



MINUTES

Planning Services Committee

Wednesday, 2 June 2010, 6.00 pm

TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
	NYOONGAR ACKNOWLEDGEMENT STATEMENT	1
	IN ATTENDANCE	1
	APOLOGIES	1
	LEAVE OF ABSENCE	1
	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
	PUBLIC QUESTION TIME	2
	DEPUTATIONS / PRESENTATIONS	2
	DISCLOSURES OF INTEREST BY MEMBERS	2
	LATE ITEMS NOTED	2
	CONFIRMATION OF MINUTES	3
	TABLED DOCUMENTS	3
	DEFERRED ITEMS (COMMITTEE DELEGATION)	3
	REPORTS BY OFFICERS (COMMITTEE DELEGATION)	4
PSC1006-98	SOUTH TERRACE NO. 65 (LOT 12) FREMANTLE - THREE STOREY MIXED USE DEVELOPMENT - (BC DA0108/10)	4
PSC1006-99	ATTFIELD STREET NO. 111 (LOT 18) SOUTH FREMANTLE - RECONSIDERATION OF DECISION - PROPOSED TWO STOREY DWELLING (AH DA617/08)	23
PSC1006-100	SNOOK CRESCENT NO. 2A (STRATA LOT 1 ON LOT 1268) HILTON - SINGLE STOREY SINGLE HOUSE - (BC DA0175/10)	32

PSC1006-101	NO.130 STIRLING HIGHWAY (LOT 220), NORTH FREMANTLE - PARTIAL DEMOLITION OF EXISTING WAREHOUSE (JL DA0725/09)	38
PSC1006-103	FORREST STREET NO. 54 (LOT 1) FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS TO GROUPED DWELLING - (BC DA0339/08)	52
PSC1006-102	MCCABE STREET 9-15 (LOTS 318, 326 AND PART LOT 18), NORTH FREMANTLE – PROPOSED DEVELOPMENT OF 95 MULTIPLE DWELLINGS AND 8 GROUPED DWELLINGS	62
PSC1006-104	SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY	76
	REPORTS BY OFFICERS (COUNCIL DECISION)	77
PSC1006-105	LOCAL PLANNING POLICY NO. 2.12 - PLANNING APPLICATIONS IMPACTING UPON VERGE INFRASTRUCTURE AND VERGE TREES - FINAL ADOPTION	77
PSC1006-106	LOCAL PLANNING POLICY 2.10 - LANDSCAPING OF DEVELOPMENT AND EXISTING VEGETATION ON DEVELOPMENT SITES - FINAL ADOPTION	84
	CONFIDENTIAL MATTERS	93
	CLOSURE OF MEETING	93
	Summary Guide to Citizen Participation and Consultation	94

PLANNING SERVICES COMMITTEE

Minutes of the Planning Services Committee
held in the Council Chambers, Fremantle City Council
on 2 June 2010 at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.01 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 Robert Fittock	North Ward
Cr Tim Grey-Smith	City 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
Mr Justin Lawrence	Coordinator Statutory Planning
Mr Steve Sullivan	Coordinator Planning Mediation
Mrs Tanya Toon-Poynton	Minute Secretary

There were approximately 16 members of the public and 1 member of the press in attendance.

APOLOGIES

Nil

LEAVE OF ABSENCE

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Questions by Ian Alexander

How is it 4 large houses on Solomon Street have been approved, given the bulk and scale and that they don't fit in with the streetscape?

When the developments were assessed did the officer take into consideration the bulk of the buildings?

The Director of Planning and Development services advised that he would send the relevant minutes extracts.

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke in favour of item PSC1006-98:

June Hutchinson

Chris Lewis

The following member/s of the public spoke against item PSC1006-98:

Christine Moran

Anna O'Sullivan

The following member/s of the public spoke in favour of item PSC1006-99:

Aaron Lohman

Megan Thomas

The following member/s of the public spoke against item PSC1006-99:

Michael Searle

Rob Murray

The following member/s of the public spoke against item PSC1006-100:

Anne Marie McAuliffe

The following member/s of the public spoke in favour of item PSC1006-101:

Alan McGilvray

The following member/s of the public spoke against item PSC1006-101:

Ian Alexander on behalf of the Fremantle Society

The following member/s of the public spoke in favour of item PSC1006-103:

Rob Mutch

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 19 May 2010 as listed in the Council Agenda dated 26 May 2010 be confirmed as a true and accurate record.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith 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

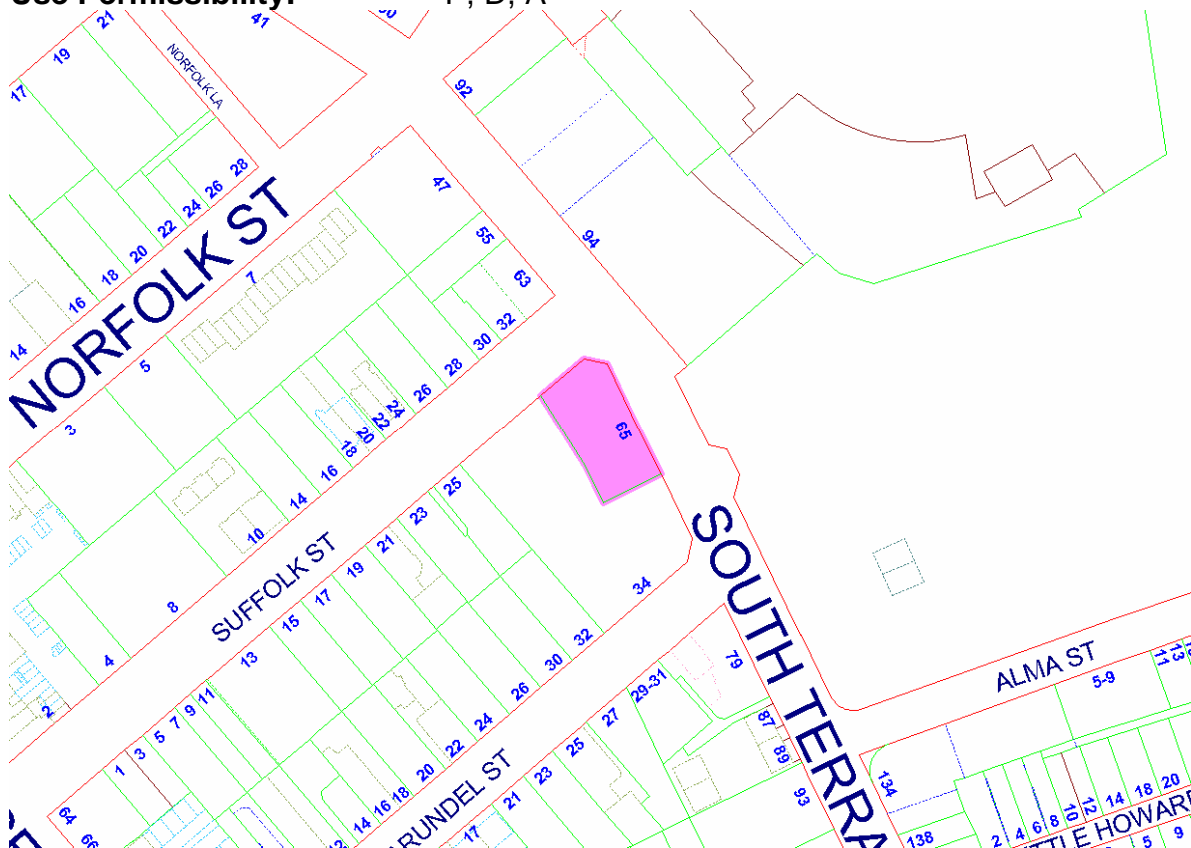
Nil.

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

PSC1006-98 SOUTH TERRACE NO. 65 (LOT 12) FREMANTLE - THREE STOREY MIXED USE DEVELOPMENT - (BC DA0108/10)

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
Attachment 1: Development Plans
Attachment 2: Traffic Impact Report – October 2008
Attachment 3: City’s consulting traffic engineer comments
Attachment 4: Heritage Advice concerning limestone features
Date Received: 4 March 2010
Owner Name: Auzcorp Medical Services of Australia Pty Ltd
Submitted by: As above
Scheme: Mixed Use / R35
Heritage Listing: Limestone Features
Existing Landuse: Vacant Land
Use Class: Medical Centre, Hospital, 4 Multiple Dwellings
Use Permissibility: P, D, A



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as submissions have been received which outline concerns that cannot be addressed via conditions of approval.

The application is for a three storey Mixed Use development at No. 65 South Terrace, Fremantle. The proposed development comprises of Medical Centre and Hospital uses for the first and second storeys and 4 Multiple Dwellings on the third storey. Vehicle parking is provided mainly in the basement level with access to the site gained via Suffolk Street.

The proposed land uses are considered suitable for the Mixed Use zone. The proposed building does not comply with the building height requirements of Schedule 12 for the Mixed Use zone within Sub Area 4.3.1 of the South Fremantle Local Planning Area, as prescribed in Local Planning Scheme No. 4 (LPS4). However the development is considered to satisfy the criteria listed under clause 5.8.1 of LPS4 where Council may vary the maximum height requirements and thus the proposed height is supported.

The provided on-site vehicle parking complies with the requirements of LPS4 with the exception of bicycle parking. It is recommended that an appropriate condition of approval be included to address this area of non-compliance.

The traffic impact statement recommends the removal of the median strip public car bays located in Suffolk Street to provide for unrestricted vehicle access entering and exiting the proposed building. Three on-street car bays are able to be provided within close proximity of the site along Suffolk Street to compensate for the loss of the median strip parking. It is recommended that an appropriate condition of approval be included requiring these road modifications to be made prior to the occupation of the development and at the applicant's expense. Overall the proposed development is considered to have an acceptable level of impact on the current transport network, road users and other properties in the vicinity.

Overall the proposed development is considered to satisfy the relevant requirements of LPS4, the Residential Design Codes and local planning policy, *D.G.F29 Suffolk Street to South Street Local Area Policy*. Accordingly the application is recommended for approval, subject to appropriate conditions.

BACKGROUND

Site Description

The subject site is located on the southern corner of South Terrace and Suffolk Street, Fremantle. The site has a roughly rectangular shape, a frontage of about 44 metres to South Terrace to the east, a frontage of about 21 metres to Suffolk Street to the north, and an area of about 1 169 square metres.

The site is zoned Mixed Use and is located within Local Planning Area 4 – South Fremantle, specifically within Sub Area 4.3.1 under the provisions of the City's Local Planning Scheme No. 4 (LPS4).

The property is listed on the City's Heritage List and is identified as having 'limestone features' as described on the Municipal Heritage Inventory (MHI).

Planning History

The subject site has a detailed planning history, which is briefly outlined below.

7 May 2001 – Development Assessments Committee (DAC) refused an application for a three storey backpacker's hostel with basement car park.

22 March 2004 – DAC deferred consideration of an application for a four storey building with basement comprising a private hospital, consulting rooms and four dwellings

April 2004 – appeal lodged with the Town Planning Appeal Tribunal (TPAT).

31 May 2004 – Council refused an application for four storey building with basement comprising a private hospital, consulting rooms and four dwellings.

19 July 2004 – Council resolved to advise the TPAT that it would support a mixed use development as a three storey building with basement, comprising private day care hospital, medical consulting rooms, pharmacy and up to four dwellings.

September 2004 – TPAT issued minute of consent orders approving a mixed use development as a three storey building with basement, comprising private day care hospital, medical consulting rooms, pharmacy and up to four dwellings.

20 December 2006 – Council did not support an application for an extension of time for the approval.

January 2007 – application for review lodged with the State Administrative Tribunal (SAT).

8 March 2007 – Local Planning Scheme No. 4 gazetted.

22 August 2007 – 12 month extension granted by consent of parties through SAT.

5 November 2008 – Council refused application for four storey mixed use (Medical Centre, Hospital, 4 Dwellings) (DA143/08, PSC0811-295).

7 December 2009 – State Administrative Tribunal (SAT) dismissed application for review. Refer *Auzcorp v City of Fremantle* [2009] WASAT 241.

DETAILS

Planning Approval is sought for a three storey Mixed Use development at No. 65 South Terrace, Fremantle. The proposed development consists of:

- Basement level car parking for 37 car bays (Hospital and Medical Centre), ambulance pick-up bay, transformer room and medical gases storage.
- Ground floor level car parking for 8 car bays (Multiple Dwellings), 3 consulting rooms (Medical Centre), lobby, lift well, conveniences and stair wells.
- First floor level for 2 consulting rooms (Medical Centre), day surgery with 16 beds (Hospital), lift well and stair access.
- Second floor level for 4 apartments (Multiple Dwellings), plant and equipment compound, lift well and stair access.

The development proposes vehicular access from Suffolk Street, provided by a crossover each to the basement parking level and ground floor parking.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4)

Land Uses

The subject site is zoned Mixed Use. The proposed land uses are:

- Multiple Dwelling, an 'A' use within the zone meaning the *'use is not permitted unless the Council has exercised its discretion by granting planning approval'*,
- Medical Centre, a 'P' use within the zone meaning the *'use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme'*,
- Hospital, a 'D' use within the zone meaning the *'use is not permitted unless the Council has exercised its discretion by granting planning approval.'*

Building Height Requirements

The subject site is located within Local Planning Area 4 – South Fremantle, specifically Sub Area 4.3.1, as detailed in Schedule 12 of LPS4. Clause 4.1 of Schedule 12 of LPS4 prescribes a maximum external wall height of 7 metres for land zoned Mixed Use in the LPA.

The development proposes external wall heights of:

- South Terrace elevation (north east) – 11.0m,
- Arundel apartments elevation (south east) – 11.3m,
- Corner of South Terrace and Suffolk Street elevation – 10.6m,
- Car park elevation (south west) – 10.5m (setback from edge),
- Suffolk Street elevation (north west) – 11.6m.

The development proposes external wall heights that exceed the development standards of Schedule 12 of LPS4. Clause 5.8.1 provides Council with the discretion to vary the site and development standards and requirements.

Vehicle Parking

Clause 5.7.1 and 'Table 3 – Vehicle Parking' of LPS4 outlines the required on-site car parking for the development.

The required and proposed on-site vehicle parking for the development is detailed in the table below:

Land Use	Required Car Bays	Provided Car Bays	Required Delivery Bays	Provided Delivery Bays	Required Bicycle Racks	Provided Bicycle Racks
4 Multiple Dwellings	8	8	n/a	n/a	1	0
Medical Centre – 5 consulting rooms	5 x 5 = 25	25	1	1	8	0
Hospital – 16 beds and 12 staff	16 / 3 = 6 12 / 2 = 6	12	n/a	n/a	2	0
Total	45	45	1	1	11	Condition

The provided on-site vehicle parking complies with the requirements of the Scheme with the exception of bicycle parking. It is recommended that a condition of approval be included requiring the provision of 11 bicycle racks in accordance with the Scheme requirements.

Residential Design Codes 2008 (R-Codes)

The proposed residential (Multiple Dwelling) component of the development is consistent with the acceptable development criteria of the R-Codes with the exception of boundary setbacks and visual privacy. These elements of the proposal have been assessed against the relevant performance criteria of the R-Codes.

Local Planning Policy

D.G.F29 Suffolk Street to South Street Local Area Policy

It should be noted that large portions of this policy refer to provisions contained within the City's former Scheme, Town Planning Scheme No. 3 (TPS3), which have been deleted or significantly altered by the gazettal of LPS4. The portions of DGF29 that refer to land use and car parking are no longer applicable as they are provided for within LPS4. However the objectives of the policy are still relevant as are some of the specific design requirements relating to streetscape.

The relevant objectives of the policy are to:

1. *Ensure that development in or adjoining the policy area contributes to the preservation and enhancement of the cultural heritage of the area. This includes defining the residential core (area A) and mixed use/commercial areas (areas B and C) and preserving the traditional building forms and streetscapes.*
3. *Endeavour to meet the amenity expectations of residents concerning the quality of their environment including its pleasantness, character, beauty, harmony in the exterior design of buildings, privacy, preservation of views and security, noise and traffic movement (note this definition is based on TPS3).*

3.0 – Development Guidelines

Development should contribute to the traditional streetscape and amenity including:

- *orientation of openings, awnings, verandahs and balconies to street frontages;*
- *consistency in wall heights, roof pitches, building materials and colours;*
- *minimisation of overshadowing and overlooking of adjacent residential developments; and*
- *passive solar orientation and energy efficient building design principles.*

Discussion on these policy implications is contained within the 'Planning Comment' section of this report.

Encroachment into Airspace over Road Reserves

The development proposes awnings on the ground floor that encroach into airspace over the road reserve of South Terrace. The *Local Government (Miscellaneous Provisions) Act 1960* (LGA 1960) and the *Local Government (Uniform Local Provisions) Regulations 1996* permit development on, over and under public thoroughfares, subject to the applicant indemnifying local government of any liability. Additionally, Landgate (previously DOLA and DLI) has advised local governments through a Government Land Bulletin issued in July 2001, that approvals should not be given pursuant to the LGA 1960 or the *Local Government Act 1995* to encroachments over Crown land without the developer being required to also seek consent from the Minister for Lands and appropriate tenure under the Land Administration Act. When giving approval for building encroachments, local governments are required to advise applicants of the need to obtain Landgate's consent. Appropriate advice notes have been included in the officer recommendation addressing the encroachment of the proposed awnings as per these requirements.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and *LPP1.3 Public Notification of Planning Proposals*. The proposed development is regarded as a 'significant application' under the policy as the proposal involves a significant exercise of discretion in terms of the building height requirement of the Scheme and the proposal is considered to have significant strategic planning impacts in terms of the scale of development.

Community consultation was undertaken in the form of:

- Letters of notification to surrounding land owners/occupiers within a 100m radius of the subject site.
- Advertisement notice in the "Fremantle Herald" for two consecutive weeks - 10 & 17 April 2010.
- A sign displayed on the development site.
- Advertisement notice on the City of Fremantle website.
- South Fremantle Precinct Group notification.
- Community information session held on 15 April 2010 between 6.00pm and 8.00pm.

The application was advertised for a total of 6 weeks including an additional 2 weeks due to the advertising period including the Easter holiday period. At the conclusion of the advertising period, being 19 May 2010, the City had received 16 submissions as shown below.

Support / No objection	Support / No objection with comments	Objection	Total
1	5	10	16

The following comments were noted from the submissions expressing support or no objection with the proposal:

- Request that the external surfaces of the southern and western boundary walls be of a satisfactory visual appearance.
- Request that a notification be placed on the title of the Multiple Dwellings at 65 South Tce advising that future redevelopment of the Arundel Apartments site may hinder the views to the south and west from the third floor balconies.
- Expressed support for more quality buildings to improve the streetscape and amenity of South Tce.
- Commented that the proposed design is '*thoughtfully drawn with appropriate scale*', that the development will improve the amenity of the area and provide important medical facilities for the community.
- Suggestion that vehicles be prohibited from turning right from South Tce into Suffolk St to reduce Suffolk St being used as a 'slip road' to Marine Tce.

Of the submissions received that objected to the proposal, the following issues were raised:

- *Height* – The proposal does not comply with the height requirements of LPS4 and does not satisfy the criteria under clause 5.8.1 where Council may vary the height requirements of the Scheme. The proposed height and bulk will negatively impact on the amenity of the area, does not graduate the scale of buildings in the locality and does not conserve the cultural heritage values of the area.

- *Traffic and Parking* – Concern that the proposed development will negatively impact on the amenity of Suffolk St due to an increase in traffic volumes and greater demand on public parking. Concern was expressed at the removal of the two median island public car bays to facilitate entrance to the proposed parking from Suffolk Street.
- *Design* – Concern that the proposal does not respect the streetscape and the design ‘imitates’ traditional styles rather than ‘incorporating’ such style.
- *Use* – Concern that the Multiple Dwellings may be used for short stay accommodation.
- *SAT decision regarding the previous application* – A number of submissions referred to the comments made by the SAT regarding the previously refused development application, particularly in relation to the issue of building height.

These issues will be addressed within the ‘Planning Comments’ section.

Heritage

The subject site is listed on the City’s Heritage List and MHI for ‘limestone features’. The City sought the specialist heritage advice of Kelsall Binet Architects to clarify the significance of the ‘limestone features’ on the site (see Attachment 4). The advice considers the existing limestone retaining wall on the southern, western and northern boundaries to be ‘*of little significance*’ and thus the conservation of these features is not considered necessary.

The City has also had extensive heritage advice concerning the previous development application which is considered relevant to the current proposal, particularly the description of the locality and cultural heritage significance of South Terrace and Suffolk Street. This heritage advice has been used by officers during the assessment of this application.

PLANNING COMMENT

Proposed Land Uses

The proposed Medical Centre, Hospital and Multiple Dwelling land uses are capable of approval under LPS4. The use class ‘Medical Centre’ is a ‘P’ use and as such cannot be refused on the basis of the inappropriateness of the use. The use classes ‘Hospital’ and ‘Multiple Dwelling’ require Council to exercise its discretion in approving the use.

It is considered the Hospital use is appropriate for the site given the close proximity of the site to other health services. The use is consistent with the encouraged land uses within a Mixed Use zone as described in the Scheme.

The Multiple Dwelling land uses are also considered consistent with the desired land uses within the Mixed Use zone, particularly as the uses are located on the upper levels.

Building Height

The development proposes a maximum wall height that exceeds the building height limits for the Mixed Use zone within the South Fremantle LPA as detailed in Schedule 12 of LPS4. Clause 5.8.1 of LPS4 enables Council to vary the height requirements contained within Schedule 12 subject to the development meeting specified criteria.

The precluding sentence that must be addressed when considering an application under clause 5.8.1 is as follows:

'Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 12 ...'

The subject site does not contain buildings that depict a height greater than that specified in Schedule 12. The property adjoining the subject site to the south contains the residential building known as the 'Arundel Apartments' – a building that depicts a height of approximately 27 metres. Therefore the proximity of the subject site to the 27 metre high residential building enables Council to consider a variation to the building height requirements of Schedule 12 of the Scheme.

- (a) *the variation would not be detrimental to the amenity of adjoining property or the locality generally,*

LPS4 defines amenity as:

'Means all those factors which combine to form the character of an area and include the present and likely future amenity.'

As previously discussed, the subject site adjoins the car parking area of Arundel apartments to the west and the communal clothes drying area and grassed area of Arundel apartments to the south. The proposed development is calculated to cast a shadow onto the ground floor, northern facing windows of the Arundel apartments as well as over the communal areas adjoining the southern boundary of the subject site, at midday of the winter solstice. The level of overshadowing is anticipated to present some impact on the amenity of the ground level apartments however it should be noted that the calculated shadow cast is from the two storey southern boundary wall, rather than the third storey due to the provided 3m setback of the third floor from this boundary. Also the existing limestone wall on the southern boundary of the subject site currently casts a shadow that extends over the clothes drying and grassed areas of the Arundel apartments. Given these circumstances it is considered that the anticipated shadow cast by the proposed development represents an acceptable level of impact on the amenity of the adjoining property.

The generous setback of the Arundel apartments from the northern boundary (approximately 12m to the stairwells and 20m to the living areas of the apartments) is considered to assist in reducing the amenity impacts by way of building bulk. Furthermore, whilst the development proposes balconies with views towards the west and south, the potential area of overlooking from these balconies, as measured by the R-Codes, is communal open space (clothes drying and grassed areas) which is not considered a sensitive space in need of protection from overlooking.

Therefore the proposed development is not considered to present a significant impact on the amenity of the adjoining property to the west and south.

The characteristics of South Terrace were analysed in detail during the Tribunal matter concerning the previous application. Alan Kelsall, appearing as an expert witness on behalf of the City, described the character of the western side of South Terrace as defined by two consistent factors. Firstly, all the buildings, with the notable exception of Arundel Apartments, have a zero setback to the street frontage. Secondly the one and a half storey scale of the commercial development on the western side of South Terrace is *'remarkably homogenous and again is an element defining the established characteristic of streetscape.'*

However it should be noted that the consistent one to one and a half storey scale of commercial development is most prominent along South Terrace between Arundel Street and Howard Street, as there exists a number of two storey buildings along South Terrace further south from Howard Street. The Arundel Apartments and the vacant state of the subject site present an obvious divergence from the streetscape described by Mr Kelsall and, given that these two sites are effectively bounded by Arundel Street and Suffolk Street, could be considered as a separate section of the South Terrace streetscape to that between Arundel Street and Howard Street. The single storey heritage listed building at No. 63 South Terrace, north of the subject site, whilst considered a continuation of the streetscape by Mr Kelsall, is physically separated from the traditional commercial development between Arundel Street and Howard Street and visually presents as a 'stand alone' feature within this particular section of the South Terrace streetscape.

The proposed development of No. 65 South Terrace will have a nil setback to the South Terrace footpath which is consistent with the nil setback for other commercial development on the western side of South Terrace. Developing up to the street boundary, as well as providing ground floor entrances and windows to the street, encourages interaction with the street in a manner consistent with the traditional shops and buildings along the western side of South Terrace.

The three storey bulk and scale of the proposed development will present an obvious change from the *'homogenous'* scale of development described by Mr Kelsall, particularly when viewed from the southern approach along South Terrace. It is noted that the Council previously formed the view that the three storey bulk of the previous proposal (with the fourth storey setback from the boundaries) imposed unacceptably on the South Terrace and Suffolk Street streetscape. This view was also argued strongly by the City during the SAT matter, in particular the scale of the building in relation to the established streetscape. However the current proposal has setback the third storey 3m from the southern elevation of the building and has provided a varying setback (2.4m to 4m) of the third storey from the northern elevation. Furthermore the third storey facade of the proposed building has been designed with multiple windows and openings as well as separating the rendered "Fremantle Medical Centre" feature from the facades of the third storey Multiple Dwellings. The development presents a three storey facade to the corner truncation of Suffolk Street and South Terrace however presents as a two storey building (with basement parking) when viewed from further down Suffolk Street due to the setback of the third storey. These design modifications are considered to have improved the development when compared to the previous proposal and are considered to provide articulation and interest to the streetscape appearance of the building.

Whilst it is acknowledged that the southern elevation of the proposed building will view as a blank wall from the southern approach of South Terrace, this appearance is considered, in part, an unfortunate product of the inconsistent and excessive setback of the Arundel apartments. Overall the design of the proposed development, specifically the setback of the third storey from the southern, western and north western boundaries as well as the articulated and apportioned appearance of the South Terrace facade, is not considered to pose a significant adverse impact on the amenity of the locality.

- (b) *degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality,*

The scale of the buildings along the western side of South Terrace is generally one to one and a half storeys in height and built up to the street boundary, as previously discussed. Similarly the scale of the residential buildings along Suffolk Street is also predominantly single to two storeys in height. However the obvious exception to these surrounding heights is the Arundel apartments, which displays an external wall height of approximately 27m (eight storeys) and generous setbacks from South Terrace and Arundel Court.

During the SAT matter regarding the previous four storey application, the City argued that, whilst the four storey height of the proposed development is somewhere between the eight storey height of the Arundel apartments and the single storey height of the building at No. 63 South Tce, the 'scale' of the proposed development was greater and bulkier than the existing scale of development within the locality. It is important to point out that a building's 'scale' is determined not only by the height of external walls but also the bulk, built form, architectural design and setbacks.

The current proposal has reduced the overall height of the development from four storeys to three in comparison to the previous proposal. Additionally the third storey is setback from the southern, western and north western elevations and the north and eastern facing facade displays architectural features that assist in 'breaking up' the appearance of the building. These important design differences are considered to have reduced the 'scale' of the building considerably to a point where the proposed building is compatible with the buildings in the immediate locality, particularly the Arundel apartments adjoining the site. Overall the proposed height of the building is considered to effectively graduate the scale of buildings of varying heights within the locality.

- (c) *conservation of cultural heritage values of buildings on-site and adjoining, and*

There is a group of four State heritage listed residential houses in Suffolk Street (Nos 19, 21, 23 and 25), however the closest of these properties is separated from the subject site by a car park. Therefore these buildings are not considered to be 'adjoining', but rather, are 'adjacent' to the site. The subject site does 'adjoin' No. 63 South Terrace which is included on the City's Heritage List and described as a management category level 2 on the City's MHI. The building at No. 63 South Tce exhibits similar characteristics to the established streetscape of South Terrace, those being a single storey height and nil setback to the South Tce boundary.

The definition of 'conservation' contained in LPS4 identifies the *'provision of an appropriate visual setting'* in relation to the management of a significant place. The proposed development will most likely be visible above and either side of the existing building at No. 63 South Terrace when viewed from locations north of the subject site along South Terrace, particular the intersection of Norfolk Street/Parry Street and South Terrace. During the recent SAT matter, the Tribunal commented that such 'visual framing' is not considered sympathetic to the established consistency of scale. However it should be noted that the building at No. 63 South Terrace is already 'framed' by the Arundel Apartments from this view point and whilst the corner façade element of the proposed building will present a 'dominant' feature of the building, the majority of the third floor northern elevation is setback from the façade of the building, reducing the potential bulk of the building when viewed in context with No. 63 South Terrace. Furthermore the width of Suffolk Street is considered to provide an appropriate distance between the proposed building and the building at No. 63 which is considered to provide a clear visual setting for No. 63 that is sympathetic to the building's traditional use as a corner shop. Therefore, whilst the proposed building will pose some impact on the visual setting of the extant building at No. 63 South Terrace, this impact is not considered to significantly compromise the conservation of the cultural heritage values of the building and the proposed development is thus considered to satisfy this provision of the Scheme.

(d) *any other relevant matter outlined in Council's local planning policies.*

The City's local planning policy, DGF29, encourages development to *'relate to the scale, height, form and mass of the existing buildings.'* Furthermore the policy intends buildings to *'contribute to the traditional streetscape and amenity'*, taking into account factors such as consistent wall heights and building materials.

As previously discussed, the streetscape of South Terrace within close proximity to the subject site is characterised by buildings of one to one and a half storeys in height that are constructed up to the South Terrace boundary, with the notable exception of the Arundel Apartments. The proposed development is to be built up to the South Terrace boundary however presents a wall height greater than the predominant height of the existing buildings along the western side of South Terrace.

The streets of Suffolk Street and Arundel Street effectively provide a periphery for the two lots fronting South Terrace (the subject site and the site of Arundel Apartments) which is considered to separate, to some degree, the place of these sites in the existing streetscape of South Terrace. The visual separation provided by these streets and the relatively modern development of the Arundel Apartments is considered to provide a clear distinction between the traditional and *'remarkably intact'* heritage streetscape of the southern part of South Terrace and the subject site and Arundel Apartments. As such, it is considered that development within this street block may be of a greater height than the predominant height of the existing buildings along South Terrace without necessarily detracting from the broader historic attributes of South Terrace.

The development proposes building materials of brick, rendered brick and glass which are regarded as compatible with the traditional building materials existing within the street and locality. Furthermore the articulated and partially setback third storey element of the South Terrace façade and the use of numerous openings and planter boxes within the facade are considered to provide a visually interesting appearance to the building, that does not detract from the appearance of the existing streetscape.

Overall the proposed development, whilst of a greater height than the predominant height of the existing buildings along South Terrace, is considered to relate positively to the characteristics of the South Terrace streetscape given the subject site's relative separation from the prevailing streetscape and the design of the South Terrace façade. For these reasons, the proposed development is considered to satisfy these relevant matters outlined in DGF29 and thus satisfies paragraph (d) of clause 5.8.1 of LPS4.

Summary of clause 5.8.1 assessment

The subject site is adjacent to a site that depicts a building of a greater height than that prescribed in Schedule 12 of LPS4, that being the Arundel Apartments. The existence of this building enables the Council to vary the maximum height requirements of LPS4 subject to the four criteria discussed above. The proposed development is considered to satisfy these four criteria for the reasons outlined above and therefore it is recommended that the Council grant a variation to the maximum height requirements outlined in LPS4.

Traffic and Parking

The proposed development provides the required on-site vehicle parking as per clause 5.7 of LPS4, with the exception of bicycle parking. It is recommended that an appropriate condition of approval be included requiring eleven bicycle bays to be provided prior to the occupation of the development.

A traffic impact report was prepared for the applicant by Sinclair Knight Metrz in October 2008 for the previous development application for the four storey Mixed Use development DA143/08 (see Attachment 2). Whilst this assessment relates directly to the previous application, the findings and recommendations of the assessment are considered relevant and applicable to the current proposal. It is also important to note that the previous application required 64 bays compared to the 45 bays required for the current proposal, and the previous application proposed an on-site parking shortfall of 3 bays whilst the current proposal complies with the on-site parking requirements of LPS4.

The relevant key findings of the traffic report are as follows:

- *The car parking proposed is considered to be adequate for the site;*
- *The additional traffic estimated to be generated by the development can be adequately catered for on the existing road network; and*
- *There is acceptable pedestrian, cycle and public transport access to the development.*

The traffic assessment considers two scenarios regarding site access. The first scenario, referred to as the “restricted access scenario”, considers traffic movement from the site with the retention of the median strip public parking in Suffolk Street, which enables only left in and left out movement from the site. The second scenario, referred to as the “full access scenario” considers traffic movement from the site with the removal of the median strip parking in Suffolk Street thus allowing left or right turns into and out of the site.

The “full access scenario” is recommended by the traffic report as this scenario presents the lesser number of predicted traffic movements along Suffolk Street by enabling vehicles to exit the site via South Terrace. Furthermore the applicant’s traffic report was reviewed by the City’s consulting traffic engineer as part of the previous application process, who supported the report, stating:

“In my opinion, the parking and traffic impact of the proposed development will be acceptable if the recommendations of the report are implemented.” (See Attachment 3 for the full comments).

Based on the expert analysis provided by the applicant and the City’s consulting traffic engineer, it is considered that the proposed development will have an acceptable level of impact on the current transport network, road users and other properties in the vicinity. The applicant’s report includes a number of recommendations to improve traffic movements and pedestrian safety that can and should be included as planning conditions should Council resolve to approve this application.

Residential Design Codes 2008

The Multiple Dwelling component of the proposed development does not satisfy the acceptable development requirements of the R-Codes in relation to boundary setbacks and visual privacy. A performance assessment has been undertaken for each of these design elements.

Boundary Setbacks

The required and provided setbacks of Units 1, 2 & 3, as determined by Tables 1, 2a and 2b of the R-Codes, are demonstrated in the table below:

Unit No.	Elevation	Required setback	Provided setback
1	Southern	5.0m	3.0m
2	Southern	5.2m	3.0m
2	Western	6.9m	3.0m
3	Western	5.7m	2.5m

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

- Buildings setback from boundaries other than street boundaries so as to:*
- *provide adequate direct sun and ventilation to the building;*
 - *ensure adequate direct sun and ventilation being available to adjoining properties;*
 - *provide adequate direct sun to the building and appurtenant open spaces;*
 - *assist with protection of access to direct sun for adjoining properties;*

- assist in ameliorating the impacts of building bulk on adjoining properties; and
- assist in protecting privacy between adjoining properties.

The proposed setback from the southern boundary of Units 1 and 2 will be adjacent to the drying court area and open grassed communal area of the Arundel apartments. Whilst the overall development will pose a shadow over these areas, the third floor element of the development will not contribute to this shadow due to the provided recess from the lot boundary. As such the proposed setback of the third floor southern elevation is considered to provide for sufficient daylight and ventilation. Furthermore the setback of the third floor is considered to sufficiently reduce possible impacts by way of building bulk on the Arundel apartments. The provided setback of the third floor element is considered to satisfy the performance criteria of the R-Codes in relation to visual privacy, as will be discussed below. Overall the provided setback of the third floor elevation from the southern boundary is considered to meet the performance criteria of the R-Codes regarding boundary setbacks.

As previously mentioned, the western adjoining site is used for car parking for the Arundel apartments. The proposed setback of the western elevations of Units 2 and 3 from the lot boundary is not anticipated to pose any adverse impact on the car parking area, and is therefore considered to satisfy the performance criteria of the R-Codes.

Visual Privacy

The third floor balconies of the proposed Units 1, 2 and 3 are required to be setback 7.5m from the boundaries as per the acceptable development requirements of the R-Codes. The balconies are proposed to be located on the southern and western lot boundaries, thus providing a nil setback.

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

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

The westward area of overlooking from the third floor balconies of proposed Units 2 and 3 is the car parking area of the adjoining property. This area is not an active habitable space and therefore the potential overlooking is not anticipated to impact on the amenity of this property.

The southward area of overlooking from the third floor balconies of proposed Units 1 and 2 is the clothes drying area and communal grassed area of the Arundel apartments. These areas are also not regarded as active habitable spaces under the R-Codes and thus the potential overlooking of these areas is not anticipated to significantly impact on the amenity of this property.

The proposed development is therefore considered to satisfy the performance criteria of the R-Codes in relation to visual privacy.

Submissions

The issues raised during the consultation period that have not been already addressed as part of the planning comments are addressed as follows:

- *Request that the external surfaces of the southern and western boundary walls be of a satisfactory visual appearance.*

An appropriate condition of approval is recommended to address this concern.

- *Request that a notification be placed on the title of the Multiple Dwellings advising that future development of the Arundel Apartments may hinder the views to the south and west from the third floor balconies.*

Any future development of the Arundel Apartments site will be assessed against the relevant planning provisions and in the context of the surrounding properties and locality. It is considered unnecessary to require such a notification for the reasons suggested as the notification would not alter or affect the assessment of any proposal against the relevant planning provisions, and is therefore unlikely to affect the outcome of any such proposal.

- *Suggestion that vehicles be prohibited from turning right from South Tce into Suffolk St to reduce Suffolk St being used as a 'slip road' to Marine Tce.*

The suggestion is considered to relate to existing traffic movement in the area and is not directly related to the current proposal. Nevertheless this suggestion may be considered by the City's Technical Services Department as part of the traffic management of the area.

- *Concern that the Multiple Dwellings may be used for short stay accommodation.*

The use of a premises for a 'Short Stay Dwelling' is governed by the City's LPS4 and associated *Short Stay Accommodation Local Law 2008*. Any future proposal to use the Multiple Dwellings as Short Stay Dwellings would need to comply with these existing provisions.

- *SAT decision regarding the previous application.*

The observations of the SAT have been included in this assessment where appropriate however it is important to remember that the views of the SAT primarily relate to the previous development application for a four storey development of considerably different design to that currently proposed.

Conclusion

The proposed three storey Mixed Use development, comprising of Medical Centre, Hospital and 4 Multiple Dwelling uses, is considered to satisfy the relevant provisions of LPS4, in particular clause 5.8.1 which enables Council to grant a variation to the building height requirements of the Scheme. The development provides the required on-site vehicle parking in accordance with LPS4 provisions and is not anticipated to generate vehicle or pedestrian traffic that will negatively impact on the amenity of the surrounding streets or locality in general. The proposed development is also considered to satisfy the relevant requirements of local planning policy, *D.G.F29 Suffolk Street to South Street Local Area Policy*, and the R-Codes.

Accordingly the application is recommended for approval, subject to appropriate 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 Three Storey Mixed Use Development (Medical Centre, Hospital, 4 Multiple Dwellings) at No. 65 (Lot 12) South Terrace, South Fremantle, subject to the following condition(s):

General Conditions

1. The development hereby permitted shall take place in accordance with the approved plans dated 4 March 2010.

Conditions to be satisfied prior to the commencement of the development

2. Prior to commencement of the development, the vehicle crossovers shown on the development plans dated 4 March 2010, shall be modified to provide a two metre wide pedestrian refuge at the separation between the driveways.
3. Prior to commencement of the development, detailed civil engineered drawings shall be submitted to the City of Fremantle for approval. The civil engineered drawings shall detail the following road modifications to the satisfaction of the City of Fremantle:
 - i. The median island and two on-street car parking bays in Suffolk Street immediately opposite the proposed vehicle entrance points are to be removed and the road reinstated to the satisfaction of the Manager Infrastructure Services.
 - ii. Provision of three (3) replacement public on-street car parking bays along Suffolk Street in front of the redundant crossovers of the Arundel Apartments car park to the satisfaction of the Manager Infrastructure Services.

Conditions to be satisfied prior to occupation of the development

4. Prior to occupation of the development, the road modifications required in condition 3 of this approval shall be completed at the applicant's expense to the satisfaction of the Manager Infrastructure Services.
5. Prior to occupation, on-site parking shall be provided for eleven (11) bicycles and shall be maintained and provided on an on-going basis.
6. Prior to occupation, the external walls of the southern and western elevations shall be of a painted rendered finish to the satisfaction of the Manager Development Services.
7. Prior to occupation of the development, any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the Manager Development Services and at the expense of the applicant.

8. Prior to occupation of the development, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be visible from beyond the boundaries of the development site to the satisfaction of the Manager Development Services.
9. Prior to occupation of the development, rubbish storage shall be provided and screened from public view to the satisfaction of the Manager Development Services.

Conditions requiring ongoing compliance

10. The tandem parking bays located on the basement level shall be designated for the use of Medical Centre shall or for residential use only.
11. All storm water discharge shall be contained and disposed of on-site.
12. The marked ambulance bay shall be designated as a loading bay to serve the purposes of non-emergency patient transfer and goods loading and unloading.

Advisory Notes:

- (i) In accordance with Section 400 of the *Local Government (Miscellaneous Provisions) Act 1960*, approval may be required from the relevant Minister for certain structures erected on or over the road reserve.
- (ii) Regulation 17 of the *Local Government (Uniform Local Provisions) Regulations 1996*, requires that an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, the awning construction, maintenance or use is required to be obtained by those persons constructing anything within the road reserve.

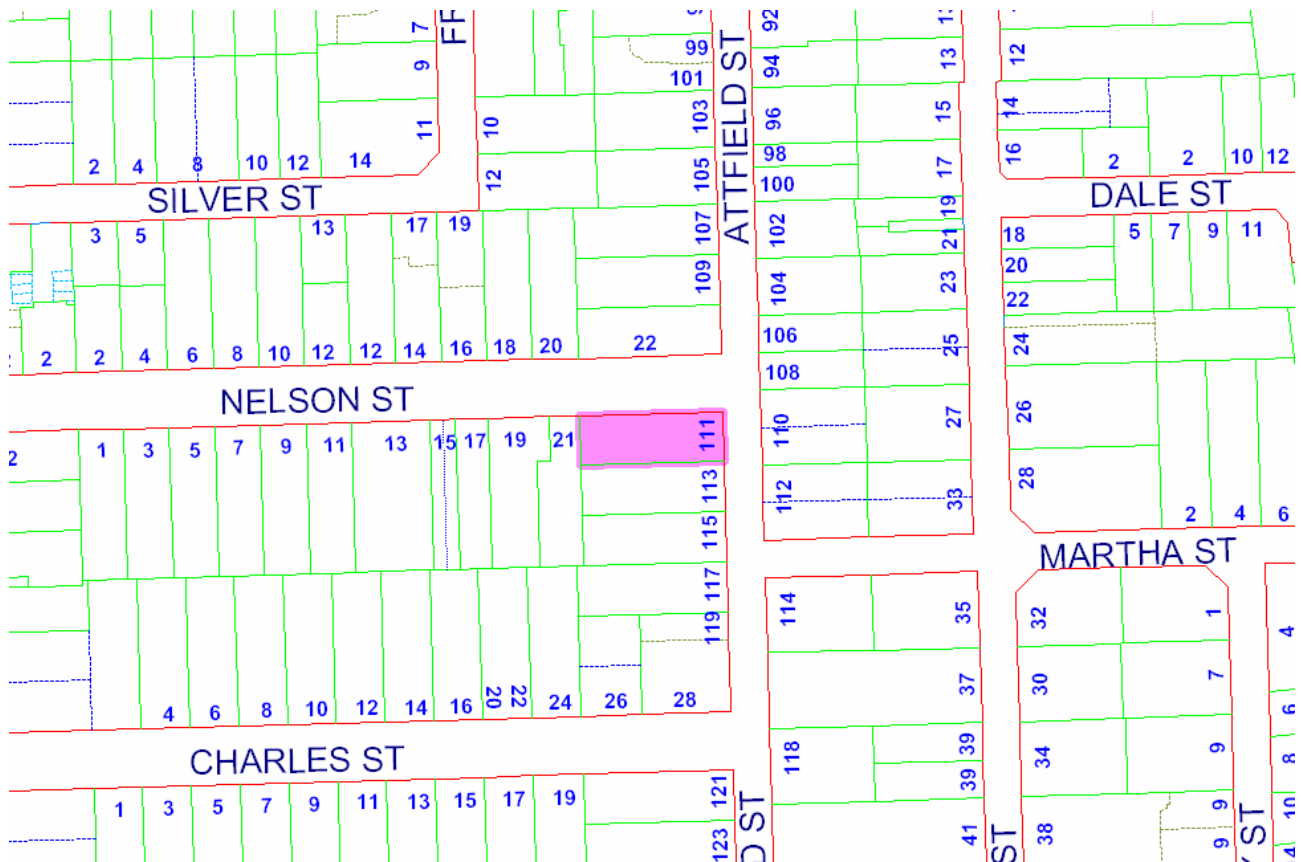
CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

Cr T Grey-Smith vacated the chamber at 7.11 pm.
Cr T Grey-Smith returned to the meeting at 7.13 pm prior to voting on this item.

PSC1006-99 ATTFIELD STREET NO. 111 (LOT 18) SOUTH FREMANTLE - RECONSIDERATION OF DECISION - PROPOSED TWO STOREY DWELLING (AH DA617/08)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachment 1: Revised Development plans (19 May 2010)
Attachment 2: Applicants Justification
Attachment 3: PSC0910-182 Council Minutes of Original Application (14 October 2009)
Date Received: 15 January 2010
Owner Name: John & Megan Ross
Submitted by: Building Corporation Pty Ltd
Scheme: Residential – R30
Heritage Listing: N/A
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The original application seeking Planning Approval to demolish a Single House and construct a two storey Single House at No. 111 Attfield Street, South Fremantle was refused at the Ordinary Meeting of Council on 14 October 2009.

An application for review was lodged with the State Administrative Tribunal (SAT) on 20 November 2009. Pursuant to section 31 (1) of the *State Administrative Tribunal Act 2004* the City was requested to reconsider its previous decision. At the Ordinary Meeting of Full Council held on the 24 February 2010 the Council reaffirmed its previous decision.

Further mediation has since taken place between the City and the applicants through the SAT process and as such additional alterations have been made to the plans. SAT has now ordered that the application again be reconsidered pursuant to section 31 (1) of the *State Administrative Tribunal Act 2004*.

The amended plans have resulted in modifications to the upper floor that have included changes to the location of the main bedroom and ensuite so to reduce the impact of the building bulk facing Nelson Street and the shadow cast to the south. The building height has been reduced by 2 courses (0.172m) along the southern, western and a portion of the northern elevations and the front setback has been reduced by 0.5m to a setback of 5.0m.

The amended proposal is considered to satisfy the Acceptable Development requirements of the Residential Design Codes and is considered to be consistent with the objectives of Local Planning Policy D.G. S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area.

Accordingly it is recommended that Council reconsider its previous decision to refuse the application and subsequently grant approval.

BACKGROUND

The application site is known as No. 111 Attfield Street, South Fremantle and is located on the corner of Nelson and Attfield Streets. The site has an area of approximately 516m², is orientated in an east-west direction and slopes from the street, down towards the rear of the site, by approximately 1.5 metres.

The site is zoned Residential under Local Planning Scheme No. 4 (LPS 4), has a density coding of R30 and is located within the South Fremantle Local Planning Area as described in Schedule 12 of LPS4.

The site is not individually listed on the City's Heritage List and is located within the area bound by Local Planning Policy D.G S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area (D.G. S2).

The surrounding area comprises single and two storey residential dwellings with a mix of older heritage listed cottages, some of which have undergone renovations and newer single and two storey dwellings.

The application was previously presented to Planning Services Committee on the 5th August 2009 and 7 October 2009 where a split vote resulted in the application being referred to Ordinary Meeting of Council on the 14 October 2009.

Council resolved to Refuse the application with a resolution of:

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Single Dwelling at No. 111 (Lot 18) Atfield Street, South Fremantle, for the following reasons:

- 1. The proposal is inconsistent with the City of Fremantle's Local Planning Policy - Design Guide S2: South Terrace, South and Atfield Streets and Lefroy Road Local Area with regard to the existing street setback pattern and scale of the development.*
- 2. The proposal is inconsistent with the City of Fremantle's Local Planning Policy 2.8 – Fences with regard to the fencing proposed along the northern boundary exceeding 1.8m in height.*

On the 20 November 2009 the applicant lodged an Application for Review with the State Administrative Tribunal (SAT) which has resulted in revised plans being prepared through the mediation process.

SAT has ordered that the applicant submit a revised design to the City of Fremantle by the 15 January 2010, with the City being required to consider its decision. At Ordinary Meeting of Full Council on the 24 February 2010, Council resolved to reaffirm its previous decision, being that the application be Refused, and as such the matter was referred back to SAT.

Further mediation has been undertaken with modifications to the proposal and SAT has again ordered that the City reconsider its decision and the revised plans.

DETAILS

The applicant is seeking planning consent for a two storey single house with a double garage, 4 Bedrooms, 3 Bathrooms, Study, Family, Lounge, Dining, Kitchen and Alfresco area.

The applicant lodged revised plans with the City on the 19 May 2010 with the following modifications:

- Front setback has been decreased from 5.5m to 5.0m;
- Inclusion of the visual privacy screen located on the southern elevation of the balcony;
- Redesign of upper level bedroom and ensuite, increasing rear setback to 10.00m; and
- Reduction in the height of the walls along the northern, western and a portion of the southern elevation by two courses (0.172m), reducing the wall height to 5.1m – 5.7m along the northern (Nelson Street) elevation.

The application presented to Council on the 14 October 2009 was compliant with the Acceptable Development provisions of the R-Codes, Codes with exception to Design Element (DE) 6.3.2 – Buildings on the boundary (as replaced by Local Planning Policy 2.4 - Boundary Walls in Residential Development), however was considered to meet the Performance Criteria of DE 6.3.2 and Local Planning Policy 2.4.

These revised plans remain in compliance with the R-Codes with exception to DE 6.3.2 – Buildings on the boundary (as replaced by Local Planning Policy 2.4 - Boundary Walls in Residential Development) however are considered to meet the Performance Criteria of the R-Codes and Local Planning Policy 2.4 – Boundary Walls in Residential Development.

STATUTORY AND POLICY ASSESSMENT

State Administrative Tribunal Act 2004

On 7 May 2010 SAT requested Council to re-consider its decision made in relation to this matter under section 31(1) of the Act. Section 31 of the Act is reproduced below:

31. Tribunal may invite decision-maker to reconsider

- (1) At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision-maker to reconsider the decision.*
- (2) Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may —*
 - (a) affirm the decision;*
 - (b) vary the decision; or*
 - (c) set aside the decision and substitute its new decision.*
- (3) If the decision-maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision*

SAT has ordered that the City reconsider its decision on or before the 2 June 2010.

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 4 – South Fremantle & Sub Area 4.3.4

Local Planning Area 4 (LPA 4) and Sub Area 4.3.4 sets out height controls to be applied within South Fremantle and states:

Despite the general height requirements, development on land zoned residential shall be limited to 2 storeys.

Residential Design Codes (2008)

The development plans have been assessed against the Acceptable Development criteria set out within the R-Codes. The revised plans are considered to satisfy all of the relevant Acceptable Development criteria with exception to DE 6.3.2 – Buildings on boundary (Acceptable Development requirements replaced by LPP 2.4).

The Acceptable Development requirements of DE 6.3.2 – Buildings on boundary is replaced by LPP 2.4 and as such will be assessed against LPP 2.4 under the Council Policies section.

Council Policies

- D.G. S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area; and
- Local Planning Policy 2.4 – Boundary Walls in Residential Development.

CONSULTATION

The application was required to be advertised in accordance with Clause 9.4 of the LPS 4 due to proposed variations to the Acceptable Development provisions of the R-Codes and due to the provisions of Local Planning Policy 2.4. The application was advertised for public comment on the 24 November 2008 and following the submission of amended plans re-advertised on the 17 June 2009. At the conclusion of the advertising periods the City had received submissions from four neighbours.

The following issues were raised:

- Defects in the application;
- Conformity to plans;
- Obstruction of views;
- De-valuing neighbouring property;

- Health reasons;
- Privacy and overlooking;
- Architectural style and character of the proposal;
- Size, height, bulk and scale of proposal in comparison to other dwellings;
- Bulk and reduced setback of garage at street frontage;
- Southern wall setbacks;
- Parapet wall size, bulk and scale; and
- Solar Access and overshadowing.

PLANNING COMMENT

The issues before Planning Services Committee relate to whether the revised plans submitted on the 19 May 2010 are considered to satisfy the previous reasons for refusal.

In this case, the application has been modified to address the elevation facing Nelson Street whilst also further reducing the shadow cast to the property to the south. The revised plans have however reduced the street setback to Attfield Street to 5.0m in lieu of the previous revision where 5.5m was proposed.

Residential Design Codes of W.A. (2008)

The revised plans submitted on the 19 May 2010 have been assessed against the Acceptable Development requirements of the R-Codes and are considered to comply with exception to DE 6.3.2 – Buildings on boundary which will be assessed below under Council Policy.

Council Policies

Design Guide S2: South Terrace, South and Attfield Streets and Lefroy Road Local Area

The original application was refused as it was considered that the street setback and scale of the building would not be in accordance with the provisions of D.G. S2.

Section 4 Scale, Part A states: *To complement the scale of the existing streetscape new houses should be designed to blend in with, rather than dominate, that space. Where larger infill houses are proposed, the building mass should be articulated to complement the massing of surrounding places. Buildings which dominate existing places will be discouraged.*

The issue of building mass and the impact of the proposal on the streetscape was discussed at SAT with a focus on the elevation and presentation of the building to Nelson Street. The applicant has made alterations to the upper level of the dwelling with a focus on reducing the length of the upper floor of the building and reducing the height of the building when viewed from Nelson Street.

The changes made include relocation of the ensuite and walk-in-robe to the main bedroom and a reduction to the overall height of the building by 2 courses (0.172m) for the majority of the dwelling.

This now results in a 10.00m setback from the rear boundary where previously a 7.8m rear setback was proposed and a 5.1m - 5.7m wall height for the majority of the building (Bedroom 3 and associated Bathroom maintain original wall heights of 5.2m – 6.0m).

It is considered that these alterations have reduced the building mass and bulk to Nelson Street and has adequately addressed concerns over the northern elevation of the dwelling. The alterations have also reduced the length of the shadow cast to the adjoining property to the south.

Section 3 New Infill Development, Part D states: *Traditionally houses constructed on corner sites have double frontages with front setbacks compatible with the dominate alignments of the existing houses in both streets, whilst primarily retaining only one street frontage.*

The existing dwelling at No. 111 Attfield Street, as well as dwellings located both to the north and south of No. 111 Attfield Street, have large existing street setbacks, somewhere in the order of 8m. No. 113 Attfield Street, as a recent development in the area, maintains the street setback and is located 7.67m from the street.

These dwellings are located around the Nelson Street intersection and enjoy relatively large street setbacks. As dwellings are located further away from the Nelson Street intersection the built form shows that the street setbacks have been reduced to the point where some dwellings have little or no street setback and are in fact built up to the street.

The established street setback pattern was discussed at length during the SAT process and it was suggested that the street setback pattern should be determined by looking at the wider street and therefore include more than just the adjacent dwellings when determining the street setback pattern. It was therefore concluded that the wider street setback pattern of Attfield Street is relatively close to the street and that these properties around the Nelson Street intersection are in fact an anomaly to the predominant reduced street setbacks seen elsewhere in Attfield Street.

As part of redesigning the dwelling to reduce the impact on the Nelson Street elevation, the street setback to Attfield Street has been reduced by 0.5m. Whilst the setback to Attfield Street has previously been the main consideration of the reasons for refusal of this application, it has been pointed out during the SAT mediation process that the City should be taking into account the wider streetscape of Attfield Street rather than the two dwellings either side in forming its opinion on what is the established street setback.

For this reason it is considered that when viewing the street as a whole a reduction of 0.5m to the street setback would be appropriate and that the advantages of the alterations made to the dwelling outweigh the disadvantage of reducing the street setback by 0.5m.

Given the modifications made to the proposal and taking into consideration the wider street pattern and built form it is considered that the proposal adequately addresses the requirements of Local Planning Policy D.G. S2.

Local Planning Policy 2.4: Boundary Walls in Residential Development

The acceptable development provisions in clause 6.3.2 A2 if 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;*
- b) where the wall is proposed to abut an existing or simultaneously constructed boundary wall of similar or greater dimensions;*
- 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 with a street frontage width (as defined by the Residential Design) 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.*

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 proposal partially meets the replacement Acceptable Development provisions as set out in LPP 2.4 as the boundary wall would mostly be located against the southern adjoining properties garage boundary wall.

The southern adjoining properties boundary wall is setback 8.93m from the street, 5.8m in length and 2.7m high.

The proposed boundary wall would be setback 9.4m from the street, 5.8m in length and 3.1m high.

Accordingly a 0.47m long, 3.1m high section of the proposed boundary wall would extend beyond the length of the southern adjoining properties garage boundary wall and would sit opposite the southern adjoining properties theatre room which has a highlight window facing north.

During the original consultation of the application, the southern adjoining property owner had objected to the proposed boundary wall due to its size, bulk and scale.

The boundary wall would be located adjacent to one-third of the width of the theatre window. The opening is a highlight window and as the opening is to a theatre room it is not considered that the impact of the boundary wall would detrimentally affect the amenity of the adjoining neighbour and as such the proposed boundary wall is considered to meet the Performance Criteria and as such is acceptable.

CONCLUSION

The proposed Two Storey Single Dwelling is considered to comply with LPS 4 with regard to Residential development within the Residential zone.

The application does not to meet the Acceptable Development provisions of the R-Codes in respect to DE 6.3.2 – Buildings on boundary but is considered to meet the Performance Criteria of the R-Codes and LPP 2.4 where applicable.

The proposal has been assessed against D.G. S2 and is taking into consideration the modifications to the design and the wider street pattern and built form of Attfield Street and Nelson Street is considered to comply with the design guidance contained within D.G. S2.

The proposal is therefore recommended for Approval.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That Council, in response to the request by the State Administrative Tribunal to review its decision under Section 31(1) of the State Administrative Tribunal Act 2004, sets aside its previous decision under Section 31(2)(c) of the State Administrative Tribunal Act and substitutes the following decision:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Single Dwelling at No. 111 (Lot 18) Attfield Street, South Fremantle, with the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans dated 19 May 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 wall located along the southern elevation shall be of a clean finish in sand render or face brick, to the satisfaction of the Manager Development Services, City of Fremantle.**

CARRIED: 5/2

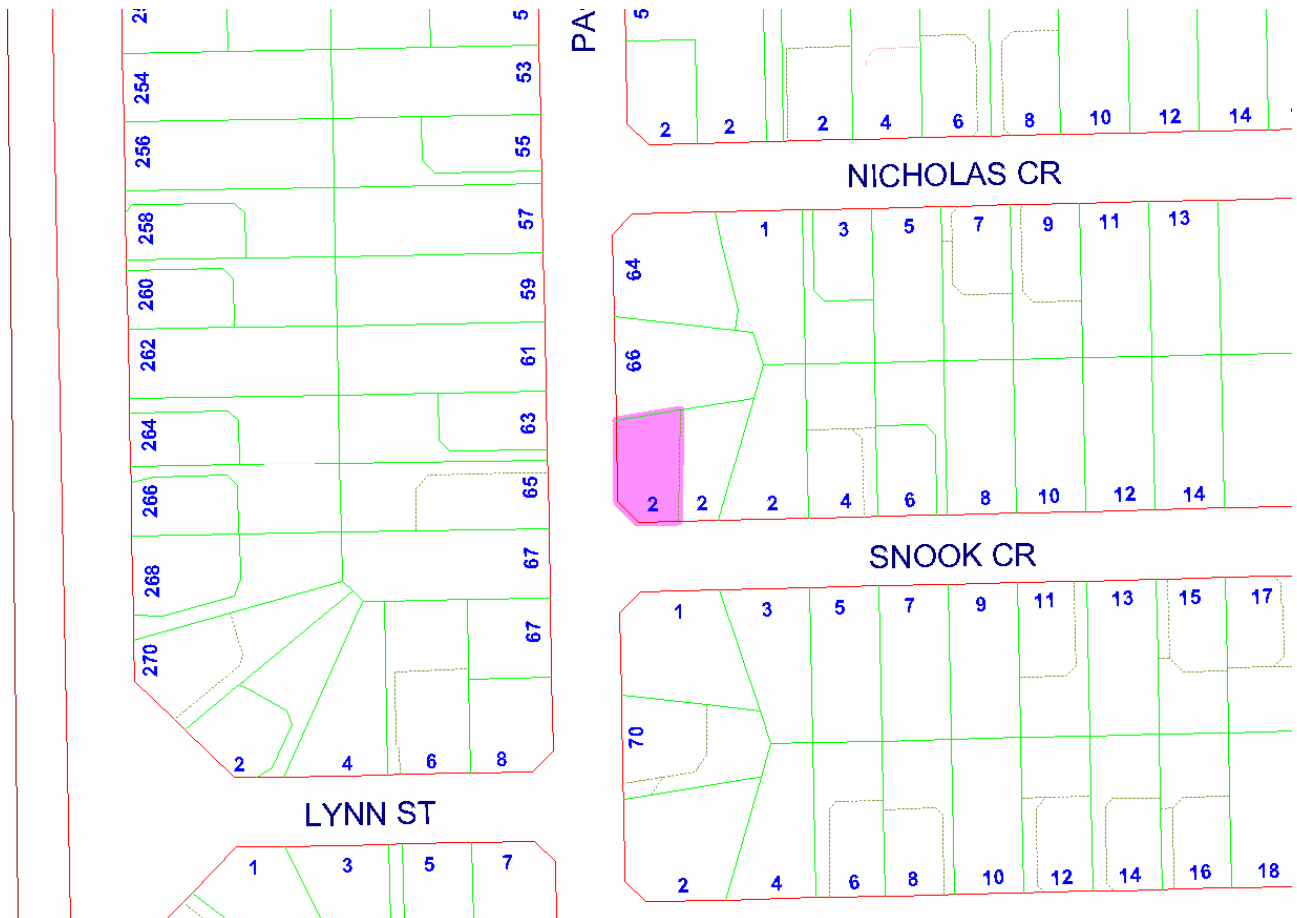
For	Against
Mayor, Brad Pettitt Cr Robert Fittock Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	Cr John Dowson Cr Josh Wilson

Cr John Dowson requested this matter be referred to the Council meeting. There being no other Committee member requesting this, the matter was not referred to the Council.

Mayor, Brad Pettitt vacated the chamber at 7.18 pm.
Mayor, Brad Pettitt returned to the meeting at 7.20 pm.
Cr R Fittock vacated the chamber at 7.21 pm.
Cr R Fittock returned to the meeting at 7.22 pm.

PSC1006-100 SNOOK CRESCENT NO. 2A (STRATA LOT 1 ON LOT 1268) HILTON - SINGLE STOREY SINGLE HOUSE - (BC DA0175/10)

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: PSC1002-39
Attachment 1: Development Plans
Date Received: 7 April 2010
Owner Name: K & A McAuliffe
Submitted by: K & A McAuliffe
Scheme: Residential R20
Heritage Listing: Hilton Heritage Area
Existing Landuse: Vacant Land
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The application is presented before the Planning Services Committee as the development proposes a variation from the design requirements of the City of Fremantle local planning policy, *D.G.H3 Hilton Local Area Planning Policy*.

The applicant is seeking Planning Approval for a single storey Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton.

The proposed development does not comply with the design requirements of the *Hilton Local Area Planning Policy* relating to the roof pitch. The proposed development is therefore considered contrary to the objective to ensure that *'all new residential development is compatible with the character ... of the built environment and streetscape'* and is not considered to enhance the features of the garden suburb.

Accordingly, the application is recommended for refusal.

BACKGROUND

The subject site is approximately 545m² and is located on the north eastern corner of Snook Crescent and Paget Street, Hilton. The site is orientated in a north-south direction and slopes downwards from the front to the rear by approximately 0.5m. The site is currently vacant.

The site is zoned Residential with a density coding of R20 and is located within the Hilton Local Planning Area as described under Local Planning Scheme No. 4 (LPS4). The property is located within the Hilton Heritage Area.

The Western Australian Planning Commission (WAPC) referred an application for a two lot survey strata subdivision of the parent property (68 Paget Street, Hilton) to the City for comment on 5 January 2007 (DA05/07). The City requested that the WAPC defer the subdivision application pending development approval for the demolition of the existing dwelling. Council approved the demolition of the existing dwelling and construction of two grouped dwellings on 13 November 2007 (DA540/07). The WAPC endorsed the two lot survey strata subdivision on 14 July 2008.

Council refused to grant Planning Approval at its meeting on 24 February 2010 for a single storey Single House at the subject site for the following reason:

1. *The proposal is inconsistent with the design requirements of the City of Fremantle Local Planning Policy D.G.H3 Hilton Local Area Planning Policy regarding boundary setbacks, the width of garage doors, the roof pitch and front facing windows. (Refer PSC1002-39)*

DETAILS

Planning Approval is sought for a single storey Single House at No. 2A Snook Crescent, Hilton.

The notable differences between the previously refused proposal (DA0575/09, PSC1002-39) are as follows:

- Single width garage (replacing the previously proposed double width garage);
- Setback of garage from the eastern boundary of 1.5m (replacing the previously proposed eastern boundary wall of the double garage); and
- Street facing windows with a horizontal emphasis (replacing the previously proposed windows that displayed a vertical emphasis).

The current proposal retains the previously proposed roof pitch of 25 degrees which was included as a reason for refusal of the previous application.

The applicant has submitted four statements of 'no objection' to the development proposal from nearby Hilton residents. Two of the residents reside at properties adjoining the subject site whilst two of the residents reside approximately 100m further east along Snook Crescent.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4) and Residential Design Codes (R-Codes)

The proposed development has been assessed against and complies with the relevant requirements of LPS4 and the R-Codes.

Local Planning Policies

The proposed development has been assessed against the local planning policy, *D.G.H3 Hilton Local Area Planning Policy*.

CONSULTATION

The application was not required to be advertised in accordance with Clause 9.4 of the LPS4 or the City's *LPP1.3 – Public Notification of Planning Proposals*.

PLANNING COMMENT

Local Planning Policies

D.G.H3 Hilton Local Planning Area

The guiding principle of the City's local planning policy, *D.G.H3 Hilton Local Planning Area Policy*, is that '*new development should reinforce and complement the garden suburb character and streetscape characteristic of Hilton.*'

The policy requires a minimum roof pitch of 27.5 degrees and a maximum roof pitch of 35 degrees. The proposed single storey Single House proposes a roof pitch of 25 degrees thus not complying with this design requirement of the policy.

The applicant contends that to provide a roof pitch of 27.5 degrees significantly adds to the construction costs of the dwelling and that to add another 2.5 degrees to the roof pitch is '*surely minimal and virtually unnoticeable to the naked eye.*'

The required roof pitch of the policy is to ensure that new development retains sympathetic design elements to those of the original Hilton Garden Suburb dwellings, as referred to in page 1 of the policy. The proposed 25 degree roof pitch is not considered sympathetic to the design and form of the original dwellings and is thus contrary to the objective to ensure that new development is compatible with the character and scale of the built environment.

Therefore the proposed development is not considered to satisfy the objectives of the local planning policy, *D.G.H3 Hilton Local Planning Area*, as the proposed variation will result in a dwelling that is incompatible with the character of the original built environment and streetscape and is not considered to enhance the features of the garden suburb.

CONCLUSION

The proposed development does not meet the design requirement of the City's local planning policy, *D.G.H3 Hilton Local Area Planning Policy*, regarding the roof pitch. Therefore the proposed development is considered contrary to the objective to ensure that '*all new residential development is compatible with the character ... of the built environment and streetscape*' and is not considered to enhance the features of the garden suburb.

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 Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton, as detailed on plans dated 7 April 2010, for the following reason:

1. The proposal is inconsistent with the design requirements of the City of Fremantle Local Planning Policy *D.G.H3 Hilton Local Area Planning Policy* regarding the roof pitch.

LOST: 1/6

For	Against
Cr John Dowson	Mayor, Brad Pettitt Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan

Cr R Fittock MOVED the following alternative recommendation:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Single House at No. 2A (Strata Lot 1 on Lot 1268) Snook Crescent, Hilton, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 7 April 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 of the development, vehicle access shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.

COMMITTEE DECISION

MOVED: Cr J Wilson

That the application be deferred to the next Planning Services Committee meeting so the City administration can prepare a draft recommendation of approval.

CARRIED: 5/2

For	Against
Cr John Dowson Mayor, Brad Pettitt Cr Josh Wilson Cr Tim Grey-Smith Cr Andrew Sullivan	Cr Robert Fittock Cr Bill Massie

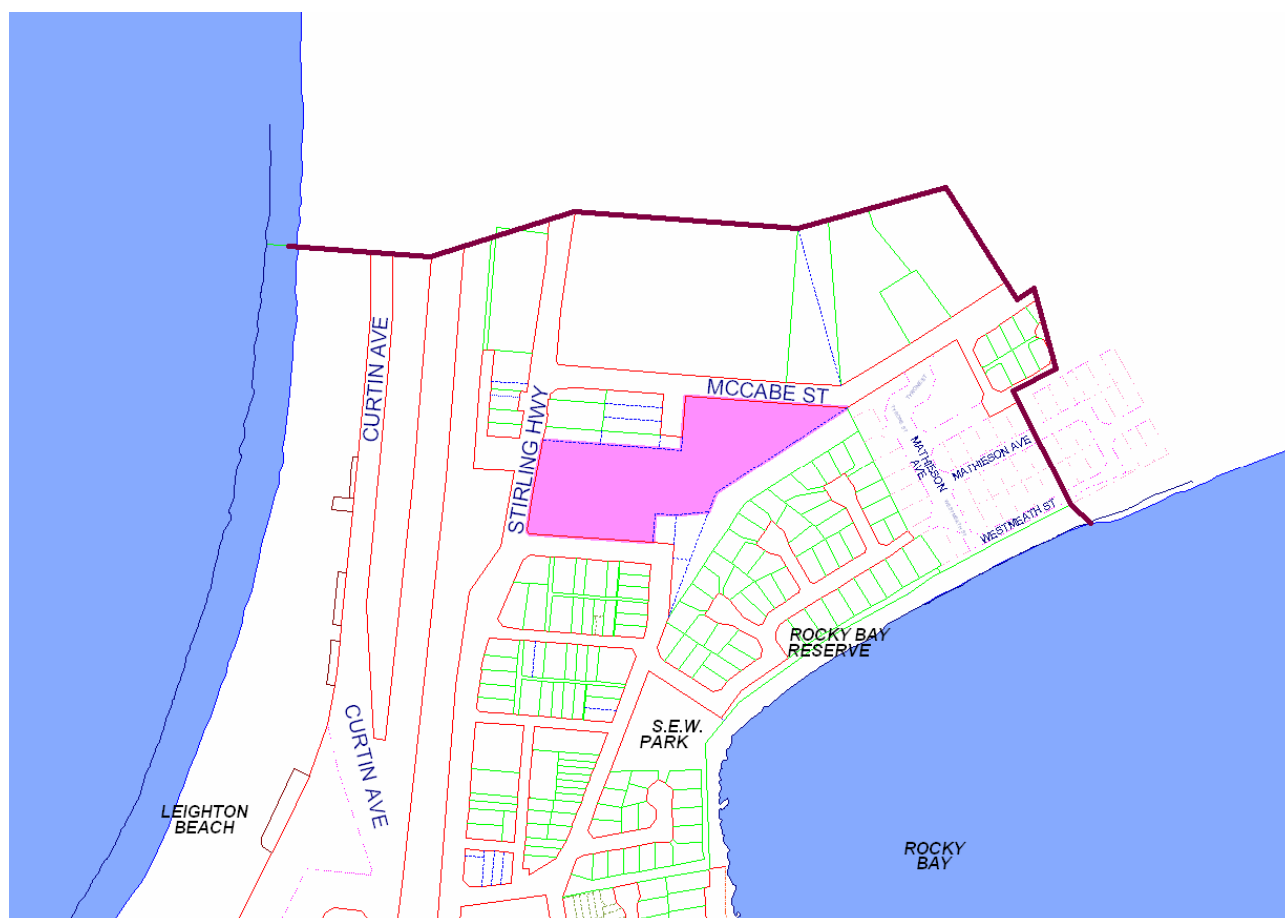
REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION

Committee felt the application could be approved on planning grounds.

Cr B Massie vacated the chamber at 7.48 pm.
 Cr B Massie returned to the meeting at 7.52 pm.
 Cr J Wilson vacated the chamber at 7.50 pm.
 Cr J Wilson returned to the meeting at 7.53 pm.

PSC1006-101 NO.130 STIRLING HIGHWAY (LOT 220), NORTH FREMANTLE - PARTIAL DEMOLITION OF EXISTING WAREHOUSE (JL DA0725/09)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Statutory Planning
Decision Making Level: Planning Service Committee
Attachments 1: Revised Development Plans 6 April 2010
Attachment 2: Heritage Assessment
Attachemnt 3: Applicants Structural Report
Date Received: 22 December 2009
Owner Name: H.L.M Holdings
Submitted by: As Above
Scheme: Industrial
Heritage Listing: Heritage Listed – MHI Level 1B
Existing Landuse: Warehouse
Use Class: Warehouse
Use Permissibility: P



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee as the proposal includes the partial demolition of a Heritage listed building.

The Council is requested to consider an application for Planning Approval for the partial demolition of the Matilda Bay Brewery building located at No.130 Stirling Highway, North Fremantle.

The subject site is listed on the City of Fremantle's (the City) Heritage List and Municipal Heritage Inventory as management category level 1B. Due to the sites Heritage listing a heritage assessment was required to be undertaken in accordance with Council 'L.P.P1.6 – Preparing Heritage Assessments' policy. The heritage assessment supported the proposed demolition apart from the demolition of the 1929 elements of the building.

The application was referred to Heritage Council Western Australia for comment who commented that the proposed demolition to Grid K of the 1929 building would have an adverse impact on the cultural heritage significance of the place due to loss of scale, mass and sense of dominance on Coventry Parade.

The applicant was advised of the heritage concerns and opted to submit revised plans proposing to retain the entire Coventry Parade facade of the 1929 building in order to address the above Heritage concerns.

Additionally, as part of the proposed revised demolition the applicant has also advised the City that they are willing to provide a conservation plan and enter into a legal agreement to protect and undertake conservation works on the retained buildings onsite.

It is recommended that Council indicate 'in principle' support for the proposed partial demolition of the existing building subject to the land owner providing the City with a schedule of conservation works that are to be undertaken on the existing buildings and entering into a legal agreement with Council to protect and conserve the existing heritage significant buildings on site.

BACKGROUND

The subject site is zoned Industrial under LPS4 and is also located within the North Fremantle Local Planning Area. Council is considering Scheme Amendment No.12 relating to this site. Scheme Amendment No.12 proposes the rezoning of the subject site from 'Industrial' to 'Development Area' for greater consistency with the Metropolitan Region Scheme. The site is individually listed on the City of Fremantle's (the City) Heritage List and Municipal Heritage Inventory as having a management category Level 1B.

The subject site is located at 130 Stirling Highway, North Fremantle and is currently occupied by the Matilda Bay Brewery building. The subject site is bound by Coventry Parade to the south, Stirling Highway to the west and McCabe Street to the north.

In order to simplify the existing built form residing on site, the following background is provided:

1929 Building

The Stirling Highway (Primary Street) façade of the building forms part of the original single storey brick and iron administrative wing. This element of the building also included the Coventry Parade factory building which comprises of a steel and timber framed saw toothed roofed open factory, which is clad with corrugated iron and glass. Hidden behind the 1929 Stirling Highway and Coventry Parade factory façade buildings resides a single storey saw toothed roof building.

1947 Building

This element of the building consists of the single storey eastern saw toothed roofed structure which continues east from structural grid Q. Additionally a small fibrous cement clad building on the northern side of site was also constructed during this time.

1989 Additions – to date

In 1989 the entire site underwent modifications and became a brewery. Several internal additions including mezzanine floors and brewing kettles were installed within the 1929 building on site. In the early 1990's several small external building additions were built for operational purposes of the businesses utilising the site. Furthermore in 2001, an extensive additional storage area was built to the back (eastern side) of the 1947 building.

The relevant portions of the building area clearly indicated in Figure 1 below:

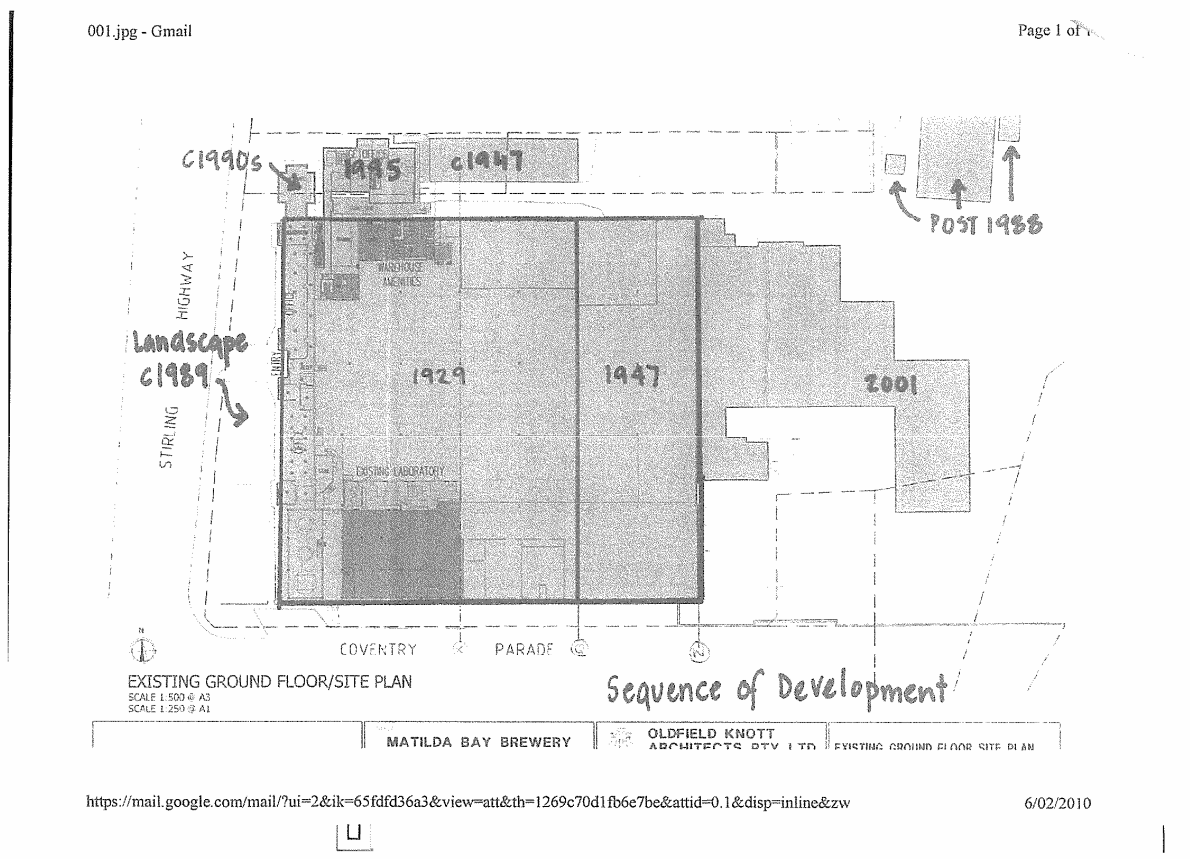


Figure 1

DETAILS

On 22 December 2009, the City received a development application seeking the City’s Planning Approval for the partial demolition of the existing building located on the subject site.

The applicant also submitted as part of the application a structural engineer’s report and external heritage consultant documentation.

The extent of the original proposed development plans can be seen below in figure 1 below. The original proposal was to demolish the majority of the rear of the existing building to ‘Structural Grid K’ which is indicated below in red.

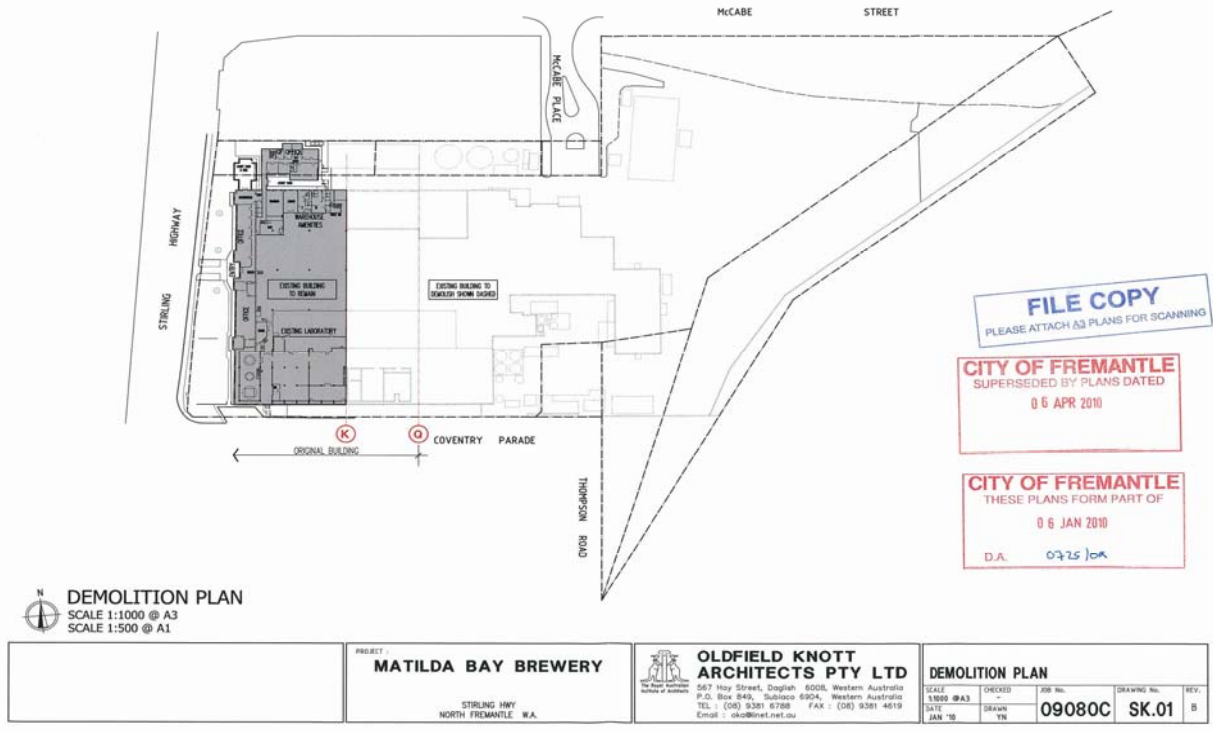


Figure 2

Upon receiving Heritage Council of Western Australia (HCWA) comments and an external heritage consultant’s assessment, the City met with the applicant to discuss issues raised.

On the 6 April 2010 the City received a set of revised demolition plans which propose to retain a larger portion of the existing Coventry Parade building. The applicant now intends to retain two additional structural bays (structural grid N and Q) of the Coventry Parade building, which can be seen in Attachment 1 of this report. It is these revised plans that are the subject of this assessment and are being presented to Council for consideration.

CONSULTATION

Community

The application was required to be advertised in accordance with Council’s *L.P.P1.3 Public Notification of Planning Proposals* policy. The proposal was advertised by way of written notification to adjoining landowners. At the conclusion of the advertising period, being 27 January 2010, the City had received four submissions of which one supported the proposal.

The remaining three submissions all objected to the demolition of the Stirling Highway and Coventry Parade façade elements of the existing building. The proposal does not include the demolition of the Stirling Highway façade and therefore this concern is not relevant to this assessment. However, the concerns relating to the partial demolition of the Coventry Parade façade element of the building will be discussed further in the ‘Planning Comment’ section of this report.

Heritage Assessment

In accordance with Council *L.P.P1.6 – Preparing Heritage Assessments* policy, the City employed the services of an external Heritage Architect to undertake a Heritage Assessment. Please see 'Attachment 2' below for the detailed 'Heritage Assessment' of the property and the application. Further discussion of the heritage concerns highlighted by the Heritage Assessment will be discussed below in the 'Planning Comment' section of this report.

Heritage Council Western Australia (HCWA) Comments

The application relates to a place which is recommended to be included on the Heritage Council of Western Australia's Register of Heritage Places, and therefore was referred to the Heritage Council for comments. HCWA responded on 25 February 2010, with the following comments:

1. *The partial demolition of the Matilda Bay Brewery Company to grid K would have an adverse impact on the cultural heritage significance of the place due to loss of scale, mass and sense of dominance on Coventry Parade.*
2. *In the event that the City of Fremantle were to provide support for the partial demolition of the building to grid K, the proposed use of the rear of the building as a car park is not considered appropriate.*
3. *In the absence of a redevelopment proposal for the building, the City may wish to enter into a Heritage Agreement with the applicant to control the future development of the site. Any redevelopment should be sympathetic to the existing built form in terms of bulk, scale and massing. Comprehensive design guidelines should be prepared to provide the framework for the redevelopment of the site.*

Furthermore, the HCWA also advised the City that if the proposed demolition was to occur to 'Grid K', opportunities for leaving a sense of the structural framework or interpretation on the Coventry Parade elevation to maintain the scale and mass of the original building should be explored.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No.4 (LPS4)

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

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.*

LPS4 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.

Clause 7.5, allows Council to vary LPS4 provisions for a heritage place or heritage area where it is considered desirable to:

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 7.1.1; or*
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1, the Council may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.5.2.*

Council Local Planning Policies

L.P.P3.11 – McCabe Street Area, North Fremantle – Height of New buildings policy

The provisions contained within this local planning policy are only related to building height controls for future residential and non residential development within the area. This application is not proposing any form of new built form and therefore this provisions contained within this policy are not of relevance to the assessment of this application.

PLANNING COMMENT

In assessing this application, the key planning matter that requires Councils consideration is in relation to the proposed partial demolition and the potential adverse impacts which may effect the existing heritage significant building, the Stirling Highway and Coventry Parade streetscapes and the immediate locality of North Fremantle.

The HCWA has advised the City that the original proposed partial demolition of the Matilda Bay Brewery Company to 'Grid K' would result with an adverse impact on the cultural heritage significance of the place, *due to loss of scale, mass and sense of dominance on Coventry Parade.*

A heritage assessment sought by the City relating to this development application, found the site to be of *considerable* aesthetic, historic, social and scientific heritage value. The heritage assessment ultimately found the site to be of *considerable* cultural heritage significance in context of the State. Furthermore, the heritage report agreed with the heritage 'zoning of significance diagram' as provided by the applicant's heritage consultants (Carrick and Wills Architects). The provided 'zoning of significance diagram' of the subject site is provided below in figure 3.

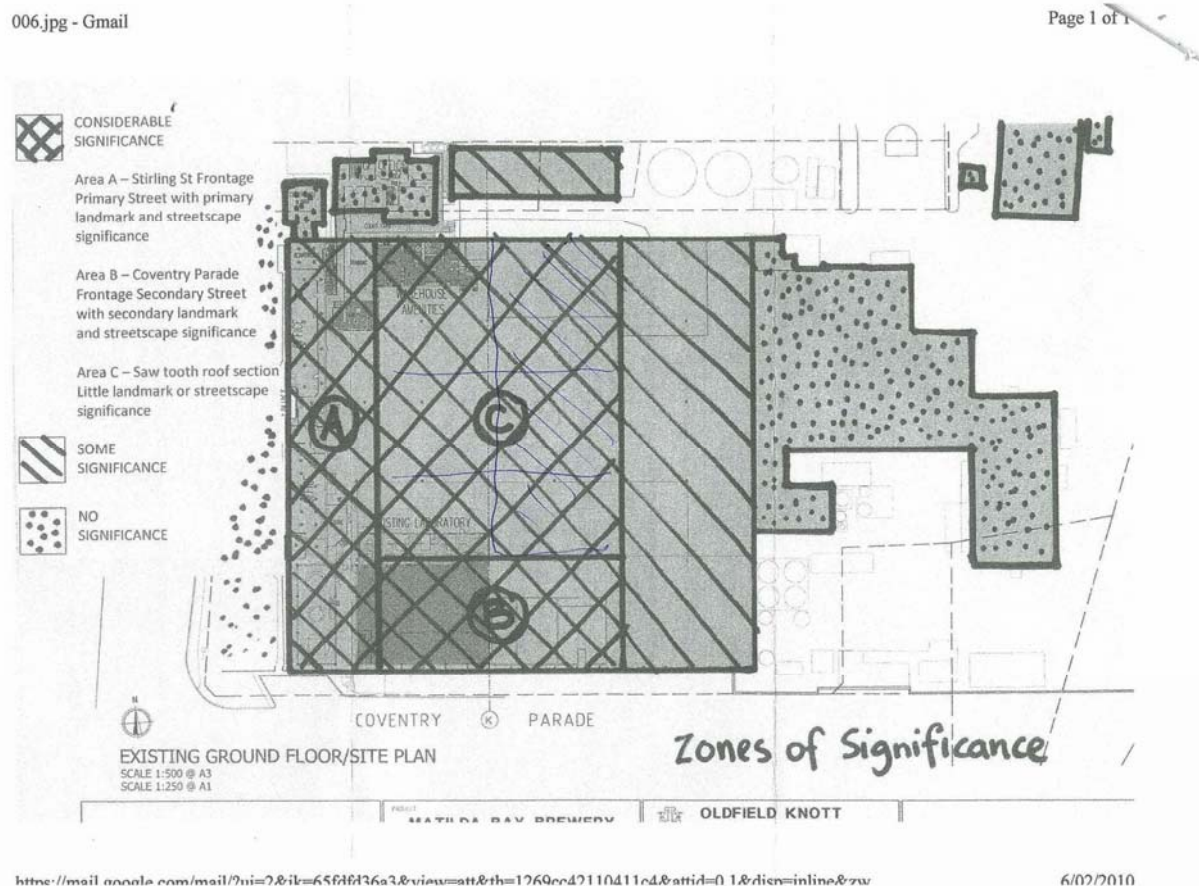


Figure 3

The heritage assessment stated that the portion of building indicated above as the 1947 structure is of 'some' heritage significance and the portions of building constructed after 1947 indicated above as being of 'no' significance. The demolition of these elements is supportable as the removal could be carried out without significant loss of heritage values, whilst not having an adverse impact on the heritage significance of the place.

The key matter raised in the heritage assessment, found the rear single storey saw toothed roofed structure of the 1929 building as being of *considerable* heritage significance and therefore demolition was not supported. This element of the proposed demolition was considered to not only result in loss of cultural heritage significance of the place, but would also reduce the aesthetic values of the place that derive from the sense of scale and proportion experienced of the building. Overall the report found that the removal of this element of the building would reduce the impression of the scale of the building as seen from Coventry Parade.

Upon receipt of this heritage assessment and HCWA advice, the City met with the applicant to discuss the above heritage matter. The applicant amended the original proposal and is now proposing to retain the 1929 Coventry Parade facade. Nevertheless, the proposal still seeks to demolish a portion of the 1929 building recognised as being of *considerable* significance. Therefore the proposal fails to satisfy Clause 5.15 of LPS4. The application is seeking that council exercise discretion under clause 7.5 of LPS4.

Part (a) and (b) of Clause 7.5 of LPS4 states if Council is satisfied that a proposal would facilitate the conservation of a heritage place and would also result in the enhancement or perseveration of heritage values of a heritage area then Council may vary any site or development requirement. Although it is noted that some of the *considerable* significant heritage significance of the building on site would be lost, the elements proposed to be preserved and conserved would not only retain the majority of considerable heritage significance of the place, but would also safeguard the existing scale, mass and sense of dominance the building on site today has on both Stirling highway and Coventry Parade.

LPS4 refers to the *Heritage of Western Australia Act 1990* (HWCA) when defining “*cultural heritage significance*” and “*conservation*”. The HWCA states:

“Cultural heritage significance means, in relation to a place, the relative value which that place has in terms of its aesthetic, historic, scientific, or social significance, for the present community and future generations

‘Conservation means, in relation to any place, the management of that place in a manner that will –

- (a) enable the cultural heritage significance of that place to be retained; and*
- (b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place;*

and may include the preservation, stabilization, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting.’

Ultimately, it is considered that Council needs to be satisfied that the proposal conserves the cultural heritage significance of the place.

It is noted that the restoration and adaptation of the place are factors that contribute to the overall conservation of the heritage significant place. The proposal seeks to retain and restore the majority of the 1929 building, importantly both streetscape facades. The retention of these portions of the building would ultimately help preserve the existing buildings *scale, mass and sense of dominance* on Stirling Highway and Coventry Parade, therefore preserving both streetscapes. Whilst the rear portion of the 1929 building will be lost, these works are regarded to be as an adaptation of the building which arguably will aid in the long term conservation of the place. The applicant argues that current warehouse operations on site are not conducted with ease nor safety. Specifically, the applicant argues that the current floor to roof heights within the single saw tooth roofed element (Area marked as C in figure 3) are one of the main reasons for the application as they have concerns for the current and future forklift use on site if they are to remain.

Furthermore, the applicant has provided a structural engineers report that states the building is, *structurally deficient in that it lacks stability*. Particularly, the structural report states that, *the deficiency has existed since the original construction in 1929, and is a design issue, not relating to aging*. However the engineers report does state that although the building current lacks stability and is deficient, remediation works could be undertaken to rectify the deficient element of the building.

The City considers that the overall intent of this proposal would amount to an appropriate level of conservation of the place. However there are a number of non specific details relating to the application that need to be addressed prior to the City recommending full support to Council.

The applicant has indicated their willingness to enter into a legal agreement with Council, to reassure Council that they will preserve and undertake conservation works to the remaining portions of 1929 building (Stirling Highway and Coventry Parade facades). Additionally, the applicant has also indicated that a Conservation Plan would also be prepared to the satisfaction of the City, to help guide future heritage conservation works on site.

Given the applicant's willingness to enter into a legal agreement and conduct extensive conservation works to the majority of the *considerable* heritage significant elements of the building, and the open communication between officers and the applicant to this point, it is not considered appropriate or necessary to recommend that the application be refused on the basis of loss of heritage significance of the place or the immediate area of Fremantle.

The officer's recommendation has been worded in such a manner that Council can provide the applicant with some clear guidance as to how they may progress the application to a point where planning approval can be granted, whilst agreeing to support in principle. Given that Council has the opportunity to provide clear advice and guidance to the applicant, it is considered appropriate that Council delegate authority to the Chief Executive Officer to determine this application in accordance with the recommended conditions, upon receipt of amended plans and information that satisfy Council's direction. It should also be noted that some additional information has been requested prior to approval in order to satisfy some of the traffic management requirements of LPS4. This information has been requested prior to determination, as compliance with these requirements may result in further modifications to the plans.

OFFICER'S RECOMMENDATION

That Council, in relation to the application for planning approval for partial demolition of the existing building at No. 130 (Lot 220) Stirling Highway, North Fremantle, advise as follows:

- A) That Council is not prepared to grant planning approval to the current proposal and plans dated 6 April 2010.
- B) Invite the applicant to submit an amendment to the current application, incorporating the following changes and additional information:
 - 1) Submission for approval a schedule of conservation works prepared by a suitable qualified conservation professional for the existing building to the satisfaction of Chief Executive Officer of the City of Fremantle.
 - 2) Submission for approval a report from a suitably qualified traffic consultant to the satisfaction of Chief Executive Officer of the City of Fremantle which details the following:
 - a. Service vehicle parking on-street and/or access to the building for rubbish trucks; removalist vehicles; delivery vehicles to the Warehouse.
 - b. Traffic management during any demolition/construction phases of the development.
- C) Invite the applicant to enter into a legal agreement (at the applicant's cost) with Council to protect and conserve the existing heritage significant buildings on site.
- D) Upon receipt and the City of Fremantle's approval of the additional information as stated in 'B' above and entering into a legal agreement, delegate authority to the Chief Executive Officer of the City of Fremantle to determine the application, and impose additional conditions that may arise from the submission of part 'B' and 'C' above, and subject to the following conditions:
 - 1. This approval relates only to the partial demolition of the existing building as indicated on the approved plans dated [date to be inserted]. It does not relate to any other development on this lot.
 - 2. Prior to occupation, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the Chief Executive Officer, City of Fremantle.
 - 3. Prior to commencement a detailed archival record of the building is to be submitted to the satisfaction of the Chief Executive Officer, City of Fremantle in accordance with the Heritage Council of Western Australia's 'Guide to Preparing an Archival record' document.

4. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or rare fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the Chief Executive Officer, City of Fremantle.

5. Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, shall be constructed, drained, and line marked and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.

6. Prior to occupation of the development, vehicle access shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.

COMMITTEE DECISION**MOVED: Cr A Sullivan**

That Council, in relation to the application for planning approval for partial demolition of the existing building at No. 130 (Lot 220) Stirling Highway, North Fremantle, advise as follows:

- A) That Council is not prepared to grant planning approval to the current proposal and plans dated 6 April 2010.
- B) Invite the applicant to submit an amendment to the current application, incorporating the following changes and additional information:
- 1) Submission for approval a schedule of conservation works prepared by a suitable qualified conservation professional for the existing building.
 - 2) Submission for approval a report from a suitably qualified traffic consultant which details the following:
 - a. Service vehicle parking on-street and/or access to the building for rubbish trucks; removalist vehicles; delivery vehicles to the Warehouse.
 - b. Traffic management during any demolition/construction phases of the development.
- C) Invite the applicant to advise as to their preparedness to enter into a legal agreement (at the applicant's cost) with Council to protect and conserve the existing heritage buildings on site and to undertake within a specified period of time the conservation works identified in 'B' above,
- D) Advise the application that Council will be prepared to approve the application provided that the matters outlined in 'B' and 'C' above can be addressed to its satisfaction

Advice to Applicant:

The proposed demolition of a portion of the single storey saw tooth roof section of the 1929 building and its replacement with parking and hardstand areas is not in itself an appropriate conservation outcome. Council would prefer this section of the building to be retained if possible. However, to favourably consider the demolition of this part of the building, Council will need to be satisfied that:

1. the extent of demolition is essential in relation to securing a viable use for the remaining portion of the building; and/or
2. the magnitude of the conservation works that will be carried out to conserve the remaining fabric adequately compensates for this level of demolition.

Council would also prefer that the fabric of the 1947 addition, particularly the Coventry Parade frontage, be retained and incorporated into the proposal. To this end, Council would be prepared to give further consideration to opportunities to include additional commercial development west of the McCabe Place/Thompson Road alignment to achieve this outcome. To this end, Council is also prepared to further consider amending the scheme provisions in relation to the Matilda Bay Brewery Site in such a way as to facilitate a more desirable conservation outcome.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION

The extent of demolition proposed is significant and can only be considered by Council following the preparation of a professionally prepared schedule of conservation works and in the knowledge that an approval will guarantee the complete conservation of the remaining fabric of the building in the longer term.

EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as submissions have been received which outline concerns which cannot be addressed via conditions of approval.

Planning Approval is sought for two storey additions and alterations to the existing Grouped Dwelling at No. 54 Forrest Street, Fremantle.

Council resolved on 24 February 2010 to defer the determination of the application to allow the applicant the opportunity to amend the proposal to address the issues raised in the officer's report. The applicant submitted revised development plans on 9 April 2010.

The revised development proposal is considered to satisfy the relevant requirements of the City's Local Planning Scheme No. 4, Residential Design Codes and local planning policies, *D.B.H1 Urban Design and Streetscape* and *LPP2.4 Boundary Walls in Residential Development*.

Accordingly the application is recommended for approval, subject to appropriate conditions.

BACKGROUND

Scheme Provisions and Previous Development

The subject site is located at No. 54 Forrest Street, Fremantle. The site is zoned Residential with a density coding of R25/R30 and is located within the Fremantle Local Planning Area as prescribed in the City's Local Planning Scheme No. 4. The site is not listed on the City's Heritage List or Municipal Heritage Inventory.

Planning Approval was granted on 15 October 1998 for the construction of a double width, open sided carport at the rear of the dwelling (DA649/98). The carport was setback 0.5m from the northern boundary for a length of 5.6m and setback from the western boundary by 1.7m. The constructed carport is 3.1m high.

Planning Approval was granted for the construction of a single storey addition to the existing dwelling on 7 September 2005 (DA466/05). The development is setback 1.1 – 1.5m from the western boundary.

Planning Approval was granted on 13 October 2006 for an extension to the carport structure at the rear of the existing dwelling (DA565/06). The proposed development extended to the western boundary and proposed a 2.2m high weatherboard wall on the boundary. However, as evidenced by the site photographs in Attachment 2, construction of the carport extension and associated boundary wall did not eventuate. The Planning Approval for this boundary wall has subsequently lapsed and it is worth noting that the City has since adopted local planning policy, *LPP2.4 Boundary Walls in Residential Development*.

General Site and Area Description

The subject site is improved by an existing single storey Grouped Dwelling with rear additions and a double width carport. The site is approximately 303sqm in area. A common property access leg is located to the eastern side of the dwelling providing access to the subject properties' carport and No. 54A Forrest Street which is located to the rear of the site.

The ground level of the subject site is elevated in relation to the adjoining properties. The ground level of the western adjoining property (No. 52 Forrest St) is approximately 0.3 lower than the ground level of the subject site. The ground level of the northern adjoining property (No. 54A Forrest St) is approximately 1m lower than the subject site.

Existing development within close proximity to the subject site is predominantly single storey of different construction eras. The average setback of dwellings along the northern side of Forrest Street is approximately 4m, with the exception of the western adjoining property (No. 52 Forrest St) which is setback approximately 6.5m.

DETAILS

The applicant submitted a development application for two storey additions to a Grouped Dwelling at No. 54 Forrest Street, Fremantle on 2 July 2008. Revised development plans were submitted on three subsequent occasions (17 October 2008, 28 May 2009 and 17 November 2009) attempting to address Officer and submitter concerns.

A report was presented to Council on 24 February 2010 relating to the development plans received on 17 November 2009. The application was recommended for refusal for the following reasons:

1. *The proposal is inconsistent with the requirements of Design Element 6.2.1 of the Residential Design Codes (Variation 1) with respect to the established streetscape pattern.*
2. *The proposal is inconsistent with the City of Fremantle's Planning Policy D.B.H1: Urban Design and Streetscape Guidelines as the two storey additions are considered to dominate the existing dwelling and to negatively impact on the streetscape.*
3. *The proposal is inconsistent with the requirements of Design Element 6.3.2 of the Residential Design Codes (Variation 1) and City of Fremantle's Planning Policy L.P.P2.4: Boundary Walls with respect to the western boundary wall due to the potential impact upon the amenity of the western property.*

Council resolved at its Ordinary Meeting on 24 February 2010 to 'defer the item to the next appropriate Planning Services Committee meeting with delegated authority to determine the application.' The reason for the change to the Officer's Recommendation was 'to allow the applicant the opportunity to modify their proposal to deal with the issues raised, to enable it to be approved.'

The applicant submitted revised development plans on 9 April 2010 making the following amendments to the 17 November 2009 plans:

- Removal of the proposed verandah enclosure to provide for a living room addition – a smaller 0.6m x 2m addition into the verandah space is now proposed.
- Removal of the rear garage boundary wall on the western boundary – the western wall of the garage is now to be setback 1.0m from the boundary.
- A reduction in the second storey floor space resulting in the second floor element being setback 5.3m from the roof ridge line of the original dwelling – increased from 4.7m as previously proposed.
- Modifications to the roof between the original dwelling and the proposed two storey additions.

The applicant has provided supporting justification to accompany the amendments (see Attachment 1) as well as a signed statement of 'no objection' from the eastern adjoining property owner (No. 56 Forrest St).

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4 (LPS4)

The subject site is located within the Fremantle Local Planning Area as described in Schedule 12 of LPS4. The building height requirements for the Residential zone are as per the Residential Design Codes.

Residential Design Codes 2008 (R-Codes)

The proposed development has been assessed against the relevant Acceptable Development criteria contained within the Residential Design Codes for Residential – R25 properties. The proposed development satisfies all the relevant Acceptable Development provisions of the R-Codes with the exception of the following:

- Design Element 6.2 – Streetscape – reduced Primary Street setback,
- Design Element 6.3 – Boundary Setbacks – northern boundary wall, and
- Design Element 6.4 – Open Space – outdoor living area.

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.

Local Planning Policies

D.B.H1 Urban Design and Streetscape Guidelines

The City's local planning policy, *D.B.H1 Urban Design and Streetscape Guidelines* aims to 'conserve and enhance areas of architectural or historic character whilst encouraging harmonious development with the existing authentic character and appearance of the traditional residential areas of Fremantle.'

D.G.F3 Marmion, Forrest, Wood and Montreal Streets Local Area

The property is located within area covered by local planning policy, *D.G.F3: Marmion, Forrest, Wood and Montreal Streets Local Area*. This policy is primarily concerned with the encouragement of new dwellings being constructed along the right of way that runs through the block. The subject site has frontage onto Forrest Street and therefore the provisions in this policy are not of relevance.

CONSULTATION

The development application has been advertised to adjoining owners and occupiers on three occasions (July 2008, November 2008 and June 2009). The revised plans received on 9 April 2010 were not readvertised as the revised proposal has reduced the number of discretionary decisions required of the Council and does not propose any additional variations. The issues raised during the submission periods are as follows:

Height

The proposed second storey addition will tower over the submitter's property.

Noise

Construction noise will impact amenity.

Parking

Increase in car parking demand along Forrest Street.

Boundary Wall

One submitter objects to the western boundary wall being located only 1m from the submitter's house due to impacts upon natural light, ventilation, quality of enjoyment. The submitter notes that the original plan showed the garage wall about a metre from the boundary which the submitter finds more acceptable.

Visual Privacy

It is noted by the submitter that the windows have raised sill levels so will retain the privacy to the adjoining site, however the submitter also requests that the stairwell window be frosted to maintain privacy.

PLANNING COMMENT

As outlined above, the proposed development requires performance based assessments against the Residential Design Codes relating to streetscape, boundary setbacks and outdoor living space.

Streetscape

6.2.1 Setback of buildings generally

The existing dwelling is setback 4.35m to the front wall of the dwelling from Forrest Street. The development proposes to 'fill in' part of the front verandah for living room and bedroom additions which will reduce the front setback to 3.75m. The proposed additions will be constructed under the roof space of the front verandah, which is setback 2.25m from the street. It is noted that the measurement of the street setback of buildings under this provision is to the wall of the building rather than the verandah posts.

The Acceptable Development provisions of the R-Codes require buildings to be setback 6m from the Primary Street however it should be noted that the existing building is setback 4.35m from the street.

The Performance Criteria relating to street setback distances states:

Building setback from street boundaries an appropriate distance to ensure they:

- *Contribute to the desired streetscape*
- *Provide adequate privacy and open space for dwellings; and*
- *Allow safety clearances for easements for essential service corridors.*

The proposed additions are considered relatively minor in scale and will be contained within the foot print of the existing front verandah. The additions will not alter the roof form (as the previous front additions proposed to do) and will provide clear surveillance of the street from these habitable rooms. As such the proposed additions are considered to contribute to the desired streetscape and will provide adequate privacy and open space for the dwelling. The proposed additions will not impede on any easements for essential services.

Accordingly the proposed additions are considered to satisfy the performance criteria of the R-Codes regarding the setback of buildings generally.

Boundary Setbacks

6.3.2 Buildings on boundary

The City's *Boundary Walls in Residential Development Policy* provides alternative Acceptable Development standards to those contained within Element 6.3 of the R-Codes. The proposed northern boundary wall does not meet replacement standards (a) through to (d).

In applying the Performance Criteria of the R-Codes regarding buildings on boundaries, the City's policy states:

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

The City received a submission during the consultation periods from the northern adjoining property owner regarding the overall height of the development however the submission did not specifically raise concern with the proposed northern boundary wall.

The Performance Criteria for boundary walls state:

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

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

The boundary wall is associated with the proposed double garage. The existing double carport was granted Planning Approval in 1998 (DA649/98) and is 3.1m high, setback 0.5m from the northern boundary and 1.7m from the western boundary.

The proposed boundary wall is considered to make effective use of the available space on the site and enhance the amenity of the development through removing any redundant setback areas adjacent to the boundary.

Northern boundary wall

The proposed northern boundary wall measures 8.1m long and 2.6m high as measured from the ground level of the subject site.

The northern adjoining property (No. 54A Forrest Street) is of lower topography than the subject site (approximately 1m less). There exists a dividing fence along this common boundary approximately 1.6m high. The proposed garage wall is to be adjacent to the existing car parking area on this site and due to the site orientation and the boundary wall being up to the northern boundary little impact upon solar access is anticipated. It is acknowledged that the proposed northern boundary wall will pose some visual impact on the adjoining property by way of building bulk, an impact that is exacerbated by the difference in ground levels. However, given that the wall will not restrict light or ventilation, pose any shadow and is adjacent to the car parking area, the overall impact on the amenity of the adjoining property is considered acceptable.

The submissions received from the northern adjoining property owner/occupier, whilst raising concern regarding the height and bulk of the two storey addition, have not specifically objected to the proposed boundary wall. The most recent submission from the adjoining property owner/occupier went so far as to state that, *'we have no problems with the proposed development at ground floor level.'*

It is therefore considered that the proposed northern boundary wall poses an acceptable impact on the amenity of the northern adjoining property owner and is therefore considered to satisfy the performance criteria of the R-Codes and the local planning policy, *LPP2.4 Boundary Walls in Residential Development*.

Open Space

6.4.2 Outdoor living areas

The proposed development does not comply with the acceptable development provisions of the R-Codes regarding outdoor living areas, as demonstrated below.

Required	Proposed	Variation
2/3 (20sqm) of outdoor living area to be uncovered	20% (6sqm) of outdoor living area to be uncovered	14sqm

The Performance Criteria for outdoor living area states:

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

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

The proposed alfresco area will be directly accessible from the ground floor dining room. The eastern, uncovered portion of the proposed alfresco area will be open to northern or winter sun however the majority of the alfresco area will be covered by the second floor addition and proposed carport. Nevertheless the proposed alfresco area is considered to take best advantage of the northern aspect of the site given the location of the existing carport and the desire to construct a two storey addition near the rear of the existing dwelling.

Overall, the proposed outdoor living area for the dwelling is considered to satisfy the Performance Criteria of the R-Codes.

Local Planning Policies

D.B.H1 Urban Design and Streetscape Guidelines

The existing dwelling is best described as a traditional single storey Fremantle cottage of weatherboard and iron construction with a bull nose verandah. The original proposed development sought to construct two storey additions above the existing roof form of the dwelling which was considered to overwhelm the original dwelling. The revised development proposal has separated the two storey additions from the existing roof form of the dwelling.

The policy suggests that, if an upper floor extension cannot be contained within the existing roof form, then the two storey addition should be built a '*minimum of 4 metres behind the ridge line, so that its visual impact can be minimised*' (clause 6 (b)). The revised proposal provides a 5.3m separation from the existing roof ridge to the second floor additions and therefore satisfies this provision of the policy.

The proposed two storey additions are considered compatible with the character of the existing dwelling within the streetscape and are therefore considered to be consistent with the requirements of this policy.

Submissions

The concerns outlined within the submissions not addressed above will be assessed below.

Height

The proposed development has an external wall height of 5.8m and a roof ridge height of 7.6m. The Acceptable Development requirements of the R-Codes provide for an external wall height of 6m and a roof ridge height of 9m. The height of the proposed development therefore complies with the height requirements for the local planning area.

Noise

One submitter outlined concerns relating to construction noise. This is not considered to be a planning matter, rather is governed under the *Environmental Protection Act 1997* and administered by the City's Environmental Health Department.

Parking

Two parking bays are to be provided on site which is the required number for Grouped Dwellings under the Residential Design Codes.

Boundary Wall

The proposed northern boundary wall for the proposed carport has been addressed in detail above. The revised plans of 9 April 2010 have relocated the former western boundary wall to now be setback 1.0m from the western boundary, which complies with the acceptable development provisions of the R-Codes.

Visual Privacy

One of the submitters requests that the stairwell window be frosted to maintain privacy. The proposed development satisfies the Acceptable Development criteria contained within the Residential Design Codes for visual privacy. As a stairwell is not a habitable room, the window is not required to be obscured however the revised plans of 9 April 2010 show this window to be obscured.

CONCLUSION

The revised proposal is considered to have addressed the reasons for refusal associated with the previous development proposal. The proposed development is considered to satisfy the relevant provisions of LPS4 and the R-Codes, including performance based assessment regarding the streetscape, northern boundary wall and provision of an outdoor living area. The proposal is also considered to satisfy the City's local planning policies, *D.B.H1 Urban Design and Streetscape* and *LPP2.4 Boundary Walls in Residential Development*.

Accordingly the application is recommended for approval, subject to appropriate 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 Two Storey Additions and Alterations to Grouped Dwelling at No. 54 (Lot 1) Forrest Street, Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans dated 9 April 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 of the development hereby approved, 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, City of Fremantle.**

Advisory Notes:

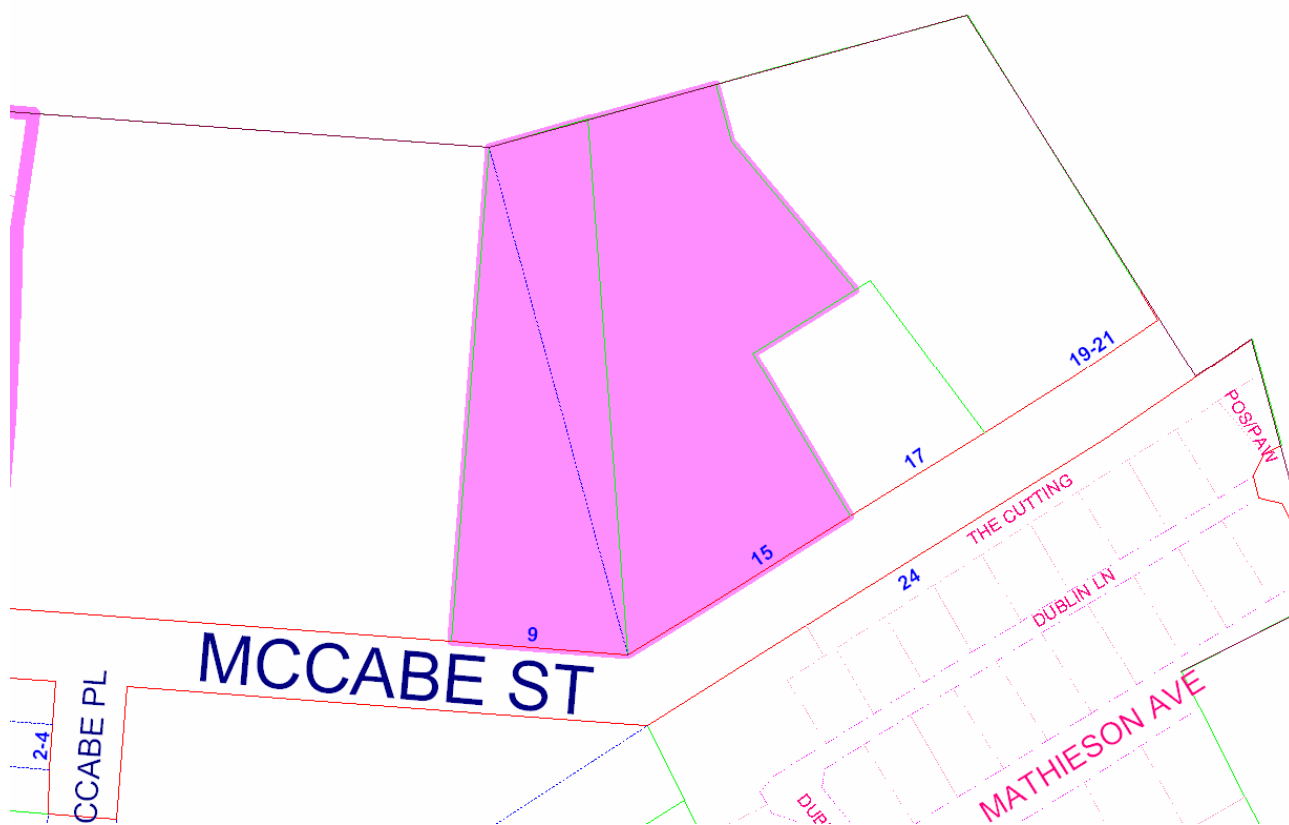
- (i) The applicant is advised that any side boundary fencing or wall behind the front setback greater than 1.8m in height requires Planning Approval.**

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

**PSC1006-102 MCCABE STREET 9-15 (LOTS 318, 326 AND PART LOT 18), NORTH
FREMANTLE – PROPOSED DEVELOPMENT OF 95 MULTIPLE
DWELLINGS AND 8 GROUPED DWELLINGS**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Meeting Date: 2 June 2010
Previous Item Number/s: PSC0711-318
Attachment 1: Approved Structure Plan
Owner Name: McCabe Street Joint Venture
Submitted by: TPG
Scheme: Development Area 18
Heritage Listing: Nil
Existing Landuse: Vacant



EXECUTIVE SUMMARY

The application for Planning Approval is submitted for consideration by the Planning Services Committee due to the variations that are being sought.

A structure plan relating to Lots 315, 326 and part Lot 18 (Nos. 9 -15) McCabe Street, North Fremantle (the Site) which is part of the area zoned as Development Area 18 under Local Planning Scheme No. 4 (LPS4) was approved by the State Administrative Tribunal (SAT) (Refer to Attachment 1). Following on from the SAT decision to approve a modified Structure Plan for the Site, the applicant has submitted a development application for the site. Due to the size of the documents and plans, these have been placed in the Councilor's Lounge room for review.

The proposed development is generally in accordance with the approved Structure Plan. The Structure Plan has determined building heights, density and provided indicative building footprints for the development of the site. However, the applicants are seeking a variation to the wall height levels nominated in the Structure Plan.

The height levels set for the site under the Structure Plan did not restrict the number of storeys, but set maximum wall and roof ridge levels. The change from a pitched roof design concept, to a further storey within the space between the wall and ridge height limits, combined with greater setbacks, results in reduced building bulk within this stratum. Consequently, the reduced impact on views from around the locality through the modified design to the development, which was a key issue in the SAT review process, would meet the general intent of the Structure Plan.

The applicants are also seeking variations to the Residential Design Codes in relation to:

- boundary setbacks;
- privacy;
- landscaping within car parking areas; and
- width of the crossover to McCabe Street.

Having regard to the assessment that has been undertaken, it is recommended that the application be approved subject to the imposition of standard and special conditions of approval.

BACKGROUND

Land at Lots 315, 326 and part Lot 18 (Nos. 9 -15) McCabe Street, North Fremantle (the Site) comprise the former premises of Tasker Sails and Spars (part lot 18, 8036 sq m in area) and vacant former industrial land (lots 315 and 326, totaling 6090 sq m in area) which are located on the north side of McCabe Street.

The northern boundary of the subject land forms part of the boundary between the City of Fremantle and the Town of Mosman Park. Residential lots developed with single dwellings (part of the Buckland Hill estate, within the Town of Mosman Park) are situated immediately to the north of this boundary.

West of the subject land is vacant industrial property at 140 Stirling Highway, formerly occupied by One Steel. On 16 December 2009 Council adopted a new proposal for a structure plan on this site. The plan proposes a series of buildings ranging generally between 3 and 6 storeys in height, with a single 8 storey building proposed at the corner of Stirling Highway and McCabe Street. The use of the buildings would be predominantly residential apartments, with some ground floor commercial uses in the building at the corner of Stirling Highway and McCabe Street. An indicative yield of 233 dwelling units at a density of approximately R80 is stated in the plan.

Commercial/light industrial premises at 17 – 21 McCabe Street are situated to the east of the subject land. These properties are also zoned Development Area 18 but are not the subject of detailed proposals as part of the current structure plan.

The subject land forms part of the Development Area 18 development zone under Local Planning Scheme No. 4 (LPS4). LPS4 contains provisions relating to the preparation of a structure plan prior to the subdivision and development of land in a development area.

A structure plan relating to the land at 9 -15 McCabe Street prepared by consultants acting on behalf of the landowners was submitted to Council in October 2007. On 28 November 2007 Council resolved that the structure plan be advertised in accordance with the requirements of clause 6.2.8 of LPS4, and also resolved:

“That the applicants be advised that Council’s authorisation for the structure plan to be advertised does not imply Council’s support for the development as proposed in the structure plan at this stage. The Council will not form a view on the planning merits of the structure plan until it has had the opportunity to consider any submissions received in response to advertising of the plan, and taken into account other relevant planning considerations” (PSC0711-318).

At the same meeting on 28 November 2007, Council resolved to commission a Height Study of the McCabe Street/Stirling Highway area to assist Council in considering height issues in a coordinated and consistent way when assessing current and likely future development proposals in the area.

The applicants subsequently submitted a request for a Review to SAT of Council’s decision on the basis that the time taken to consider the matter was beyond the timeframe permitted under the LPS4.

The matter was subsequently determined by the SAT on the 3 March 2009 – where a modified Structure Plan was approved by SAT (refer to Attachment 1 for the plan). The SAT approved Structure Plan (the Structure Plan) proposes redevelopment of the site for residential use in the form of grouped and multiple dwellings (townhouses and apartment blocks) at an overall density of up to R80 and a plot ratio of 1:1.5.

The plan showed a notional footprint for a series of buildings as follows:

- Terraced townhouses located close to the northern boundary of the site, nearest to the rear of existing detached houses in the Buckland Hill estate.
- Three apartment blocks in the centre part of the site.
- Two apartment blocks fronting McCabe Street.

A communal private open space area for use by residents of the development only is proposed in the centre of the site. A private internal road system providing access to buildings and occupier and visitor parking spaces is proposed, served by a single access point from McCabe Street.

In its decision, SAT set the following height limits:

2. *The decision of the respondent made on 25 June 2008 that it is not prepared to adopt the structure plan in relation to Lot 315, Lot 326 and Lot 18 McCabe Street, North Fremantle is set aside and a decision is substituted that the 'Alternative Proposed Structure Plan' dated 25 July 2008 is adopted under cl 6.2.9.1 of the City of Fremantle Local Planning Scheme No 4 subject to the following conditions:*
 - (a) *The building in the location referred to as Apartment 1 on the structure plan must not exceed a maximum wall height of 46 metres AHD and a maximum roof height of 50.5 metres AHD.*
 - (b) *The building in the location referred to as Apartment 2 on the structure plan must not exceed a maximum wall height of 47.5 metres AHD and a maximum roof height of 52 metres AHD.*
 - (c) *The building in the location referred to as Apartment 3 on the structure plan must not exceed a maximum wall height of 44.2 metres AHD and a maximum roof height of 49 metres AHD.*
 - (d) *The building in the location referred to as Apartment 4 on the structure plan must not exceed a maximum wall height of 41 metres AHD and a maximum roof height of 45.5 metres AHD.*
 - (e) *The building in the location referred to as Apartment 5 on the structure plan must not exceed a maximum wall height of 43.5 metres AHD and a maximum roof height of 48 metres AHD.*
 - (f) *The building in the location referred to as grouped dwellings on the structure plan must not exceed a maximum wall height of 39.5 metres AHD and a maximum roof height of 42.5 metres AHD.*

DETAILS

The proposed development is for the construction of four multi-storey buildings containing 95 multiple dwellings and one building containing 8 grouped dwellings. A fifth multi-storey dwelling development was proposed as part of the Structure Plan, is not proposed to be constructed as part of this development. A two level communal facility building is proposed to be located in the vicinity of this fifth building. Plans of the proposed development have not been included due to the size of the plans and the consequential loss of detail if the plans were reduced to A4. The supporting documents and the plans have been on display in the Councilor's lounge room.

The location of the proposed buildings are generally in accordance with the building locations shown on the Structure Plan, although the footprints of the building are different based on the detailed design of these buildings.

Access to the site is consistent with the access shown on the Structure Plan. The majority of parking for the proposed development is located beneath the multi-storey buildings with some car parking at grade. All at grade parking is located behind the main buildings that front McCabe Street.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

The subject land is zoned development zone and designated as a special control area – Development Area 18. The purpose of the Development zone (clause 4.2.1(h)) is to *“provide for future residential, industrial, commercial or other uses in accordance with a comprehensive structure plan or detailed area plan prepared in accordance with the provisions of the Scheme”*.

Clause 12.11, Schedule 11 sets out specific provisions for each Development Area. The provisions applying to development Area 18 are:

1. Structure plan is to be adopted to guide subdivision, land use and redevelopment prior to the approval of residential development applications.
2. Investigation of potential site contamination to the satisfaction of DECWP (now DEC).

It should be noted that maximum height controls prescribed in Schedule 12 (Local Planning Area 3 – North Fremantle) do not apply to land zoned as Development zone. These heights have been set in the Structure Plan approved by the SAT.

Local Planning Policies

Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of new buildings was adopted by council on the 22 April 2009. However, the provisions of the Structure Plan apply to this site.

CONSULTATION

Community

The application was advertised for a period of 14 days in accordance with Local Planning Policy LPP 1.3 - Public Notification of Planning Proposals. The advertising was based on variations to the R-Code provisions relating to:

- privacy and setback variations to the western and eastern boundaries; and
- variation to crossover width to McCabe Street.

The submission period closed on the 27 April 2010 and at the close of the submission period, the City had not received any submissions.

PLANNING COMMENT

The Development of the site is subject to the Structure Plan and the provisions of the Residential Design Codes (the Codes).

Structure Plan

The Structure Plan covers the following area:

- Density;
- Plot Ratio;
- Vehicular access;
- Building location; and
- Building Heights.

In relation to the first three dot points, the proposed development is consistent with the Structure Plan as approved by SAT. In relation to building location, the proposed buildings are generally in the location of the indicative building layouts set out in the Structure Plan, however, the footprints of the buildings are different to the shapes. This aspect is discussed further in the section Residential Design Codes

In relation to heights, the approved Structure Plan set limits to the wall and ridge heights of the various building blocks. The intent behind setting these levels was to provide for views through and over the development site from surrounding areas. The plans endorsed by SAT, showed a pitched roof design.

The current plans for the multi-storey dwelling apartment blocks propose another storey to be provided in lieu of the pitched roof. The walls of the main buildings are compliant with the wall heights set out in the Structure Plan and the proposed roof ridges are lower than approved levels by approximately 0.9m to 2.8m. The buildings between the maximum wall and ridge height limits are recessed in from the main walls of the building.

By opting for this design change, the following consequences occur:

- there is a slight reduction in the total number of dwellings;
- removal of one multi-storey building block between the eastern and southern apartment building blocks;
- reduced building bulk at the top of the development; and
- improved view lines through the change in the roof design and loss of one multi-storey building block.

Clause 6.2.3.2 of LPS4 states that “...development within a Development Area is to generally be in accordance with any structure plan that applies to the land.” It is considered that whilst the wall heights of the top most levels do not comply with the wall height, the purpose of the imposition of the structure plan to control building heights to allow for distant views to the ocean over and within the development are met. As such, it is recommended that this variation be supported.

Residential Design Codes

The SAT approved a Structure Plan for the site which amongst other matters, has indicative footprints of buildings proposed for the site. It is the City's view that these are indicative only and would still be subject to the normal assessments under the LPS4 or the Codes.

The applicants are proposing variations to the following design elements of the Codes, which have been identified and substantiated in a separate report, which has been displayed in the Councilor's lounge room. A review of the applicant's submission and assessment of the application has identified the following variations:

Boundary Setbacks

The method by which setbacks are assessed under the Codes a very simplistic as the Codes assumes simple rectangular shaped buildings. In this instance, the assessment of the setbacks to some buildings is made more complicated by their irregular shape and orientation of walls to the boundary.

The setbacks to the proposed South-western apartment block are stepped, i.e. the wider the building becomes the greater the setback from the side boundary. The Western building, although more regular in shape, has three balconies facing west which break up the potential bulk. These design techniques help ameliorate the impact of the development. Having regard to the above, the following assessment is made:

Setback variation – Western Boundary

Location of Variation	Required (m)	Provided (m)	Variation (m)
South-western Apartment			
West Elevation Up to fourth level	13	6 – 11.2	1.8 – 7
West elevation up to fourth level (overall)	15	6 – 21.2	9 to compliant
West elevation Penthouse loft level (fifth level)	24.5	9.2 – 18.8	15.3 to 5.7
Western Apartment			
Western elevation (overall)	12	9.4 – 12.6	2.6 to compliant

The site to the west was previously used for non-residential purposes however, the proposed buildings on the development site are setback from the side boundary so that they would allow adequate ventilation and direct sunlight to the development site as well as to the adjoining non-residential site to the west. Further, there is a minimum of 14m between the two closest points of the two proposed apartment blocks which will help in breaking up the mass of the development as well as providing access to direct sunlight.

The difference in topography (6.5m drop from the subject site to the adjoining western land) will influence the amount of direct sunlight that will penetrate to this portion of any development on the adjoining site at the base of this steep bank between the two sites.

Further, the buildings are staggered in terms of their design, with extensive use of balconies to provide relief to the mass of the development when viewed from the west. These factors contribute to ameliorating the impact of the proposed building bulk.

The shadow from the proposed buildings will not fall onto the adjoining site at midday on the winter solstice due to the north-south orientation of the lot. The adjoining site will be impacted by shadow more during the early morning having regard to the difference in topography and height of the development. However, it is considered that this matter will be taken into account by the designer of the adjoining site when undertaking the detail design of any future development on this site, having regard to the circumstances that exist at that time.

In relation to privacy, the majority of these buildings facing west comply with the Acceptable Development Standards of the Codes relating to privacy apart from the western facing ground level terraces to the South Western apartment block. This is discussed further in the report under the Privacy heading.

Overall, it is considered that the proposed development meets the Performance Criteria of the Codes in relation to proposed western side boundary setbacks for the Western and South-western apartment blocks.

Eastern Boundary Setbacks

Location of Variation	Required Setback (m)	Actual Setback (m)	Variation (m)
Eastern Apartment			
Eastern elevation(Grd to third floor)	10.5	4.8 – 9.8	0.7 - 5.7
South elevation – up to third level (western component)	2.5	1.48	1.02
South elevation – up to third level (eastern component)	2.5	1.48	1.02
South elevation – up to third level (overall)	5.0	2.45	2.55
South elevation – penthouse level (overall)	9	8.4 – 9.4	0.6m to compliant
South Eastern Apartment			
Eastern Elevation - up to fourth level – Southern component	2.5	2.4	0.1
Eastern Elevation - up to fourth level – (overall)	13	3.48	9.52
Eastern elevation – penthouse loft	14.5	8.0 – 8.5	6.5 – 7.0

Variation	Required	Actual	Variation
Townhouse 8			
Northernmost boundary Wall	Boundary walls not higher than 3.5m with an average of 3m – up to two thirds length of boundary	9m long and 6.0m high	Boundary wall height greater than 3.0m

Unlike the site to the west of the development site, the land to the east of the development site is currently being used for industrial uses and there is no Structure Plan in place for the future development of the site.

Boundary walls to Townhouse 8

The two eastern boundary walls for townhouse 8 are proposed to be located against an existing car parking area of the adjoining industrial use. It is considered that there would be no impact on the adjoining car parking area and as such, the variation is supported.

The proposed boundary wall would encourage development against this wall on the adjoining site. This would promote an appropriate transition, like this development, from the likely future multi-storey development of the site to the adjoining single residential development to the north of the site.

If the site is eventually developed for residential purposes, having regard to the length of the boundary, it is considered that any future development on the adjoining site is likely to be orientated north to ensure solar access and adequate ventilation for the development. As such, it is considered that the proposed boundary wall would satisfy the performance criteria relating to boundary setbacks.

Eastern Apartment Block

The eastern side of the proposed building will be located next to the car parking area/accessway and a portion of the main building. The eastern side of the development is stepped in a number of places and is angled away from the boundary. Setbacks range from 4.78m at its closest point to 9.815m at its furthest point. The development is considered to provide adequate light and ventilation to the building itself and to the adjoining site. Any overshadowing will be to the south of the site.

The existing non-residential building on No. 17 McCabe Street has a boundary wall against the common boundary with the eastern apartment block. The proposed development overshadows this site by approximately 16 % at the winter solstice and as such, is within the acceptable levels of the Codes. Apart from the overshadowing, the location of the proposed building will have little impact on the existing non-residential building and as such, it is considered that the proposal meets the performance criteria of the codes.

Two Storey Communal Facility

This facility abuts against the southern section of the eastern boundary and as such, will abut against the existing boundary wall of the non-residential use. The proposed two storey building will be approximately 1.4m lower than the height of the existing adjoining boundary wall. Having regard to the design of the proposed building, its positions in relation to the development on the adjoining site, and relative height of walls, it is considered that the development meets the Acceptable Standards of the Codes.

Southern Apartment Block

In the Privacy section below, it is recommended that the eastern side of this development be modified to address potential privacy issues should the site be developed some time in the future with residential development. Having addressed privacy impacts, it is considered that the building is articulated sufficiently to minimize building bulk.

Open Space

Required	Provided
Landscaping to be provided between each six consecutive car parking spaces	2 sections of car parking provided without landscaping (7 and 10 bays)

The row of 7 car parking spaces has landscaping strips around these spaces. It is considered that the number of car parking spaces and the landscaping surrounding these spaces is sufficient to provide a break in the extent of paving and as such, this variation is supported.

The row of 10 car parking spaces has a landscaping strip to the southern end, stairs on the northern end and a retaining wall against the end of these spaces. Whilst this is a minor variation, it would be possible to provide a landscaping strip in this row of ten car parking spaces to break up the extent of paving. As such a condition of Planning Approval is proposed to address this minor variation.

Vehicular access

Required	Provided
One crossover that is a maximum width of 6.0m	8.2m wide crossover

The site currently has three vehicular crossovers. It is proposed to have only one crossover to McCabe Street and that crossover is proposed to be 8.2m in width. This provision of the Codes restricts a single crossover to a maximum width of 6.0m and an aggregate total of 9.0m.

Having regard to the:

- number of units proposed;
- topography of the street verge west of the proposed location;
- substantial frontage of the site; and
- location of the crossover,

it is considered that a wider crossover at this point would help improve safety and increase the ease of vehicular access to and from the site.

Further, an internal review of the traffic report prepared as part of the structure planning process, which included crossover location and anticipated trip generations from the site, were considered acceptable by the City. As such, it is considered that the proposed variations is acceptable having regard to the Performance Criteria of this design element.

Privacy

Required	Provided	Variation
7.5m privacy setback (western ground floor of south western building)	6.0m	1.5m

The western facing ground floor terraces to this building are approximately 0.5m to 0.7m above the existing ground level. The terraces overlook an existing non-residential building and as such, loss of privacy is not an issue at present.

However, the adjoining site to the west is also subject to a Structure Plan that permits residential development at the eastern end of the site, which has the potential to be impacted by this privacy variation. As such, a privacy assessment is required to be undertaken.

It is noted that there is currently a drop in topography of approximately 6.5m from the development site down to the western site, and approximately 7.8m between the ground floor level of the south-western building and the western site.

Further, the Structure Plan for the western site proposes a development that is similar to this application, that is, a multi-storey multiple dwelling development rather than a single house or grouped dwelling development. The principal difference is that the multiple dwelling developments have large communal open space areas or common areas and generally do not have private courtyards. The Codes place a lesser need to provide privacy to these large open areas of landscaping compared to the need to protect active habitable spaces or outdoor living areas. Having regard to the minor variation, the difference in topography and the anticipated form of future development for the adjoining site based on the existing Structure Plan, it is considered that the proposed privacy variation meets the performance criteria of the Codes.

It is also noted that the balconies on the first to fourth levels, which are set back 6.8m and 7.5m from the western boundary, satisfy the Acceptable Development Standards of the privacy provisions of the Codes.

Required	Provided	Variation
6.0m privacy setback (kitchen windows of north-eastern side of the Southern Apartment block)	3.4m	2.6m
7.5m (balconies of north-eastern side of the Southern Apartment block)	3.3m	4.2m

The adjoining site is used for non-residential purposes and as such, there are no privacy issues at present. As mentioned above, there are no Structure Plan proposals for the adjoining eastern site and therefore, there are no proposals to assess the impact of the privacy variations against. In considering a precautionary approach to this issue, the screening of the sides of the balconies and raising the level of the kitchen windows to 1.65m above the floor level will reduce the likely extent of any future privacy issues.

Consequently, a condition of approval is proposed to be included within the recommendation of approval to address this matter.

Required	Provided	Variation
4.5m privacy setback (Bedroom 1 of Eastern Apartment Block)	3.0m	1.5m
6.0m privacy setback (east facing living room windows of Eastern Apartment Block)	2.0m	4.0m

The above minor variations relate to the side view from the bedroom and living room windows. The variations are considered minor and will look over the roof of the existing non-residential building. It is considered that as this variation is minor, no privacy screening is required.

SPECIAL CONDITIONS

It is proposed to include the following special conditions:

Memorial on titles

A memorial on the title is considered appropriate to advise any future purchasers of the potential impact from the adjoining non-residential uses.

Additional plans – Northern boundary

Although not clear, additional plans should be submitted to the City demonstrating that the height of the boundary walls/fill along the northern boundary do not exceed the acceptable standards of the Codes. These walls were not identified as a variation to the Codes and as such, more detailed plans are sought to ensure compliance with this aspect.

Crossover details.

Final design details of the location of the crossover/driveway into the site are sought.

CONCLUSION

Its height and building form have been established through the Structure Plan approved by the SAT. The proposed development is generally in accordance with the Structure Plan, however, Council is required to give consideration to variations, which are considered acceptable in the circumstances for the reasons outlined in the report.

The development requires some performance based assessment under the Codes, primarily in terms of side boundary setbacks, however, these variations are considered acceptable having regard to the current circumstances that exist on this and adjoining sites.

Having regard to the assessment that has been undertaken, it is recommended that the application be approved subject to standard and special conditions of approval.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION**MOVED: Cr A Sullivan**

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the ninety-five multiple dwellings and 8 grouped dwelling development at No 9- 15 (Lots 318, 326 and part Lot 18) McCabe Street, North Fremantle, subject to the following condition(s):

1. The development hereby permitted shall take place in accordance with the approved plans dated 19 February 2010.
2. Prior to commencement of development, outdoor lighting plans for the communal open space, car parking and foot path areas must be submitted and approved by the Manager Development Services. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties. The approved outdoor lighting plan is to be implemented prior to occupation.
3. Prior to the commencement of development, a detailed landscaping plan shall be submitted to and approved by the Manager Development Services. The plan shall include information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc).
4. All landscaped areas are to be constructed and thereafter maintained on an ongoing basis to the satisfaction of the Manager Development Services.
5. Prior to the commencement of development, detailed drainage plans shall be submitted and approved by the Manager Development Services.
6. Prior to occupation, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the Manager Infrastructure Services.
7. All air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points shall be suitably located, screened or housed, to the satisfaction of the Manager Development Services.
8. A 1.6m high privacy screen to the sides of the proposed balconies along the eastern side of the "Southern Apartment" block, shall be provided prior to occupation of the development and thereafter maintained to the satisfaction of the Manager Development Services.
9. The sill of the kitchen windows above the ground floor level on the north-eastern elevation of the "Southern Apartment" block shall be a minimum of 1.6m above the floor level of those units.
10. Prior to occupation, any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the Manager Infrastructure Services and at the expense of the applicant.
11. Prior to occupation, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development prior to occupation advising the owners and subsequent owners of the land that the subject site is located in close proximity to industrial uses and may be subject to noise, odour and activity not normally associated with residential use.

12. Prior to occupation, the boundary walls located on the northern portion of the eastern side boundary shall be of a clean finish in sand render or face brick, to the satisfaction of the Manager Development Services.
13. Details of the design of the proposed modified crossover to McCabe Street shall be submitted for approval by the Manager Infrastructure Services.
14. The land being amalgamated into one lot prior to the commencement of the development.
15. The land being connected to sewerage prior to the occupation of the development to the satisfaction of the Water Corporation.
16. Additional plans shall be submitted for approval by the Manager Development Services, such plans shall show:
 - a) the proposed height of retaining wall and filling along the northern boundary of the site, such walls not exceeding 0.5m in height; and
 - b) a landscaping strip within the row of 10 car parking spaces located to the south-east of the Western Apartments.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

PSC1006-104 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

MOVED: Cr A Sullivan

That the information is noted.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1006-105 LOCAL PLANNING POLICY NO. 2.12 - PLANNING APPLICATIONS IMPACTING UPON VERGE INFRASTRUCTURE AND VERGE TREES - FINAL ADOPTION

DataWorks Reference: 117/042
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: PSC1003-51

EXECUTIVE SUMMARY

The purpose of this report is to recommend Council adopt Local Planning Policy No. 2.12 '*Planning Applications Impacting on Verge Infrastructure and Verge Trees*' without modification.

The objective of the local planning policy is to provide guidance in assessing planning applications that include new crossovers, or require removal or modification to existing verge infrastructure and/or verge trees.

The local planning policy was placed out for public comment, in accordance with clause 2.4 of Local Planning Scheme No. 4, and no submissions were received.

BACKGROUND

Planning applications generally relate to land use and/or development on private property, however planning proposals can impact upon verges (public property), through the location of access, which can contain a wide range of City and State responsible infrastructure. Currently the City has no planning policy to guide how officers progress with planning applications which require the removal or relocation of verge infrastructure due to the location of vehicular access.

Accordingly at its Ordinary Meeting held on 24 March 2010, Council resolved to initiate draft Local Planning Policy LPP 2.12 '*Planning Applications Impacting on Verge Infrastructure and Verge Trees*' for the purpose of public advertising. For more information see PSC1003-51.

STATUTORY AND POLICY ASSESSMENT

Local Government (Uniform Local Provisions) Regulations 1996

The *Local Government (Uniform Local Provisions) Regulations 1996* provide that no damage or alteration may occur to any infrastructure on Council property unless the approval for the Council is first granted.

State Planning Policy 3.1 – Residential Design Codes

Clause 6.5.4 of the Residential Design Codes includes Acceptable Development provisions relating to the distances of driveways to side boundaries, street poles, intersections, angle of driveways to the street and avoiding street trees.

Local Planning Scheme No.4:

Local Planning Policies

Clause 2.2.1 of the City's Scheme empowers the Council to prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

Clause 2.3.1 of the City's Scheme states that if the provisions of a local planning policy are inconsistent with the Scheme, the Scheme prevails.

Clause 2.3.2 of the City's Scheme states that while Council is not bound by the provisions contained within a local planning policy, however Council is to have due regard to the objectives and provisions contained within a local planning policy before making its determination.

Clause 2.4 of the City's Scheme outlines the procedures for preparing and adopting a local planning policy.

Verge Trees and Infrastructure

Clause 10.2.1 of the City's Scheme empower the Council to have due regard and may attach conditions relating to, a number of matters including "whether adequate provision has been made of the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved including adjacent verge trees".

CONSULTATION

The draft policy was required to be advertised in accordance with Clause 2.4 of the City's Local Planning Scheme No.4, for a period of no less than 28 days (an additional 14 days were added to the public notice, as per Council's Local Planning Policy 1.3 Public Notification of Planning Proposals, as the consultation period fell between the Easter Holiday period). At the conclusion of the advertising period, the City had received no submissions.

PLANNING COMMENT

The objective of draft local planning policy 'No. 2.12 - Planning Applications impacting on verge infrastructure and verge trees' is to provide guidance in assessing planning applications that include new crossovers, or require removal or modification to existing verge infrastructure and or verge trees.

Generally planning applications relate to private land however vehicular access to the private land nearly always requires a crossover being constructed within the adjoining public land (the verge). Verge areas contain a variety of public infrastructure such as footpaths, electrical lines, bus stops, light poles, street trees and the like. When considering planning applications it is important to consider the location of the vehicular crossover and its impact upon existing verge infrastructure.

Therefore the policy sets out criteria for this consideration in two parts. The first part specifies the information on verge infrastructure required of applicants when lodging a planning application, to ensure the proposal can be properly assessed. The first part also provides criteria for appropriate clearances from the driveway in the verge to different infrastructure and criteria on which to reduce these clearances. The second part of the policy sets out criteria for the removal or modification of street infrastructure.

No submissions were received to consider as part of Council's final adoption of this policy.

CONCLUSION

The proposed local planning policy will provide guidance in assessing planning applications that include new crossovers, or require removal or modification to existing verge infrastructure and/or verge trees.

It is therefore recommended that the policy be adopted without modification.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

- 1. Adopt Local Planning Policy LPP2.12 Planning Applications Impacting on Verge Infrastructure and Verge Trees without modification, in accordance with clause 2.4 of the City's Local Planning Scheme No.4 as shown below:**

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.12

PLANNING APPLICATIONS IMPACTING ON VERGE INFRASTRUCTURE AND VERGE TREES

ADOPTION DATE:.....
AUTHORITY: LOCAL PLANNING SCHEME NO 4

STATUTORY BACKGROUND

Clause 10.2.1 of the City of Fremantle Local Planning Scheme 4 empowers the Council to have due regard and may attach conditions relating to, a number of matters including "whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved including adjacent verge trees".

The *Local Government (Uniform Local Provisions) Regulations 1996* provide that no damage or alteration may occur to any infrastructure on Council property unless the approval of the Council is first granted.

Clause 6.5.4 of the Residential Design Codes includes Acceptable Development provisions relating to the distances of driveways to side boundaries, street poles, intersections, angle of driveways to the street and avoiding street trees.

PURPOSE

The purpose of this policy is to provide guidance in assessing planning applications that include new crossovers, or require removal or modification to existing verge infrastructure and/or verge trees.

For the purposes of this local planning policy verge infrastructure includes verge trees, street lighting, speed bumps, bus stops, directional and traffic signs.

POLICY

- 1. Street infrastructure - Appropriate clearances**

1.1 This policy relates to all infrastructure and vegetation constructed above ground within road reserves and includes street trees, power poles, road, name and directional signs, benches, bus shelters, drain side-entries, service pit covers and traffic management devices.

1.2 All applications for Planning Approval which incorporate a new or amended vehicular crossover are required to show:

- a) The application must include correct levels proportions of any verge trees (diameter of trunk at ground level and width of canopy)**
- b) All existing verge infrastructure and verge trees abutting the subject site including existing and proposed finished levels within 5 metres of the property frontage**

Where verge infrastructure is omitted from an application, or is not accurately portrayed as part of an application, the applicant is responsible for any resulting modifications and costs associated.

In cases where new crossovers have been approved and verge infrastructure retained under this policy, the following footnote shall be included on all Planning Approvals;

"The approval of the new / revised vehicle access has been granted based on the plans as submitted by the applicant to the City of Fremantle showing existing infrastructure and trees within the road verge and road. Should it transpire that this existing infrastructure was not accurately depicted on the plan it is the responsibility of the applicant to either

- (a) submit amended plans to the City of Fremantle for consideration, or**
- (b) submit a request to the City for removal or modification of the infrastructure. This request will be considered independently of any Planning Approval granted, and this Planning Approval should not be taken as approval for removal or modification of any infrastructure within the road reserve.**

1.3 All new vehicle driveways are required to be separated from any verge infrastructure by:

- (a) a minimum of 2.0 metres in the case of verge trees**
- (b) a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayments or street furniture), and**
- (c) a minimum of 1.0 metre in the case of power poles, road name and directional signs.**

1.4 Council may grant approval to a lesser dimension in cases where written justification is provided by the applicant, and Council is satisfied that:

- (a) no practical alternative location is available for the crossover, and**
- (b) the infrastructure/tree is not damaged by the proposal, and**
- (c) safe and adequate traffic sight distances are maintained.**

1.5 Council will support the truncation or modification of crossovers within the verge area to achieve the necessary setback distances where it is satisfied that:

- (a) it can be demonstrated that a vehicle can manoeuvre between the property and the street in such a manner that is safe in use, or**
- (b) the public street to which the property connects is classified as a local road, and**
- (c) safe and adequate traffic sight distances are maintained, and**
- (d) the modification of the crossover will not have any adverse impact on any existing footpath or otherwise impair the movement of pedestrians.**

2. Street infrastructure - removal or modification required as result of a planning application.

2.1 The Council will grant planning approval for development which requires the removal or modification of verge infrastructure and/or verge trees where it is satisfied that:

- (a) prior approval from the relevant service agency has been obtained, and**
- (b) no reasonable or practical alternative exists, and**
- (c) the infrastructure can be replaced in such a manner that is safe and fully functional, and**
- (d) in the case of street trees, can be replaced in such a manner that is consistent with the streetscape, character and amenity of the locality or otherwise in accordance with the City's policies.**

2.2 Planning applications requiring the removal or modification of verge infrastructure and/or verge trees where approval has not been obtained from the relevant service agency will be requested to amend the plans to prevent the removal or modification of verge infrastructure and/or verge trees.

Where the applicant does not amend plans to prevent the removal or modification of verge infrastructure and/or verge trees and the proposed development is otherwise deemed acceptable on planning grounds approval will be granted and the following advisory note placed on the approval:

“This approval relates to the subject site and does not authorise the removal or modification of verge infrastructure and/or verge trees within the verge area. Written approval is to be obtained for removal or modification of verge infrastructure and/or verge trees within the verge area from the relevant City of Fremantle department or relevant service authority, before construction commences.”

In addition to the advisory note above, the following advisory note will also be placed on the planning approval to address incidents where approval is not forthcoming from the relevant City of Fremantle department or relevant service authority:

"In the event that such an approval is not forthcoming from the relevant City of Fremantle department or relevant service authority prior to the commencement of this development, this planning approval will be incapable of implementation".

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

**PSC1006-106 LOCAL PLANNING POLICY 2.10 - LANDSCAPING OF
DEVELOPMENT AND EXISTING VEGETATION ON DEVELOPMENT
SITES - FINAL ADOPTION**

DataWorks Reference: 117/040
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: PSC1003-52

EXECUTIVE SUMMARY

The purpose of this report is to recommend Council adopt Local Planning Policy No. 2.10 '*Landscaping of Development and Existing Vegetation on Development Sites*' without modification.

The objective of the local planning policy is to provide guidance on the requirement for and assessment of landscape plans and situations where Scheme and Policy requirements can be varied in relation to planning applications which affect tree(s) and vegetation considered worthy of conservation.

The local planning policy was placed out for public comment, in accordance with clause 2.4 of Local Planning Scheme No. 4, and no submissions were received

BACKGROUND

In 1997 under Town Planning Scheme No. 3, the City adopted local planning policy *DBH4 Landscaping/Tree Preservation within Development Proposals* (DBH 4) to guide the assessment of development or use planning applications which require landscaping. This policy has since become outdated with the gazettal of Local Planning Scheme No. 4 (LPS 4) - gazetted 2007.

Accordingly at its Ordinary Meeting held on 24 March 2010, Council resolved to initiate draft Local Planning Policy No. 2.10 '*Landscaping of Development and Existing Vegetation on Development Sites*' for the purpose of public advertising. For more information see PSC1003-52.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4:

Local Planning Policies

Clause 2.2.1 of the City's Scheme empowers the Council to prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

Clause 2.3.1 of the City's Scheme states that if the provisions of a local planning policy are inconsistent with the Scheme, the Scheme prevails.

Clause 2.3.2 of the City's Scheme states that while Council is not bound by the provisions contained within a local planning policy, however Council is to have due regard to the objectives and provisions contained within a local planning policy before making its determination.

Clause 2.4 of the City's Scheme outlines the procedures for preparing and adopting a local planning policy.

Tree provisions

Clause 7.6 of the City's Scheme contains provisions to establish and maintain a register of significant trees and outlines what is to be considered in a proposal to include a place on the register of significant trees.

Clause 8.2 Permitted Developments states that the "*following development does not require planning approval of the Council – (k) removal of trees or vegetation areas except where trees and vegetation areas are identified in the register of significant trees or vegetation areas*". Therefore requiring planning approval is to be sought to remove a tree(s) or vegetation area listed on the register of significant trees or vegetation.

CONSULTATION

The draft policy was required to be advertised in accordance with Clause 2.4 of the City's Local Planning Scheme No.4, for a period of no less than 28 days (an additional 14 days were added to the public notice as the consultation period fell between the Easter Holiday period as per Council's Local Planning Policy 1.3 Public Notification of Planning Proposals). At the conclusion of the advertising period, the City had received no submissions.

PLANNING COMMENT

The existing landscaping policy DBH 4 is inconsistent with LPS 4 and focuses on when Landscape Plans are required to be submitted and what information is required to be shown on a Landscape Plan. Alternatively 'Local Planning Policy 2.10 - Landscaping of Development and Existing Vegetation on Development Sites' will improve the processing of landscaping plans and consideration of development applications which involve tree(s) and vegetation areas identified as worthy of conservation but which are not listed on the City's register of significant trees.

The policy is set out in three parts. The first part recognises that landscaping is an important aspect in the delivery of developments and details when landscaping plans are required.

The second part of the policy recognises that in some instances the design detail of the landscaped area is integral to the overall development outcome and in other instances the design detail is not so integral to the overall development as long as the landscaping is delivered. These are provided for in the policy, by:

- Providing clear criteria for when detailed landscaping plans are required to be submitted as part of a planning application and what information is required on the plans, including showing existing trees and vegetation to be retained.

- Providing guidelines for when landscaping is required (e.g. what type of trees and vegetation can be planted by the way of conditions of approval) as part of a development but a detailed landscaping design is not required to be submitted as part of the planning application.

Part three of the policy also contains provisions not previously addressed under the existing *DBH4 Landscaping/Tree Preservation within Development Proposals* in regard to planning applications which propose the removal of trees or vegetation which Council considers to be worthy of retention. Local Planning Scheme No. 4 contains provisions in clause 7.6 which allow Council to establish and maintain a register of significant trees and vegetation areas (of which there are no trees or vegetation currently listed). The policy consequently provides guidance on the assessment of planning applications which propose the removal of trees or vegetation which are considered worthy of protection, but are not listed on the significant tree register. These provisions include conditions of approval to retain such trees or vegetation and a provision for Council to exercise discretion to vary the Scheme or local planning policy provisions to enable the retention of a tree and/or vegetation as part of the development.

No submissions were received to consider as part of Council's final adoption of this policy.

CONCLUSION

The proposed local planning policy is intended to ensure that landscaping plans are adhered to through planning approval conditions and that the appropriate statutory planning control mechanisms exist to consider the retention of trees or vegetation worthy of conservation on development sites.

It is therefore recommended that the draft policy be adopted without modification.

OFFICER’S RECOMMENDATION

That Council:

1. Adopt Local Planning Policy 2.10 Landscaping of Development and Existing Vegetation on Development Sites without modification, in accordance with clause 2.4 of the City’s Local Planning Scheme No.4 as shown below:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.10

LANDSCAPING OF DEVELOPMENT AND EXISTING VEGETATION ON DEVELOPMENT SITES

ADOPTION DATE:
AUTHORITY: LOCAL PLANNING SCHEME NO. 4

STATUTORY BACKGROUND

Clause 10.2.1 of Local Planning Scheme No. 4 empowers the Council to have due regard and may attach conditions relating to, a number of matters including "whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved including adjacent verge trees".

Clause 7.6 of Local Planning Scheme No. 4 outlines provisions relating to the establishment and maintenance of a register of significant trees identifying those trees or vegetation areas considered worthy of conservation.

Clause 8.2 (k) does not permit the removal of trees and vegetation identified in the register of significant trees or vegetation areas without planning approval.

PURPOSE

The objective of this policy is to provide guidance on the requirement and assessment of landscape plans and where Scheme and Policy requirements can be varied in relation to planning applications which contain tree(s) and vegetation considered worthy of conservation.

POLICY

1. When landscape plans are required
 - 1.1 For the following categories of development proposals Landscape Plans must be submitted and assessed as part of the application for planning approval:
 - a) The proposed development relies upon landscaping to demonstrate compliance with one or more of the Performance Criteria of the Residential Design Codes.

- b) When required in a Local Planning Policy (ie. LPP 2.2 Split Density Codes and Energy Efficiency and Sustainability Schedule).
- c) Development proposed in the City Centre Zone where a setback from the street or communal areas is proposed including car parking areas.
- d) The proposed development is for five (5) or more grouped dwellings or a multiple residential development.
- e) In cases where the landscaping of a proposed development is an integral part of the assessment of the acceptability of that proposal (ie. Adjoining the Swan River Trust or Foreshore Reserves).

2. Landscaping

- 2.1 In the event a Landscape Plan is required the Landscape Plan must show existing trees or vegetation to be retained. The Landscape Plan shall be included as part of the approved plans and is required to be completed as part of the development. In this situation, the following condition shall be placed on the approval:

"Prior to occupation of the development, all landscaping as shown on the approved plan shall be installed and thereafter maintained to the satisfaction of the Chief Executive Officer."

- 2.2 In cases where landscaping is required, but the detail of that landscaping is not required to be submitted as part of a planning application, the following condition shall be placed on the approval;

"Areas shown on the approved plan as landscaping shall be landscaped to a minimum of 80% coverage of the designated landscaping area at the canopy height using any combination of the following:

- Landscaped areas are to be fully reticulated or native water wise plants are to be used
- Trees of suitable species for urban locations
- Hedged shrubs not taller than 2 metres at maturity
- Lawn/ground cover/grasses
- Exposed ground treated with organic or inorganic mulch
- Landscaping is to be no higher than 0.75 metres within 1.5 metres of vehicular access points where a driveway meets the verge/public street

The landscaping shall be installed within 60 days of the occupation of the development, and thereafter maintained to the satisfaction of the Chief Executive Officer."

3. Existing vegetation

- 3.1 Where a site, which is the subject of a planning application, contains existing tree(s) and/or vegetation which the Council considers to be worthy of conservation, the Council may vary other provisions of the Scheme or Policy (where these provisions may lawfully be varied and such a variation is considered to be acceptable on planning grounds) to enable the tree(s) or vegetation to be conserved as part of the development.

- 3.2 Where the Council has varied the provisions of the Scheme or Policy in order to enable any tree or vegetation to be conserved, the following condition shall be imposed on the approval;

"The (insert tree or vegetation) as shown on the approved plan shall be maintained as part of the development, and shall not be removed unless further approval of the City of Fremantle is granted.

- 3.3 Where a tree is not directly impacted by development a footnote will be placed on the development approval advising:

"Council encourages the retention of (insert tree or vegetation) as shown on the approved plan and shall be maintained as part of the development."

2. Revoke The City's 'DBH4 Landscaping/Tree Preservation within Development Proposals'

The following recommendation includes a minor amendment to correct a typographical error in Part 1.

COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

- 1. Adopt Local Planning Policy 2.10 Landscaping of Development and Existing Vegetation on Development Sites *with a minor modification*, in accordance with clause 2.4 of the City's Local Planning Scheme No.4 as shown below:**

CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.10

LANDSCAPING OF DEVELOPMENT AND EXISTING VEGETATION ON DEVELOPMENT SITES

ADOPTION DATE:
AUTHORITY: LOCAL PLANNING SCHEME NO. 4

STATUTORY BACKGROUND

Clause 10.2.1 of Local Planning Scheme No. 4 empowers the Council to have due regard and may attach conditions relating to, a number of matters including "whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved including adjacent verge trees".

Clause 7.6 of Local Planning Scheme No. 4 outlines provisions relating to the establishment and maintenance of a register of significant trees identifying those trees or vegetation areas considered worthy of conservation.

Clause 8.2 (k) does not permit the removal of trees and vegetation identified in the register of significant trees or vegetation areas without planning approval.

PURPOSE

The objective of this policy is to provide guidance on the requirement and assessment of landscape plans and where Scheme and Policy requirements can be varied in relation to planning applications which contain tree(s) and vegetation considered worthy of conservation.

POLICY

- 1. When landscape plans are required**

1.1 For the following categories of development proposals Landscape Plans must be submitted and assessed as part of the application for planning approval:

- f) The proposed development relies upon landscaping to demonstrate compliance with one or more of the Performance Criteria of the Residential Design Codes.**
- g) When required in a Local Planning Policy (ie. LPP 2.2 Split Density Codes and Energy Efficiency and Sustainability Schedule).**
- h) Development proposed in the City Centre Zone where a setback from the street or communal areas is proposed including car parking areas.**
- i) The proposed development is for five (5) or more grouped dwellings or a multiple residential development.**
- j) In cases where the landscaping of a proposed development is an integral part of the assessment of the acceptability of that proposal (ie. Adjoining the Swan River Trust or Foreshore Reserves).**

2. Landscaping

2.1 In the event a Landscape Plan is required the Landscape Plan must show existing trees or vegetation to be retained. The Landscape Plan shall be included as part of the approved plans and is required to be completed as part of the development. In this situation, the following condition shall be placed on the approval:

“Prior to occupation of the development, all landscaping as shown on the approved plan shall be installed and thereafter maintained to the satisfaction of the Chief Executive Officer.”

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- Hedged shrubs not taller than 2 metres at maturity**
- Lawn/ground cover/grasses**
- Exposed ground treated with organic or inorganic mulch**
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The landscaping shall be installed within 60 days of the occupation of the development, and thereafter maintained to the satisfaction of the Chief Executive Officer."

3. Existing vegetation

3.1 Where a site, which is the subject of a planning application, contains existing tree(s) and/or vegetation which the Council considers to be worthy of conservation, the Council may vary other provisions of the Scheme or Policy (where these provisions may lawfully be varied and such a variation is considered to be acceptable on planning grounds) to enable the tree(s) or vegetation to be conserved as part of the development.

3.2 Where the Council has varied the provisions of the Scheme or Policy in order to enable any tree or vegetation to be conserved, the following condition shall be imposed on the approval;

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3.4 Where a tree is not directly impacted by development a footnote will be placed on the development approval advising:

"Council encourages the retention of (insert tree or vegetation) as shown on the approved plan and shall be maintained as part of the development."

2. Revoke The City's 'DBH4 Landscaping/Tree Preservation within Development Proposals'

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 8.30 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.

How consultative processes work at the City of Fremantle	
The City's decision makers	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.
Various participation opportunities	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.
Objective processes also used	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.
All decisions are made by Council or the CEO	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).
Precinct focus is primarily local, but also city-wide	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.
All input is of equal value	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.
Decisions will not necessarily reflect the majority view received	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

How consultative processes work at the City of Fremantle	
	clearly outline from the outset any constraints or limitations associated with the issue.
Decisions made for the overall good of Fremantle	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.
Diversity of view on most issues	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.
City officers must be impartial	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.
City officers must follow procedures	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.
Consultation processes have cut-off dates that will be adhered to.	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

How consultative processes work at the City of Fremantle

	<p>via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.</p>
<p>Citizens need to check for any changes to decision making arrangements made</p>	<p>13 The City will take initial responsibility, via 'Consultation Process notifications', for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting www.freofocus.com/projects/html/default.cfm, checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.</p>
<p>Citizens are entitled to know how their input has been assessed</p>	<p>14 In reporting to decision-makers, City officers will in all cases produce a Schedule of Input received that summarises comment and recommends whether it should be taken on board, with reasons.</p>
<p>Reasons for decisions must be transparent</p>	<p>15 Decision-makers must provide the reasons for their decisions.</p>
<p>Decisions posted on www.freofocus.com/projects/html/default.cfm</p>	<p>16 Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at www.freofocus.com/projects/html/default.cfm or at the City Library or Service and Information counter.</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.



MINUTES ATTACHMENTS

Planning Services Committee

Wednesday, 2 June 2010, 6.00 pm

