
- 2. All storm water discharge shall be contained and disposed of on-site.*
- 3. Prior to occupation, the boundary wall located on the northern boundary shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer.*
- 4. Prior to the occupation of the development, vehicle crossovers shall be constructed in paving block/concrete/bitumen and thereafter maintained to the satisfaction of the City of Fremantle.*

The application was referred to the Ordinary Meeting 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.

Ordinary Meeting of Council, held on the 24 February 2010 resolved:

*That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed single storey Grouped Dwelling at No. 79/A (Strata Lot 2 on S056861) Snook Crescent, Hilton, for the following reasons:*

- 1. The proposed does not meet the provisions of the Hilton Local Planning Area Policy – D.G. H3.*

On the 3 March 2010 a report was presented to Planning Services Committee in order to waive the planning fee associated with re-submitting whereby Planning Services Committee resolved:

*That Council APPROVE the request to waive the planning application fee for a new development application at no. 79/A (Lot 2 on SP S056861) Snook Crescent, Hilton subject to:*

- 1. The application being made by or on behalf of Mr David Webb and Ms Leann Jones;*
- 2. The application incorporating a minimum setback of 1.5 metres from the northern boundary and deletion of the double garage; and*
- 3. Such an application being received within three months of the date of this decision.*

## **DETAIL**

The applicant has resubmitted an application in accordance with the resolution of the Planning Services Committee and now seeks approval to erect a single storey grouped dwelling that would comprise:

- 3 Bedroom, 2 bathroom dwelling setback 8.7m from the street;
- Deletion of the double garage on the northern boundary, to be replaced with a Games Room setback 1.5m from the northern boundary.

## **STATUTORY AND POLICY ASSESSMENT**

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

#### Residential Zone

The site is zoned Residential under LPS 4. The objective of the Residential zone states:

*Development within the Residential zone shall-*

- (i) provide for residential uses at a range of densities with a variety of housing forms to meet the needs of different household types, while recognising the limitations on development necessary to protect local character,*
- (ii) safeguard and enhance the amenity of residential areas and ensure that development, including alterations and additions, are sympathetic with the character of the area,*
- (iii) encourage high standards of innovative housing design which recognise the need for privacy, energy efficient design and bulk and scale compatible with adjoining sites,*
- (iv) recognise the importance of traditional streetscape elements to existing and new development,*
- (v) conserve and enhance places of heritage significance the subject of or affected by the development, and*
- (vi) safeguard and enhance the amenity of residential areas by ensuring that land use is compatible with the character of the area.*

*Note: All zone objectives should be read in conjunction with individual LPA objectives in schedule 12 and Scheme aims in section 1.6*

Local Planning Area 7 – Hilton

Local Planning Area 7 – Hilton (LPA 7) sets out height controls to be applied within Fremantle and states:

*all requirements as per the Residential Design Codes and special applications under clause 5.4.*

In this instance clause 5.4 does not apply and as such the height controls contained within the R-Codes apply.

**Residential Design Codes (2008)**

The development plans have been assessed against the Acceptable Development criteria set out within the R-Codes and it is considered that the proposed plans comply the Acceptable Development requirements of the R-Codes.

**Council Policies**

- D.G. H3 – Hilton Local Area Planning Policy (D.G. H3).

**CONSULTATION**

The application was not required to be advertised in accordance with Clause 9.4 of the LPS 4.

**PLANNING COMMENT**

**Local Planning Scheme No. 4**

The application has been assessed against the provisions of LPS 4 and is considered to comply with these provisions.

Local Planning Area 7 – Hilton (LPA 7)

The application has been assessed against the R-Codes and is considered to meet the Acceptable Development requirements of Design Element (DE) 6.7.1 – Building Height and as such, complies with LPA 7.

**Residential Design Codes of WA (2008)**

As mentioned above, the application is considered to comply with the Acceptable Development requirements of the R-Codes. The application was previously compliant with exception to DE 6.3.2 – Buildings on the boundary as replaced by LPP 2.4. However this application has now removed the boundary wall to be setback 1.5m from the northern boundary and as such complies.

**Local Planning Policy**

Hilton Local Planning Area Policy

The application has been assessed against the provisions of D.G. H3 which sets out various design guidance for differing types of development.

Following refusal of the previous application, the applicant has removed the garage from the application and as such the issue of garages being forward of the dwelling no longer remains an issue.

Furthermore, the garage has now been converted into a Games Room with a northern boundary setback of 1.5m which not only complies with the R-Codes but also with D.G. H3 which requires a 1.5m setback to one side and a 3.5m setback to the reverse side. The application now complies with both these setback requirements.

Therefore, it is considered that the application meets the objectives of the Hilton Local Planning Area Policy – D.G. H3.

**CONCLUSION**

The applicant is seeking to erect a modest single storey 3 bedroom, 2 bathroom dwelling which is considered to comply with the City of Fremantle’s Local Planning Scheme No. 4, therefore it is considered that the application be Approved.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr A Sullivan**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed single storey Grouped Dwelling at No. 79/B (Lot 2 on SP S056861) Snook Crescent, Hilton, subject to the following conditions:**

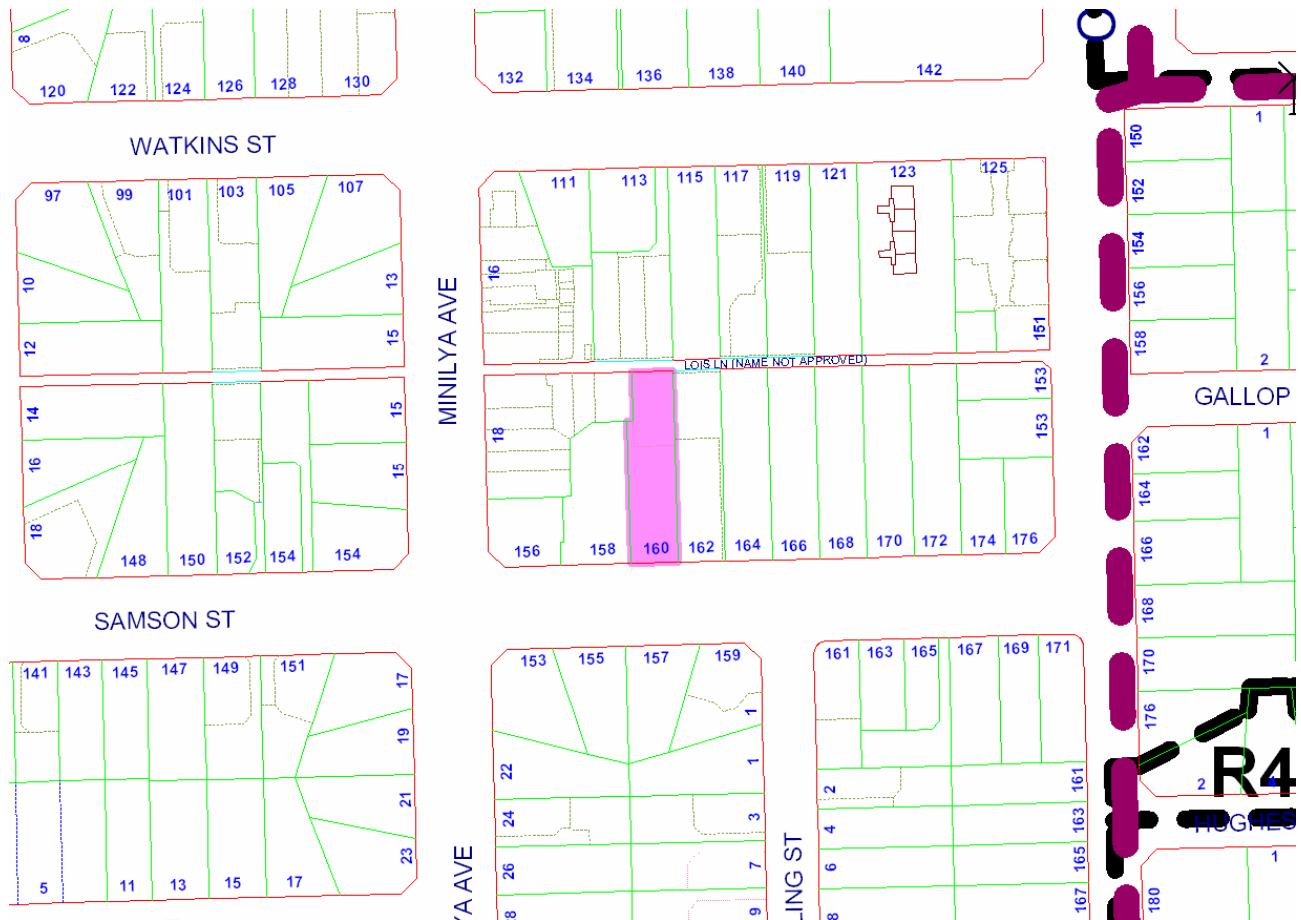
- 1. This approval relates only to the development as indicated on the approved plans dated 19 March 2010. It does not relate to any other development on this lot.**
- 2. All storm water discharge shall be contained and disposed of on-site.**

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**PSC1004-73 SAMSON STREET NO. 160 (LOT 6) WHITE GUM VALLEY - TWO, TWO STOREY SINGLE BEDROOM GROUPED DWELLING ADDITIONS - (JL DA0680/09)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Acting Manager Development Services  
**Actioning Officer:** Senior Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Numbers:** WAPC141131  
**Attachment 1:** Amended Development Plans  
**Attachment 2:** Site Photos  
**Attachment 3:** Applicants Justification  
**Date Received:** 3 December 2009  
**Owner Name:** K. Bevilaqua & N. Spanbroek  
**Submitted by:** As above  
**Scheme:** Residential R25  
**Heritage Listing:** Not Listed  
**Existing Landuse:** Single House  
**Use Class:** Grouped Dwelling  
**Use Permissibility:** D



## EXECUTIVE SUMMARY

This application has been referred to the Planning Services Committee (the Committee) for determination as the applicant is seeking performance based assessments in relation to the Residential Design Codes;

- Design Element 6.7.1 – Building height, and
- Design Element 6.8.1 – Visual privacy.

The applicant is seeking Planning Approval to construct two, two storey Single Bedroom Grouped Dwellings with under croft garages at the rear of No.160 (Lot 6) Samson Street, White Gum Valley.

Additionally, the proposed development also does not comply with Council's *D.C 2 Special Purpose Dwellings* policy in terms of;

- The applicant is proposing two Single Bedroom dwellings for the one development site, and
- External wall height exceeds 4.8 metres.

Furthermore, the proposed development also does not comply with Council's *L.P.P2.2 – Split Density Codes and Anergy Efficient Sustainability Schedule* policy in terms of:

- Proposed rear (southern side) Single Bedroom dwelling not providing a 4 metre setback for the northern elevation of the dwelling.

Accordingly, the application is recommended for refusal.

## BACKGROUND

The site is known as No. 160 (Lot 6) Samson Street, White Gum Valley. The site is zoned Residential R20/25 under Local Planning Scheme No. 4 and is within the White Gum Valley Local Planning Area. The site is not individually listed on the City's Heritage List nor is it located within a prescribed Heritage Area under the provisions of LPS4. Furthermore, the site is located within the White Gum Valley Local Planning Area.

The site is located on the northern side of Samson Street and comprises of 1275m<sup>2</sup>. The site is improved by an existing single storey dwelling which has a south north orientation and fronts Samson Street. The rear common boundary (northern boundary) of site abuts Lois Lane. The rear of the site has been developed with a bitumen tennis court. The development site slopes from the front of site (south) to the rear (north) by approximately 2.5 metres. Additionally, the natural ground level of the subject site is approximately 2 metres higher, comparison to Lois Lane and the western adjoining rear property (18 Minilya Avenue).

A summary of the immediate area is provided as follows:

The eastern adjoining property has a similar topography as the subject site and is also occupied by a two storey concealed roofed zincaluminum clad grouped dwelling, which fronts Lois Lane (See Attachment 3 for Site photo's).

The immediate western adjoining property of the subject site is also occupied by residential activity, but is occupied by a single storey Grouped Dwelling, which as mentioned previously has a significantly lower natural ground level (approximately 2.3m), than that of the subject site.

The adjacent northern adjoining properties to the subject site are also occupied for residential activity and consist of either single storey Grouped Dwelling development (13A – C Watkins Street) or the rear backyard area of the property that fronts Watkins Street (115 Watkins Street). Several properties which abut Lois Lane, which are within close proximity to this subject site, have been constructed so as to front and address Lois Lane as a Primary Street.

#### Subdivision Applications Background

A review of the subject property file has found the following relevant planning background:

- On the 7 January 2004 a subdivision application was approved by the WAPC for the creation of two lots. Lot 2, being 440m<sup>2</sup>, towards the rear of the site with access to Lois Lane and Lot 1 being the remainder of the property fronting Samson Street with the existing building remaining on-site. This application has never being acted upon, therefore resulting with the original configuration of the parent property remaining today.
- Mid March 2010, the applicant re applied to the Western Australian Planning Commission (WAPC) for a three lot subdivision of the parent property at No.160 Samson Street, White Gum Valley (refer WAPC 141131). On 10 March 2010 the City referred its comments to the WAPC, supporting the proposed subdivision subject to appropriate planning conditions. At the time of writing this report the WAPC had not determined the subdivision application.

The assessment of the site was based on the creation of a lot with an area of 440m<sup>2</sup>. This decision does not influence the current application before the Committee.

#### Planning Application Background

On 3 December 2009 the City received a development application seeking the City's Planning Approval to construct two, two storey Single Bedroom Grouped Dwellings with under croft garages at the rear of the existing subject site. The proposed development requires Council to exercise its discretion to allow a density bonus for the Grouped Dwelling, which are to be as Single Bedroom Dwellings.

Early January 2010, the City contacted the applicant regarding several concerns associated with the original proposal. Specifically the concerns relate to the proposed Primary Street setback of the development, visual privacy, building height and non compliance with provisions contained within Council's L.P.P2.2 – Split Density Codes (L.P.P2.2) and Energy Efficiency Sustainability Schedule and D.C2 -Special Purpose Dwellings policy (D.C2).

On 22 January 2010, the applicant submitted amended plans addressing the City's concerns relating to:

- the Primary Street setback of the development, and
- Compliance with the provisions of L.P.P2.2 policy requirements, apart from the 4m northern boundary setback for the southern proposed Single Bedroom Dwelling.

The City contacted the applicant again requesting further justification in relation to the original variations sought regarding visual privacy, building height and non compliance with the provisions contained within Council's D.C2 local planning policy.

On the 5 March 2010 the applicant provided the requested justification for the above mention concerns. See 'Attachment 3' below for the provided justification.

## **DETAILS**

The proposed development consists of two, two storey Single Bedroom Dwellings. The proposed development is to be located on the site of the existing bitumen tennis court at the rear of the parent property. Both proposed dwellings are of a modern two storey contemporary design with majority of the upper floor being constructed on 2.5m high pillars. These dwellings have been designed with majority of habitable rooms and spaces being orientated to the western side of site.

The dwellings consist of approximately 60m<sup>2</sup> of internal floor space with each having a 16m<sup>2</sup> balcony located on the upper floor western side of the dwelling. The dwellings also are provided with vehicle access and single under croft garages fronting Lois Lane. Both dwellings consist of a concealed roof design, which will portrays a maximum external wall height of 9.2m as measured from natural ground level. The area proposed to be the construction location is elevated approximately 2m higher that the western and northern adjoining and adjacent properties. See 'Attachment 1' for full details associated with the proposed developments design.

## **STATUTORY FRAMEWORK**

The proposed development has been assessed against the relevant provisions of LPS4, the Residential Design Codes (R-Codes) and Council's Local Planning Policies.

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

Clause 8.1 of LPS4 stipulates all development on land zoned and reserved under LPS4 requires the prior approval of the Council. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Council.

The proposed use is consistent with the objectives of the 'Residential' zone, as specified in LPS4. However, the proposed development is classified as a 'D' (Discretionary) under the provisions of LPS4.



The site is zoned Residential under LPS4. The objective of the Residential zone states:

*Development within the Residential zone shall-*

- (i) provide for residential uses at a range of densities with a variety of housing forms to meet the needs of different household types, while recognising the limitations on development necessary to protect local character,*
- (ii) safeguard and enhance the amenity of residential areas and ensure that development, including alterations and additions, are sympathetic with the character of the area,*
- (iii) encourage high standards of innovative housing design which recognise the need for privacy, energy efficient design and bulk and scale compatible with adjoining sites,*
- (iv) recognise the importance of traditional streetscape elements to existing and new development,*
- (v) conserve and enhance places of heritage significance the subject of or affected by the development, and*
- (vi) safeguard and enhance the amenity of residential areas by ensuring that land use is compatible with the character of the area.*

### ***Residential Design Codes of Western Australia 2008 (R-Codes)***

The application was assessed against the relevant 'Acceptable Development' criteria of the R-Codes for R25 coded property. The proposed development satisfies all of the relevant 'Acceptable Development' criteria with the exception of *Design Element 6.7.1-Building Height* and *6.8.1 – Visual Privacy* requirements.

It should be noted that not meeting any 'Acceptable Development' criteria, in and of itself, is not a sound basis on which to refuse or require modifications to a proposal. Instead, the proposal must be considered in the context of the relevant 'Performance Criteria'. Accordingly performance based assessments were required for these elements.

#### ***Design Element 6.7.1 - Building Height***

The 'Acceptable Development' criteria of the R-Codes specify that buildings shall comply with the height restrictions specified in Table 3, except where otherwise stated in an adopted Local Planning Policy.

With regards to this proposed development, Council has a specific policy relating to Single Bedroom Dwellings (D.C2) which prescribes height restrictions. Clause 5.4 of D.C2 states that the maximum height for Single Bedroom Dwellings shall be single storey loft development (maximum external wall height of 4.8 metres).

The applicant is proposing a maximum external wall height of 9.2 metres for the southern elevation of the southern located Single Bedroom Grouped Dwelling addition.

With regards to building height the 'Performance Criteria' of the R-Codes states:

*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.*

#### Design Element 6.8.1 - Visual Privacy

The applicant is also requesting a performance based assessment regarding visual privacy relating to the western elevation upper floor balcony addition of the adjoining western properties. As stated in design element 6.8.1 of the R-Codes, an unenclosed outdoor active habitable space (balconies, decks, verandahs and the like) should be setback, in direct line of sight within a cone of vision, 7.5 metres from a lot boundary. The proposed balcony additions are not setback the required distance from the western boundary of site. The 'Performance Criteria' of the R-Codes 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.*

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

#### *D.C.2 - Special Purpose Dwellings*

The provisions set out within this policy apply to all Single Bedroom Dwelling developments within the City of Fremantle. The relevant provisions are as follows:

#### *5.3 Despite the Acceptable Criteria of the Codes, Council may:*

- Allow a single bedroom dwelling to be limited to a plot ratio area of 75 sqm,*
- And contain an additional ancillary room that may not be used as an additional bedroom.*

*The additional ancillary room shall not exceed 2.0 metres in any direction and can be used for the purposes of:*

- *Home Office*
- *Storage*
- *Study nook*
- *Nursery*
- *Walk in robe space*

*5.4 In addition to all other requirements of the Codes:*

- a) a single bedroom dwelling shall be limited to one dwelling per development site; and*
- b) shall not exceed a maximum height of single storey loft (maximum external wall height of 4.8 metres)*

*6.0 Council will only permit variations to the provisions of this policy where it can be established that the proposal will not cause by any means an amenity impact on adjoining properties and is considered to be according with the strategic planning aims of City Planning Scheme No.4.*

As stated above, the proposal is contrary to the provisions contained within Clause 5.3 of this policy as the proposed development exceeds the maximum external wall height provisions of 4.8 metres and the proposal applicant is proposing two Single Bedroom Dwellings for the one development site. Furthermore, the proposed ancillary room for both dwellings also exceeds the maximum 2 metre dimension as prescribed in Council's D.C2 policy.

## **CONSULTATION**

### Community

The application was required to be advertised in accordance with the provisions of the City's *L.P.P1.3: Public Notification of Planning Approvals* policy, as the proposed development requires several performance based assessments. At the conclusion of the advertising period, being 1 March 2010, the City had received two submissions, which raised the following concerns:

- Overlooking of the western adjoining properties outdoor living areas will negatively impact the amenity of these adjoining neighbours,
- The proposed dwellings are excessive in terms of its proposed height and bulk,
- Restriction of direct solar access to adjoining western dwellings existing habitable rooms, and
- Possible damage occurring to the existing retaining wall located between the subject site and adjoining western properties.

Further discussion regarding these submitters concerns will be included in the Planning Comment section of this report.

## PLANNING COMMENT

In considering this application, there are four key issues that must be addressed. These issues are in relation to the:

- proposed building height of the development;
- developments non compliance with the provisions of Council's *D.C2 – Special Purpose Dwelling's* policy;
- overlooking of the western adjoining properties; and
- non-compliance with Council's Energy Efficiency and Sustainability Schedule.

These variations should be considered against the relevant 'Performance Criteria', as outlined in the 'Statutory and Policy Assessment' section of this report.

### Building Height

To assess building height, a performance based assessment against the provisions of the R-Codes and Council's D.C2 policy is provided as follows.

The R-Codes restrict the height of development to 7m for a concealed roofed development. The R-Codes allow a Council to adopt alternative Acceptable Development criteria regarding Design Element 6.7.1 – Building height. In this instance, Council's D.C2 – *Special Purpose Dwellings* (D.C.2) policy prescribes alternative maximum external heights for Single Bedroom Dwellings. The policy states the following in relation to Single Bedroom Dwellings:

*shall not exceed a maximum height of single storey loft (maximum external wall height of 4.8 metres).*

In relation to the R-Codes, the proposed development incorporates a maximum external wall height of 9.2 metres for the southern, eastern and western elevation of the development. Accordingly, a performance based assessment is required under the R-Codes.

The Performance Criteria relating to building height states:

*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.*

In determining the desired building height for a locality a streetscape analysis of Lois Lane is provided. As mentioned previously, the eastern adjoining property has a similar topography as the subject site and is also occupied by a two storey concealed roofed zincaluminum clad grouped dwelling which fronts Lois Lane (See Attachment 3 for Site photo's). This dwelling consists of skillion roof design dwelling which depicts a maximum external wall of 7.2m for the northern elevation of the dwelling.

The immediate western adjoining property (8/18 Minilya Avenue) is improved by a single storey grouped dwelling development which incorporates a maximum building height of approximately 5m. Also, as mentioned previously, this site also has an existing natural ground level approximately 2 metres lower than that of the subject site.

The directly adjacent northern properties to the subject site are occupied by three, side by side, split level single storey grouped dwellings (13A – C Watkins Street). These dwellings step down in height towards the north of the site and depict a maximum building height no greater than 5.5m. These properties also has a significantly lower natural ground level (approximately 2.3m), than that of the subject site. All of the surrounding properties are occupied by either Single House's or Grouped Dwelling developments.

Therefore, as the existing built form of the locality ranges between 5m to 7m above respective natural ground levels, the proposed 9.2m external wall height for this development is not supported as it is not considered to be consistent with the existing built form within the immediate locality.

In relation to Policy D.C2, the prescribed maximum height requirements of D.C2 are not considered to facilitate nor entertain two storey concealed roof style designs for Single Bedroom developments. Clause 6 of D.C2 states,

*Council will only permit variations to the provisions of this policy where it can be established that the proposal will not cause by any means an amenity impact on adjoining properties and is considered to be according with the strategic planning aims of City Planning Scheme No.4.*

Considering the existing built form of the locality and taking into account that the natural ground level of the subject site is significantly greater (2m) than adjoining western and northern properties, the proposed 9.2m external wall height of the development does have the potential to negatively impact the amenity of these adjoining properties in terms of building bulk.

A submitter has raised concerns in relation to the proposed development significantly impacting the amenity of the adjoining site to the west in terms of restricting solar access. The development will restrict solar access to the western adjoining property during the early hours of the morning due to the additional height of the development above the height controls, although the proposed development is setback from all common boundaries in accordance with the Acceptable Development provisions of the R-Codes. Furthermore the development has been assessed against and complies with the provisions stipulated in *Design Element 6.9.1 – Solar access for adjoining properties*.

Overall, the proposed height is not considered to be consistent with the desired height prescribed for Single Bedroom dwellings within Fremantle, nor is the development compatible with the existing built form of buildings in the locality as shown in the predominant streetscape pattern of single storey dwellings in the immediate vicinity.

## **Non-compliance with DC2 - Number of proposed Single Bedroom Dwellings**

The applicant also seeks a variation in relation to Clause 5.4(a) of D.C2, which restricts one Single Bedroom Dwelling development to each development site. The R-Codes remain silent in regards to restricting the number of Single Bedroom Developments per site. The proposed number of Single Bedroom dwellings is not envisaged to negatively impact the amenity of adjoining neighbours, as the maximum number of future tenants, (four) for both dwellings would equate a lesser amount than that of a standard Grouped Dwelling (six).

## **Visual Privacy**

The current proposal is not considered to meet the Performance Criteria of Design Element 6.8.1 of the R-Codes, as it enables overlooking to occur of the western adjoining properties existing outdoor living areas from the upper floor western elevation balcony additions. If the application were being recommended for approval, it would be considered appropriate in this instance to recommend a visual privacy screening condition be imposed for the entire western elevations of both upper floor balcony additions of the dwellings.

## **Council's Energy Efficiency and Sustainability Schedule**

The proposed development has been assessed against and complies with the all of the provisions contained within Council's L.P.P2.2 Schedule apart from the following:

- The external side wall of both dwelling being setback of a minimum 4 metres from the northern boundary, and
- Eaves with a minimum horizontal distance from the walls of 500mm for all elevations of the development.

Compliance with these provisions, in particular dot point one, could result in changes to the design of the development, unless Council varied the provisions of this Policy. However, this matter is considered minor matter when compared with the other areas of non-compliance.

## **Other Submitters Concerns**

Another concern raised during the 'Community Consultation' process was in relation to the potential damage occurring to the existing retaining wall located between the subject site and adjoining western properties. Any structural issues which relate to proposed development is not considered to be a relevant planning consideration and would need to be assessed under an application for a building licence/ demolition licence.

## CONCLUSION

The proposed development has been assessed against the provisions of the R-Codes and Council's *D.C2 – Special purpose Dwellings policy* and *L.P.P2.2 – Split Density Codes and Energy Efficiency policy*.

The proposed building height and visual privacy matters do not meet the Performance Criteria of the R-Codes. Additionally, the proposed development is not considered to satisfy the relevant performance criteria of the R-Codes or City of Fremantle's *D.C2 – Special Purpose Dwellings* relating to building height as the development would negatively impact the visual amenity of adjoining properties. Furthermore, the proposed development does not satisfy all requirements of Councils *L.P.P2.2 – Split Density and Energy Efficiency and Sustainability Schedule* as a minimum 4 metre northern boundary setback for both proposed dwellings is not provided.

Accordingly, the application is recommended for refusal.

## OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two, Two Storey Single Bedroom Grouped Dwelling Additions at No. 160 (Lot 6) Samson Street, White Gum Valley for the following reasons:

1. The proposed development is contrary to Clause 6.7.1 A1.1 of the Residential Design Codes 2008 as the development does not satisfy the performance criteria relating to building height and Clause 6.8.1 A1 of the Residential Design Codes 2008 as the development does not satisfy the performance criteria relating to visual privacy.
2. The proposal does not meet the provisions of the City of Fremantle's *D.C.2 Special Purpose dwellings policy*.
3. The proposal does not meet the provisions of the City of Fremantle's *L.P.P2.2 Split Density codes and Energy Efficiency and Sustainability Schedule policy*.

**Cr D Thompson moved to defer the item to the next appropriate Planning Services Committee to allow the applicant time to address issues regarding privacy screening and compliance with LPP 2.2 Split Density codes and Energy Efficiency and Sustainability Schedule policy.**

**CARRIED: 4/2**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Doug Thompson Cr Bill Massie Cr Andrew Sullivan	Cr John Dowson Cr Josh Wilson

**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.**

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

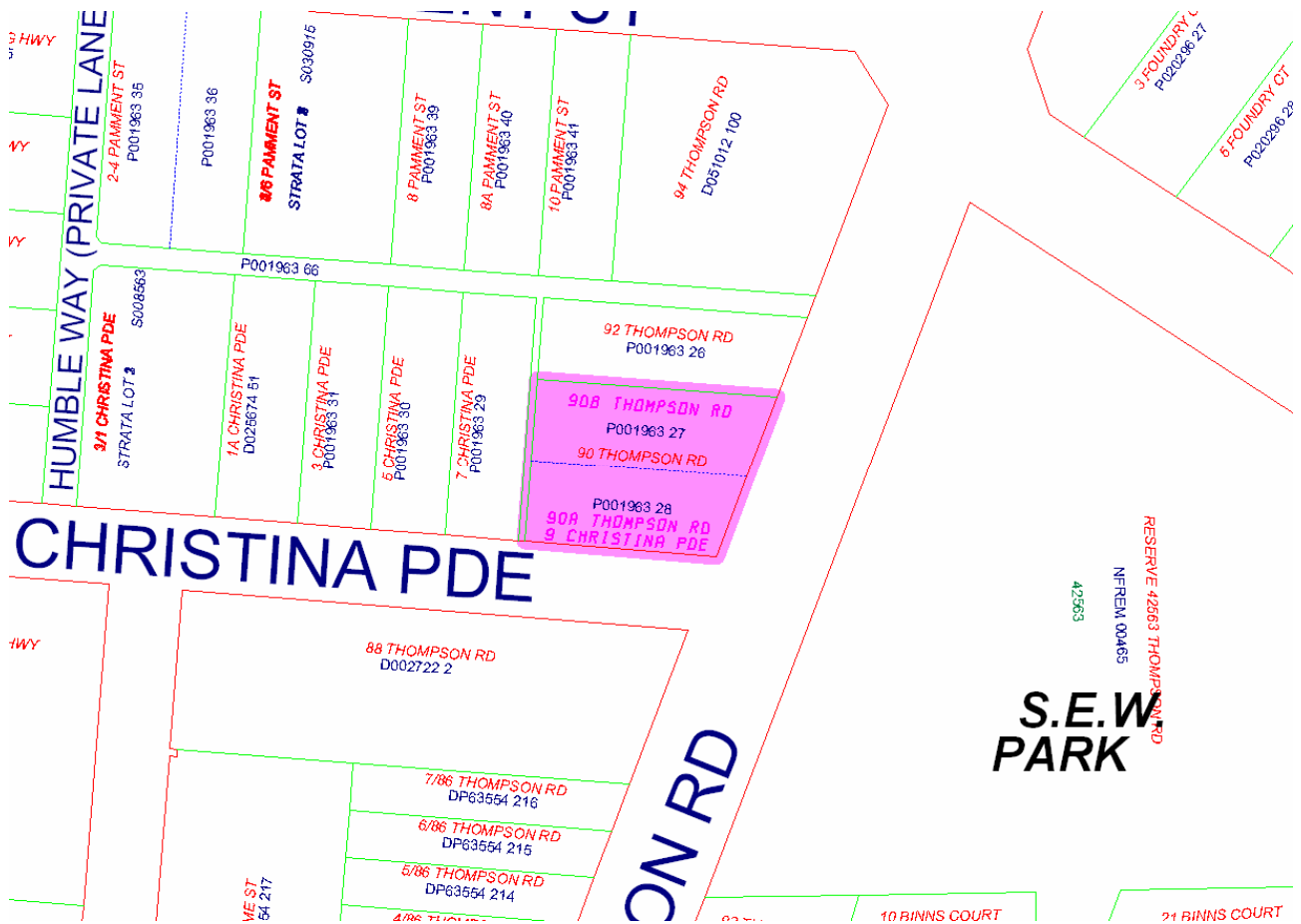
To allow the applicant time to address issues regarding privacy screening and compliance with LPP 2.2 Split Density codes and Energy Efficiency and Sustainability Schedule policy.



**PSC1004-74 THOMPSON ROAD NO.90 (LOT 28), NORTH FREMANTLE – DEMOLITION OF EXISTING SINGLE HOUSE (MS DA0003/10)**

**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 1 and 2:** Development Plans & Information provided by the Applicant and the Heritage Report prepared for the City, due to the total size of the documents being 56 pages, have been placed in the Councillors Lounge for review.

**Date Received:** 5 January 2010  
**Owner Name:** M. Tobin & G. Stubbs  
**Submitted by:** BJ Building Design  
**Scheme:** Mixed Use  
**Heritage Listing:** Management Category 3  
**Existing Landuse:** Single House  
**Use Class:** Residential  
**Use Permissibility:** 'P'



## EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the application involves the demolition of an existing dwelling that has been recognised as being of cultural and historic significance.

The applicant is seeking Planning Approval to demolish an existing single house and outbuildings at No. 90 (Lot 28) Thompson Road, North Fremantle and construction of a new two storey single house. The first matter to consider is whether or not the demolition of the existing building should be supported. This decision will then inform how the application for the proposed new single house is to be determined.

The proposed demolition of the existing single house is not supported as the dwelling is considered to be of cultural and historic significance and contributes to a traditional streetscape.

The proposed demolition is recommended for refusal as the proposal is contrary to the aim of Local Planning Scheme No. 4 (LPS4) to *'protect and conserve Fremantle's unique cultural heritage'*. Furthermore the proposed demolition does not satisfy the objectives of the Mixed Use zone pertaining to the conservation of places of heritage significance and is contrary to the City's Local Planning Policy D.G.N3 Stirling Highway, Thompson Road, Coventry Parade, and Craig Street Local Area. Consequently, approval for the replacement building cannot be approved.

## BACKGROUND

### General Site Description

The subject site is located at No. 90 (Lot 28) Thompson Road, North Fremantle. The site is approximately 997m<sup>2</sup> in area and is located on the western side of Thompson Road, North Fremantle. The site is orientated in an east-west direction is relatively flat.

The subject site is zoned Mixed Use and is located within the North Fremantle Local Planning Area (North Fremantle LPA) under the City's Local Planning Scheme No. 4 (LPS4). The site is listed on the City's Heritage List and on the Municipal Heritage Inventory as a Management Category 3 and is located within the North Fremantle Heritage Precinct, which is designated as a Heritage Area under clause 7.2 of LPS4.

### Scheme Amendment No. 26

Scheme Amendment 26 was gazetted on the 12 March 2010. Scheme Amendment 26 had the effect of introducing a new clause, clause 5.15 into Part 5 of LPS4. The clause sets out the considerations which the determination of planning applications for the demolition of buildings and structures will be based.

## DETAIL

The applicant is seeking the Planning Approval of Council for the demolition of the Single House and Outbuildings at No. 90 (Lot 27 & 28) Thompson Road, North Fremantle. The applicant has provided plans for a two storey replacement dwelling; however the complete assessment of this element will only be undertaken should Council approve the demolition of the existing dwelling. Justification for demolition has been provided by the owner and the development plans for the replacement dwelling have been provided. Due to the length of all of the attachments, the attachments have been placed in the Councillors lounge for review prior to the meeting.

## STATUTORY AND POLICY ASSESSMENT

### Local Planning Scheme No. 4

Clause 1.6.1(f) of LPS4 states that one of the aims of LPS4 is to protect and conserve Fremantle's unique cultural heritage.

Part 7 of LPS4 provides for the Heritage and Conservation Protection of places and areas of significance within the Scheme area. Clause 7.1.1 requires Council to *'establish and maintain a Heritage List to identify those places within the Scheme area of cultural heritage significance and worthy of conservation under the provisions of the Scheme'*. The MHI established under the previous Town Planning Scheme No. 3 is to comprise the Heritage List under LPS4.

Clause 10.2 of LPS4 outlines the matters that Council shall have due regard to in assessing a development application.

Of particular relevance to the current application are the following sub-clauses of Clause 10.2 :

*'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'-*

- (a) *'the aims, zoning objectives of this Scheme and any other relevant planning Scheme(s) operating within the Scheme area, including the Metropolitan Region Scheme,'*
- (k) *'the cultural significance of any place or area affected by the development, including but not limited to provision for the preservation, incorporation or recording (by means including public art works) and significant cultural values of the site'.*
- (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'.*

The subject site is zoned Mixed Use. The objectives for this zone as outlined within Clause 4.2.1 of LPS4 are as follows:

*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 subject of or affected by the development*

In respect to the assessment of the current proposal, Clause 5.15 of LPS4 identifies the considerations upon which the determination of planning applications for the demolition of buildings and structures will be based.

Clause 5.15.1 states:

*Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

- a) has limited or no cultural heritage significance, and*
- b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.*

The scheme also states under Clause 5.15.2 that in considering an application in light of the above, Council shall have regard to any heritage assessment required under clause 7.4 of LPS4, which is Attachment 2.

## **Council Policy**

### LPP1.6 Preparing Heritage Assessments

In accordance with L.P.P1.6 the current application for Planning Approval to demolish the existing single house was referred to an external Heritage Consultant on 13 January 2010. The report submitted by the consultants is Attachment 2.

### D.G.N3 Stirling Highway, Thompson Road, Coventry Parade and Craig Street Local Area

In accordance with clause 2.1 of D.G.N3, Council shall seek to retain, wherever possible, buildings of possible heritage significance as indicated by figure D.G.N3b. House 90 Thompson road is identified as one of which conservation is preferred in accordance with this policy.

In respect to the subject site, the policy specifically recognises the contribution of the dwelling to the streetscape between Pamment Street and Christina Parade as stated below:

*“This section of Thompson road includes two historic cottages, a limestone boundary wall and two significant trees, all of which define its traditional residential character”.*

Further discussion in regard to D.G.N3 is included in the ‘Planning Comment’ section of this report.

## **CONSULTATION**

### **Community**

The application was not required to be advertised in accordance with the City’s L.P.P1.3 *Public Notification of Planning Approvals*.

### **Heritage**

External heritage advice was provided to the City of Fremantle on 5 February 2010. The comments provided by the external heritage architect in respect to the proposed demolition were as follows:

*“The proposal is for demolition of all of the original dwelling, subsequent alterations and additions and some mature planting, and therefore represents a permanent negative change to the place and its significance in its individual value and contribution to the local streetscape.*

*Demolition of the place will have a permanent and irreversible impact on the values of the place and its context. Its individual demolition would represent a loss of value to the streetscape generally and to the place specifically”.*

In respect to the recently gazetted clause 5.15 of LPS4, the heritage advice provided has identified the dwelling to be of ‘some’ significance.

The complete heritage report is Attachment 2.

## **PLANNING COMMENT**

In determining this application, the key issue for Council to consider is whether or not to permit the demolition of the existing dwelling. The outcome of this deliberation will inform the next decision as to whether or not the plans for the proposed two storey dwelling could be approved.

## **Proposed Demolition**

LPS4 is clear in its intent to *'protect and conserve Fremantle's unique cultural heritage'*, as evident in clause 1.6 of LPS4. This is further emphasised by subsection (iv) of clause 4.2.1 of LPS4 (objectives of a Mixed Use zone) which seeks to *'conserve places of heritage significance.'* Furthermore, Local Planning Policy D.G.N3 identifies the subject site as one which the conservation of buildings is preferred, specifically noting the subject site for its contribution to the traditional residential character of the locality.

The proposed demolition of the dwelling would result in the permanent loss of a building recognised to be of heritage and cultural significance both by the City's Heritage List, MHI and independent heritage assessment. Whilst the dwelling has undergone various alterations, the dwelling still exhibits heritage and cultural characteristics of significance to the place and locality. The loss of the building is therefore contrary to the aforementioned aim of LPS4 and contrary to the objectives of the Mixed Use zone.

Furthermore, Council is required to have regard to the recently gazetted Scheme Amendment 26, in particular the inclusion of clause 5.15 into LPS4. Clause 5.15.1 states that:

*'Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

- (a) has limited or no cultural heritage significance, and*
- (b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.'*

As previously discussed the existing dwelling has been recognised as being of *'some'* heritage significance and contributes to the heritage values of Thompson Road and Fremantle as a whole. As such planning approval for the demolition should not be granted in accordance with clause 5.15 of LPS4.

For these reasons, it is considered that demolition of the existing dwelling should not be supported.

## **Proposed Replacement Dwelling**

It is noted that whilst an applicant may apply for Planning Approval for a development, construction of that development may not occur. A preliminary assessment of the proposed replacement development has identified the following key areas of non-compliance with LPS4, the R-Codes and Council Policy:

### Building height

D.G.N3 specifically states that any infill development on the site should not be greater than 1 storey within the subject site, the proposed replacement dwelling is to be two storeys in height and is contrary to this requirement.

### Secondary Street Setback

The proposed garage is to be on the secondary street boundary and not setback 1.5m from the secondary street in accordance with the Design Element 6.2.3 of the R-Codes, therefore this would require a performance based assessment of this element.

### Buildings on Boundary

The applicant is proposing two boundary walls as a part of the replacement dwelling, which will require a discretionary decision of Council in accordance with L.P.P2.4 *Boundary Walls Policy*.

As such, if Council were of the view to support the proposed demolition, the proposed replacement development in its current form does not conform to the requirements of LPS4 and therefore would require a thorough assessment and possible amendments.

### **CONCLUSION**

The existing dwelling is an original house dating from the early twentieth century and is representative of worker's housing from this period. Whilst the house has undergone various alterations, the place still exhibits some cultural heritage significance and contributes to the heritage values of Thompson Road and Fremantle as a whole.

The proposed demolition of the place would result in the permanent loss of a place of heritage significance. As such the proposal is contrary to the aim of LPS4 which seeks to '*protect and conserve Fremantle's unique cultural heritage*' and is contrary to the objectives of the Mixed Use zone which aim to conserve places of heritage significance. Accordingly the application is recommended for refusal.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr A Sullivan**

**That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed demolition of the existing single house and construction of a new two storey Single House at No. 90 (Lot 27 & 28) Thompson Road, North Fremantle, as detailed on plans dated 5 January 2010, for the following reasons:**

- 1. The proposal is not consistent with clause 5.15 of Local Planning Scheme No. 4 pertaining as the application involves the proposed demolition of a building that has some cultural heritage significance and significance to the area.**

**CARRIED: 5/1**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Andrew Sullivan	Cr Bill Massie



Cr D Thompson vacated the chamber at 7:35 pm during the following item and returned at 7:43 pm prior to determination.

**PSC1004-77 EAST END AREA - PRELIMINARY CONSIDERATION OF SCHEME AMENDMENT NO. 38.DOC**

**DataWorks Reference:** 218/042  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Manager Planning Projects  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC1003-63  
**Attachments:**  
1. Further Advice Requested by PSC 17 March 2010  
2. Draft Scheme Amendment Documentation

### **EXECUTIVE SUMMARY**

The purpose of this report is to further develop the draft wording of an amendment to Local Planning Scheme No. 4 for the East End area. This report addresses two issues included in a previous report to Planning Services Committee on 7 April 2010 but not discussed at that meeting. These issues are:

- **Potential Beach Street Road Closure**
- **Mid-block Pedestrian Access**

### **BACKGROUND**

At the Planning Services Committee on 17 March 2010 Council considered a draft scheme amendment relating to the East End Study area. The report proposed a range of development standards to encourage redevelopment in the area to achieve a greater residential population and the creation of a vibrant, attractive and sustainable mixed use neighbourhood. The proposed development standards sparked broad discussion around a range of issues and Council requested officers investigate and report back to a future Committee Meeting on sixteen issues. A copy of the sixteen issues can be found in attachment 1, refer to PSC1003-63 for further information. Attachment 2 is a copy of the draft scheme amendment text previously prepared by officers for discussion. Subsequently at the Planning Services Committee on 7 April 2010 a report addressing five of the sixteen issues was considered, but two matters covered in the report – (1) the potential closure of a portion of the Beach Street road reserve, and (2) options for mid-block pedestrian access between Quarry Street and Queen Victoria Street – were not discussed. This report re-presents information on those two issues.

### **CONSULTATION**

Should Council resolve in due course to initiate an amendment to the Scheme in respect of the East End area, there is a statutory requirement to advertise the amendment in accordance with the requirements of the *Planning and Development Act 2005 and the Town Planning Regulations 1967* (after receiving confirmation of the level of environmental assessment required from the Environmental protection Authority).

However in accordance with Councils resolution on 26 August 2009 (refer PSC0908-152):

*“That should Council proceed with an amendment to LPS 4 with respect to the east end study area a consultation period of 60 days be used”.*

## **PLANNING COMMENT**

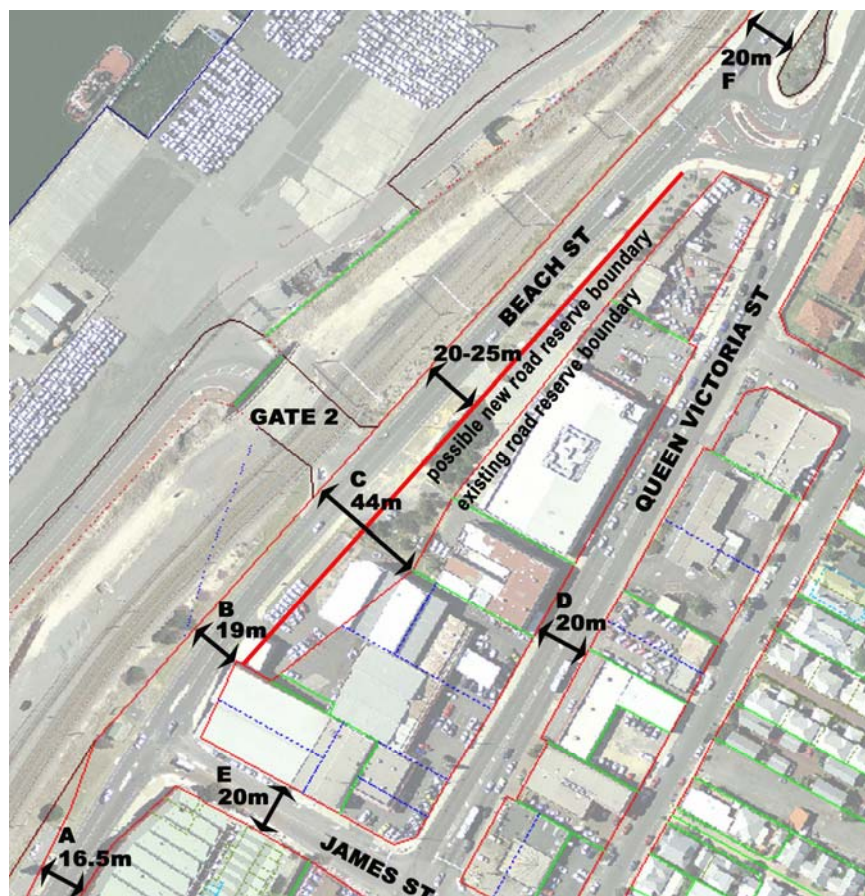
### Beach Street Road Closure

The Committee requested officers to review and illustrate streetscape and possible traffic requirements for Beach Street.

The Beach St road reserve north from James St to the new link connection to Queen Victoria St is in part up to 44 metres wide. The current 2 lane roadway and cycle paths are a total of 10.5 metres wide and the remaining reserve area is used for parking associated with Officeworks, the Flying Angel Club and Shacks. The road reserve in the remainder of Beach St south of James St is generally the more standard 20 metres wide, but is only 16.5m wide at certain points.

Subject to the portion of road reserve adjoining Officeworks and Shacks not being required for future vehicle movements and utility services, the area could be closed and sold to adjacent owners in order to utilise the land more effectively as part of more comprehensive redevelopment.

The following map identifies the current road reserve boundaries of Beach St and adjacent roads. Existing reserve widths north and south of the subject section of Beach St are a major determinant on what road arrangements are possible.



Existing road reserve widths

- A Beach St south of James St; generally 20m but down to 16.5m
- B Beach St adjacent to existing buildings north of James St 19m
- C Beach St widest section near Gate 2 – 44m
- D Queen Victoria St from Burt St to Parry St 20m
- E James St 20m
- F Beach St north of Link Road 20m

Detailed investigations into the implications of possible closure of part of the road reserve, including services alignments, would be carried out as part of the formal road closure process, however it is anticipated that any future arrangements of roadway in this section of Beach St could be accommodated within generally a 20 to 25 metres width, including a 4 lane road if required and turning lanes at Gate 2 into Fremantle Port. This would leave approximately 3500 sqm of Beach St road reserve between James St and the link road that could be closed.

This process should be undertaken at the same time as the proposed planning scheme amendment so that if the road reserve closure is successful the area could be rezoned as part of the amendment process.

#### Mid block pedestrian access

The Committee requested officers to report on options to provide additional access between Queen Victoria Street and Quarry Street.

Provision of mid block east-west access for pedestrians and cyclists, particularly in the long street blocks from Parry St to James St, would significantly improve pedestrian amenity for existing and future residents in and around the area and connectivity between Queen Victoria Street, Quarry Street and the Leisure Centre. A more permeable pedestrian network would provide a greater diversity of spaces, scale, views and interest.

An access exists between Beach St and Queen Victoria St through the current Coldstores site and is proposed in the recently approved Fort Knox development, however they are restricted to 'residents only' and consequently don't serve a significant function. Public access between Queen Victoria St and Quarry St would provide connections with the proposed main spine or activity hub and public transport route in Queen Victoria St, the various community facilities to the east – the Leisure Centre, Arts Centre, Fremantle Park, and to nearby schools. Ideally these links should be located near Shuffrey Street and Barnett Street to enable continuity eastward.

There would appear to be 2 options to achieve one or both of these links:

1. The City to purchase and develop land at the selected location(s).
2. Developer(s) to incorporate public access into redevelopment proposals.

*Option 1 – City to purchase land for public access*

It is considered that a pedestrian access way in this area should have a minimum width of 6 metres over the relatively short length of 40 metres from street to street. As a guide, Fremantle Malls between William St and South Terrace is 6 metres while Westgate Mall is 9 metres wide. The minimum area of land required is therefore approximately 240 sq m for each link.

The access way(s) would need to be adequately lit, paved to universal access standards and appropriately landscaped while enabling clear views along the space from the streets at each end. Costs to purchase, design and develop each access way could be in the order of \$900,000 (a valuation of land would be required prior to purchase to determine more accurate costs, however a recent property sale in the area suggests a current land value of approximately \$3,000 per sq m).

Provision of the access way by the City would ensure that the public access is guaranteed as the land would be reserved within the scheme and the space would be designed and managed by the City.

*Option 2 – Developer provides public access*

Instead of the City resuming land for the public access way(s), development incentives could be incorporated into the Scheme amendment to encourage the incorporation of one or both of the preferred public access way locations into redevelopment schemes.

If this option was pursued, the Scheme amendment would need to stipulate certain development characteristics such as:

- Integrate the public access way with commercial land uses at ground level.
- Whether parts of the public access way could be covered by upper levels of a building (however it is considered that at least 50% of the minimum area of walkway should be open to the sky to provide natural lighting and a pleasant environment).
- Design and manage the public access way to be perceived as a public space.
- The public access way would need to comply with minimum widths and design standards.
- Times that the access way should be required to be publicly accessible.

While additional pedestrian movement through a site would assist the viability of ground floor commercial space, loss of potential floorspace at both ground and upper levels would need to be balanced by development incentives incorporated in the planning scheme to make provision of the public facility feasible.

The most likely incentive would be additional height to replace the lost floorspace potential. Additional height fronting Quarry St would not be acceptable from a built form and amenity point of view. However an additional level fronting Queen Victoria St at limited locations and to a maximum of 5 levels would be less intrusive and would balance the proposed building height on the western side of the street, anything more than one additional level at the street frontage would become visually too intrusive.

If the City was to incorporate development incentives within the East End scheme provisions to facilitate a public access way it is important to recognise that the provision of such an access way cannot be guaranteed. This is due to the private landowner(s) having the ability to redevelop the site(s) whilst not utilising the development incentive.

Initial discussions with one of the property owners in the vicinity of Shuffrey St has indicated significant interest in provision of public access from Queen Victoria St to Quarry St as long as there is sufficient incentive through additional development potential to facilitate the link. However, as stated above the provision of one or both links cannot be guaranteed through an incentive-based mechanism.

Nevertheless, provision of public access by a developer would ensure better integration and management between the space and the adjoining buildings and uses, as well as removing the need for public funding for purchase, development and ongoing maintenance.

Consequently on balance it is recommended that a discretionary rather than mandatory approach to the provision of pedestrian links between Queen Victoria Street and Quarry Street be incorporated into the preparation of the Scheme amendment text.

**CONCLUSION**

Information on the two issues outlined above is presented for the Committee's further consideration.

**OFFICER'S RECOMMENDATION**

MOVED: Cr A Sullivan

1. That the draft content of proposed Amendment No. 38 to Local Planning Scheme 4 should include the following:

- a) On sites between Queen Victoria Street and Quarry Street which align with Shuffrey Street and Barnett Street, if a proposed development incorporates a pedestrian access way which is:
  - (i) at least 6 metres wide; and
  - (ii) open to the sky over at least 50% of its area; and
  - (iii) flanked by activated building frontages at ground level; and
  - (iv) accessible to the public at all times

Council may exercise discretion to permit additional building height to a maximum of 4 metres over and above other applicable maximum building height provisions within 10 metres of each side of the pedestrian access way on the Queen Victoria Street frontage.

2. That the Committee acknowledges that the proposed closure of part of the Beach Street road reserve would not prejudice future traffic management and services requirements for Beach St, and therefore the process to prepare and advertise the proposed closure in accordance with the Land Administration Act 1997 and the Land Administration Regulations 1998 should proceed in parallel with the planning scheme amendment process.

**Cr D Thompson moved an amendment to the Officer's Recommendation to change the following wording and the deletion of point (iv):**

- (i) at least 3 metres wide; and

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**Cr D Thompson moved an amendment to the Officer's Recommendation to remove the following wording:**

2. That the Committee acknowledges that the proposed closure of part of the Beach Street road reserve would not prejudice future traffic management and services requirements for Beach St, and therefore the process to prepare and advertise the proposed closure in accordance with the Land Administration Act 1997 and the Land Administration Regulations 1998 should proceed in parallel with the planning scheme amendment process.

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**COMMITTEE DECISION**

**MOVED: Cr A Sullivan**

**1. That the draft content of proposed Amendment No. 38 to Local Planning Scheme 4 should include the following:**

- a) On sites between Queen Victoria Street and Quarry Street which align with Shuffrey Street and Barnett Street, if a proposed development incorporates a pedestrian access way which is:**
  - (i) at least 3 metres wide; and**
  - (ii) open to the sky over at least 50% of its area; and**
  - (iii) flanked by activated building frontages at ground level; and**

**Council may exercise discretion to permit additional building height to a maximum of 4 metres over and above other applicable maximum building height provisions within 10 metres of each side of the pedestrian access way on the Queen Victoria Street frontage.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

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

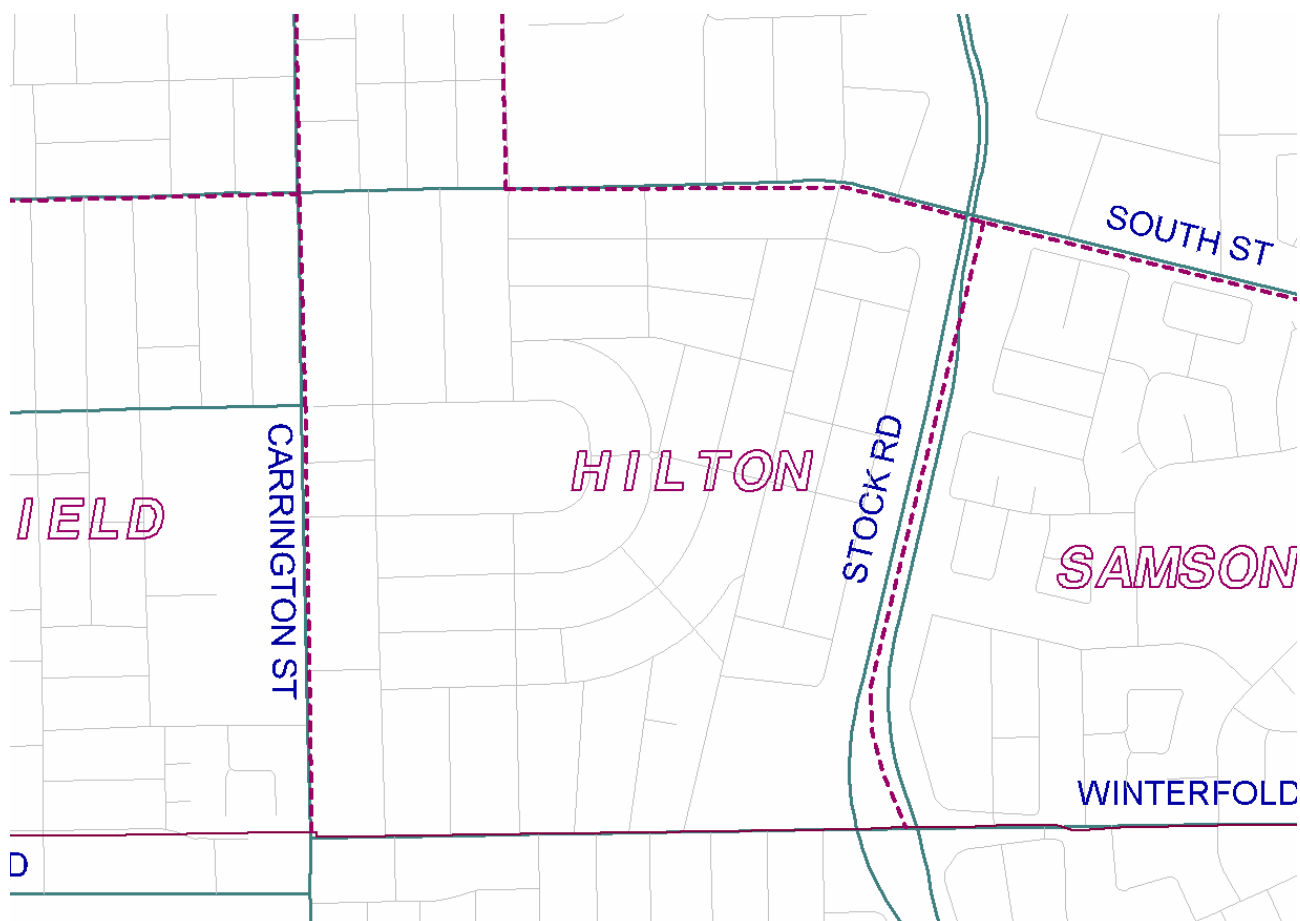
To allow further consideration to be given to the design of any pedestrian access way and the possible closure of Beach Street Road reserve.



Cr J Wilson vacated the chamber at 8:16 pm during the following item and returned at 8:17 pm prior to determination.

**PSC1004-78 PRELIMINARY DISCUSSION OF HILTON LOCAL PLANNING AREA POLICY REVIEW (BC)**

**DataWorks Reference:** 117/007  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Director Planning and Development  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC0708-244, N1002-1  
**Attachment 1:** D.G.H3 Hilton Local Planning Area Policy



## **PURPOSE**

The primary purpose of this report is to determine whether a review of the development standards of the current Hilton Local Planning Area policy is warranted. Secondly the report establishes development design issues that are intended to form the basis of a revised draft local planning policy and/or Scheme amendment.

## **EXECUTIVE SUMMARY**

**Council resolved to review and consolidate the Hilton Local Planning Area policy at its Ordinary Meeting of Council in February 2010.**

**The purpose of this report is to generate discussion about the objectives and intent of the current Hilton Local Planning Area policy and to determine whether a review of the development standards of the policy is required. Should Council decide to review the standards of the policy, this report examines draft development standards for a revised local planning policy and/or Scheme amendment. It is anticipated that specific development requirements will require substantial consideration by Council and will undergo a number of changes prior to Council resolving to formally request officers to initiate the proposed policy or amendment.**

**Once Council resolves to adopt a draft policy and/or Scheme amendment, formal adoption and amendment processes will commence, including public consultation.**

## **BACKGROUND**

### Background to Local Planning Policy *D.G.H3 Hilton Local Area Planning Policy*

In 1992 the Hilton Study identified approximately 600 individual houses that contributed to the Hilton Precinct that was adopted in the City's former Town Planning Scheme No. 3 (TPS3). A document entitled "D.G.H2 Hilton Residential Redevelopment Policy and Urban Design Guidelines" was adopted as the local planning policy document for the area.

The Municipal Heritage Inventory (MHI) for Fremantle was adopted by Council in September 2000, including the approximately 600 individual houses identified in the Hilton Precinct.

On 21 October 2002 Council resolved to adopt a review process for Hilton's Municipal Heritage Inventory (MHI) and to determine the composition of the Hilton MHI Review Committee. For further details relating to the background of this review, particularly an account of issues that lead to the review, please refer to item SP192 from the Council minutes of 21 October 2002. Council adopted Terms of Reference and membership of the committee on 16 December 2002. The MHI Review Committee coordinated a review of the MHI within Hilton which included a review of the former Hilton local planning policy.

Six community workshops were held during the middle of 2003 for the purpose of obtaining the community's views towards what was considered important and significant to the suburb and to discover the community's visions for Hilton. Five of the workshops were attended by a total of 128 community members whilst the sixth workshop was held for representatives of the Department of Housing and Works. External heritage consultants were engaged to prepare a report on the outcomes of the workshops and to provide recommendations to further the review process. The MHI Review Committee considered and endorsed the recommendations of the consultant's report and provided additional recommendations to Council in August 2003.

On 8 September 2003 the Strategic Planning Committee (SPC), under the delegated authority of Council, resolved to adopt the recommendations of the MHI Review Committee which included a recommendation to review the document 'D.G.H2 Hilton Residential Redevelopment Policy and Urban Design Guidelines' (refer SP0309-28). During the same meeting in September 2003, the SPC adopted a draft version of the local planning policy, *D.G.H3 Hilton Local Area Planning Policy*, for the purpose of advertising (refer SP0309-34).

On 5 April 2004 the SPC considered a report on the submissions received during the advertising period of the draft policy, *D.G.H3 Hilton Local Area Planning Policy*. The SPC requested further consideration to certain aspects of the policy and to revise the policy accordingly (refer SP0404-28).

On 13 December 2004 Council resolved to defer a decision on the adoption of the draft local planning policy to enable a response be given to the Hilton Precinct on the information they requested (refer SP0412-93).

On 14 March 2005 Council resolved to adopt Local Planning Policy, *D.G.H3 Hilton Local Area Planning Policy*.

### Review of Local Planning Area Policies

On 24 February 2010 Council resolved to modify the order in which a review and consolidation of the Local Planning Area Policies should be carried out from the order previously determined on 22 August 2007. The revised order was resolved to be as follows:

1. *Hilton*
2. *Fremantle (excluding City Centre)*
3. *North Fremantle*
4. *South Fremantle*
5. *White Gum Valley*

### **CONSULTATION**

Community consultation has not commenced at this stage of the policy review. Community consultation will begin should Council resolve to adopt a revised local planning policy for the purpose of advertising or initiate a Scheme Amendment, in accordance with clause 2.4.1 of the Scheme and the *Town Planning Regulations 1967*.

## **PLANNING COMMENT**

The primary purpose of this report is to examine the current policy provisions and determine whether a review is necessary. During discussion of this report, there are some general factors that may support a review of the current policy.

### Subdivision of Residential lots

A significant number of residential lots within Hilton are capable of supporting subdivision either under the standard R20 residential density coding or the R20/R25 split density coding that was introduced with the gazettal of Local Planning Scheme No. 4. The Hilton local planning policy encourages a 'battleaxe' style of subdivision, an objective based on the retention of the existing front dwelling. Development on these sites is considered to be well catered for in the current policy in the 'Infill Development' section which requires development to comply only with the building height requirements of the policy, as well as the relevant Residential Design Codes (R-Codes) provisions.

However the subdivision of corner lots or 'kite shaped' lots has resulted in odd shape lots that are not battleaxe shaped and still possess a street frontage, albeit a much narrower frontage than a traditional lot. Development on these lots has put pressure on the current policy given the narrower width, odd shape and street frontage. Recent examples of applications for development on these types of lots are No. 2A Snook Crescent (PSC1002-39, DA0575/09) No. 79B Snook Crescent (PSC1002-34, DA0641/09), No. 35 Grigg Place (PSC0910-180 & PSC1001-3, DA0366/09) and No. 30 Howson Street (PSC0908-148, DA180/09).

### Community Development Expectations

It is not considered unreasonable to state that the housing expectations of most property owners and prospective property owners are closely aligned to the offering of 'project' homes or 'home packages'. These 'project' homes offered by the major building companies possess a number of common characteristics. The majority of 'project' homes offered are 3 or 4 bedroom, of brick and tile construction with a 25 degree roof pitch and provide double garages at the front of the dwelling. The design of these homes arguably reflects the demands of the broader population. Generally speaking these 'project' homes are not consistent with the design requirements of the current Hilton local planning policy and the costs associated with amending such 'project' home designs are reasonably substantial. Whilst it is by no means impossible to design a home in strict accordance with the Hilton policy, the costs involved seem to be fairly restrictive and beyond the reach of the 'average' home buyer.

### Policy Drafting Issues

The current policy, D.G.H3, provides for a range of design requirements relating to setbacks, building height, form and proportion, conservation and subdivision that are intended to achieve the broader objectives of the policy – generally to preserve and enhance the existing character of the Hilton Garden Suburb Precinct. However certain aspects of the current policy have been difficult to implement due to a number of 'aspirational' type statements that lack the necessary design detail and a lack of discretionary criteria where certain requirements cannot be met.

The primary intent of this report is to determine whether a review of the design requirements of the current policy is warranted. Should Council decide to review the development requirements, consideration should be made not only to what the revised requirements should be, but also to whether there should be any discretion for Council to vary such requirements. Should the Council wish to have the discretion to vary the requirements, then factors relevant to a performance based assessment need to be included.

For example, Council may wish to apply a maximum building height of one storey within the policy area. However Council should then address whether the height limit applies to all development or whether there may be circumstances where a greater height limit may be warranted. Council may consider that a two storey dwelling would be appropriate where the dwelling is located on a rear lot, setback a sufficient distance from the street and the two storey element will not dominate the streetscape. If this was the case, certain criteria should be included in the policy to accompany this discretion to vary the height requirements.

### **Discussion of Policy Design Requirements**

The existing design requirements of the current policy are discussed separately below as well as a discussion relating to open space. A brief reasoning for each design requirement is provided and then a comment as to whether such a requirement is capable of being addressed by a local planning policy or would need to be included in the Scheme or otherwise. Whilst an officer recommendation is provided for each of the design requirements, this report is intended to generate discussion around the following design requirements in order to provide City officers with guidance as to what development standards should form part of a revised local planning policy and/or Scheme amendment.

### **Minimum and Maximum Height Requirements**

**Policy requirements:** The minimum external wall height from ground level of 3.0 metres to the top of the wall plate or floor level to eaves, 2.4 metres. A maximum external wall height of 3.5 metres (equivalent to single storey and a loft\*) and a maximum roof ridge height of 6.5 metres applies. Loft additions for new dwellings are required to be designed to be located at the rear of the building to maintain a single storey front façade appearance

**Basis for requirement:** Traditional houses within Hilton are single storey, but are elevated up to 600mm from ground level with internal floor to ceiling heights of 2.7 to 2.9 metres. This makes a total external wall height up to 3.5 metres. The basis of this requirement is to ensure that new houses are compatible with the existing character of housing in the area.

**Statutory considerations:** Building height is a matter which may be the subject of a local planning policy under the Residential Design Codes (R-Codes). Alternatively these requirements may be included in Local Planning Scheme No 4.

**Discussion and Recommendation:** The relatively consistent height of dwellings within the Hilton area is considered an important feature that is worth preserving and enhancing. However it is recognised that the majority of modern dwellings do not raise the internal floor levels up to 600mm and thus the external wall height of modern dwellings is generally less than 3.0m. Additionally should Council consider that a garage may form part of the dwelling's façade, a minimum external wall height of 3.0m is considered unnecessary and may in fact add to the prominence of the garage door in terms of scale. It is therefore recommended that the minimum external wall height provision of the current policy not be included in either the revised draft policy or amendment.

However, it is recommended that the maximum external wall height and maximum roof height detailed in the current policy are included in either the revised draft policy or Scheme amendment. It is further recommended that discretionary criteria be provided where conventional two storey houses may be permitted based on compatibility with the streetscape and no significant impact on the amenity of adjoining properties.

### **Side Boundary Setbacks (excluding boundary walls)**

**Policy requirements:** Side boundary setbacks (excluding rear) are required to be a minimum of 1.5 metres, including carport, to one side and a minimum of 3.5m (another section of the policy refers to this as 4m) to the reverse side. This may include an existing access leg or driveway to a rear house or lot.

**Basis for requirement:** Traditional houses within Hilton are smaller than most contemporary homes, and tend to be well set back from side boundaries. The greater 3.5/4 metre requirement to one side serves two purposes, allowing for the spacious character to be maintained and allowing vehicular access along the side of a house to enable garage location at the rear of the house.

**Statutory considerations:** Side setbacks (excluding boundary walls) are not a matter which may be the subject of a local planning policy under the R-Codes, therefore a policy attempting to enforce this would be ultra vires. These requirements would have to be included in the Scheme to be legally effective.

**Discussion and Recommendation:** It is recommended that side boundary setbacks are not included in a revised draft policy or Scheme amendment.

### **Boundary Walls**

**Policy requirements:** Boundary walls are prohibited under the current policy.

**Basis for requirement:** With the exception of traditional terrace housing, the use of boundary walls is relatively recent development. The policy prohibits boundary walls in Hilton as they are not part of the traditional built form and may undermine the overall spacious garden suburb character of the area. Other issues with boundary walls, not specifically related to Hilton, include impacts on neighbour's outlook, overshadowing, sense of confinement etc.

**Statutory considerations:** Boundary walls may be dealt with as a local planning policy under the Residential Design Codes. The City currently has local planning policy, *LPP2.4*

*Boundary Walls in Residential Development*, which provides replacement Acceptable Development requirements to those of the R-Codes. The policy is currently the subject of a separate report to Council proposing minor amendments. Essentially the Boundary Walls policy intends to only regard boundary walls as meeting the acceptable development provisions where there is minimal impact on the amenity of the adjoining property (abut an existing wall, non-residential use, specifically permitted under the Scheme or other policy) or where the physical characteristics of the lot restrict the development potential (lots less than 10m frontage).

Proposed boundary walls that do not meet the acceptable development provisions of the policy are to undertake a performance assessment where Council needs to be satisfied that the proposed boundary wall will not pose a significant impact on the amenity of the adjoining property.

Boundary walls may be dealt with under a local planning policy as discussed above, or may be specifically prohibited in the Scheme.

**Discussion and Recommendation:** The City's current local planning policy, *LPP2.4 Boundary Walls in Residential Development*, is considered sufficient to address boundary wall development within the Hilton policy area as, in most cases, a performance based assessment will be required. It is therefore recommended that provisions pertaining to boundary walls are not included in a revised draft policy or Scheme Amendment.

### **Street Setbacks (excluding Garages/Carports)**

**Policy requirements:** The policy prescribes a street setback of 7m (greater than the 6m required by the R-Codes for R20 and R25 coded properties). This includes carports and garages and does not allow for averaging. The policy provisions relating to garages and carports, whilst incorporated in the street setback section of the current policy, are discussed separately below.

The policy does not contain specific requirements relating to secondary street setbacks.

**Basis for requirement:** The street setback requirement exists to maintain the spacious suburban character of Hilton, and by ensuring generous front setbacks a more open and spacious streetscape is maintained

The lack of policy requirements relating to secondary street setbacks is most likely linked to the policy provision requiring that new dwellings on *'facetted corners of blocks are to be set square to the splay.'*

**Statutory considerations:** The minimum setback provisions of buildings from both the primary and secondary street are provisions that may be dealt with as a Local Planning Policy under the Residential Design Codes. The R-Codes' definition of a 'primary street' states:

*'Unless otherwise designated by the local government, the sole or principal public road that provides access to the major entry (front door) to the dwelling.'*

A secondary street is defined by the R-Codes as:

*'In the case of a site that has access from more than one public road, a road that is not the primary street but which intersects with or adjoins that road.'*

**Discussion and recommendation:** The generous front setbacks of dwellings extant in the Hilton area are considered to significantly contribute to the character of the area. The existing policy requirement regarding the front (primary street) setback is recommended to be included in a revised draft policy or Scheme Amendment.

It is also recommended that the policy or amendment specify that the local government is to determine the primary street where a development site has two street frontages, i.e. a corner lot. The primary street shall be determined with regard to the existing streetscape, orientation and physical characteristics of the lot.

The R-Codes require a 1.5m setback from the secondary street for development on properties coded R20 or R25. Council may consider increasing this secondary street setback to complement the increased primary street setback of 7m. This may be dealt with by a local planning policy or Scheme Amendment. However it is considered that the 1.5m setback from the secondary street required by the R-Codes for R20 and R25 coded properties would be sufficient to achieve the objectives of the revised policy. It is therefore recommended that the revised policy does not include acceptable development provisions relating to the secondary street setback.

### **Garages / Carports**

**Policy requirements:** The policy prescribes a street setback of 7m for dwellings, garages and carports, with no averaging. The front face of a single garage or carport width only to the street in line with the house or behind the front dwelling is permitted, but no carports or garages are permitted within the front setback area. A carport may be permitted where located within the side setback subject to compliance with the Residential Design Codes

**Basis for requirement:** This requirement exists to maintain the spacious suburban character of Hilton, and by ensuring generous front setbacks a more open and spacious streetscape is maintained. The avoidance of the use of double garage doors as part of the façade of a house maintains a much stronger relationship between the house and the street, and generally facilitates a more symmetrical house façade appearance.

**Statutory considerations:** The setting back of garages and carports may be dealt with as a local planning policy under the R-Codes or as a Scheme provision. Clause 5.3.3.2 of the Scheme does not provide Council with the discretion to vary the front setback requirements for garages and carports within a local area policy area under the performance criteria of the R-Codes. However a local area policy may contain discretionary criteria where a variation may be permitted.

The provisions relating to the width of a garage door in the R-Codes can be varied by a local planning policy. The acceptable development provisions of the R-Codes require a maximum width of 50% of the frontage of the lot where the dwelling is single storey. The performance criteria relating to garage doors states:

*'The extent of frontage and building façade occupied by garages assessed against the need to maintain a desired streetscape not dominated by garage doors.'*



**Discussion and Recommendation:** It is recommended that the revised policy requires garages to be setback in line with or behind the front wall of the dwelling with no discretion to vary this requirement.

Garage doors can potentially dominate the appearance of a dwelling and result in a streetscape dominated by garage doors. Whilst double garage doors are not associated with the traditional housing type of the Hilton area, double garages are provided in most 'project' homes offered today and arguably reflect the demands of the wider community. It is therefore recommended that Council include a provision in the revised policy or amendment limiting the width of a garage door to 50% of the width of the dwelling as viewed from the street, rather than 50% of the frontage of the lot as detailed in the R-Codes. Under the R-Codes method, a dwelling on a 12m wide lot (frontage of 12m) could theoretically consist of a 6m wide garage door, 1.5m boundary setbacks on either side and 3m for an entrance door and window, resulting in the garage door representing 67% of the dwellings appearance from the street. By measuring the width of the garage door in relation to the width of the dwelling, the potential for the garage door to dominate the appearance of the dwelling is addressed, which in turn will assist in minimising the impact of the garage doors on the streetscape. It is further recommended that Council establish factors for consideration where a performance based assessment is required for the width of garages, similar to the proposed revised boundary wall policy.

It is also recommended that the revised policy require carports to be setback in line with or behind the front wall of the dwelling. However it is recommended that the policy establish criteria where a variation to this setback may be considered. For example, a carport may be permitted within the street setback area where it will:

- Be of simple, lightweight construction and open on all sides, and
- Maintain visibility of the house and surveillance from the house to the street, and
- Not detract from the streetscape or appearance of the dwelling, and
- The width of the carport does not exceed 50 per cent of the frontage at the building line.

### **Open Space**

**Policy requirements:** The existing policy does not provide specific requirements pertaining to open space provisions, rather this is assessed against the open space provisions of the R-Codes.

**Basis for requirement:** n/a

**Statutory considerations:** Open space requirements are not a matter which may be the subject of a local planning policy under the R-Codes, therefore a policy attempting to enforce this would be ultra vires. In order to alter the minimum amount of land required for open space from that provided for in the R-Codes, a specific requirement would have to be included in the Scheme to be legally effective.

**Discussion and Recommendation:** The traditional development of the Hilton Garden Suburb, with the modest housing stock and retention or planting of numerous trees, tended itself to be fairly 'open' in appearance. The R-Codes require all residential development to provide 50% of the site as open space in accordance with the current residential density codings of the Hilton area (R20 and R20/R25). Council may wish to vary this requirement to require a greater amount of open space, however this would

need to be in the form of a Scheme Amendment. It is recommended that a greater open space requirement than that provided for in the R-Codes is not required in the Hilton area, however Council may consider incorporating some factors to consider when assessing a variation to the open space requirements of the R-Codes into a revised draft policy.

### **Form / Proportion**

#### **Policy requirements:**

- Maintain the wall plate height of new dwellings consistent with the original Hilton houses as specified in height requirements
- Hipped or gabled roofs with a minimum roof pitch of 27.5 degrees and maximum of 35 degrees, reflecting and articulating the floor plan and providing the ridge is parallel to the street.
- Minimum eave width of 450 mm;
- Front door facing the street and clearly visible;
- All front rooms to contain windows to the street with a horizontal emphasis.
- Front façade to be articulated with a projecting front room, a porch or a verandah. Minimum front projection 1200 mm beyond main face of house.
- Ridgeline of the main roof to run parallel to the front face of the building.
- Wall plate to ridge level height is to be between 1.8 metres and 2.7 metres.
- Elements such as windows are to have a horizontal emphasis. The number of vertical elements is to be kept to a minimum.
- The front rooms to have windows that face to the street. The entry door to be visible from the street
- Apart from corners lots, houses are to be set square to the street.
- Houses on faceted corners of blocks are to be set square to the splay.

**Basis for requirement:** The intent of these requirements is to promote a housing form within Hilton which is broadly consistent with the character of traditional houses within the area.

**Statutory considerations:** These are matters which may be the subject of a Local Planning Policy under Local Planning Scheme No 4.

**Discussion and Recommendation:** The existing form and proportion requirements of the policy promote a built form that is reflective of and sympathetic to the traditional form of housing within Hilton. It is recommended that the form and proportion requirements of the policy pertaining to new development, with the exception of one discussed below, be included in the revised policy, albeit with some consolidation to avoid duplication and to assist in interpretation.

One requirement of the existing policy is for houses on corner lots to be set square to the splay – in other words, to face the street corner of the lot rather than one particular street. This required positioning of the dwelling is typical of the positioning of the traditional houses. However this positioning results in generous setback areas in front of the dwelling and little outdoor area at the rear of the dwelling, especially should the corner lot be subdivided. Furthermore the retention of the original houses on corner lots when subdividing has resulted in the awkward shaped lots discussed previously, where development in accordance with the existing policy has been difficult. It is considered that development of these corner lots could address either streets without significantly impacting on the significance of the area, particularly if the recommended provision for the Council to determine the primary and secondary street is adopted. It is therefore recommended that this provision not be included in a revised policy or amendment.

### **Materials of Houses**

#### **Policy requirements:**

- The roofs are to be concrete or terracotta tiled or colourbond in traditional colours.
- External walls can be of flat or weatherboard profile fibrous cement sheeting.

**Basis for requirement:** The intent of these requirements is to promote building materials sympathetic to and consistent with the traditional construction materials of Hilton houses.

**Statutory considerations:** These are matters which may be the subject of a Local Planning Policy under Local Planning Scheme No 4.

**Discussion and Recommendation:** The use of flat or weatherboard profile fibrous cement sheeting in the construction of today's housing is relatively uncommon. Whilst the use of only these materials could be enforced through the provisions of a local planning policy, it is considered that the use of other building materials, such as brick, rendered brick or colourbond sheeting would not significantly impact on the significance of the area. Therefore the inclusion of specific building materials is not recommended as part of the revised policy.

Similarly the potential use of roofing materials other than tiles or colourbond sheeting in traditional colours is not anticipated to significantly impact on the significance of the area. It is perhaps worth noting that the use of such roofing materials is fairly prevalent in modern housing in any case. The inclusion of specific roof materials in a revised policy is thus not recommended.

### **House and Site Levels**

**Policy requirements:** The policy states that ideally the floor level of all new dwellings on the street frontage shall be raised a minimum of 500 mm above the ground and the area around new dwellings shall be maintained at the natural ground level, and that large infill and retaining walls will not be supported.

**Basis for requirement:** The intent of these requirements is to promote a housing form within Hilton which is broadly consistent with the character of traditional houses within the area, in particular the raised floor levels associated with the wooden stumped houses. The policy provision to minimise filled areas of land and retaining walls is reflective of the minimum site works involved in the construction of the original houses.

**Statutory considerations:** The floor level of houses is an issue which may be the subject of a Local Planning Policy under Local Planning Scheme No 4.

The filling of land and construction of retaining walls, where no higher than 500mm above natural ground level, is permitted development under the provisions of the Scheme. As such, the policy cannot control this aspect of development unless an amendment to the Scheme is undertaken.

Planning Approval is required for fill and/or retaining walls greater than 500mm above the natural ground level in accordance with the current provisions of the Scheme.

**Discussion and Recommendation:** The raising of floor levels to a minimum height of 500mm above the ground is not a common feature of current housing trends, particularly housing of brick and concrete slab construction. The internal floor level of dwellings, whilst reflective of the traditional housing within Hilton, is not considered to be a significant factor that contributes to the importance of the Hilton area. The other design requirements of the policy, notably the maximum height requirements, are considered sufficient to promote development that is sympathetic and compatible with the traditional streetscape of Hilton. The current policy suggestion to raise the floor level of all new dwellings on the street frontage a minimum of 500mm above the ground is therefore not recommended to be included in a draft revised policy and/or Scheme Amendment.

Filling of land and the construction of retaining walls is not reflective of the traditional development of housing within Hilton. This is due largely to the prevalence of wooden stumped homes rather than the concrete slab construction commonly used today. Filling of land greater than 500mm currently requires planning approval under the Scheme and can therefore be dealt with under the Scheme and R-Codes.

Filling of land within the front setback area is permitted without planning approval up to 500mm above the natural ground level and as such cannot be dealt with under a local planning policy. However this level of fill has the potential to impact on the natural impression of the land and streetscape, particularly in an area of significance such as the Hilton area, and is perhaps a factor that should require planning approval. This issue is not isolated to the Hilton area and as such it is recommended that a future report be presented to Council to consider a broader amendment to the existing Scheme provisions to require planning approval for any filling of land within the front setback area.

## **Timber Dwellings**

**Policy requirements:** The policy encourages the use of timber in the construction of new dwellings. The policy also encourages the relocation of timber dwellings from elsewhere that complement the traditional homogeneity of housing forms in Hilton.

**Basis for requirement:** The intent of these statements is to promote a housing form within Hilton which is broadly consistent with the character of traditional houses within the area, particularly the prevalent construction materials.

**Statutory considerations:** The use of specific construction materials may be the subject of a Local Planning Policy under Local Planning Scheme No 4.

**Discussion and Recommendation:** These statements in the existing policy 'encourage' the use of timber and encourage the relocation of timber dwellings rather than specifically 'requiring' it. It is therefore recommended that these statements not be included in the draft revised policy and/or Scheme Amendment.

## **Conservation of Existing Dwellings including upgrading, extensions and additions**

### **Policy requirements:**

- Where replacement is necessary, original elements should be replaced with matching materials.
- In determining proposals the following shall be considered:
  - a) Any external alterations should, as far as practicable, help to conserve the overall character, architectural style and the original form of the house, particularly the external form;
  - b) New extensions should be located at the rear of the original dwelling;
  - c) Asbestos cladding may be replaced by weatherboards, "hardy-plank", external plywood or similar materials; and
  - d) Upward extensions shall be located behind the ridge line of the original dwelling.
- As far as practicable:
  - a) The original size and position of openings, visible from the street, should be conserved; and
  - b) Replacement doors and windows, where necessary, should use traditional materials and reflect the styles of original Hilton houses.
- Generally the original size and position of verandahs and porches visible from the street should be conserved; and the enclosure of front verandahs and porches is not supported.
- Generally the original form of the roof should be conserved; and roof materials should be clay or concrete tile. If metal or colourbond is the only acceptable option it should be of a coloured finish to match the range of traditional colours.
- The significant characteristics of the original house are to be conserved
- The external form of the front and sides of the conserved house is to be retained; the rear may be adapted.
- Roof types of rear extensions are to be hipped or gabled, concrete or terracotta tiled or *colourbond* in traditional colours.
- The existing roof may be replaced to match rear extension.

- External walls of rear extensions can be of flat or weatherboard profile fibrous cement sheeting, timber weatherboarding, exterior-plywood or face brickwork.

**Basis for requirement:** The intent of these statements is to promote the restoration and conservation of the original housing stock within Hilton in a manner that is sympathetic and compatible with the character of traditional houses within the area.

**Statutory considerations:** Details relating to the form, design and construction materials for residential development, including restorations and additions, may be the subject of a Local Planning Policy under Local Planning Scheme No. 4.

**Discussion and Recommendation:** The current policy provisions relating to specific construction materials are not recommended to be included in a draft revised policy or amendment as the use of other materials not listed such as rendered brick are not anticipated to significantly impact on the significance of the Hilton area. It is recommended that the provisions relating to the form and proportioning of the dwellings be included in a revised draft policy with some consolidation of the wording. Additional discretionary criteria are also recommended for inclusion where the policy provisions may be varied where the development will not be visible from the street and where the property is not on the Heritage List.

### **Sustainability**

#### **Policy requirements:**

- The following initiatives are encouraged:
  - a) Use of rainwater tanks located at the rear of houses that face the street;
  - b) Use of solar panels provided they are not visible from the street.
  - c) Minimum R2.5, ideally R4 insulation.

**Basis for requirement:** These statements are to encourage improved environmental sustainability of housing within the Hilton area.

**Statutory considerations:** The installation of rainwater tanks and solar panels in locations similar to those stated in the policy is permitted development under the current provisions of Scheme. A local planning policy cannot require additional development such as rainwater tanks, solar panels or insulation, unless such features relate directly to the proposed development or at a time of subdivision. The existing provisions of the Scheme relating to split density coded residential property enable the Council to apply sustainable development requirements in certain circumstances similar to those encouraged by this policy at the time of subdivision through a restrictive covenant or as part of the development of an additional dwelling.

**Discussion and Recommendation:** These statements in the existing policy 'encourage' the installation of rainwater tanks, solar panels and insulation rather than specifically 'requiring' such development. It is therefore recommended that these statements not be included in the draft revised policy and/or Scheme Amendment.

## **Infill Development**

**Policy requirements:** With the exception of the height requirements outlined above, infill development shall be in accordance with the requirements of the Residential Design Codes. For the purpose of this section, infill development is defined as a house on a battleaxe lot or site as defined by the Residential Design Codes

The requirement for vehicles to enter the street in forward gear may be waived where it would minimise the number of crossovers to the street, contribute to the conservation of an original house and would not compromise the safety of pedestrians.

**Basis for requirement:** These provisions of the policy are intended to relax the specific design requirements of the policy to encourage infill (battleaxe) development whilst retaining the existing housing stock. The building height requirements for the policy area are retained for infill development to ensure a compatible and sympathetic scale of buildings however other design requirements are relaxed as development on battleaxe lots poses a lesser impact on the streetscape and surrounding area.

**Statutory considerations:** As previously discussed, building height is a matter which may be the subject of a Local Planning Policy under the Residential Design Codes or may be included in the Scheme.

The Residential Design Codes provide performance criteria where a turning area for vehicles cannot be provided. The performance criteria require vehicle access to be *'provided so as to minimize the number of crossovers, avoid street trees, to be safe in use and not detract from the streetscape.'* This existing performance criteria is considered sufficient where a turning area cannot be provided due to the retention of an existing dwelling.

**Discussion and Recommendation:** It is recommended that the current infill development provisions, that retain the policy height requirements though relax the other design requirements, be included in the draft revised policy. However it is recommended that the ability to relax the turning area requirements of the R-Codes be deleted as the performance criteria of the R-Codes are considered sufficient to address this issue.

## **Trees**

### **Policy requirements:**

- New development, including vehicular access crossovers, should be located, where practical, to enable the retention of significant, mature trees, including those located on street verges.
- Council may consent to minor variations to the policy and Codes to facilitate the retention of a significant tree (s).
- The removal of any existing trees on site as a result of development will require the provision of replacement trees.
- All new development shall include suitable tree plantings within the design to improve solar protection and enhance the garden suburb character.

**Basis for requirement:** The intent of these requirements is to retain or replace the existing vegetation within Hilton as the vegetation contributes to the garden suburb character.

**Statutory considerations:** Verge vegetation is a matter that requires consideration under the Vehicle Access provisions of the Residential Design Codes as well as the current provisions of the Scheme. The removal of trees and vegetation areas on private land is permitted development under the provisions of the Scheme, except where the trees or vegetation areas are identified in the register of significant trees or vegetation areas.

Council resolved on 24 March 2010 to advertise two local planning policies, *LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites* and *LPP2.12 Planning Applications Impacting Upon Verge Infrastructure and Verge Trees*.

*LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites* intends to provide guidance on the requirement for and assessment of landscape plans; and the process for assessing planning applications which affect tree(s) and vegetation considered worthy of conservation but which are not listed on the City's register of significant trees. Additionally the policy will enable to consider the retention of tree(s) and vegetation where other provisions of the Scheme or policy are proposed to be varied. In essence the draft policy seeks to encourage the retention of tree(s) or vegetation even where the retention of the tree(s) or vegetation may restrict the development of the site.

*LPP2.12 Planning Applications Impacting upon Verge Infrastructure and Verge Trees* intends to provide guidance in assessing planning applications that include new crossovers, or require the removal or modification to existing verge infrastructure and/or verge trees. Where a development requires the removal of a verge tree, the applicant will be required to seek the approval of the relevant City of Fremantle department and, in the case of street trees, to demonstrate that such a tree can be replaced in a manner that is consistent with the streetscape, character and amenity of the locality.

A requirement to plant tree(s) and/or vegetation at the time of new development is a matter which may be the subject of local planning policy or included in the Scheme.

**Discussion and Recommendation:** It is recommended the provisions of the current policy regarding trees not be included in the draft revised policy and/or Scheme Amendment as similar provisions are, or are proposed to be, included elsewhere in the City's Scheme and policy regime.

## **Fences**

### **Policy requirements:**

- Fencing forward of the building line shall be a maximum height of 1.2 metres and visually permeable from top to bottom.
- On South Street, between Stock Road and Carrington Street, Council may consider front fencing to a maximum height of 1.6 metres and only in cases where the dwelling is setback less than six metres from the street.
- Solid masonry fencing is permitted where onto Stock Road to a maximum height of 2.0 metres.



- Boundary fencing other than to the street and forward fences will be required to be upgraded to a maximum height of 1.8 metres as part of any new development.

**Basis for requirement:** This requirement exists to maintain an open and spacious streetscape that is characteristic of Hilton.

**Statutory considerations:** Fencing may be dealt with as a Local Planning Policy under the Residential Design Codes or under the Scheme. The requirement to upgrade boundary fencing is considered difficult in that the *Dividing Fences Act 1960* affords joint rights and responsibilities to adjoining landowners relating to boundary fencing. A requirement to upgrade boundary fencing may not be possible should the two adjoining landowners not reach an appropriate agreement, which would then render such a condition unenforceable.

**Discussion and Recommendation:** It is recommended that the provisions of the current policy be included in the draft revised policy and/or Scheme Amendment, with the exception of the provision pertaining to the upgrading of boundary fencing.

### Demolition

**Policy requirements:** Conservation of original dwellings within the policy area is encouraged. Council may consider demolition subject to submission of a development application for demolition and plans for a replacement house in accordance with policy.

**Basis for requirement:** This policy requirement encourages the retention and conservation of the original housing stock however also provides guidance in the assessment of demolition proposals.

**Statutory considerations:** Demolition is regarded as development under the Scheme and as such requires the approval of Council. The submission of replacement development plans where demolition is proposed was a requirement under the previous Scheme (TPS3) however is no longer required under the current Scheme and as such cannot be included as a Local Planning Policy provision.

**Discussion and Recommendation:** It is recommended that the provisions of the policy relating to demolition not be included in the draft revised policy and/or Scheme Amendment.

### Subdivision

**Policy requirements:**

- The Council shall request that: new lots have a minimum frontage of 16 metre and, as far as practicable, access legs for battleaxe subdivision should provide reciprocal or common access to both front and rear dwellings or grouped dwellings;
- All new subdivision will be required to upgrade the existing pedestrian path fronting the original lot, and existing and new crossovers shall be upgraded and designed to meet the City's specifications.
- Existing boundary fencing to be upgraded to a minimum height of 1.8 metres.

**Basis for requirement:** This requirement exists to maintain the spacious suburban character of Hilton and to ensure an open and spacious streetscape is maintained. The widths of the original lots within Hilton are generous by today's standards, ranging from approximately 15m to 22m. The requirement to upgrade the pedestrian paths, vehicle crossovers and boundary fencing is to encourage the ongoing maintenance and upgrade of this infrastructure.

**Statutory considerations:** Subdivision approval is determined by the Western Australian Planning Commission. Nevertheless, Part 10 of the *Planning and Development Act 2005* requires the Commission to consult with the local government where the Commission considers the subdivision proposal may affect the functions of the local government. Minimum lot frontage is not a provision that can be varied within a Local Planning Policy under Residential Design Codes however may be included as a requirement under the Scheme. The local authority's comments to the Commission would then be based upon the Scheme provisions, including a minimum lot frontage.

The City is able to recommend a condition of subdivision approval to provide a new crossover for the newly created lot under the current provisions of the Residential Design Codes.

The policy requirement that pedestrian paths and boundary fencing be upgraded upon subdivision is not provided for in the Residential Design Codes, State Planning Policies or Development Control Policies. These requirements are considered dubious as to whether such a condition would pass the 'nexus test' of reasonable development conditions in that the requirements are not directly relevant to the adequate servicing of the proposed lots. The provision of pedestrian paths is a general responsibility of the Local Government, rather than that of the individual landowner. The requirement to upgrade boundary fencing is considered problematic in that the *Dividing Fences Act 1960* affords joint rights and responsibilities to adjoining landowners relating to boundary fencing. A requirement to upgrade boundary fencing may not be possible should the two adjoining landowners not reach an appropriate agreement, which would then render such a condition unenforceable. It is also worth reiterating that the City is not the determining authority for subdivision applications and as such can only recommend such conditions.

**Discussion and Recommendation:** It is recommended that the current policy provisions relating to a minimum lot frontage of 16m and battleaxe style subdivision be included in a Scheme Amendment. However it is recommended that the existing provisions to upgrade pedestrians paths, vehicle crossovers and boundary fencing are not included in the draft revised policy and/or Scheme Amendment.

### **Conservation Incentives**

**Policy requirements:** This section of the policy provides information about the incentives available to encourage the conservation of places of cultural heritage significance. This section also briefly outlines the process for places to be included on the Municipal Heritage Inventory.

**Basis for requirement:** This section of the policy provides information to landowners and applicants of the available incentives for the conservation of the heritage places.

**Statutory considerations:** This section of the policy does not directly relate to any statutory considerations, rather provides information to landowners and applicants. The

procedures for adopting a place on the Municipal Heritage Inventory and Heritage List are covered by the Local Planning Policy, *LPP2.6 Procedure for Amending the Municipal Heritage Inventory (MHI) and Heritage List*.

It is worth noting that the current provisions of the Scheme regarding split density coded properties allow Council to grant the higher density coding where a building of cultural heritage significance is retained on the lot.

**Discussion and Recommendation:** It is recommended that the statements of the current policy regarding conservation incentives and MHI adoption not be included in the revised draft policy and/or Scheme Amendment.

Council is requested to consider whether the relocation and restumping of the original housing stock within Hilton could assist in encouraging the retention of the traditional stock whilst allowing for infill development in accordance with the policy. The relocating of original dwellings on corner lots could potentially enable the subdivision of these lots in a more conventional manner, rather than the awkward lots that currently arise from the retention of the dwelling in its original location. Future development on the created lots could address both streets and the built form would be addressed by policy requirements, thus ensuring compatibility with the Hilton area.

## **CONCLUSION**

This report is primarily to determine whether a review of the current design requirements of the Hilton Local Area Planning Policy is required. Should Council decide that a review of the current policy is necessary, draft development issues are recommended to form the basis for a future revised draft local planning policy and/or Scheme amendment. It is anticipated that the specific development requirements will require substantial consideration by Council and will necessitate a number of changes prior to Council resolving to formally request officers to initiate the proposed policy and/or amendment.

## OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That a draft Scheme Amendment to Local Planning Scheme No. 4 and Local Planning Policy for Hilton be prepared for Council consideration that addresses development design issues based on the following principles:

### Building Height

1. Maximum external wall height of 3.5 metres (equivalent to single storey and a loft).
2. Maximum roof ridge height of 6.5 metres.
3. Variation to the maximum building height requirements may be considered subject to Council being satisfied that the development is compatible with the streetscape and presents no significant impact on the amenity of the adjoining properties.

### Setback of Buildings (excluding garages/carports)

1. Minimum primary street setback for buildings of 7m.
2. Minimum secondary street setback for buildings as per the R-Codes.
3. Primary and secondary street to be determined by the Council taking into consideration the existing streetscape, orientation and physical characteristics of the lot.
4. Variations to the minimum primary and secondary street setback may be considered subject to the performance criteria of the R-Codes with factors listed for Council to consider.

### Setback and Building Design of Garages / Carports

1. Garages are to be setback in line with or behind the front wall of the dwelling.
2. The width of a garage door shall comprise of no more than 50% of the width of the front of the dwelling as viewed from the street.
3. Variations to the maximum width of the garage doors may be considered subject to the performance criteria of the R-Codes with factors listed for Council to consider.
4. Carports are to be setback in line with or behind the front wall of the dwelling.
5. Variations to the setting back of a carport from the street may be considered where the carport will:
  - a. Be of simple, lightweight construction and open on all sides with no door, and
  - b. Maintain visibility of the house and surveillance from the house to the street, and
  - c. Not detract from the streetscape or appearance of the dwelling, and
  - d. The width of the carport does not exceed 50% of the frontage at the building line.

### Open Space

1. Variations to the acceptable development requirements of the R-Codes regarding open space may be considered subject to the performance criteria of the R-Codes with factors listed for Council to consider.

### Form / Proportion

1. Maintain and consolidate the existing policy provisions relating to the form and proportion of new dwellings (excluding provisions relating to materials) with the exception of the following requirement which will not form part of the revised policy or amendment:

*'Houses on faceted corners of blocks are to be set square to the splay.'*

### House and Site Levels

1. A report presented before Council discussing a potential amendment to the Local Planning Scheme regarding the filling of land and construction of retaining walls within the front setback area.

### Conservation of Existing Dwellings including upgrading, extensions and additions

1. Maintain and consolidate the existing policy provisions relating to the form and proportion for alterations, additions and restoration of existing dwellings (excluding provisions relating to materials).
2. Council may consider variations to the above design requirements where the property is not listed on the Heritage List and the development will not be visible from the street.

### Infill Development

1. With the exception of the height requirements of the policy, infill development shall be in accordance with the requirements of the Residential Design Codes.

### Fences

1. Fencing forward of the building line shall be a maximum height of 1.2 metres and visually permeable from top to bottom.
2. For properties located on South Street, between Stock Road and Carrington Street, Council may consider front fencing to a maximum height of 1.6 metres and only in cases where the dwelling is setback less than 6 metres from the street.
3. Solid masonry (brick) fencing shall be permitted for those properties backing onto Stock Road to a maximum height of 2.0 metres to provide for noise attenuation.

### Subdivision

1. The minimum frontage of lots shall be 16 metres.
2. Subdivision shall be in the form of 'battleaxe' style lot to facilitate the retention of the existing dwelling.
3. As far as practicable, access legs for battleaxe subdivision should provide reciprocal or common access to both front and rear dwellings or grouped dwellings.

Conservation Incentives

1. Investigate a policy provision to enable the relocation of original dwellings to facilitate the subdivision of the land in a conventional manner.

**Cr J Wilson moved to defer the item to a Special Planning Services Committee at an appropriate time.**

**CARRIED: 5/1**

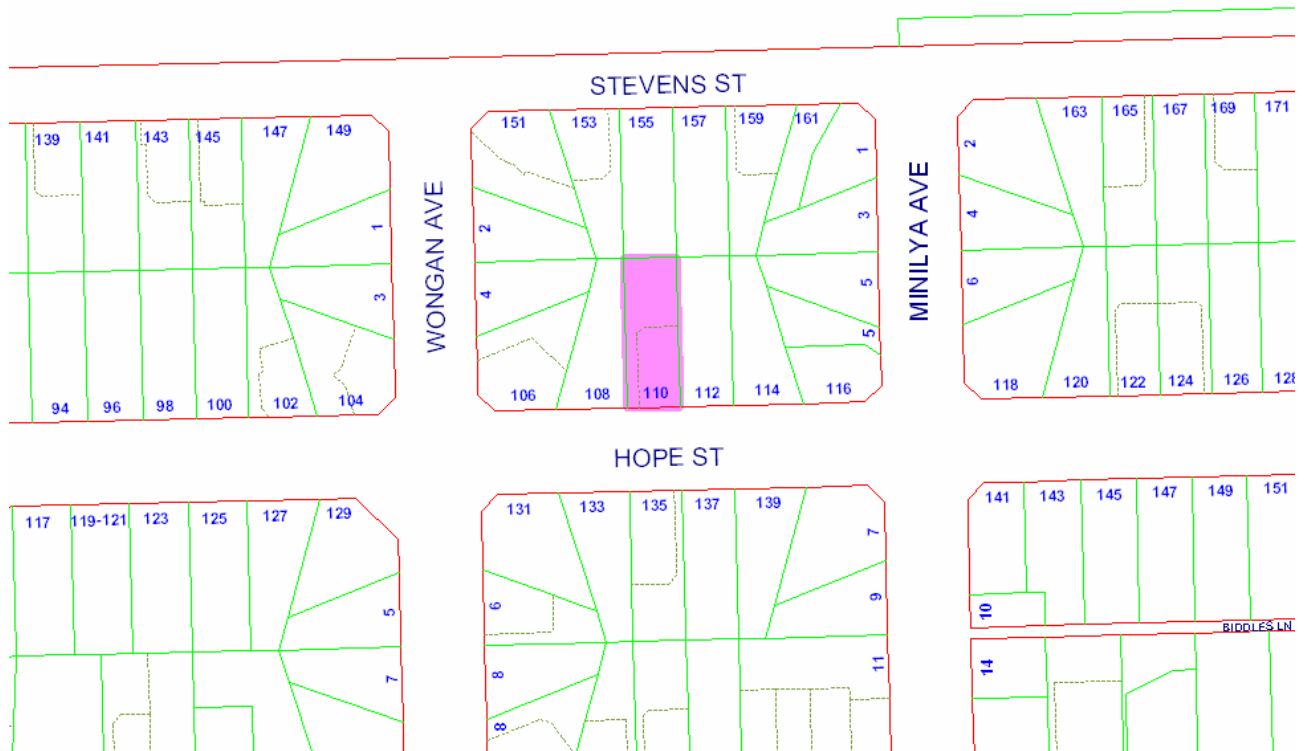
<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	Cr John Dowson

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

The item was deferred to a Special Planning Services Committee to provide dedicated time to discuss the review of the policy.

**PSC1004-75 HOPE STREET, NO. 110 (LOT 1 ON SP S021695) WHITE GUM VALLEY - SINGLE STOREY ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (AH DA233/09)**

**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:** Nil  
**Attachments:** 1. Development plans (16 February 2010)  
**Date Received:** 21 May 2009  
**Owner Name:** D & S Charlton  
**Submitted by:** D & S Charlton  
**Scheme:** Residential – R20/R25  
**Heritage Listing:** N/A  
**Use Class:** Single House  
**Use Permissibility:** P



## EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the Planning Services Committee resolved on the 2 December 2009:

*That the application be DEFERRED Under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Additions and Alterations to the single storey Single House at No. 110 (Lot 1 on SP S021695) Hope Street, White Gum Valley, as detailed on plans dated 12 May 2009, for the following reasons:*

- 1. To provide the applicant with an opportunity to submit revised plans that address the issues raised by the neighbouring property owner, in relation to the proposed boundary wall along the eastern elevation.*

The applicant has indicated that they have discussed their plans with the neighbouring property owner and have now submitted revised their plans to suit the comments of the neighbouring property owner.

The revised plans have been assessed and it is considered that the application is appropriate and as such recommended for Approval with conditions.

## BACKGROUND

The site is known as No. 110 Hope Street, White Gum Valley and comprises an existing single storey dwelling located on the front lot of a two lot strata complex. The driveway is located along the western boundary and provides vehicular access for the rear property, upon which also sits a single storey dwelling.

The property is zoned Residential R20/R25. The site slopes from north to south, dropping by approximately 2.5m – 3.0m. Surrounding properties are also subject to similar changes in topography.

The property is not on the City of Fremantle's heritage list but is within Local Planning Area 6 – White Gum Valley.

The subject site and surrounding properties enjoy large front setbacks, somewhere in the order of 10m-12m, with dwellings sited close to one side boundary, with large setbacks to the other side boundary. With the split R20/R25 density, this has resulted in a number of properties being subdivided by providing vehicular access along the wider side of existing dwellings to rear strata lots.

The application was presented to the Planning Services Committee on the 18 November 2009 whereby the Committee resolved:

*That the application for the Single Storey Additions and Alterations to Existing Single House at No. 110 (Lot 1 on SP S021695) Hope Street, White Gum Valley be referred to the Planning Services Committee of 2 December 2009 to allow officers to assess the amended plans and provide a recommendation for approval with appropriate conditions.*



The application was further presented to the Planning Services Committee on the 2 December 2009 whereby the Committee resolved:

*That the application be DEFERRED Under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Additions and Alterations to the single storey Single House at No. 110 (Lot 1 on SP S021695) Hope Street, White Gum Valley, as detailed on plans dated 12 May 2009, for the following reasons:*

- 1. To provide the applicant with an opportunity to submit revised plans that address the issues raised by the neighbouring property owner, in relation to the proposed boundary wall along the eastern elevation.*

## **DETAIL**

The applicant seeks to erect additions and alterations to the existing single storey single house located on the front strata lot that would include:

- Extending the rear (north west) corner of the dwelling by 3.28m, to a height of 3.3m above natural ground level (n.g.l.) to the western boundary, to include a kitchen;
- Extending the front (south west) corner of the dwelling by 3.3m, to a height of 3.7m above n.g.l. to the western boundary, to include an additional bedroom;
- Extending the front (south east) section of the dwelling by 3.95m, to a height of 1.5m above n.g.l. to include a front porch/deck; and
- Extending the existing side (east) boundary wall by 3.4m in length to create a 9.0m long boundary wall for a carport.

The proposed additions, with exception to the eastern boundary wall, are considered to comply with the R-codes and the City's Local Planning Policies.

The applicant has indicated that they have been in discussion with the neighbouring property owner to the east regarding the boundary wall and have submitted revised plans that take into account the concerns of the neighbouring property owner.

The revised plans result in a reduction in the height of the proposed boundary wall to be consistent with the existing boundary wall in this location. The existing boundary wall is approximately 5.6m in length and 2.7m at its highest point.

The revised plans now show that the wall would be extended by 3.4m to form a 9m long boundary wall, that would maintain the same height as the existing boundary wall.

The change in the height of the boundary wall also results in a lowering of the height and pitch of the roof above this point.

## STATUTORY AND POLICY ASSESSMENT

### Local Planning Scheme No. 4

#### Residential Zone

The site is zoned Residential under LPS 4. The objective of the Residential zone states:

*Development within the Residential zone shall-*

- (i) provide for residential uses at a range of densities with a variety of housing forms to meet the needs of different household types, while recognising the limitations on development necessary to protect local character,*
- (ii) safeguard and enhance the amenity of residential areas and ensure that development, including alterations and additions, are sympathetic with the character of the area,*
- (iii) encourage high standards of innovative housing design which recognise the need for privacy, energy efficient design and bulk and scale compatible with adjoining sites,*
- (iv) recognise the importance of traditional streetscape elements to existing and new development,*
- (v) conserve and enhance places of heritage significance the subject of or affected by the development, and*
- (vi) safeguard and enhance the amenity of residential areas by ensuring that land use is compatible with the character of the area.*

*Note: All zone objectives should be read in conjunction with individual LPA objectives in schedule 12 and Scheme aims in section 1.6*

#### Local Planning Area 6 – White Gum Valley

Local Planning Area 6 (LPA 6) sets out height controls to be applied within Fremantle and states:

- *All requirements as per Residential Design Codes and special applications under clause 5.4.*

In this instance the proposed development has been assessed against the provisions of the Residential Design Codes (R-Codes) and is considered to comply, and as such the application complies with LPA 6.

#### **Residential Design Codes of W.A. (2008)**

The development plans have been assessed against the Acceptable Development criteria set out within the R-Codes. The plans submitted on the 16 February 2010 do not meet the Acceptable Development requirements for the following Design Elements (DE):

- DE 6.3.2 - Buildings on the boundary; and
- DE 6.8.1 - Visual privacy.

As such the application is required to be assessed against the Performance Criteria for these variations.

### **Council Policies**

- Local Planning Policy 2.4 – Boundary Walls in Residential Development.

### **CONSULTATION**

The application was previously advertised in accordance with Clause 9.4 of the LPS 4, as variations are sought for a boundary wall and visual privacy. At the close of the advertising period on, 9 September 2009 the City received one submission from the eastern neighbour with the following issues being raised:

- Visual privacy: extension to front of house now in front of original building line – suggest some form of screening at end of decking/verandah;
- Boundary wall: re carport. It seems to be a very long (eg 12m). Actual wall quite high and then there is a gap/pillars to roof line which also increases the height aspect. I have concern re pitch of roof falling towards my property that the gutters/downpipes will not cope with the water problem in a storm. The long, high wall in a storm could cause water problem – eg water bouncing off wall, onto my property. My driveway is next to my neighbours proposed wall and my property is slightly higher – concern vehicles going up/down wont cause a problem.
- I am not in favour of boundary walls and would prefer that the wall was off the fence line eg 1 metre preferably. I thought that perhaps there was sufficient room for this – on the plan.

Following the submission of revised plans, on the 16 February 2010, the City contacted the neighbouring property owner to invite their comment on the revised plans.

The adjoining property owner did discuss the application with the City and raised an issue regarding the final finish of the wall and the incorporation of openings into the boundary wall.

The City has raised this issue with the applicants, who indicated that the final finish of the boundary wall would be discussed with the neighbour prior to its construction and would accommodate the neighbours request, regarding face brick, render, paint etc.

Furthermore, the use of openings in the boundary wall had been discussed and agreed to with both parties.

### **PLANNING COMMENT**

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

#### *Local Planning Area 6 – White Gum Valley (LPA 6)*

The application has been assessed against the R-Codes and is considered to meet the Performance Criteria of Design Element (DE) 6.7.1 – Building Height and as such complies with LPA 6.

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

DE 6.3.2 - Buildings on the boundary

Local Planning Policy 2.4 – Boundary Walls in Residential Development (LPP 2.4) provides replacement Acceptable Development and Performance Criteria requirements to be applied to any assessment of boundary walls within the City. Accordingly the assessment of this proposal will be against the replacement Acceptable Development and Performance Criteria as provided by LPP 2.4.

The eastern boundary of the property currently has a 2.7m high, 5.5m long carport boundary wall supporting a lean to roof that joins the main roof of the dwelling.

The adjoining property is setback from this boundary by approximately 5m and utilises this area as vehicular access to the rear of the property. There is a window located on the neighbouring properties dwelling that faces the existing boundary wall, it is understood that this window forms part of a bedroom and as such this window has been treated as a major opening to a habitable space.

The applicant proposes to increase the length of this boundary wall to 9m. The applicant is also proposing an additional support pillar to be 3m beyond the extent of the boundary wall to support the roof to the boundary at this location. In total, this would result in the main roof of the dwelling being extended to the eastern boundary for a length of 12m at a height consistent with the existing boundary wall and existing carport roof.

In accordance LPP 2.4 the proposed boundary wall would not meet the replacement Acceptable Development requirements, thus the application is required to be assessed against the Performance Criteria of LPP 2.4 which states:

*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 adjoining neighbour previously raised concern over the height and length of this boundary wall. The height of the boundary wall has now been reduced to reflect the height of the existing boundary wall and roof that forms the existing carport on the boundary.

It is understood that this modification to the proposal was made in conjunction with the affected neighbour and that the final finish of the boundary wall would be discussed and agreed to before completion of the development.

Therefore it is considered that the proposed boundary wall does meet the Performance Criteria as set out in LPP 2.4 and can be supported.

### DE 6.8.1 - Visual privacy

The applicant seeks to erect a raised verandah at the front of the property that would not meet the 7.5m visual privacy setback as set out in the Acceptable Development criteria of the R-Codes. The application was advertised to the affected adjoining neighbour and concerns were raised over the location of the front verandah. The verandah is required to be assessed against the Performance Criteria of DE 6.8.1 which 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.*

Due to the location of the proposed verandah the view would be restricted to areas of the neighbouring properties front garden and side access (driveway). The verandah would not allow the occupiers any opportunity to view active habitable spaces nor private outdoor living areas of the neighbouring property and would only allow a view of areas that are already within the public realm. As such the variation is considered to comply with the Performance Criteria of DE 6.8.1.

### **Local Planning Policy**

#### Local Planning Policy 2.4 – Boundary Walls in Residential Development

The applicant is seeking to erect a boundary wall along the northern boundary at the front of the site. This has been discussed above under DE 6.3.2 and it is considered that the proposal does not meet the replacement Performance Criteria as provided in LPP 2.4.

### **SUBMISSIONS**

The application was originally advertised to the adjoining property owners due to variations to the R-Codes. Following the close of the advertising period, one submission was received from the eastern neighbouring property owner.

In response to the issues raised:

- The proposed verandah would not allow the occupants any opportunity to view areas of the neighbouring property that are not already within the public realm and visible from the street. As such the verandah is considered acceptable in its current format without the need for screening.

- The proposed boundary wall has been assessed against the provisions of LPP 2.4 and following further consultation with the affected neighbour, has been reduced in height to meet the concerns raised by the adjoining property owner.
- In relation to storm water, the applicant is required to contain all stormwater within their property and would be required to comply with the Building Code of Australia for disposal of stormwater run-off.

## **CONCLUSION**

The applicant is seeking to erect additions and alterations to the existing single storey single house with variations to buildings on the boundary and visual privacy.

The additions to the western (front and rear) side of the property comply with the R-codes and the City's Local Planning Policies.

It is considered that the proposed verandah at the front of the property would not pose any significant detrimental affect on the visual privacy of the adjoining property due to the location of any overlooking being within the public realm. Accordingly this element of the development is considered acceptable.

The proposed boundary wall to the eastern boundary has been modified and reduced in height in order to take into consideration the concerns of the adjoining property owner and therefore meets the Performance Criteria as set out in Local Planning Policy 2.4 – Boundary Walls in Residential Development.

Thus the application is recommended for Approval subject to conditions.

**OFFICER'S RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr A Sullivan**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Additions and Alterations to the single storey Single House at No. 110 (Lot 1 on SP S021695) Hope Street, White Gum Valley, with the following conditions:**

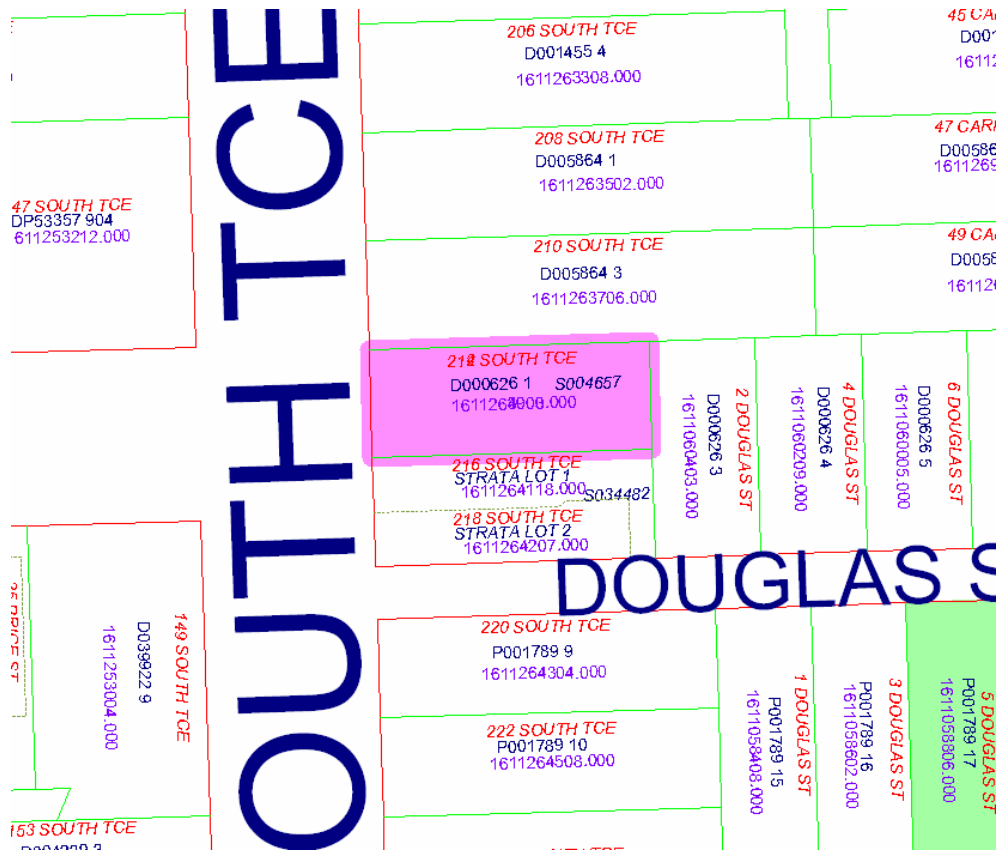
- 1. This approval relates only to the development as indicated on the approved plans dated 21 May 2009 and approved floor and street & east elevations dated 16 February 2010. It does not relate to any other development on this lot.**
- 2. All storm water discharge shall be contained and disposed of on-site.**
- 3. Prior to occupation, the boundary walls located on the northern and southern boundaries shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**PSC1004-76 SOUTH TERRACE NO 212 - 214 (LOT 1) FREMANTLE - NOTICE ISSUED UNDER DELEGATED AUTHORITY LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 - RMB10/0029, RMB10/0030 (CHE)**

**DataWorks Reference:** 122/006  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Acting Manager Development Services  
**Actioning Officer:** Coordinator Development Compliance  
**Decision Making Level:** Planning Services Committee  
**Owner Name:** Sharon Louise Bell and Jan Leahy  
**Scheme:** Residential R 30





**EXECUTIVE SUMMARY**

The City has served a Notice under Section 403 (4) of the *Local Government (Miscellaneous Provisions) Act 1960* to the owners of No. 212-214 (Lot 1) South Terrace, Fremantle on 8 April 2010.

This report is to inform the Council of this action in accordance with the requirements of section 3.20 of Council's Delegated Authority Register as adopted in June 2009.

**COMMENT**

A site inspection by the City's Coordinator Development Compliance and Principal Building Surveyor revealed that the outside toilets connected between the two subject properties were considered dangerous. Although the structure is heritage listed it was determined under the provisions of the Act to be dangerous and the Notice requires the owners to remove the structure.

**OFFICERS RECOMMENDATION/COMMITTEE DECISION**

**MOVED: Cr A Sullivan**

**That the information is noted.**

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**PSC1004-79 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 A Sullivan**

**That the information is noted.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

## REPORTS BY OFFICERS (COUNCIL DECISION)

Cr D Thompson vacated the chamber at 8:43 pm during the following item and returned at 8:45 pm prior to determination.

### **PSC1004-80 DRAFT AMENDMENTS TO LOCAL PLANNING POLICY LPP2.4 BOUNDARY WALLS IN RESIDENTIAL DEVELOPMENT (BC)**

**DataWorks Reference:** 117/010  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC0809-287

## EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council adopt an amended local planning policy, *LPP2.4 Boundary Walls in Residential Development*, incorporating amendments to clarify the provisions of the policy.

It is recommended that the amended local planning policy be adopted for the purpose of advertising for public comment in accordance with clause 2.4 of Local Planning Scheme No.4.

## BACKGROUND

Council adopted local planning policy, *LPP2.4 Boundary Walls in Residential Development*, on 22 October 2008 (refer PSC0809-287).

The intent of the local planning policy is to provide clear direction to City officers, applicants and the broader community on Council's stance on boundary walls as part of residential development, through the replacement of the acceptable development provision of the Residential Design Codes.

During a recent State Administrative Tribunal matter (*Hazmah and City of Fremantle* [2009] WASAT 110), some minor discrepancies in the wording of the policy were noted by the Tribunal. Additionally the City has sought legal advice to assist in addressing the issues raised by the Tribunal. It is the intent of this report, and subsequent policy amendments, to address the issues raised by the Tribunal as well as to provide greater clarity of the current policy provisions.

## **STATUTORY AND POLICY IMPLICATIONS**

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

Clause 2.4 of LPS4 allows Council to amend a local planning policy and outlines the procedure that must be following in order to amend a policy. The process of amending a local planning policy under the Scheme is identical to the process of making a new policy.

### **Residential Design Codes 2008 (R-Codes)**

Part 5 of the R-Codes enables Council to adopt a local planning policy that can contain provisions that vary the Acceptable Development requirements of the R-Codes relating to specific Design Elements. It should be noted that a local planning policy can only vary the Acceptable Development requirements of Design Elements listed in clause 5.3.1 (a) of the R-Codes, unless the express approval of the Western Australian Planning Commission is obtained.

The Acceptable Development provisions of the R-Codes regarding “Buildings on boundary” (Clause 6.3.2A2) are able to be varied by a local planning policy, as per clause 5.3.1 of the R-Codes.

Clause 5.3.1 (b) of the R-Codes does enable Council to adopt a local planning policy that augments the R-Codes by providing additional performance criteria and Acceptable Development provisions for any aspect of residential development that is not provided for in the codes. However where an aspect of residential development is covered in the R-Codes, such as boundary walls, only the Acceptable Development standards of the R-Codes can be varied by a local planning policy not the performance criteria.

## **CONSULTATION**

Should Council resolve to proceed with the amendments to the local planning policy, the draft amended policy will be advertised in accordance with the requirements of clause 2.4 of Local Planning Scheme No. 4.

## PLANNING COMMENT

There are essentially 4 areas of the current Boundary Walls local planning policy that are proposed to be amended. These are discussed separately as follows.

### 1. Amendments to Statutory Background

The legal advice obtained by the City has suggested the expansion of the statutory background section of the policy to provide greater clarity to the basis and purpose of the policy. The second paragraph of the current policy reads:

*“Section 5.3.1 of the Residential Design Codes states that Council may adopt a Local Planning Policy to vary or replace the acceptable development provisions relating to boundary walls.”*

It is proposed to replace this paragraph with the following:

*“Section 5.3.1 of the Residential Design Codes states that a local government may adopt a local planning policy which varies or replaces the acceptable development provisions of the Residential Design Codes relating to boundary walls. The purpose of this policy is to:*

- (a) replace the acceptable development provisions of clause 6.3.2A2 of the Residential Design Codes; and*
- (b) identify factors which, when applying the performance criteria in clause 6.3.2P2 of the Residential Design Codes, will be considered in determining whether a boundary wall is desirable in order not to have any significant adverse effect on the amenity of an adjoining property.*

*This local planning policy applies in addition to any other applicable requirements under Local Planning Scheme No. 4, the Residential Design Codes and any other relevant local planning policy of the City.”*

### 2. Minor amendments to wording of policy

At the conclusion of paragraphs (a) and (b) of the new acceptable development provisions of the policy, the word ‘or’ is to be inserted after the semicolon.

Paragraph (d) of the current policy uses the words, ‘*street frontage width*’, to describe the width of a lot. These words are inconsistent with the standard words and expressions used in the R-Codes. ‘Frontage’ is defined in the R-Codes as:

*‘The width of a lot at the primary street setback line, provided that in the case of battleaxe or other irregularly shaped lots, it shall be determined by the council.’*

The word, 'frontage', as defined in the R-Codes, is considered appropriate for the purpose of paragraph (d) of the policy. It is therefore recommended that the words, 'street frontage width', be deleted and replaced with the word, 'frontage', in the amended draft policy.

Additionally, the word 'Codes' should be inserted after 'Residential Design' in paragraph (d) so that it reads 'Residential Design Codes'.

### 3. Policy details dealing with battleaxe lots

Paragraph (d) of the existing policy enables the construction of boundary walls, within specific parameters, on lots with a frontage of less than 10 metres. The method to measure the lot frontage of a battleaxe lot or rear survey strata lot is not clearly outlined in the R-Codes and it has been common practise to simply regard battleaxe lots or rear survey strata lots as having no frontage. In considering that a battleaxe lot or rear survey strata lot has no frontage, it may be argued that a boundary wall could meet the Acceptable Development requirements of the policy (paragraph (d)), subject to certain design specifics.

However this argument is not regarded as consistent with the general intentions of the policy, which were, in part, to allow boundary walls only in circumstances where there would be little or no impact on the amenity of the adjoining property (abutting an existing wall or adjoining a non-residential property) or where the lot width restricts the development potential of the lot (frontage less than 10m). The typical dimensions of a battleaxe lot or rear survey strata lot are not considered especially restrictive to the development potential of the lot and a boundary wall could present impacts on the amenity of the adjoining property.

It is therefore proposed to exclude battleaxe lots from the Acceptable Development provisions of paragraph (d) of the policy, thereby requiring an assessment against the performance criteria. Boundary walls on battleaxe lots will still be able to be assessed against the Acceptable Development provisions of paragraphs (a) (b) and (c) of the policy.

### 4. Amendments to "Application of Performance Criteria"

The section of the current policy relating to the "*Application of Performance Criteria*" 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 to be met where it is satisfied that no adverse impacts on the amenity of the neighbouring property will occur.'*

During the SAT matter referred to above, it was considered that the above paragraph conflicted with clause 5.3.1 (b) of the R-Codes as it augments the R-Codes by providing additional performance criteria for an aspect of residential development that is already provided for in the R-Codes. Additionally the standard of 'no adverse impact' was considered inconsistent with orderly and proper planning because a literal interpretation would result in a standard that would be impractically difficult to meet. For example, it could be argued that any change would result in an adverse impact no matter how trivial. Orderly and proper planning requires that the test be for no 'significant' adverse impact.

One of the performance criteria in clause 6.3.2P2 of the R-Codes is that buildings built up to the boundaries do *'not have any significant adverse effect on the amenity of the adjoining property'*. It is possible to specify a list of matters to be taken into consideration when assessing the amenity impacts for a boundary wall on an adjoining property.

It is therefore proposed to replace the abovementioned paragraph of the policy relating to the application of the performance criteria with the following:

*'When considering an application under the performance criteria in clause 6.3.2P2 of the Residential Design Codes, the Council is required to consider a number of specified matters, including whether a boundary wall is desirable in order to not have any significant adverse effect on the amenity of the adjoining property. In considering the effect of a proposed boundary wall on the amenity of an adjoining property, the Council shall have regard to the following factors:*

- *access to daylight and ventilation to major openings;*
- *access to direct sunlight and ventilation to outdoor living areas;*
- *sense of confinement due to accessible cumulative building bulk;*
- *existing trees or vegetation;*
- *access to views of significance.*

*This list of factors is not exhaustive and does not preclude Council from considering any other matter which is relevant to an assessment of the effect of a boundary wall on the amenity of an adjoining property. In considering such effects, the Council will have regard to any comments made in this regard by the owners and occupiers of the adjoining properties.'*

The proposed amendments to this section provide the Council with a list of specific factors to consider when determining the level of impact on the amenity of the adjoining property as a result of a boundary wall. The provided list is by no means exhaustive, as outlined in the second paragraph, and the amendment still requires Council to have regard to any comments made by the owners and occupiers of the adjoining properties.

## CONCLUSION

The adoption and implementation of the 'Boundary Walls in Residential Development' local planning policy has provided clearer direction to City officers, applicants and the broader community on Council's stance on boundary walls as part of residential development. However it is important that the policy should not be called into question by decision making bodies including the State Administrative Tribunal due to potential inconsistencies with the requirements of the R-Codes and the objectives of orderly and proper planning.

Consequently, having regard to the comments of the Tribunal as referred to in the Background section of this report and to subsequent legal advice obtained by the City, it is recommended that the policy should be amended in the manner described in this report.

Adoption of the draft amended policy for advertising is therefore recommended. Following the conclusion of the advertising period, a further report will be brought back to Council for consideration prior to final adoption.

## COMMITTEE AND OFFICER'S RECOMMENDATION

**MOVED: Cr A Sullivan**

**That Council resolve to adopt the draft amended local planning policy, *LPP2.4 – Boundary Walls in Residential Development*, as shown below for advertising in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4.**

-----  
**CITY OF FREMANTLE**

**LOCAL PLANNING POLICY 2.4**

**BOUNDARY WALLS IN RESIDENTIAL DEVELOPMENT**

**ADOPTION DATE: 22 October 2008**

**AMENDED: date to be inserted**

**AUTHORITY: LOCAL PLANNING SCHEME NO.4**

### STATUTORY BACKGROUND

Clause 5.2.2 of the City's Local Planning Scheme No. 4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Codes.



Section 5.3.1 of the Residential Design Codes states that a local government may adopt a local planning policy which varies or replaces the acceptable development provisions of the Residential Design Codes relating to boundary walls. The purpose of this policy is to:

- (c) replace the acceptable development provisions of clause 6.3.2A2 of the Residential Design Codes; and
- (d) identify factors which, when applying the performance criteria in clause 6.3.2P2 of the Residential Design Codes, will be considered in determining whether a boundary wall is desirable in order not to have any significant adverse effect on the amenity of an adjoining property.

This local planning policy applies in addition to any other applicable requirements under Local Planning Scheme No. 4, the Residential Design Codes and any other relevant local planning policy of the City.

Compliance with this Local Planning Policy is required in addition to any other requirements contained with Local Planning Scheme 4, the provisions of the Residential Design Codes and any other relevant Local Planning Policy.

## **POLICY**

### **Acceptable development standards**

The acceptable development provisions in clause 6.3.2 A2 of the Residential Design Codes are replaced with the following:

**A2: Walls built up to, or within 750 mm of, a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of design element 6.9:**

- a) where the construction of such walls is specifically permitted by the City's Local Planning Scheme No. 4 or another Local Planning Policy; or
- b) where the wall is proposed to abut an existing or simultaneously constructed boundary wall of similar or greater dimensions; or
- c) where the wall is proposed to abut a property that is not used for residential purposes; or
- d) where the wall is proposed on a lot, not including a battleaxe lot, with a frontage (as defined by the Residential Design Codes) of less than 10 metres and complies with the following:
  - i) In areas coded R20 and R25, walls not higher than 3m with an average of 2.7m up to 9m in length up to one side boundary; or
  - ii) In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the boundary behind the front setback, to one side boundary only.

**Application of Performance criteria**

When considering an application under the performance criteria in clause 6.3.2P2 of the Residential Design Codes, the Council is required to consider a number of specified matters, including whether a boundary wall is desirable in order to not have any significant adverse effect on the amenity of the adjoining property. In considering the effect of a proposed boundary wall on the amenity of an adjoining property, the Council shall have regard to the following factors:

- access to daylight and ventilation to major openings;
- access to direct sunlight and ventilation to outdoor living areas;
- sense of confinement due to accessible cumulative building bulk;
- existing trees or vegetation;
- access to views of significance.

This list of factors is not exhaustive and does not preclude Council from considering any other matter which is relevant to an assessment of the effect of a boundary wall on the amenity of an adjoining property. In considering such effects, the Council will have regard to any comments made in this regard by the owners and occupiers of the adjoining properties.

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**PSC1004-81 COCKBURN COAST PROJECT STEERING COMMITTEE.**

<b>DataWorks Reference:</b>	038/032 & 115/013
<b>Disclosure of Interest:</b>	Nil
<b>Responsible Officer:</b>	Manager Planning Projects
<b>Actioning Officer:</b>	Manager Planning Projects
<b>Decision Making Level:</b>	Council
<b>Previous Item Number/s:</b>	Nil
<b>Attachments:</b>	Nil

**EXECUTIVE SUMMARY**

The purpose of this report is to advise Council of the re-establishment of a Steering Committee for the Cockburn Coast Project and to nominate an elected member (and a deputy member) to represent the City of Fremantle on the Steering Committee along with a senior planning officer.

**BACKGROUND**

The Cockburn Coast project commenced in 2004 when the then Minister for Planning and Infrastructure launched a vision to change the Cockburn Coast area from an industrial area into a more intensive urban precinct with a mix of residential, employment and recreational uses. In 2005 a Cockburn Coast Steering Committee, comprising representatives of State Government, the two affected local governments (the Cities of Fremantle and Cockburn) and other key stakeholders, was established to progress the planning and implementation of proposals for the area. The City of Fremantle was represented on the Committee by the Mayor, and the then Director of Urban Management also attended the meetings but was not a formal member of the Committee. The Committee's stated objectives when it was established were:

- To ensure the community engagement process is fair and transparent.
- To develop a plan that takes the Cockburn coastal industrial land and creates a vibrant, mixed use community that links with existing communities and maximises the quality and sustainability of planning along the coastal corridor.
- To oversee the implementation process.

The Committee ceased meeting in early 2007. In 2008 the Western Australian Planning Commission (WAPC) carried out formal public consultation on the Cockburn Coast District Structure Plan and in August 2009 the WAPC formally approved the Structure Plan.

Following approval of the Structure Plan, the project is moving towards the implementation stage with a requirement for more detailed planning work and consideration of infrastructure requirements and delivery mechanisms. To provide strategic direction for this further work, the State Government through the Department of Planning and LandCorp is proposing to re-establish the Steering Committee, and is requesting representation on the Committee from the City of Fremantle and the City of Cockburn. LandCorp has nominated its General Manager Metropolitan to chair the Committee.

### **PLANNING COMMENT**

Given the strategic significance of the Cockburn Coast project and its likely land use and transportation implications for the City of Fremantle, it is considered important that the City should be represented and play an active role in the Committee.

Having regard to the previous composition of the Committee, it is recommended that an elected member should be nominated to serve on the Committee (with a second elected member also being nominated to serve as a deputy). It is also recommended that the Director of Planning and Development Services or his representative should be a member of the Committee to provide professional planning input on behalf of the City.

### **CONCLUSION**

It is recommended that Council nominate an elected member to represent the City of Fremantle on the Steering Committee, and also nominate a second elected member to serve as a deputy.

### **OFFICER'S RECOMMENDATION**

That Council advises LandCorp and the Department of Planning that Councillor..... and the Director of Planning and Development Services or his representative are nominated to represent the City of Fremantle on the Cockburn Coast Steering Committee, and Councillor.....is nominated as a Deputy member.

Mayor, Brad Pettitt moved the following alternative recommendation:

**COMMITTEE RECOMMENDATION**

**That Council advises LandCorp and the Department of Planning that the Mayor and Councillor Sullivan, and the Director of Planning and Development Services or his representative are nominated to represent the City of Fremantle on the Cockburn Coast Steering Committee.**

**CARRIED: 5/1**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Andrew Sullivan	Cr Bill Massie

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

To ensure appropriate Elected Member representation from the City of Fremantle.

**PSC1004-82 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT  
1180/41 - COCKBURN COAST DISTRICT STRUCTURE PLAN - CITY  
OF FREMANTLE SUBMISSION**

**DataWorks Reference:** 216/012  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** Submission on Cockburn Coast Structure Plan  
(PSC0808-228)  
**Attachments:** Proposed MRS Scheme Amendment 1180/41

**EXECUTIVE SUMMARY**

The Western Australian Planning Commission has initiated a Metropolitan Region Scheme (MRS) amendment No. 1180/41 to facilitate the implementation of the Cockburn Coast District Structure Plan. The proposed MRS amendment wholly relates to land within the City of Cockburn and proposes to rezone the North Coogee industrial area to an urban deferred zone, and to amend parks and recreation and primary regional roads reservations to reflect the high level planning proposals in the Cockburn Coast District Structure Plan.

The purpose of this report is to provide formal comment to the Western Australian Planning Commission regarding the proposed MRS amendment as the land affected directly adjoins the City of Fremantle to the south.

**BACKGROUND****Cockburn Coast District Structure Plan**

In August 2009, the Western Australian Planning Commission (WAPC) approved the Cockburn Coast District Structure Plan (CCDSP). The purpose of the CCDSP is to guide future land use and transport initiatives within the area between South Beach in South Fremantle and the Port Coogee marina. The plan was developed over several years in conjunction with local government and state government agencies, with a focus on community and landowner consultation. The City took the opportunity to comment on the draft CCDSP during the formal consultation period in 2008. Council's resolution in relation to the City's submission expressed general support for the principles and objectives of the Structure Plan, but no overall support until the Plan was amended to include a dedicated public transport corridor with a mutually agreed upon alignment to link the Plan area with Fremantle (for more information see PSC0808-228).

Most of the area covered by the structure plan is outside of the City's boundaries. However the South Fremantle Landfill Site, Fremantle Chalet Village and a portion of land in the Clontarf Hill area zoned as Development Area 19 (part of the former Fremantle Eastern Bypass alignment) are within the City's boundary and included in the CCDSP area. These sites are zoned Urban under the MRS and Development Area under LPS4. They are appropriately zoned for future development, once all environmental (contamination) and infrastructure aspects have been resolved, in accordance with the Cockburn Coast Structure Plan, and are not part of the proposed MRS amendment (1180/41).

The timeframes for implementation of the CCDSP are set out in terms of immediate, short-term (1-4 years) and medium term (5-10 year) timeframes, of which the majority of plans, strategies, investigations, studies etc are required within the intermediate to short-term. The MRS rezoning is one of the anticipated intermediate term timeframes.

### **Proposed Metropolitan Scheme Amendment 1180/41**

The purpose of the MRS amendment is to rezone land wholly within the City of Cockburn to reflect the outcomes of the CCDSP. The amendment will rezone land in the North Coogee industrial area and some parks and recreation reservation to an Urban Deferred zoning. It also proposes to realign and rationalise the primary regional roads reservation and rezone the South Fremantle Power Station site from Parks and Recreation to Public Purposes - Special Use.

The City of Cockburn will need to rezone the land appropriately under its Local Planning Scheme after the MRS amendment as s126(3) of the Planning and Development Act 2005 which allows Local Planning Schemes to be rezoned concurrently with the MRS amendment does not apply as none of the land is being rezoned to Urban.

### **PLANNING COMMENT**

While this MRS amendment does not directly affect land in the City of Fremantle, the land does abut the City's municipal boundary and any development of the area will affect the City. Consequently it would be appropriate for the City to make a submission on the proposed amendment. Officers consider that the submission should address the following matters:

### Urban Deferred Zoning

Officers support the amendment's proposed rezoning of land in this area, especially the 'Urban Deferred' zoning of some land. This land has a history of industrial uses including an abattoir, hide manufacture, electricity generation, artillery manufacture, drum reconditioning, industrial packaging, oil crushing facilities and more recently marine based industry. Accordingly, in order for this land to be developed for more intensive urban uses including residential, potential contamination issues will need to be addressed and arrangements made for the provision of necessary infrastructure. The 'Urban Deferred' zoning allows the opportunity for the environmental and planning requirements relating to this land to be addressed prior to development and is considered an appropriate interim step to facilitate the CCDSP. The Urban Deferred zoning will be lifted once the WAPC is satisfied certain criteria have been met including development of a district water management strategy, draft scheme amendments to the Cockburn Local Planning Scheme for development areas, including guidance on the development of structure plans for these areas, and an infrastructure master plan e.g. water, waste water, energy and movement network requirements.

### South Fremantle Power Station Precinct

Officers are supportive of the South Fremantle Power Station and adjacent land being a Public Purpose - Special Use reserve instead of its current reservation for Parks and Recreation. A Public Purpose – Special Use reservation would more appropriately reflect the intended future use of the building and its curtilage for appropriate community-orientated uses as envisaged in the CCDSP Plan and facilitate the retention and future adaptive reuse of this important 'landmark' building.

However, as stated in its previous submission on the CCDSP, the City considers it of vital importance for the power station to receive statutory protection through reinstatement of its former listing on the State Register of Heritage Places. While this is not a consideration of the MRS amendment it is a valid point to again reiterate to the WAPC.

### Transport

As part of the Scheme amendment the Primary Regional Road reservation between Rockingham Road to the north and the Fremantle Port freight rail line to the south is to be realigned and rationalised due to the topography of the area and to reduce the impact on Beeliar Regional Park. This reflects changes made to the CCDSP prior to its final approval, partly in response to submissions made on the draft structure plan.

Although the realignment may be seen as an improvement upon the current alignment which dates from 1973, the justification in the MRS Amendment documentation for the retention and configuration of the road reservation could be considered premature and unproven given that the Department of Planning is undertaking the 'South Metropolitan and Peel Region Integrated Land Use and Transport Study – Strategic Assessment of the Regional Transport Requirements' which will include an assessment of the transport needs of the South West corridor (which includes the CCDSP area) and a review of the status of existing and reserved Primary Regional Roads. This study is under way but is not yet complete.



As stated in the City's previous submission on the structure plan, it is considered that the integrated transport strategy referred to above should be completed prior to any decisions regarding the need for retention of, and the width and alignment of, the primary regional roads reservation.

It is also recommended that the City's submission on the MRS amendment should be used as an opportunity to reiterate the City's position as previously stated in its submission on the draft CCDSP in August 2008 that the strategic planning framework for the area should include provision for a dedicated public transport corridor with an alignment mutually agreed upon by the Western Australian Planning Commission, the City of Fremantle and the City of Cockburn to link the structure plan area with Fremantle. Further investigation of alignment options, taking into account the full range of potential public mass transit modes, should be progressed as a matter of priority prior to conclusion of the MRS amendment process so that any appropriate reservation provisions for this purpose can be incorporated into Amendment 1180/41 if required.

## **CONCLUSION**

The rezoning of land in the CCDSP area is recognised as being necessary to implement the structure plan. It is recommended that the City's submission should generally support the elements of the proposed MRS amendment for rezoning of land from Industrial to Urban Deferred and for the reservation of the South Fremantle Power Station site and its immediate surroundings, but that the submission should reiterate concerns expressed in the City's previous submission on the draft CCDSP regarding transport issues, particularly the need for reservation of land for transport needs to be justified in the context of an integrated transport strategy and to give greater priority to provision of a dedicated public transport corridor.

## **COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr A Sullivan**

**That the following comments be submitted to the Western Australian Planning Commission as the City of Fremantle's submission on Metropolitan Region Scheme Amendment 1180/41 'Cockburn Coast District Structure Plan Area':**

- 1. The City supports the proposed rezoning of land currently zoned Industrial to Urban Deferred. This is considered the most appropriate zoning at this stage, given the need for various environmental, infrastructure and strategic planning issues to be addressed in more detail prior to the land being zoned Urban to facilitate development for more intensive urban uses in the longer term, as envisaged in the Cockburn Coast District Structure Plan.**

2. The City supports the proposed rezoning of the site of the former South Fremantle Power Station and adjacent land to the south to Public Purposes – Special Use Reservation in recognition that this will facilitate the retention and future adaptive reuse of this important ‘landmark’ building for appropriate community-orientated uses as envisaged in the Cockburn Coast District Structure Plan. Although not directly related to the Metropolitan Region Scheme amendment process, the City also wishes to take this opportunity to reiterate its previous recommendation that the Western Australian Planning Commission should pursue reinstatement of the listing of the power station on the State Register of Heritage Places.
  
3. The City acknowledges that the proposed realignment of the Primary Regional Roads reservation is an improvement upon the current alignment insofar as it reduces the potential visual impact of any future road constructed within the reservation upon the ridgeline of the Beeliar Regional Park, potentially enables more land to be retained within the Regional Park, and avoids the severance of land within the western edge of the Parks and Recreation reservation from the main part of the Regional Park which is caused by the current alignment. However, the City considers that the justification in the MRS Amendment documentation for the retention and configuration of the Primary Regional Road reservation is premature and unproven, given that the Department of Planning’s ‘South Metropolitan and Peel Region Integrated Land Use and Transport Study – Strategic Assessment of the Regional Transport Requirements’ which will include an assessment of the transport needs of the South West corridor and a review of the status of existing and reserved Primary Regional Roads has not yet been completed.
  
4. The City reiterates its position as previously stated in its submission on the draft Cockburn Coast District Structure Plan in August 2008 that the strategic planning framework for the area should include provision for a dedicated public transport corridor with an alignment mutually agreed upon by the Western Australian Planning Commission, the City of Fremantle and the City of Cockburn to link the structure plan area with Fremantle. Further investigation of alignment options, taking into account the full range of potential public transport modes, should be progressed as a matter of priority prior to conclusion of the MRS amendment process so that any appropriate reservation provisions for this purpose can be incorporated into Amendment 1180/41 if required.

**CARRIED: 6/0**

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Doug Thompson Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

**CONFIDENTIAL MATTERS**

Nil.

**CLOSURE OF MEETING**

**THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 8:54 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>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

<b>How consultative processes work at the City of Fremantle</b>	
	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 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

How consultative processes work at the City of Fremantle	
	Members and via presentations to Committee and Council Meetings.
<b>Citizens need to check for any changes to decision making arrangements made</b>	<p>1 The City will take initial responsibility, via</p> <p>3 'Consultation Process notifications', for making</p> <p>. 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.</p>
<b>Citizens are entitled to know how their input has been assessed</b>	<p>1 In reporting to decision-makers, City officers will in</p> <p>4 all cases produce a Schedule of Input received</p> <p>. that summarises comment and recommends whether it should be taken on board, with reasons.</p>
<b>Reasons for decisions must be transparent</b>	<p>1 Decision-makers must provide the reasons for</p> <p>5 their decisions.</p> <p>.</p>
<b>Decisions posted on <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a></b>	<p>1 Decisions of the City need to be transparent and</p> <p>6 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.</p> <p>.</p>

### **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.