



MINUTES

Planning Services Committee

Wednesday, 3 November 2010, 6.00pm

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PLANNING SERVICES COMMITTEE

Minutes of the Planning Services Committee
held in the Council Chambers, Fremantle City Council
on 3 November 2010 at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6:00 pm.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

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

IN ATTENDANCE

Brad Pettitt	Mayor (Arrived 6:06pm, Departed 9.17pm)
Cr Andrew Sullivan	South Ward
Cr Tim Grey-Smith	City Ward (Departed 9:03pm)
Cr John Dowson	East Ward
Cr Bill Massie	Hilton Ward
Cr Robert Fittock	North Ward (Arrived 6:06pm)
Cr Josh Wilson	Beaconsfield Ward (Departed 9:15pm)
Mr Philip St John	Director Planning and Development Services
Mrs Natalie Martin Goode	Manager Development Services
Mr Paul Garbett	Manager Planning Projects and Policy
Miss Kayla Goodchild	Minute Secretary

There were approximately 26 members of the public and 1 member/s of the press in attendance.

APOLOGIES

Nil

LEAVE OF ABSENCE

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke in favour of item PSC1011-206:

Matt Young

The following member/s of the public spoke in favour of item PSC1011-207:

Michael Trees

The following member/s of the public spoke against item PSC1011-208:

Maria Marrollo

Marco Serrangeli

The following member/s of the public spoke in favour of item PSC1011-209:

Clint Nolan

John Strachan

The following member/s of the public spoke against item PSC1011-210:

Tony Price

Mrs Morgillo

Hilary Hodgson

The following member/s of the public spoke in favour of item PSC1011-211:

Michael Patroni

Andrea Quagliola

The following member/s of the public spoke against item PSC1011-211:

Brain Africh

The following member/s of the public spoke in favour of item PSC1011-212:

Eileen O'Sullivan

The following member/s of the public spoke against item PSC1011-213:

Graeme Lonsdale

The following member/s of the public spoke in favour of item PSC1011-216:

Luca Di Nunzo

John Meggitt

The following member/s of the public spoke against item PSC1011-216:

Ross Calnan

Marian Kiely

David Humphrey

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 20 October 2010 as listed in the Council Agenda dated 27 October 2010 be confirmed.

CARRIED: 5/0

For	Against
Cr Andrew Sullivan Cr John Dowson Cr Tim Grey-Smith Cr Bill Massie Cr John Alberti	

TABLED DOCUMENTS

DEFERRED ITEMS (COMMITTEE DELEGATION)

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

Mayor, Brad Pettitt arrived at 6:06 pm prior to consideration of the following item.
Cr R Fittock arrived at 6:06 pm prior to consideration of the following item.

**PSC1011-206 KNUTSFORD STREET, NOS 61-69 (LOTS 500, 501, 1824, 1)
ADDITIONAL REPORT - PROPOSED DEMOLITION OF EXISTING
BUIDLINGS (SS0630/09)**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 3 November 2010
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1006-115;
PSC1009-171.
Attachment 1: Report to 15 September 2010 PSC
Attachment 2: Submission from Greg Rowe and Assoc
Attachment 3: Precinct 5 - Detailed Area Plan
Date Received: 12 November 2009
Owner Name: Fremantle Bond Store Pty Ltd
Submitted by: Michael Willicombe
MRS Scheme: Urban
Heritage Listing: Adopted as part of MHI, no category Listing.
Contained in Heritage List under LPS4.
Zoning: Development Zone DA1
Existing Landuse: Warehouse buildings
Use Class: N/A
Use Permissibility: N/A



EXECUTIVE SUMMARY

The application is submitted for determination by the Planning Services Committee (PSC) as the application was originally considered by the PSC at its meeting held on the 16 June 2010 and subsequently on 15 September 2010. The PSC resolved to defer consideration of the matter in order to enable further consideration of the retention of some or all of building one (south-east corner of Amherst Street and Knutsford Street) and the adaptive reuse and/or heritage interpretation of other buildings on site. The PSC have subsequently sought further information on the Knutsford Street East Structure Plan (KSSP) in relation to whether buildings 1 and 3 can be retained through adaptive reuse having regard to the objectives of that adopted structure plan that relates to the retention of industrial character and comprehensive redevelopment of the site as a whole.

The owners are seeking approval for the demolition of all buildings on Nos 61-69 Knutsford Street and Nos 39-41 Wood Street. However, those buildings on Nos 61-69 Knutsford Street are on the:

- Heritage List of Local Planning Scheme No. 4 (LPS4); and
- Municipal Heritage Inventory (MHI) database although these buildings do not have a category listing.

Nos 39-41 Wood Street, whilst forming part of this application, is not on the Heritage List under LPS4 or the MHI.

The KSSP is a generic document that sets out the planning framework for the development of the five precincts that are subject to this structure plan. Whilst the Structure plan sets out the vision, objectives and principles, the Detailed Area Plans (DAP) provide the detailed planning for each of those precincts. Precinct 5, which the development site is located within, is the only precinct at this stage which has an adopted DAP.

The KSSP seeks to encourage the retention and development of a character in keeping with the existing industrial character that exists at present. This can be achieved through the retention and adaptive re-use of those buildings or for new development to be consistent with the design guidelines that reinforce that character. The DAP for Precinct 5 (refer to Attachment 3):

- does not have a development principle of retaining existing buildings for adaptive re-use; and
- has not identified any buildings that are to be kept to assist in the retention of the industrial character of this part of the locality.

Having regard to the above, and whilst the retention of buildings 1 and 3 would assist in retaining some of the industrial character of the area, the DAP for this precinct does not require the retention of any buildings for that purpose. As such, it is considered that the proposed development is in keeping with the DAP and consequently, the KSSP.

BACKGROUND

An application for planning approval was received for the demolition of the building on Nos 61-69 Knutsford Street and Nos. 39 and 41 Wood Street – to be referred to in the report as 61-69 Knutsford Street. At its meeting held on the 16 June 2010, the PSC considered the following recommendation proposed by the City:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the demolition of the existing buildings on No 61 - 69 Knutsford Street and No 39 - 41 Wood Street (Lots 500, 501, 1824, 1) Fremantle, as detailed on plans dated 12 November 2009, subject to the following conditions:

- (a) This approval relates only to the demolition of the existing buildings as indicated on the approved plans. It does not relate to any other development on this lot.*
- (b) Prior to commencement, an archival record is to be made of the buildings to be demolished and submitted to the City of Fremantle for approval, and shall include:
 - i) A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.*
 - ii) Digital photographs taken of the building (once vacated) to include:
 - A) a general/overall photo of the building to be demolished;*
 - B) photos of each of the four elevations;*
 - C) internal photos of all rooms; and*
 - D) photos of any special architectural features.***
- (c) The site being stabilised following the demolition of the buildings to address matters of dust and sand drift.*
- (d) Prior to demolition of the first building, an Interpretation Strategy for the site shall be submitted for approval by the Chief Executive Office, City of Fremantle.*

Following debate on this matter, the PSC resolved as follows (refer to PSC1006-115):

“To defer the item to the next appropriate PSC to enable consideration of the retention of some or all of building one and the adaptive reuse and/or heritage interpretation of other buildings on site”

Following on from the PSC meeting where consideration of this application was deferred, an on-site meeting was held on the 25 June 2010 with one of the property owners of the land, the Chair of the PSC and City officers. Following an inspection of all of the buildings on the site, general discussion took place. The City undertook to provide a concept plan for the potential adaptive re-use of the existing building on the corner of Amherst Street and Knutsford Street.

On the 12 August 2010, the City received a concept plan for the retention of the property on the south-east corner of Amherst Street and Knutsford Street. The concept plan

showed an indicative re-use of the building for 6 dwellings on the upper level for Building 1, which is located at No. 61 Knutsford Street.

The plans were forwarded to the owner on the 19 August 2010. On the 30 August 2010, the owner replied advising that they did not accept the proposal and sought to have the application determined as submitted.

At its meeting held on the 15 September 2010, the PSC resolved as follows (refer to PSC1009-171):

“...that the application be deferred to the next appropriate Planning Services Committee to further investigating the potential to retain buildings 1 and 3 for the purpose of adaptive reuse having regard to the objectives of adopted structure plan that relate to the retention of industrial character and comprehensive redevelopment of the site as a whole.”

DETAILS

The development site contains 4 lots with 6 buildings located on those sites. The construction of the first of the buildings occurred in 1954 and the last in 1964. The owners are seeking to demolish all buildings on the site.

In response to the 15 September 2010 resolution of the PSC, the owner has engaged the services of Greg Rowe and Associates and they have made a submission to substantiate the demolition of all of the buildings on the site - refer to Attachment 1.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

Planning approval is required for the demolition of any building under LPS4. A heritage assessment is to be carried out in accordance with LPP 1.6. The site is subject to the KSSP and the adopted Detail Area Plan for Precinct 5.

PLANNING COMMENT

The development site is subject to the KSSP. The KSSP consists of three parts and these are as follows:

- Part 1 – Context (Planning Report of Structure Plan)
- Part 2 - Structure Plan; and
- Part 3 – Implementation

The Structure Plan requires a DAP to be developed for each of the 5 precincts. Precinct 5, which is applicable to this application, is the only precinct which has an adopted DAP.

Part 1 - Planning Report to KSSP

This Part of the KSSP provides the background to the development of the Structure Plan. The Executive Summary of this document acknowledges that the Structure Plan is a

“... generically based document, outlining general principles for redevelopment of the subject area which will be applied in further, more detailed planning for the site. These principles establish the preferred land uses, density of development, form and standard of development, infrastructure improvements to accommodate the future residential and commercial developments and the process for implementation of this structure plan and further detailed planning.

Redevelopment of the site will be based upon the general principles as established under the structure plan which will then be applied to detailed planning in the preparation of detailed are plans for nominated precincts within the structure plan area.

In relation to Section 2.6 Culture and Heritage of the KSSP, this part of the Report acknowledges that the subject land has no identified cultural significance. The report goes on further to state the following:

However, the historic character of the industrial area can be acknowledged and emphasised in the redevelopment through the retention and/or reuse of buildings or portions of buildings and building materials in future residential and commercial/mixed use development. The preparation of Design Guidelines at the DAP stage which guide the built form and describe the attributes to be retained, enhanced or replicated will assist in maintaining the character of the former industrial area. The use of density and plot ratio bonuses should also be considered as incentives to maintenance of this character through the retention and conversion of use of the built form, where desirable and capable.

It is noted that this statement makes uses of words such as “...can be acknowledged..” and “...considered as incentives..” rather than the use of shall and requirement respectively.

Part 2 - Structure Plan

The overarching planning philosophy and Principles are established in the KSSP in Part 1.1 –Vision and 1.2 Objectives and Principles. The vision is set out in this document and is reproduced below:

To redevelop an aging under utilised industrial are through the introduction of a mix of residential and commercial uses supported by a neighbourhood centre and integrated with the existing surrounding community via the application of sustainable planning principles which retain the historic character of its former industrial use without compromising the amenity of existing and future residents and workers.

The objectives and principles for the KSSP as it applies to the whole precinct are set in section 1.2 of Part 2. Of relevance to this application, the following are highlighted:

- Identity: Endeavour to instil a 'Fremantle identity' with some relationship to the history of the site;*
- Adaptability: Encourage the retention of existing buildings and the introduction of new built form which is able to adapt to a large range of land uses over time to meet the changing needs of the community.*

It is noted that the terminology used in Adaptability seeks to “encourage” rather than the use of a more positive word such as “shall” , that would require something to happen. Whilst this section identifies the objectives and principles for the land subject to the KSSP, the structure plan in part 1.3 reinforces the generic nature of the KSSP and establishes the requirements for preparation of the DAP’s for each of the precincts that will

“...facilitate the ultimate subdivision and development of the land in accordance with the visions, objective and principles of the structure plan.”

Consequently, whilst the objective of the KSSP is to help encourage the retention of the character of the locality, it is the content of the DAP’s that will identify which buildings are to be retained and converted to appropriate land uses.

Part 3 – Implementation - 4.0 Stage 3 – Detailed Area Plan

This section of the KSSP sets out the DAP requirements to support the KSSP. Part 4.1 Detailed Area Plan Requirements are set out in Part 4.1 and states the following:

4.1 Detailed Area Plan Requirements

...

The detailed area plans should be consistent with the Structure Plan vision objective, principles and requirements CPS4 [sic], Council Policies, commission policies and procedures and include:

- ...
- *Existing buildings and notations as to whether the building is to be retained and converted for residential and/or mixed use.*

DAP for Precinct 5

It is noted that the DAP for Precinct 5 does not identify;

- as a Development Principle, the retention of buildings to help maintain the character of this precinct; and
- any buildings within this particular precinct that should be retained to assist in the retention of the character of the locality nor to support the re-use of buildings.

The DAP does provide an incentive for the retention of a building through increased density. However, the increased density can be achieved through meeting one or more of the other criteria set out in the DAP.

CONCLUSION

The KSSP provides the generic framework for the ultimate development of the locality, which is to be achieved through the formulation and adoption of a DAP for each of the 5 precincts. Precinct 5, which is applicable to this development site has been formally adopted by Council. Neither the KSSP nor the DAP for Precinct 5 identifies any building within Precinct 5 to be retained. As such, it is considered that the proposed development is consistent with the KSSP and the DAP for Precinct 5 as there are no provisions specifically identifying those buildings within this precinct that are to be kept for adaptive re-use.

The officers recommendation presented to the 16 June 2010 meeting of the PSC is shown below.

OFFICER'S RECOMMENDATION

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the demolition of the existing buildings on No 61 - 69 Knutsford Street and No 39 - 41 Wood Street (Lots 500, 501, 1824, 1) Fremantle, as detailed on plans dated 12 November 2009, subject to the following conditions:

- (a) This approval relates only to the demolition of the existing buildings as indicated on the approved plans. It does not relate to any other development on this lot.
- (b) Prior to commencement, an archival record is to be made of the buildings to be demolished and submitted to the City of Fremantle for approval, and shall include:
 - i) A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.
 - ii) Digital photographs taken of the building (once vacated) to include:
 - A) a general/overall photo of the building to be demolished;
 - B) photos of each of the four elevations;
 - C) internal photos of all rooms; and
 - D) photos of any special architectural features.
- (c) The site being stabilised following the demolition of the buildings to address matters of dust and sand drift to the satisfaction of the Chief Executive Officer, City of Fremantle.
- (d) Prior to demolition of the first building, an Interpretation Strategy for the site shall be submitted for approval by the Chief Executive Office, City of Fremantle.

COMMITTEE RECOMMENDATION**MOVED: Cr A Sullivan**

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the demolition of the existing buildings on No 61 - 69 Knutsford Street and No 39 - 41 Wood Street (Lots 500, 501, 1824, 1) Fremantle, as detailed on plans dated 12 November 2009, subject to the following conditions:

- (a) This approval relates only to the demolition of the existing buildings as indicated on the approved plans with the exception of:
- i) Building 1 (not including the east facing verandah); and
 - ii) The first bay of the saw-tooth roof portion of Building 3 located closest to Wood Street.

which are to be retained to conserve the heritage character of the area and to allow for adaptive re-use in accordance with the objectives and principles of the Knutsford Street East Structure Plan in terms of adaptability and the retention and enhancement of the industrial character of the area. It does not relate to any other development on this lot.

- (b) Prior to commencement, an archival record is to be made of the buildings to be demolished and submitted to the City of Fremantle for approval, and shall include:
- i) A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.
 - ii) Digital photographs taken of the building (once vacated) to include:
 - A) a general/overall photo of the building to be demolished;
 - B) photos of each of the four elevations;
 - C) internal photos of all rooms; and
 - D) photos of any special architectural features.
- (c) The site being stabilised following the demolition of the buildings to address matters of dust and sand drift to the satisfaction of the Chief Executive Officer, City of Fremantle.
- (d) Prior to demolition of the first building, an Interpretation Strategy for the site shall be submitted for approval by the Chief Executive Office, City of Fremantle

ADVICE TO APPLICANT

- (a) Council would be prepared to reconsider the demolition of the portion of building 3 within the context of an application for replacement buildings that satisfy the objectives and principles of the Knutsford Street east Structure Plan in relation to the retention and enhancement of the industrial character of the precinct.

CARRIED: 4/3

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

REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION

Building 1 is of some significance and therefore its retention would conserve the heritage character of the area . The retention of Building 1 and the first bay of the saw-tooth roof portion of Building 3 would also allow for adaptive re-use of existing representative examples of industrial buildings in accordance with the objectives and principles of the Knutsford Street East Structure Plan in terms of adaptability and the retention and enhancement of the industrial character of the area

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

PSC1011-207 BAKER STREET NO. 14 (LOT14) BEACONSFIELD - PARTIAL RETENTION OF EXISTING GARAGE AND CONSTRUCTION OF TWO STOREY SINGLE HOUSE WITH BASEMENT (SS DA0245/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 3 November 2010
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1010-196
Attachment 1: 20 October 2010 PSC Report
Attachment 2: Revised plans (6 September and 6 October 2010)
Date Received: 14 May 2010
Owner Name: Michael Trees and Jamie Schrank
Submitted by: Michael Trees
Scheme: Residential R30
Heritage Listing: N/A
Existing Landuse: Vacant land (site contains an existing garage only)
Use Class: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

The development application was considered by the Planning Services Committee (PSC) at its meeting held on 20 October 2010. At that meeting the PSC resolved to defer consideration of the matter and request the City to prepare a recommendation for approval.

A recommendation for approval has been prepared for consideration by the PSC. The recommendation consists of standard conditions of approval with the exception of condition d) i) and ii). Two special conditions are proposed to address overshadowing and the impact of the height of the northern boundary wall. The special conditions seek to:

- require the upper storeroom and bedroom 1 to be modified to comply with the setback requirements of Table 1 of the Residential Design Codes (the Codes); and
- lower the height of the screening (2.5m above the floor level of the upper level deck) on the western portion of the northern boundary wall.

The recommendation is submitted for consideration by the PSC.

BACKGROUND

The development site is located on the eastern side of Baker Street, 1 lot to the north of the intersection of Baker Street and South Street (No. 80 South Street). The properties on the eastern side of Baker Street are zoned Residential with a density coding of R30. The development site is 220m² in area and has a frontage of 12.07m to Baker Street and a depth of 18.27m. The site falls approximately 0.6m along the Baker Street elevation, from the northern boundary down to the southern boundary. The site rises from Baker Street up to the rear boundary by approximately 1.4m.

The site consists of a single storey garage that is located in the north-west corner of the site. That is, it abuts the Baker Street boundary and has a side wall along the common boundary with No. 12 Baker Street.

The properties on the western side of Baker Street have a dual frontage, with the primary street frontage being to Hampton Road. The sites are zoned Mixed Use. With the primary frontage to Hampton Road, the Baker Street frontage is effectively the rear of the development. Therefore, the streetscape of the western side of Baker Street consists of car parking areas, services areas, rear elevation of buildings and high walls. The properties on the eastern side of Baker Street have their primary frontage facing the rear of the Hampton Road properties. The streetscape consists of buildings on the street boundary or buildings that have minimal setbacks from the street boundary. Therefore, the dual frontage of the properties on the western side of Baker Street and the more traditional streetscape on the eastern side creates a contrasting streetscape.

Previous Applications

Prior to 2000, No. 80 South Street consisted of two lots on the one land title, with one lot fronting South Street (cnr Baker Street) and the second lot fronted Baker Street. The main dwelling had originally been designed and constructed to front South Street, but extended over the common lot boundary (those lots are now referred to as 80 South Street and 14 Baker Street). The side of the building had a street setback of 1.25m to Baker Street. Attached to the rear of the main dwelling was a patio, which was also connected to a garage structure that had been built on the Baker Street boundary.

Planning Approval was issued on the 15 February 2000 for:

- partial demolition and alterations to the existing dwelling on No. 80 South Street so that it was now totally contained on No. 80 South Street – this involved building a boundary wall (northern side) with the common boundary to 14 Baker Street; and
- the addition of a single storey dwelling with a second storey within the roof space of the proposed building on 14 Baker Street, which was to the rear (north) of No. 80 South Street.

At that time, the two properties were owned by the same person. The alterations to No 80 South Street proceeded including the construction of the northern boundary wall of No. 80 South Street. The proposed single storey dwelling with a further level within the roof space proposed for 14 Baker Street did not proceed. However, the structures located across the boundary were removed and the existing garage structure was retained.

Revised plans

Following the close of the submission period, during which three submissions were received from two properties, the applicant responded to the matters raised in those submissions.

Revised plans were subsequently received on the 6 September 2010. These revised plans amended the building design layout of the upper level to the rear of the site (increased setback from 1.05m to 1.5m) in order to reduce the impact of overshadowing from the proposed addition onto the rear courtyard of No. 80 South Street.

Further revised plans were submitted on the 6 October 2010 providing additional information – refer to Attachment 2.

Planning Services Committee Meeting – 20 October 2010

At its meeting held on the 20 October 2010, the PSC resolved as follows:

“...to defer the item to the next appropriate Planning Services Committee Meeting to allow officers to prepare an Alternative Recommendation for Approval.”

Refer to Attachment 1 for a copy of the City’s report.

DETAILS

The applicant is proposing to retain the western (front) façade and the northern side (abuts 12 Baker Street) wall of the existing garage and to demolish the rest of the structure. It is proposed to use these walls as part of the garage for the proposed dwelling as well as being part of the “U” shaped design for the proposed dwelling. The design of the development is described below:

Basement Level:

- Basement level is approximately 110m², in area and is located below natural ground level;
- Basement is proposed to be used for non-habitable purposes, including a water storage area, water treatment area, future battery store and wine cellar.

Ground floor level:

- The ground floor is a “U” shaped design with the front face of the building either being on the street boundary or setback 1.5m from the street boundary;
- the two sides of the building about the sides of the adjoining sites;
- a central partly covered walkway/courtyard, 2.5m in width separates the two sides of the development;
- the proposed ground floor level is approximately 1.0 – 1.3m lower than the ground level of the adjoining rear (eastern) property at No. 82 South Street; and
- the proposed ground floor level is approximately 0.4m lower than the existing dwelling at No. 80 South Street.

Upper Level

- The “U” shaped configuration is repeated on the upper level;
- the pitched roof over the existing garage is to be replaced with a concrete roof, which is to be used as a roof garden;
- boundary walls are proposed for each side of the development;
- apart from the upper southern boundary wall, the walls of the upper level are setback between 1.05 and 1.5m from the southern side boundary; and
- 2.5m privacy screen on the northern boundary to the roof garden, which is to contain solar panels.

The applicant is seeking approval under the Performance Criteria of the R-Codes and LPS4 (refer to PSC1010-196) in the following areas:

- front setback;
- boundary walls;
- boundary setbacks;
- car parking; and
- overshadowing;

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as the applicant was seeking variations to the R-Codes and LPS4. At the conclusion of the advertising period, being 2 June 2010, the City had received three submissions from two properties. The following issues were raised:

- *Overshadowing of site, including courtyard and skylights;*
- *huge house on small lot*
- *Building Setbacks;*
- *Boundary Walls;*
- *Car parking;*
- *External Fixtures; and*
- *Streetscape.*

PLANNING COMMENT

In response to the resolution of the PSC, a recommendation for approval has been prepared. Two areas of concern from the assessment of the application related to the following areas:

Upper level southern side boundary setback variation

The southern upper level (side) walls of the development do not comply with the side boundary setback of the Codes as show below.

Wall Location	Required setback	Proposed Setback	Variation
Southern boundary - Upper level	2.0m	1.1 – 1.5	0.9m to 0.5m

The western section of the wall impacts on the roofed area of No. 80 South Street while the eastern section impacts on the courtyard area of No. 80 South Street. A combination of the proposed boundary wall and southern side boundary setback variation contributes to the overshadowing of the courtyard to the property to the south. The setback variation for the upper level store room and bedroom 1 ranges from 0.9m to 0.5m. Having regard to the extent of the overshadowing of the adjoining site, the City had recommended refusal of the application.

The PSC was sufficiently satisfied with the development to seek a recommendation for approval. During the debate at the PSC meeting on this application, the matter of lowering the plate height was raised. A special condition has been proposed that requires the section of the upper level store and Bedroom 1 of the proposed development to be modified to comply with the upper level southern side boundary setback of Table 1 of the R-Codes. The effect of this condition, which will require some change to the design of the building, whether it is lowering the height of the building or setting it further back from the boundary or a combination of both, which will slightly improve the period of time that sunlight can penetrate into the courtyard/rear of the development at No. 80 South Street. It is acknowledged that this will not result in

compliance with the maximum permitted overshadowing requirements of the R-Codes. The matter is submitted for determination by the PSC.

Height of screening above proposed open space deck

The second issue related to the height of the screening that was proposed to be provided along the northern boundary. The proposed height of screening is 2.5m above the proposed deck level, compared to the R-Codes screening height of height 1.6m above the floor or deck level. The overall height of the wall, including the screening along the northern boundary is approximately 5.5m. The proposed screening is to address any potential loss of privacy from the proposed tower to be constructed on 12 Baker Street. The tower is approximately 8.0m away from the closest part of the deck, which is in excess of the R-Codes Acceptable Standard distance of 7.5m for privacy.

A special condition of approval has been included for consideration by the PSC, requiring the screening to be lowered to a height of 1.6m above the floor level of the proposed deck level.

CONCLUSION

As resolved by the PSC, the Officer's recommendation has been presented with a recommendation of approval. The imposition of condition d) i) and ii) are submitted for consideration by the PSC.

OFFICER'S RECOMMENDATION

MOVED: Cr Andrew Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the partial retention of the existing garage and construction of a new two storey single house and basement at No. 14 (Lot 14) Baker Street, Beaconsfield, as detailed on the revised plans dated 6 September 2010 and 6 October 2010, subject to the following conditions:

- a) This approval relates only to the development as indicated on the approved plans dated 6 September 2010 and 6 October 2010. It does not relate to any other development on this lot.
- b) All storm water discharge shall be contained and disposed of on-site.
- c) The development and use of the building is approved for use as a "Single house" as defined in the Residential Design Codes.
- d) Prior to occupation, the boundary walls located on the northern and southern side boundaries shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer.

- e) Revised plans shall be submitted for approval by the Chief Executive Officer, City of Fremantle, such plans showing the:
 - i) upper level store and bedroom 1 being set back from the southern side boundary in accordance with Table 1 of the R-codes; and
 - ii) overall height of the screening proposed along the northern boundary wall being lowered to 1.6m in height above the floor level of the proposed open deck.

Cr A Sullivan moved an amendment to the Officer's Recommendation to delete condition e ii):

- E .
 - ii) overall height of the screening proposed along the northern boundary wall being lowered to 1.6m in height above the floor level of the proposed open deck.

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 A Sullivan MOVED an amendment to the Officer's Recommendation to modify e (i) to as follows.

The southern wall height of bedroom one being lowered to 1.8m

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 J Dowson MOVED an amendment to the Officer's Recommendation to include the following condition f:

f) The existing tree on site is to be retained unless with the further approval of council.

LOST: 3/4

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

COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the partial retention of the existing garage and construction of a new two storey single house and basement at No. 14 (Lot 14) Baker Street, Beaconsfield, as detailed on the revised plans dated 6 September 2010 and 6 October 2010, subject to the following conditions:

- a) This approval relates only to the development as indicated on the approved plans dated 6 September 2010 and 6 October 2010. It does not relate to any other development on this lot.
- b) All storm water discharge shall be contained and disposed of on-site.
- c) The development and use of the building is approved for use as a “Single house” as defined in the Residential Design Codes.
- d) Prior to occupation, the boundary walls located on the northern and southern side boundaries shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer.
- e) Revised plans shall be submitted for approval by the Chief Executive Officer, City of Fremantle, such plans showing the:
 - i) *The southern wall height of bedroom one being lowered to 1.8m*

CARRIED: 7/0

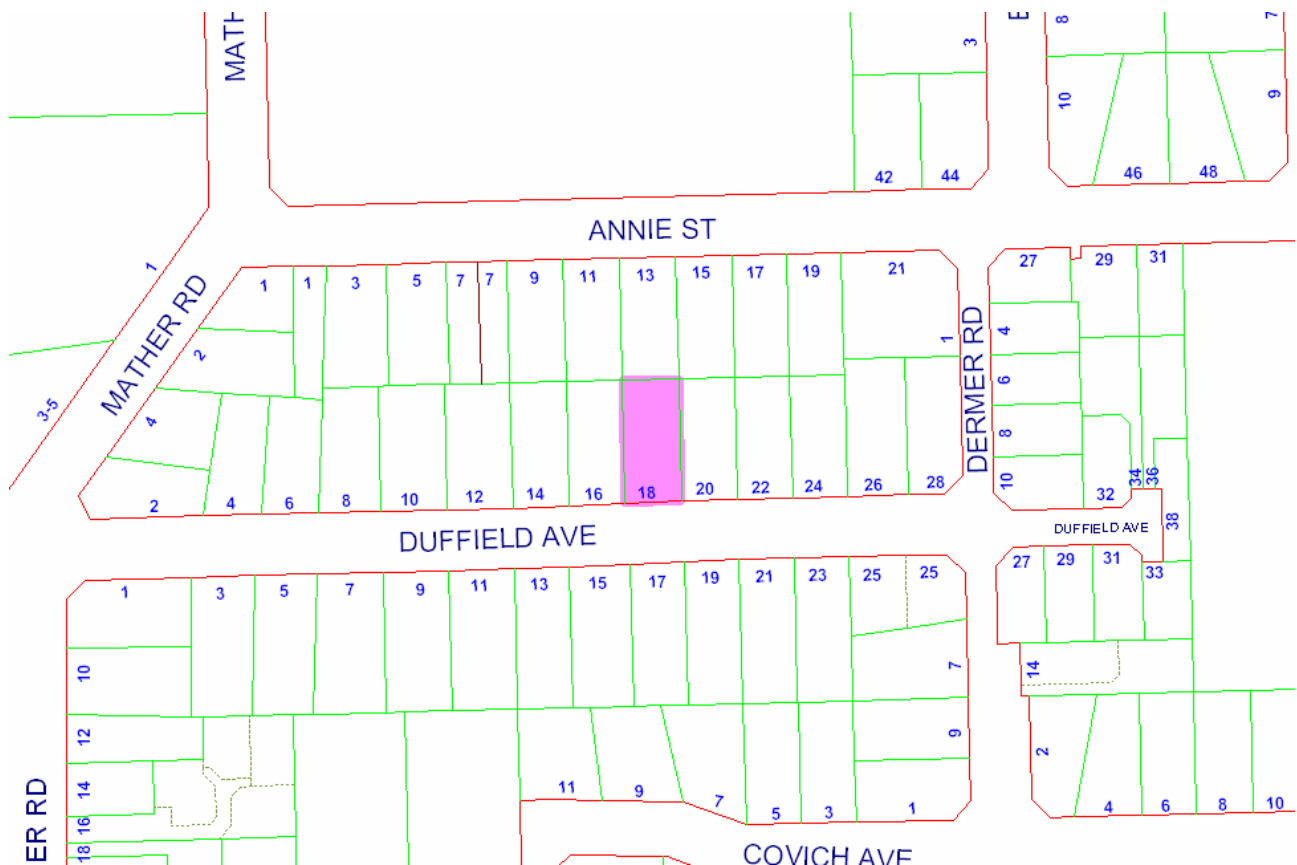
For	Against
Mayor, Brad Pettitt Cr John Dowson Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

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

PSC1011-208 DUFFIELD STREET, NO. 18 (LOT 191) BEACONSFIELD - SECTION 31 RECONSIDERATION - PROPOSED CARPORT (AH DA0112/10)

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: PSC1006-112 & PSC1009-169
Meeting Date: 3 November 2010
Attachment 1: Development Plans
Attachment 2: Advice from Allering Assoc.
Attachment 3: Previous PSC reports (PSC1006-112 & PSC1009-169)
Date Received: 4 March 2010
Owner Name: Marco Serrangeli
Submitted by: Marco Serrangeli
Scheme: Residential R20/25
Heritage Listing: Nil
Existing Landuse: Single House
Proposed Landuse: Single House
Use Permissibility: P



EXECUTIVE SUMMARY

Following a reconsideration under Section 31 of the State Administrative Tribunal Act, the application was approved by Planning Services Committee on the 15 September 2010 with a condition requiring the vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel.

The applicant is aggrieved by this condition as the applicant sought to have 350mm masonry posts support the carport.

Following on-site mediation on 14 October 2010, the applicant amended the plans and is now proposing 350mm masonry pillars to a height of 1.1m with 150mm steel posts above.

Therefore, SAT has ordered that the City reconsider the application in light of the amended plans by 3 November 2010.

BACKGROUND

Please refer to PSC Item 1006-112 & 1009-169 for previous background information relating to the original application (see attachment 3 for these reports).

Recent background information is as follows:

Approval was granted by PSC on the 15 September 2010, with conditions.

At SAT mediation on 8 October 2010 the applicant indicated that they were aggrieved by condition 2 which states:

Vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel.

An on-site meeting with SAT and relevant officers was held on 14 October 2010 where the applicant proposed amendments to the application to resolve issues with condition 2.

It was agreed on-site that the applicant would provide clear revised plans that show the new proposal and that the City would reconsider the revised plans.

DETAIL

The applicant submitted revised plans on the 18 October 2010 which now clearly show:

- Three (3) carport pillars with a base measuring 350mm x 350mm to a height of 1.1m.
- The brick/masonry base to two (2) of the carports pillars will be used as support structures for the western side masonry boundary fence.
- The three carport pillars will have 150mm wide tubing above the 1.1m high masonry pillars.

The revised application has a lightweight (metal) roof structure and the pillars will be of lightweight construction above 1.1m above natural ground level.

Given planning approval has been granted for the application and the only matter for reconsideration refers to condition 2 of the planning approval this report will focus on this issue.

PLANNING COMMENT

In the context of this carport, the 'solid' portions of the carport pillars, located along the western boundary, are of a lesser height than an as-of-right permitted solid portion of a front fence.

The solid portion of the piers along the side boundary fence, the applicant advises, also form a structural support for the fence and are therefore considered to be part of the fence.

As the pillars on the side boundary are part of a permitted side boundary fence (as they do not exceed 1.2m in height) then the only issue under consideration is whether the solid portion of the pier to a height of 1.1m to the central post should be permitted.

The Council is to now determine whether the use of brick surrounds for the lower 1.1m of the pillars, with steel posts above with a maximum width of 150mm and a metal roof meets the Council's intent of "lightweight construction."

The carport structure would reasonably be said to predominantly meet the Council's requirement for lightweight construction. Whilst the base of the pillar is not of lightweight construction, the height of the pillar is such that it is the same height of that of a permitted solid front fence.

Committee, in reconsidering the matter, is to determine whether it is willing to delete, modify or retain condition 2.

If Committee supports the revised plan, Committee could resolve to modify the condition as follows:

2. *Vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel above 1.1m above natural ground level. The masonry base to the pillars shall not exceed 350mm in any direction and shall not exceed 1.1m in height above natural ground level.*

Whilst it may be reasonable to proceed along these grounds, officers are bound by the current wording of the existing policy which does not permit carports in the front setback area. Regard is also given to the draft policy wording, which requires the vertical support posts to be no greater than 150mm in width in any direction and as such are recommending refusal of the application for these reasons.

CONCLUSION

The applicant has revised the plans for the carport to show 1.1m high side fence with carport pillars included in the fence structure. This element is supported and is considered appropriate.

The plans also include a central pillar with a 350mm masonry pillar to a height of 1.1m with a 150mm steel post above providing support to the carport. It may be reasonable for Committee to consider this pillar to be consistent with the intent of the policy, however due to the current policy and wording of the draft policy, officer's are recommending the previous decision be affirmed and condition 2 to remain.

OFFICER'S RECOMMENDATION

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, resolves:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Carport at No. 18 (Lot 191) Duffield Street, Beaconsfield, with the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 18 October 2010, except with any minor modifications as approved by the Manager Development Services. It does not relate to any other development on this lot.
2. Vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel.
3. All storm water discharge shall be contained and disposed of on-site.
4. Prior to occupation, the boundary wall and/or posts located along the western elevation shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer.

Cr B Massie MOVED an amendment to the Officer's Recommendation to change the wording of condition 2 to say the following

- 2 Vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel above 1.1m above natural ground level. The masonry base to the pillars shall not exceed 350mm in any direction and shall not exceed 1.1m in height above natural ground level.**

CARRIED: 5/2

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

COMMITTEE DECISION

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, resolves:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Proposed Carport at No. 18 (Lot 191) Duffield Street, Beaconsfield, with the following conditions:

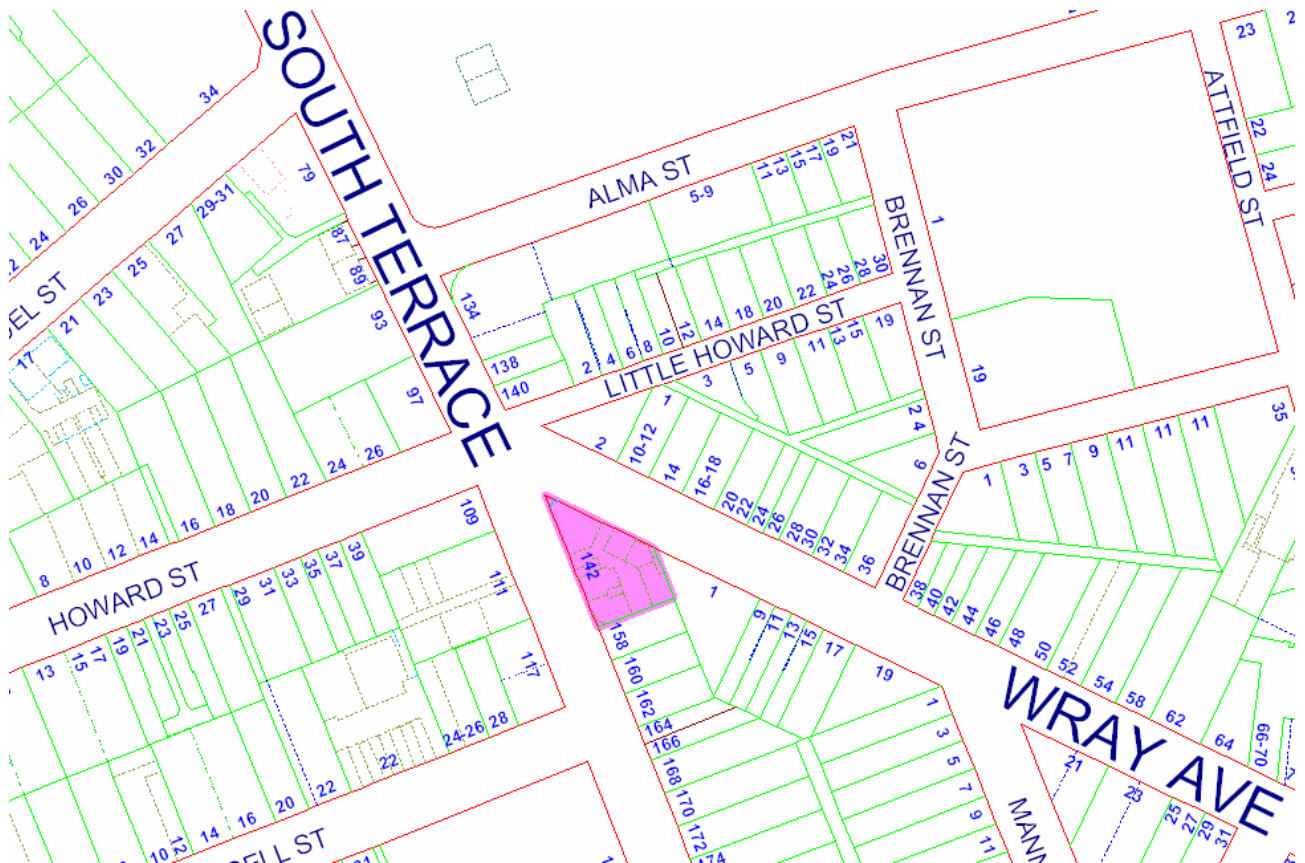
- 1. This approval relates only to the development as indicated on the approved plans dated 18 October 2010, except with any minor modifications as approved by the Manager Development Services. It does not relate to any other development on this lot.**
- 2 *Vertical support posts to be no greater than 150mm in width in any direction and constructed from timber or steel above 1.1m above natural ground level. The masonry base to the pillars shall not exceed 350mm in any direction and shall not exceed 1.1m in height above natural ground level.***
- 3. All storm water discharge shall be contained and disposed of on-site.**
- 4. Prior to occupation, the boundary wall and/or posts located along the western elevation shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer.**

CARRIED: 6/1

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

**PSC1011-209 SOUTH TERRACE, UNIT 7, NO. 142 (LOT 7 ON S055712)
FREMANTLE - CHANGE OF USE (SMALL BAR) - (AH DA0433/10)**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Meeting Date: 3 November 2010
Previous Item Number/s: Nil
Attachments: 1. Site plans
2. Applicants justification
Date Received: 31 August 2010
Owner Name: Fremantle Property Fund Pty Ltd
Submitted by: Clint Nolan
Scheme: Mixed Use
Heritage Listing: Limestone features
Use Class: Small Bar
Use Permissibility: A



EXECUTIVE SUMMARY

The City of Fremantle (the City) is in receipt of an application for planning approval for a Change of Use to Small Bar at the above site.

Section 41 of the *Liquor Control Act 1988* was amended in May 2007 to include a Small Bar licence as distinct from Tavern and Hotel Licenses.

On 6 February 2009 the City amended Local Planning Scheme No. 4 (LPS 4) to include a Small Bar as a defined land use to reflect the statutory changes to liquor control.

A Small Bar is an 'A' use under LPS 4 which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 9.4.

It is considered that the proposed use is consistent with the objectives of the Mixed Use zone and that whilst a parking variation is sought, the location of this premises is suited to a Small Bar and thus appropriate.

It is recommended that the application be approved subject to conditions.

BACKGROUND

The site is known as the 'Five Ways' Building located on the corner of Wray Avenue and South Terrace. The building was granted planning approval on the 21 December 2004 as a Four Storey Mixed Use Development with three residential units, one short stay residential unit, four retail units, five commercial/office units and associated car parking.

The site is zoned 'Mixed Use' under the City of Fremantle's Local Planning Scheme No. 4 (LPS 4) and is contained within Local Planning Area 4 – South Fremantle and Sub Area 4.3.4.

DETAILS

The applicant seeks planning approval for a Small Bar to operate from Unit 7, No. 142 South Terrace, which is the ground floor unit which faces the corner of Wray Ave and South Terrace.

The application does not involve any structural changes to the building but will include internal fit-out and alfresco dining areas with awnings along both Wray Avenue and South Terrace.

The application for change of use to Small Bar was accompanied by a written submission from the applicant. The submission includes the following description of the proposed use:

The aim of the premises is to create a relaxed modern setting where alcohol, along with food and coffee, can be enjoyed in a civilized, neighbourhood environment with an emphasis on people and conversation, an extension of the local's lounge room if you will.

The venue will be pitched, in terms of ambience and product price point, at patrons in the 21-60 years old age group. The target market will enjoy a glass of wine, great food and conversation in a comfortable setting.

The proposed Small Bar seeks hours of operation from 7:00am till 12:00pm Monday to Saturday and 7.00am till 10:00pm Sunday in order to operate as a café for breakfasts & lunches, plus continuance of service through to evening meals and dinner service. With the applicant being the owner/operator of Harvest in North Fremantle, food will be focused on fresh, healthy dishes aimed for ease of service, available from opening till one hour before close.

A 'Small Bar' license differs from hotel and tavern licenses by conditions imposed to restrict the scope of the license. Restrictions include the prohibition of the sale of packaged liquor and a limitation on the number of people who may be on the premises at any one time to a maximum of 120.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No. 4

Land Use

A 'Small Bar' is defined by LPS 4 as follows:

'means premises licensed as a small bar under the Liquor Control Act 1988 and used to sell liquor for consumption on the premises, but not including the sale of packaged liquor and with the number of persons who may be on the licensed premises limited to a maximum of 120.'

Car Parking

Clause 5.7.1(c) states that *'where parking provisions are not prescribed for a particular use the requirement will be determined by Council'*. It is considered that an appropriate car parking provision would be that commensurate with a lounge area of a hotel/tavern, being one bay per five square metres of lounge area (see Table 3 of LPS 4).

This parking standard has been used as the basis for assessment in other Small Bar development applications in the City of Fremantle.

This parking standard is also consistent with the car parking requirements of a Restaurant.

The lounge area of the proposed small bar is 92m² plus an additional 35m² of alfresco area which equates to a total of 26 car bays being required.

The site does not provide any car parking on site and therefore the applicant is requesting a discretionary decision of Council.

In accordance with Clause 5.7.3 of LPS4, Council may waive or reduce the standard parking requirement subject to the applicant satisfactorily justifying a reduction due to one or more of the criteria listed under that Clause.

Further discussion relating to the requested discretionary decisions in the context of the above criteria will be included in the 'Planning Comment' section of this report.

CONSULTATION

Community

The application was advertised in accordance with Clause 9.4 of LPS 4 and Local Planning Policy 1.3 – Public Notification of Planning Approvals. Notice of the proposed development was served on nearby owners within 100m of the proposal and a sign was placed on site. The advertising period concluded on 4 October 2010, with the City receiving 11 submissions, 4 of support, 5 objections and 2 which raised concerns but in principal supported the Small Bar.

The summary of comments received is provided:

- Parking is currently inadequate in this area and at a premium. This proposal will only add to the problem;
- Parking difficulties in Wray Ave have become worse over the last 12 months;
- There is definitely not enough parking anywhere around corner of Wray and South;
- Traffic issues with buses, deliveries and new roundabout;
- Antisocial behaviour will impact on nearby residents with noise from Bar and patrons leaving the premises, particularly late at night;

- No objection to the principal of the development, but needs close attention to implementation of parking;
- Not opposed to a small bar but concerned about noise and anti-social behaviour. With limited hours for night opening, it would mix with residential uses.
- I have no objection, with the provision that closing hour is no later than mid-night.

- Look forward to the addition of a small bar within walking distance of my office. I believe this new venue will offer a new and dynamic addition to Fremantle which is crying out for a sophisticated and mature meeting place.
- I am writing in favour of the proposed small wine bar, we believe this stylish calibre of wine bar will help in attracting a more sophisticated level of patronage to the area as an alternative to the existing pub and club scene.
- We are in favour of the proposed development and don't see parking as an issue. Wilson Car-park less than 50m from the proposed bar which is half empty the majority of the time. Plus given the cat bus passes this location we believe less parking would be better as it would discourage people from driving after having a few drinks.
- Wonderful addition and we know that from talking with other locals it is something that is keenly sought.

Technical Services

The application was referred to Technical Services for comment with particular regard to a new roundabout with re-aligned kerbing proposed for this intersection and also in relation to the awnings and alfresco areas on the footpath. The following advice was received:

The City is proposing to construct a roundabout at this location this year but it should not affect this proposal. With regard to the alfresco dining etc, a condition to maintain 2m wide footpath from kerb to the alfresco marked area in both South Terrace and Wray Avenue will need to be added.

There may also be a need to remove/relocate street tree or other verge infrastructure within the designated alfresco area. The cost of this will be on the developer/applicant.

PLANNING COMMENT

Local Planning Scheme No. 4

Land Use

It is considered that the proposed use of 'Small Bar' is consistent with the objectives of the Mixed Use zone as it would provide and contribute to a range of services including café's, restaurants and entertainment uses.

The use is sympathetic with the desired future character of the area as it would add to the current hub of specialty shops, deli's, restaurants and café's on and around this street corner.

In terms of the proposals impact on the amenity of the area the applicant has offered the following measures to be incorporated into the design and operation of the Small Bar. The applicant has stated that:

- soundproofing will be installed in the venue to soften harsh surfaces;
- music would be background only, with no amplified live music to be played;
- the emphasis will be placed on conversation and noise within the venue kept to a minimum;
- the alfresco areas will close by 10:00pm and patrons moved inside, reducing sound level on the exterior of the site; and
- appropriate crowd control will be engaged if needed.

It is considered that the proposed use as a Small Bar without loud, live music would be appropriate in this locality. Given the alfresco areas face onto other businesses on the opposite sides of the street, it is considered that noise impact would be minimal.

It is not anticipated that a Small Bar of this nature would attract anti-social behaviour that may otherwise be associated with larger venues and as such the proposal is considered appropriate in its setting.

For these reasons, the proposal is considered to satisfy the objectives of the Mixed Use zone.

Car Parking

Original approval for this tenancy	Proposed Small Bar	Shortfall
8 bays	Requires 26 bays	18 bays

The original building was approved with a variation to the car parking provisions and the result was the 14 bays provided as part of the development would be allocated exclusively to the residential tenancies, whilst a \$60,000 cash-in-lieu payment would be made for the parking shortfall.

The original approved use for this tenancy was for a Retail Unit under TPS 3 which required 8 car bays to be provided. This change of use to Small Bar will therefore result in an additional 18 bay shortfall from the previous approval.

It is noted that there are street parking bays within the immediate vicinity of the proposed Small Bar along both South Terrace and Wray Avenue. Whilst during the day these bays see high turn-over and are continually in use, their evening and night time use is greatly reduced.

Furthermore, the site is well serviced by public transport with 11 public bus services passing along either Wray Avenue or South Terrace in addition to the Fremantle Cat bus servicing South Terrace.

It is considered that with the majority of patronage likely to be late afternoon and evening, the Small Bar would not significantly add to the demand on parking bays during the day. Evening patronage would more likely utilise the street bays however this is not currently considered an issue as parking bays become more readily available during this time.

Furthermore, the location of the Wilson Car-park at the corner of Alma Street and South Terrace is also available for patrons of the Small Bar and is also relatively under-used during evenings.

Additionally, it should be noted that the site is sufficiently close to the city centre that patrons could reasonably walk to the Small Bar from the City Centre (being approximately 500m from the cappuccino strip) and the premises will be provided with bicycle racks as indicated on the proposed plans.

Therefore, it is considered that there is sufficient merit in this proposal satisfying the provisions of Clause 5.7.3 in order to relax the parking provision and support the proposed Small Bar.

RESPONSE TO SUBMISSIONS

Parking

Whilst it is recognised that parking in this locality during the day can be difficult, the proposed Small Bar is more likely to attract a higher patronage in the evening when parking availability greatly increases. The location of street bays, public car-parks, a high number of bus services and bicycle racks is considered to compensate for the shortfall of parking and as assessed against the provisions of LPS 4 is considered appropriate.

Anti-social behaviour

The proposed Small Bar is not considered to significantly increase the likelihood of anti-social behaviour as the proposed business is aimed at a mature client with the intention of the quite enjoyment of a relaxed modern setting.

The applicant has indicated that alfresco areas would close by 10:00pm and loud and/or live amplified music would not form part of the business. Furthermore, it is considered that the type of patrons that would be attracted to such a venue are unlikely to significantly contribute to increased anti-social behaviour or noise.

CONCLUSION

The proposed Small Bar is consistent with the objectives of the Mixed Use zone.

The applicant has identified sufficient measures for controlling noise and anti-social behaviour.

Whilst car bays are not provided as part of the development, adequate public transport services are available, as well as alternative parking spaces in the form of a nearby public car-park and street bays.

Therefore, it is recommended that the proposed Small Bar be approved subject to conditions.

OFFICER'S RECOMMENDATION

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the Change of Use to Small Bar at Unit 7, No. 142 (Lot 7 on S055712) South Terrace, Fremantle subject to the following condition(s):

1. This approval relates only to the Small Bar as indicated on the approved plans dated 31 August 2010. It does not relate to any other development on this lot.
2. Hours of operation shall be limited to between 7.00am and 12.00pm (midnight) Monday to Saturday and 7.00am and 10.00pm on Sundays.
3. The sign hereby permitted shall not contain any flashing or moving light at any time.
4. The proposed awnings over the footpath shall be at least 2.75m above the footpath as set out by the Local Government (Miscellaneous Provisions) Act 1960.
5. A 2.0m wide footpath, clear of encroachment, will be maintained from the kerb to the alfresco area marked along both South Terrace and Wray Avenue.

Advice Notes:

1. 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.
2. 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 verandah's construction, maintenance or use is required to be obtained by those persons constructing anything within the road reserve.

Cr T Grey-Smith MOVED the following alternative recommendation:

COMMITTEE RECOMMENDATION

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the Change of Use to Small Bar at Unit 7, No. 142 (Lot 7 on S055712) South Terrace, Fremantle subject to the following condition(s):

1. This approval relates only to the Small Bar as indicated on the approved plans dated 31 August 2010. It does not relate to any other development on this lot.
2. The sign hereby permitted shall not contain any flashing or moving light at any time.
3. The proposed awnings over the footpath shall be at least 2.75m above the footpath as set out by the Local Government (Miscellaneous Provisions) Act 1960.

4. A 2.0m wide footpath, clear of encroachment, will be maintained from the kerb to the alfresco area marked along both South Terrace and Wray Avenue.

Advice Notes:

1. 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.
2. 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 verandah's construction, maintenance or use is required to be obtained by those persons constructing anything within the road reserve

LOST: 1/6

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

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 Change of Use to Small Bar at Unit 7, No. 142 (Lot 7 on S055712) South Terrace, Fremantle subject to the following condition(s):

1. This approval relates only to the Small Bar as indicated on the approved plans dated 31 August 2010. It does not relate to any other development on this lot.
1. Hours of operation shall be limited to between 7.00am and 12.00pm (midnight) Monday to Saturday and 7.00am and 10.00pm on Sundays.
2. The sign hereby permitted shall not contain any flashing or moving light at any time.
3. The proposed awnings over the footpath shall be at least 2.75m above the footpath as set out by the Local Government (Miscellaneous Provisions) Act 1960.
4. A 2.0m wide footpath, clear of encroachment, will be maintained from the kerb to the alfresco area marked along both South Terrace and Wray Avenue.

Advice Notes:

- 1. 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.**
- 2. 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 verandah's construction, maintenance or use is required to be obtained by those persons constructing anything within the road reserve.**

CARRIED: 6/1

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

PSC1011-210 FINNERTY STREET NO. 22 (LOT 867) FREMANTLE TWO STOREY REAR ALTERATIONS AND ADDITIONS TO EXISTING SINGLE HOUSE (ES DA0413/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 3 November 2010
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachment 1: Development Plans
Attachment 2: Heritage Assessment
Date Received: 20 August 2010
Owner Name: David & Suzanne Fewson
Submitted by: R25
Heritage Listing: MHI Management Category Level 3
Existing Landuse: Single House
Use Class: Single House
Use Permissibility: 'P'



EXECUTIVE SUMMARY

The proposal is presented to the Planning Services Committee for determination due to the objections received during the community consultation period are unable to be addressed via a condition of Planning Approval.

The applicant is seeking to construct a rear two storey addition to the existing Single House at the subject site. The existing dwelling is listed on the City's Municipal Heritage Inventory (Level 3). The original plans submitted as part of this application proposed variations to building on boundary and open space. The consultation process resulted in objections to various aspects of the development including building height, vehicular access, open space, bulk and scale, visual privacy, overshadowing and streetscape & character.

Amended plans were received by the City on 20 October 2010, with the deletion of the western boundary wall, reduction of the external wall height and roof height and reduction in the floor area of the alterations, effectively increasing the proposed percentage of open space on the lot to 60% of the site area.

A boundary wall is proposed on the eastern boundary, against an existing boundary wall at No. 24 Finnerty Street. A performance based assessment was required to be conducted against the provision Local Planning Policy 2.4 - Boundary Walls in Residential Development (LPP 2.4).

The proposal is compliant with the height, access, bulk and scale, visual privacy overshadowing and open space requirements of the relevant policy provisions. The impact of the proposed works on streetscape & character requirements of the City's D.B.H1 policy are discussed further in the Planning Comment section below, taking into consideration the advice included in the Heritage Assessment conducted.

On 8 June 2010, the City issued Planning Approval for Primary Street Fence Alterations and Alterations to Façade of Existing Single House at the subject site. A site inspection revealed an unauthorised window addition to Bedroom 1 on the eastern elevation. The subject window will be dealt with as part of this application.

It is recommended that the application be approved subject to appropriate conditions to address the following matters.

BACKGROUND

The subject site is zoned Residential under the provisions of the City of Fremantle's (the City) Local Planning Scheme No.4 (LPS4) with a density coding of R25. The site is located within the Fremantle Local Planning Area under the provisions LPS4. The site is individually listed on the City's Heritage List with a Management Category 3.

The development site is located on the northern side of Finnerty Street, opposite the Fremantle Arts Centre. The property has a density coding of R25. The development site is 386m² in area and has a frontage of 12.19m to Finnerty Street. The site consists of a single storey Single House within an existing single storey streetscape.

DETAIL

The applicant is proposing alterations and additions to be located to the rear of the existing Single Storey dwelling at the subject site. The proposed dwelling will include extending the dwelling by 102.26m² of living area comprising of additional garage, living, dining, kitchen and master bedroom. Retrospective approval is sought for the unauthorised window to Bedroom 1 of the existing dwelling.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as the applicant was seeking variations to the R-Codes and LPS4. At the conclusion of the advertising period, 15 September 2010, the City had received five (5) submissions from five properties. The comments made within these submissions are addressed in the Planning Comment section below.

Heritage

As the property is listed on the City's Municipal Heritage Inventory, a Heritage Assessment was undertaken in accordance with the City's L.P.P 1.6 policy. A summary of the comments within this assessment are found below and the full assessment is contained within Attachment 2.

*In general 22 Finnerty Street is an example of a late Victorian Georgian style residence constructed in 1897 and is of **some** significance.*

The two storey additions are set appropriately behind the original house. Policy D.G.F.4 Tuckfield, Finnerty and Skinner Streets notes a preference for single storey additions, however when taking into consideration the lay of the land as the site declines to the north (rear) the proposal will not dominate the house and will not, or will possibly minimally be visible from the street. Therefore, it is considered that the house will continue to present as a single storey from Finnerty Street.

The proposal has been designed in a compatible manner with the original methods and materials of the original residence.

The proposal will not negatively impact on important views and vistas both to and from the place.

PLANNING COMMENT - R CODES

Retrospective Window Addition to Existing Single House

Design Element 6.8.1 – Visual Privacy

Required	Proposed	Variation
Bedroom 1 – 4.5 metres to eastern boundary	2.165 metres to eastern boundary	2.335 metres

The above variation is not supported on the basis that the subject opening does not comply with the Acceptable Development provisions of the R Codes and has a significant impact on the amenity of the adjoining property, as the overlooking is directly into the living, dining and kitchen areas of No. 24 Finnerty Street. A condition has been included to ensure the subject opening is screened to the satisfaction of the Chief Executive Officer, City of Fremantle.

L.P.P1.5 - Planning, Building and Environmental Health Compliance

Clause 4.6 of Council policy *L.P.P1.5 Planning, Building and Environmental Health Compliance* (L.P.P1.5) contains provisions that relate to where non-compliant development has been carried out and when the matter will be the subject of prosecution action.

The policy states that where the property has been brought into compliance within the specified time period, in most cases, the Council will not prosecute. However where, in the opinion of the Manager Development Services there is a broader public interest in undertaking legal action, a report will be prepared for the Council to consider further prosecution action.

Although the development in its current form is not considered to comply with the provisions of LPS4 and Council's L.P.P2.5 policy, the works that have taken place are rectifiable by way of privacy screening to the subject window. Taking this into account, it is not considered that there is a broader public interest in undertaking legal action regarding the unauthorised works, subject to the determination of the application. Notwithstanding this, if Council refuses the unauthorised works, some enforcement measures are required to ensure the unauthorised works are brought into compliance with the provisions of LSP4.

However, Clause 4.5 of L.P.P1.5 states that in addition to the City giving a written warning (Clause 4.2), '*an infringement notice shall be issued as soon as possible after the offence has been committed, but in any event, must be given within 6 months after the alleged offence is believed to have been committed*'.

The previous works to the existing Single House were approved by the City in May 2010 (refer DA 0148/10), being less than 6 months ago and therefore an infringement notice is recommended to be issued. An infringement notice would result in a \$500 fine being issued to the '*alleged offender*'. As these unauthorised works have occurred within the specified 6 month timeframe, it is recommended that Council issue the infringement notice in accordance with Section 226 of the *Planning and Development Act 2005*, as prescribed by Council's L.P.P1.5.

Rear Two Storey Alterations and Additions to Existing Single House

L.P.P 2.4 – Boundary Walls in Residential Development

Council's L.P.P2.4 - *Boundary Walls in Residential Development* policy replaces the 'Acceptable Development' criteria of Design Element 6.3.2 of the R-Codes. Accordingly, in assessing the development in accordance with the R-Codes 'Performance Criteria', L.P.P2.4 states:

'The Council is required to consider a number of specified matters, including whether a boundary wall is desirable in order to not have any significant adverse effect on the amenity of the adjoining property'.

L.P.P 2.4 policy states a boundary wall is acceptable where:

'where the wall is proposed to abut an existing or simultaneously constructed boundary wall of similar or greater dimensions'

The following table compares the existing boundary wall at No. 24 Finnerty Street, and the proposed boundary at No. 22 Finnerty Street, along the common boundary.

	No. 22 Finnerty Street	No. 24 Finnerty Street
Height	2.5 metres	2.9 metres
Length	9 metres	7.4 metres
Distance from rear boundary	3.97 metres	4 metres
Distance to Finnerty Street boundary	18.4 metres	19.4 metres
The proposed boundary wall will be built against the existing boundary wall for a length of 7.4 metres, therefore an additional 1.6 metres of boundary wall is proposed along the common boundary between No. 22 and No. 24 Finnerty Street.		

The application was advertised to the affected neighbours and five submissions were received, one of which was from the adjoining landowner directly adjoining the proposed boundary wall. Council is to have regard to the following factors when considering the impact of a proposed boundary wall on the adjoining properties:

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

The objections to this element of the proposal raised concerns associated with loss of solar access, building bulk impacts and loss of views of significance. In relation to solar access, the development has been assessed against and complies with Design Element

6.9.1 – Solar Access to Adjoining Sites and is fully compliant with the Acceptable Development provisions of this element of the R Codes. Drawing 2 of the Development Plans indicates that all overshadowing from the proposed development will fall on the subject site.

In terms of direct sun access to major openings to habitable rooms or outdoor living areas to the adjoining property, the adjoining lot is approximately 350m² in area, and the location of the proposed boundary wall will abut an existing boundary wall of similar dimensions, which has no major openings. Therefore it is not considered to have any detrimental affect to the access of daylight and/ or ventilation to major openings or outdoor living areas of the adjoining property. The 1.6 metres additional length of the proposed boundary wall is adjacent to the common property which functions as the common vehicular access leg therefore the impact of this wall is considered to be minimal as this is not a habitable area.

With regards to access to views of significance and confinement, it is noted that both sites have significant views to Fremantle Port to the west. However, it is noted that the construction of this boundary wall would have a minimal effect on restricting the existing views and confinement given it is 2.5 metres in height, and lower than the existing boundary wall along the common boundary, and lower than the plane of vision from No. 24 Finnerty Street given the fall of the land towards the west, to the port.

With regard to the proposed eastern boundary wall addition of the development, this element of the proposal is supported, as the wall would make effective use of space and otherwise enhance the amenity of the development as the wall utilises an otherwise limited space between the boundary and the new development. The wall is proposed to be built simultaneously against an existing wall of similar dimensions. Given the overall width of the lots, being 12.19 metres a boundary wall is considered to be an efficient use of space to maximise habitable areas that is considered to enhance the amenity of the development.

Overall, the boundary wall is supported as it will assist in protecting the privacy of both properties whilst not significantly impacting the amenity of the adjoining neighbour or the streetscape of Finnerty Street.

PLANNING COMMENT - COUNCIL POLICY

Policy	Statement
D.B.H1 – Urban Design & Streetscape Guidelines	<p><i>Any additions and extensions should be designed in such a way as to retain and enhance the character and integrity of the existing house and to minimise any impact of new additions on the streetscape and neighbourhood properties.</i></p> <p><i>If an upper floor extension within the existing roof space or loft is not possible, then any upward extension should be in the form of a two-storey addition built at the rear of the existing house, that is, a minimum of 4 metres behind the ridge line, such that its visual impact can be minimised with respect to the built environment of the property, neighbourhood and streetscape.</i></p>
D.G.F4 – Tuckfield, Finnerty and Skinner	<p><i>Any additions and extensions should be designed in such a way as to retain and enhance the character and integrity of the</i></p>

<p>Streets Local Area</p>	<p><i>existing house and to minimise any impact of new additions on the streetscape and neighbourhood places.</i></p> <p><i>Additions to existing buildings of heritage value may be considered on the basis of D.B.H1, relating to 'Urban Design and Streetscape Guidelines'. Of particular relevance is Clause 6 of this document which details how additions to existing houses will be dealt with. In general, the existing heritage of the Local Area consists of the densely built traditional cottages on small lots, often of unusual shapes.</i></p> <p><i>Therefore Council will strictly follow the intent of this section of the policy, which discourages second storey additions that may significantly impact on the integrity and character of the existing houses, the amount of open space, amenity of neighbours or streetscape character'.</i></p>
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Given the property is listed on the City's Municipal Heritage Inventory, the Heritage Assessment considers the impact the alterations and additions will have on the existing character and amenity of the streetscape. From a streetscape point of view, the Heritage Assessment states, *'The proposed additions will not dominate the original place or the significant streetscape. The house will continue to present to the street as a single storey and the additions will sit appropriate behind and to the rear of the site. Any potential impact has been lessened due to the lay of the land which falls away at the rear of the sites'.*

The D.G.F4 policy states Council will discourage second storey additions where they impact the amount of open space, amenity of neighbours streetscape character and existing houses. The City's Officers assess the potential impact on amenity through the development controls contained within the Residential Design Codes. This assessment covers all potential impacts to amenity that the Council has the ability to control.

The applicant submitted amended plans to the City to address all of the identified variations to comply with all acceptable development provisions of the Residential Design Codes, with the exception of the proposed eastern boundary wall. In addition to this, the applicant has reduced the external wall height and roof height of the dwelling in an attempt to respond to the concerns of the adjoining landowners, notwithstanding that the building height complies. The second storey addition is proposed to be lower than the height of the existing dwelling due to the fall of the land to the west.

In response to the intended character of the area, the Heritage Assessment also responds to this, stating,

The proposal has been designed in a compatible manner with the original methods and materials of the original residence.

The design and detailing is contemporary, yet the use of timber framing and cladding to the first floor are more traditional materials for rear additions and will provide a more light weight appearance to the additions. The Colorbond roof cladding and is also appropriate.

As noted above, the form is contemporary yet compatible with the original house and the decorative details of the Victorian Georgian styles will not be used. The additions will be easily identifiable as new work from the original house which is in accordance with the Burra Charter.

Consultation

During the advertising period, five (5) submissions were received by the City. A summary of the comments made are as follows:

The following issues were raised:

Comment	Response
Building Height	The external wall height and roof height are compliant with the relevant Local Planning Policies and provisions of the R Codes. In addition to this, the applicant further reduced the external wall height and removed the proposed decorative roof pitch to appease the adjoining landowners and respond to their concerns.
Vehicular Access	The proposal is compliant with the vehicular access requirements of the R Codes including vehicular maneuvering.
Open Space	Amended plans demonstrate compliance with the Open Space requirements of the R Codes.
Bulk & Scale	Bulk and scale are assessed through building height and building setbacks. The proposal is compliant with both elements of the R Codes.
Visual Privacy	The proposal is compliant with the Visual Privacy requirements of the R Codes. The unauthorised window addition to Bedroom 1 has been condition to be screened.
Overshadowing	The proposal is compliant with the solar access & overshadowing requirements of the R Codes.
Lack of Community Consultation with all neighbours	The proposal was advertised in accordance with the City's L.P.P 1.3 policy relating to Public Notification of Planning Proposals. The proposal was advertised for a period of fourteen (14) days to the required adjoining landowners and occupiers as indicated by the Explanatory Notes (4) of this policy (page 6).
Speculative development for financial gain	Not a planning related consideration.
Streetscape & character	Streetscape and character have been addressed in the above comments relating to the D.B.H1 policy & D.G.F4 policy.
Over development of site	The proposal is fully compliant with all Acceptable Development provisions of the R Codes with the exception of boundary walls, including Open Space, therefore the site cannot be considered to be overdeveloped.

Height of boundary fence, no higher than a standard fence	The proposed boundary fence on the western boundary is proposed to be 1.8 metres (maximum) with an average height of 1.6 metres. This is lower than a standard boundary fence. In addition to this, the applicant has offered to render the limestone and paint the side of this boundary fence facing No. 20 Finnerty Street at the preference of the landowners of No. 20 Finnerty Street. Notwithstanding this, dividing fences are a civil matter and not under the jurisdiction of Local Government.
Damage in construction process to aged foundations of dwellings in locality	This will be addressed at the Building Licence stage of development.
Planning Codes were enforced to rear alterations and additions to No. 24 Finnerty	The approved development plans for No. 24 Finnerty Street (refer DA393/97) indicate variations to Visual Privacy, Boundary Setbacks, Open Space and Car Parking were sought.
Heritage Conservation	The Heritage Assessment (Attachment 2) is supportive of the proposed works.

While the concerns of the adjoining landowners are acknowledged, the City's Officers are not in a position to impose restrictions on the development that complies with the requirements of the R Codes, Local Planning Scheme and Local Planning Policies. Aspects of the development which comply with the Acceptable Development provisions of the R Codes cannot be considered as valid reasons for refusal.

CONCLUSION

The proposed alterations and additions to No. 22 Finnerty Street are considered to be sympathetic to the existing dwelling and streetscape from a heritage perspective. From a planning perspective, the works are compliant with the Acceptable Development provisions of the R Codes and consistent with the objectives of the City's Local Planning Policies.

Consequently, the application is recommended for approval subject to the following conditions to address the abovementioned matters.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That Council:

A. APPROVE the application for the Rear Two Storey Alterations and Additions, and Retrospective Window Addition to Existing Single House at No. 22 (Lot 867) Finnerty Street, Fremantle, subject to the following condition(s):

1. The development hereby permitted shall take place in accordance with the approved plans dated 20 October 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 on the eastern boundary shall be of a clean finish in sand render or face brick to the satisfaction of the Chief Executive Officer, City of Fremantle.
4. Within 90 days:
 - i. the window to Bedroom 1 on the eastern elevation shall be fixed obscured or translucent glass to a height of 1.6 metres above the upper floor level or alternatively a minimum sill height of 1.6 metres as determined from the internal floor level.

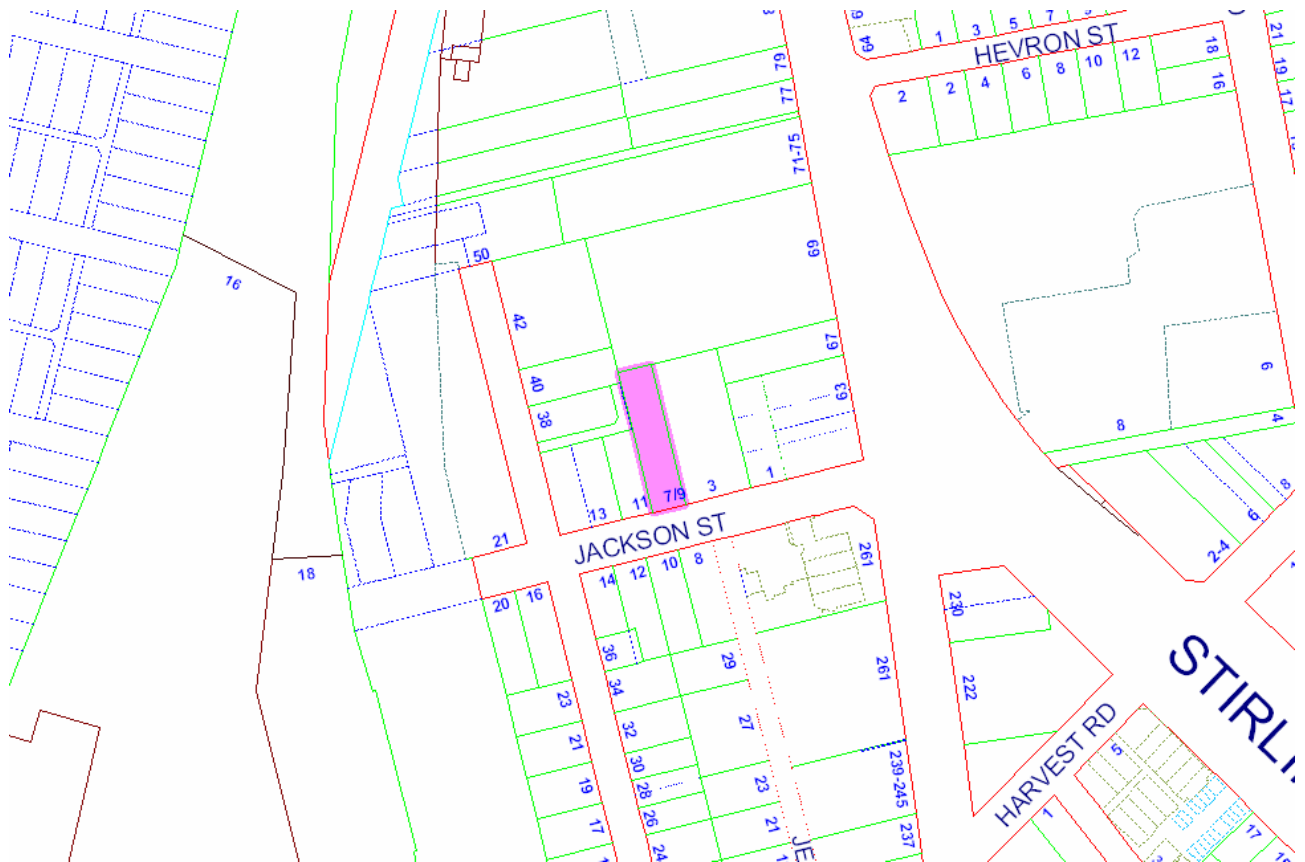
B. AUTHORISE the Chief Executive Officer, City of Fremantle to issue an infringement notice to the alleged offender in accordance with Councils L.P.P1.5 - Planning, Building and Environmental Health Compliance.

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	

PSC1011-211 JACKSON STREET, NO. 7-9 (LOT 1), NORTH FREMANTLE - MIXED USE (RESIDENTIAL & COTTAGE INDUSTRY) DEVELOPMENT (AH DA0408/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Meeting Date: 3 November 2010
Previous Item Number/s: Nil
Attachment 1: Development Plans
Attachment 2: Applicants Justification
Attachment 3: Site photos
Attachment 4: Heritage Assessment
Date Received: 19 August 2010
Owner Name: Boladeras, Russell, Howe & McQuillan
Submitted by: Space Agency
Scheme: Mixed Use
Heritage Listing: Level 3 MHI
Existing Land use: Residential
Proposed Land use: Residential & Cottage Industry
Use Permissibility: A & D



EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee as the proposed development involves a two storey Mixed Use Development with boundary walls which has received submissions from adjoining property owners.

The application has been assessed against the Mixed Use provisions of the R-Codes and is seeking variation to Buildings on the boundary and Buildings setback from the boundary, however these are considered appropriate in context the surrounding development and are considered to have an acceptable level of impact on adjoining properties.

Accordingly it is recommended that the application be approved with conditions.

BACKGROUND

The subject site is known as No. 7 – 9 (Lot 1) Jackson Street, North Fremantle and comprises an existing, vacant building. The existing building is an iron and weatherboard duplex pair constructed between 1895 & 1897.

The property is on the City of Fremantle's (the City) Heritage List and is identified on the City's Municipal Heritage Inventory as a Level 3 residence. The site is located within Local Planning Area 3 – North Fremantle.

DETAILS

The City received a development application for a Mixed Use development on the 19 August 2010 which comprises of:

- Demolition of rear kitchen and associated rear verandah of the existing heritage listed building;
- Refurbishment of existing heritage listed building with new cladding, front verandah and new two storey addition at rear with kitchen, dining and upper level studio;
- Demolition of stand alone workshop/garage and erection of covered carport; and
- Erection of rear studio (cottage industry) with studio above which includes a loft bedroom.

The existing duplex pair would undergo extensive refurbishment with a new two storey addition measuring 5.4m in height and 5.4m in length. The new studio and residential addition at the rear of the site would be 5.6m in height to the external walls, with loft roof measuring 7.5m above natural ground level. This new rear addition includes 6m high boundary walls to the east, north and western boundaries each approximately 11.5m in length.

Parking for eight vehicles is provided on site, with four bays allocated to the rear studio/residential complex and two for each refurbished residence. A public laneway (owned by City of Fremantle) from Pearse Street allows access to the middle of the site. The property has reciprocal rights of access over this laneway, as registered on the land title.

CONSULTATION

Community

The application was required to be advertised in accordance with Council Policy and Clause 9.4 of the LPS 4 due to the proposed residential use is an 'A' use class within the Mixed Use zone. At the close of the advertising period, being 10 September 2010, the City had received 2 submissions. The concerns raised by those that objected include:

- Terrace on the first floor of the new mixed use building has potential to overlook our property and we want to ensure screening on the western boundary;
- Height of parapet wall on the eastern boundary and mass of proposed rear building will cause severe overshadowing;
- Mass and height of proposed rear structure will have an adverse impact on the visual amenity of our property. Request that an appropriate setback is incorporated to reduce the impact of the structure;
- Concerned that the height is not in keeping with historic buildings in the local precinct;
- Face brick needs to be ameliorated. Parapet walls should be rendered in the keeping with other buildings in the area;
- Seek provision of solid boundary fencing for the length of the proposed car park;
- The Right of Way (ROW) would become the primary access and frontage for the proposed rear development, and would create a dangerous situation for access. The current width of the ROW is approximately 3.7m and does not meet WAPC requirements of 6m for all new infill developments;
- The ROW is 40m long, when two vehicles meet in this section of the laneway, there is not enough room to pass other vehicles, therefore one vehicle would need to reverse onto Pearse Street. Therefore, creating potentially dangerous situation for pedestrians/children and traffic along this section of Pearse Street.
- The existing laneway sees very little activity, and this would create a very different situation if the multi car parks were granted at the rear of 7-9 Jackson.
- I am opposed to the boundary wall (north, east and west), side setback (east and west) and privacy (north).
- The proposed parapet wall on my rear boundary would be approximately 5.5m in height and as I have a rear balcony directly opposite with windows into my apartment, the parapet wall would cause overshadowing and diminished light to the balcony and apartment area. Aesthetically it would be a visual eyesore.

Heritage

A heritage assessment was required by LPP 1.6 and the following advice is provided:

The original duplex is being conserved and retained and the skillion roof additions and the outbuildings at the rear are to be demolished. These later additions and outbuildings are of little significance and removal is acceptable.

Overall, the significant duplex pair will be conserved which is commendable and the significant streetscape appearance will be improved. Therefore the proposal is supported on heritage grounds with a recommendation that where possible as much

of the fabric including the original cladding should be retained or reused where possible and new materials used only as necessary.

There will be some loss of original fabric which is irreversible due to the poor condition of the duplex, however this is considered minimal and overall the proposal is a positive contribution to the significance of the place.

PLANNING COMMENT

Local Planning Scheme No. 4

Mixed Use Development

Clause 5.2.5 of LPS 4 states:

Notwithstanding the requirements of clause 5.2.3 residential density in the Local Centre, Neighbourhood Centre and Mixed Use zones may be increased up to R60, where residential development is part of a mixed use development, where, in the opinion of Council the proposal is not detrimental to the amenity of the area.

The proposed development is classed a Mixed Use development due to the ground level studio addition being listed as Cottage Industry occupying at least 25% of the floor area of the total development. The proposal therefore qualifies for assessment at the R60 density code and thus three dwellings over the site is appropriate.

Development within the mixed use zone shall—

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

Note: Objective (iv) derived from Part 4.2 B1.1 of Fremantle Planning Strategy.

In this instance, the proposal provides three residential lots with one incorporating a cottage industry use at the ground floor. Therefore, the proposal provides for precisely the type of land use as set out in the Mixed Use provisions.

The proposed land uses are considered sympathetic with the desired future character of the area which is synonymous with home business and small scale office land uses being approved throughout this North Fremantle area.

The proposal does include two storey boundary walls at the rear of the site, however taking into consideration the surrounding land uses and the layout of the adjoining

buildings, the impact of these boundary walls is not considered to significantly impact of the amenity of adjoining owners.

The heritage assessment is supportive of the application, and recognises that refurbishment of the property will have a positive impact on the place and streetscape as a whole.

Therefore, it is considered that the proposal meets the objectives of the Mixed Use zone.

RESIDENTIAL DESIGN CODES WA (2008)

Mixed use development requirements

The proposal is generally compliant with the provisions of 7.2 of the R-Codes with exception to walls on the boundary and buildings setback from the boundary.

Boundary Walls

The Acceptable Development provisions of DE 7.2 allow for walls on the boundary for two-thirds of the boundary behind the street setback up to 6m in height. The applicant is proposing 6m high boundary walls for the northern, western and eastern boundaries at the rear of the site.

Local Planning Policy 2.4 – Boundary Walls in Residential Development does not apply in this instance as the policy relates explicitly to residential development rather than Mixed Use development and as such the Performance Criteria of the R-Codes 7.2 applies, which states:

Dwellings combined with non-residential uses on the same site that provide comparable standards of amenity to other multiple dwellings taking account of the need to:

- *Satisfy streetscape objectives;*
- *Provide open space in accordance with resident needs; and*
- *Provide car parking to satisfy reciprocal requirements of residents and other users.*

The proposed boundary walls are generally consistent with the development standards of adjoining buildings along Pearse Street which are built with nil side setbacks. The difference in this case however, is that the proposed building at the rear of the site, would be located behind existing buildings along both Pearse and Jackson Streets and therefore would not be highly visible from the street. Thus its impact on the streetscape would be minimal.

The proposed two storey building on the boundary at the rear of the site abuts a vehicle car yard to the rear (see attachment 3, photo 1 - 3), from which no submissions were received. This adjoining site is generally vacant at the rear of the site where the proposed building would abut and as such it is considered there would be minimal impact to the rear adjoining property.

The proposed two storey building on the boundary would abut a generally vacant site to the east. No. 3-5 Jackson Street contains a single storey single house which fronts Jackson Street and is not in close proximity to the proposed boundary wall (approximately 25m away – see attachment 3, photo 4). Due to the orientation of the site, there would be no overshadowing of the adjoining sites, as calculated under the R-Codes.

The adjoining properties to the west comprise a residential property facing Jackson Street, a Commercial building facing Pearse Street and a 3.4m portion of the site which abuts a Mixed Use building. The proposed boundary walls are located at the rear of site and as such would not affect the residential property which faces Jackson Street. The commercial property is separated from the proposal by a 3.5m wide ROW and is further setback with car-parking spaces at the rear of their site. The mixed use building contains commercial and residential land uses with residential apartments being oriented with east facing balconies (see attachment 3, photo 5). Of the 3.4m section of the site that abuts this building, 2.2m is proposed as boundary wall, with the north-western most corner being set aside as a courtyard. The adjoining properties balcony would not be affected by overshadowing as calculated by the R-Codes and the impact of the boundary wall is considered appropriate given the zoning and similar style of development seen along this portion of Pearse Street.

Buildings Setback from the Boundary

Existing Setback	Required Setback	Proposed Setback
0.8m (western boundary)	4.2m	0.8m
0.8m (eastern boundary)	4.2m	0.8m

The applicant is proposing a setback variation to the additions to the original heritage listed building in the form of new additions to the rear of the building that comprise the kitchen, dining and upper level study. The building includes major openings from a sitting room and bedroom however these openings exist in the original building. Technically, the original building should be setback 3.3m from the boundary where a 0.8m setback is provided.

The applicant is proposing to extend the existing building line and maintain a consistent setback along both the western and eastern boundaries and as such requires a variation to the Acceptable Development provisions.

The proposed setback variation is considered appropriate as the original building line would be maintained along both boundaries and the addition to the rear of the building would not include any new major openings. The potential to overshadow is minimal due to the north-south orientation of the site and as such there would be no impact as calculated by the R-Codes. The adjoining property to the east is generally open garden area and thus there is minimal impact to this neighbour. The adjoining property to the west has a shade structure erected on this side of the boundary, however their main outdoor living space to the rear of the site would not be impacted upon by the proposed additions.

LOCAL PLANNING POLICIES

Fremantle Port Buffer Area Development Guidelines

The subject site falls within Area 2 of the Fremantle Port Buffers Area and as such referral to Fremantle Ports is not required, however development provisions are required as part of any new development. These will be attached as conditions to any decision.

LPP 1.6 – Preparing Heritage Assessments

Due to the building heritage listing a heritage assessment was required to be undertaken. The heritage assessment is appended as Attachment 4, with excerpts provided above. The heritage assessment supports the redevelopment of the site, subject to a recommendation that where possible as much of the fabric including the original cladding should be retained or reused where possible and new materials used only as necessary. It is considered that this can be added as an advice note to the decision.

RESPONSE TO SUBMISSIONS

The concerns raised include the following topics which are discussed below:

- Overlooking;
- Overshadowing;
- Bulk & scale;
- Boundary walls and finish to boundary walls;
- Fencing; and
- ROW access and traffic movement.

Overlooking

The proposed terrace to the upper level studio at the rear of the site, does have the potential to overlook to the west and as such it is considered that screening to this portion of the development be included.

Overshadowing

As calculated by the R-Codes, the proposal complies with overshadowing provisions. The general north-south orientation of the site ensures that the majority of shadow cast by the development would be on the site itself or on the street.

Bulk and Scale

As the development is being assessed as a Mixed Use development under the provisions of 7.2 of the R-Codes the bulk and scale is generally compliant with these provisions. The boundary walls of the new building at the rear of the site is considered appropriate in its setting and is considered to have an acceptable level of impact on the adjoining properties, given its context.

Boundary walls & Finish

The proposed 'face brick' boundary walls are acceptable within the City of Fremantle. Generally, a condition for boundary walls would require face brick or sand render be applied and as such the proposal complies with this provision. The proposed boundary walls have been assessed under the provisions of 7.2 of the R-Codes and are considered to be compatible with surrounding development, particularly other similar buildings along Pearse Street.

Fencing

The applicant is advised to consult with adjoining neighbours in regard to the provision of fencing. This is governed by the Department of Housing and is generally resolved through negotiation between adjoining land owners. The City has no provision to require fencing of private properties.

ROW Access and Traffic

The subject site has access rights to the ROW as indicated on the certificate of title. The provision of a 6m wide laneway would be ideal, and is generally required for the construction of new laneways, however as this laneway exists there is no provision to require other landowners to cede land to the City for the widening of the laneway. Given the relatively short length of the laneway and ample manoeuvring space provided on the development site, the potential for car conflict would be minimal.

CONCLUSION

It is considered that the proposed Mixed Use development is appropriate within the Mixed Use zone of North Fremantle in providing redevelopment of an existing heritage listed building that is currently vacant and in disrepair, whilst also including new development which provides for activation of an otherwise vacant site.

The proposed additions to the heritage listed building are supported on heritage grounds and the setback variations to the additions at the rear are considered appropriate in maintaining a consistent building line.

The new development at the rear of the site, whilst including two storey boundary walls, is considered compatible with other development along Pearse Street in the immediate locality and the impact of the boundary walls is considered minimal on the adjoining properties due to its location at the rear of the site and north-south orientation.

Therefore, the proposed Mixed Use development is considered acceptable and recommended for conditional approval.

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 Mixed Use (Residential & Cottage Industry) Development at No. 7 – 9 (Lot 1) Jackson Street, North Fremantle, subject to the following condition(s):

1. This approval relates only to the Mixed Use (Residential & Cottage Industry) Development as indicated on the approved plans dated 19 August 2010. It does not relate to any other development on this lot.
2. Prior to occupation, 80% solid surface area/obscured balustrading to a minimum height of 1.6m above the floor level shall be provided to the upper level terrace on the western elevation in accordance with clause 6.8.1 A1 of the Residential Design Codes, and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.
3. Prior to occupation, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy LPP 2.3 – Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - a. Glazing to windows and other openings shall be laminated safety glass of a minimum thickness of 6mm or 'double glazed' utilising laminated or toughened safety glass of a minimum thickness of 3mm.
 - b. Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.
 - c. Roof insulation in accordance with the requirements of the Building Codes of Australia.
4. Prior to occupation, the boundary wall located on the west, north and eastern boundaries shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.
5. All storm water discharge shall be contained and disposed of on-site.
6. The works hereby approved shall be undertaken on 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.

Advisory note(s):

- i) This approval does not authorise the commencement of any building/demolition works. A building/demolition licence must be obtained prior to the commencement of construction works. Please contact Building Services on 9432 9778.

- ii) **The proposed development is to comply with the provisions of the Building Codes of Australia.**
- iii) **It is the responsibility of the property owners to ensure that any legal right of access is maintained and enforced through the appropriate legal channels. The City of Fremantle will not seek to enforce those matters which fall outside of planning law.**
- iv) **Where possible as much of the fabric including the original cladding should be retained or reused where possible and new materials used only as necessary.**

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	

PSC1011-212 WRAY AVENUE, NO. 41-43 (LOT 3) FREMANTLE - CHANGE OF USE TO HOME BUSINESS (TUTORING) (JWJ DA0345/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 3 November 2010
Responsible Officer: Manager Development Services
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: None
Attachment 1: Development Plans (July 2010)
Attachment 2: Rear site parking plan (October 2010)
Attachment 3: Heritage assessment (August 2010)
Attachment 4: Site photos private ROW (September 2010)
Date Received: 16 July 2010
Owner Name: Franknelly Nominees Pty Ltd
Submitted by: Eileen O'Sullivan
Scheme: Residential R30
Heritage Listing: Level 3 & South Fremantle HP
Existing Landuse: Single House
Use Class: Residential
Use Permissibility: 'P'



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee for determination as the proposed development has received comments from nearby landowners that cannot be resolved via conditions of planning approval.

Planning Approval is sought to change the use of a portion of the existing Single House to Home Business (Tutoring) and associated signage located at No. 41-43 (Lot 13) Wray Avenue, Fremantle.

The proposed Home Business is considered to satisfy the objectives of the Residential Zone and the definition of Home Business in accordance with the City of Fremantle's Local Planning Scheme 4 and accordingly it is recommended that the application be approved.

BACKGROUND

The subject site is zoned Residential under the provisions of the City of Fremantle's (the City) Local Planning Scheme 4 (LPS4) and has a density coding of R30. The site is located within Sub Area 4.3.4 as contained in Schedule 12 of LPS4. The site is listed on the City's Heritage List and Municipal Heritage Inventory (MHI) as a Management Category Level 3. The site is also located within the South Fremantle Heritage Precinct which is a designated Heritage Area in accordance with clause 7.2 of LPS4.

The site is located on the southern side of Wray Avenue, Fremantle and is improved by an existing single storey Single House with a north-south orientation. The Single House incorporates an ancillary shopfront on the western side of the building. The site is approximately 461m². Vehicle access is provided to the site via a rear private Right of Way (ROW) from Carnac Street which incorporates a width of approximately 4.9m at the entry from the street. A portion of the backyard at the rear of site is currently used for parking by the resident.

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

- Council records indicate that the existing shopfront has been used for commercial premises since at least 1956 and a butcher's shop from the 1970's;
- On 8 July 1998, the City granted Planning Approval for the Change of Use to Sign Maker at 41-43 Wray Avenue, Fremantle;
- The site previously operated as a florist prior to this application.

DETAILS

On 16 July 2010, the City received a development application for a change of use to Home Business (Tutoring) and associated signage at 41-43 Wray Avenue, Fremantle.

The original application proposed the following:

- Number of employees – 2;

- Hours of operation:
 - Monday – Friday 8am-7pm;
 - Saturday – 8am-1pm;
- Floor area per use: 45m²;
- Mixture of 1-2 classes per day, 3-4 days per week;
- 6-12 persons per class;
- 2-3 hours per class;
- Average 48 visitations per week;
- 2 days per week spent in lesson preparation, marking and general administration undertaken by 1-2 people;
- Parking:
 - Staff and additional parking at rear of property (up to 4 cars);
 - Street parking on Wray Avenue and Atfield Street;
- Signage located on existing fascia 1.5m long x 0.63m wide;
- Shopfront proposed to be painted a white colour.

On 31 August 2010 the applicant provided further information regarding the proposed change of use:

- Approximate age groups of students would be adults:
 - Tertiary/University students from 9am-4pm;
 - High school students 4pm-6pm;
- Potential for e-learning element of tutoring as part of Home Business.

On 27 October 2010, the applicant provided the City an amended site plan depicting parking at the rear of site to a maximum of seven bays.

The applicant has also reduced the number of students to a maximum of eight at any one time, in response to concerns raised regarding potential traffic difficulties created from catering for more than 10 students per class.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme 4

Use

The objectives of the Residential Zone are:

- 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.

A Home Business is defined as:

'Home business: means a business, service, or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which—

- a) does not employ more than 2 people not members of the occupier's household,*
- b) will not cause injury to or adversely affect the amenity of the neighbourhood,*
- c) does not occupy an area greater than 50 square metres,*
- d) does not involve the retail sale, display or hire of goods of any nature,*
- e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight, and*
- f) does not involve the use of an essential service of greater capacity than normally required in the zone.'*

Council Local Planning Policies

The following Council Local Planning Policies are relevant to this application:

- *LPP 2.5 External Treatment of Heritage Buildings.*

CONSULTATION

Community

The application was required to be advertised in accordance with clause 9.4 of the LPS4. At the conclusion of the advertising period, being 5 August 2010, the City had received two submissions. The following issues were raised:

- Potential parking encroachment of patrons to Home Business onto rear ROW;
- Impact of traffic generated by Home Business on condition of ROW;
- Potential inappropriate use of street parking as part of traffic generated from Home Business.

Further assessment and discussion is contained in the 'Planning Comment' section of this report.

Heritage

As mentioned previously, the site is listed on the City's Heritage List and MHI as a Management Category Level 3. A heritage assessment was required to be undertaken in accordance with *LPP 1.6 Preparing Heritage Assessments*. The heritage assessment supported the proposed change of use and signage and stated:

- The return of use as a business in the shopfront will be beneficial to the ongoing heritage values of the place;
- Signage designed in a restrained and appropriate manner and considered acceptable;
- Painting to the façade of the shopfront in a white colour is considered acceptable.

Further assessment and discussion is contained in the 'Planning Comment' section of this report.

Technical Services

The application was referred to the City's Technical Services department regarding potential impact of traffic on the locality generated by the proposed change of use to Home Business. The original development plans dated 16 July 2010 proposed up to a maximum of 12 persons per class. The Technical Services department advised that the applicant would be required to provide a traffic assessment in accordance with the Western Australian Planning Commission's *Transport Assessment Guidelines for Developments Vol. 4*, due to the maximum number of vehicle trips would be greater than 10 for a form of 'school'.

On 14 October 2010, the applicant advised that the maximum number of potential students per class would be reduced to 8 in order to remove the need for a transport assessment to be undertaken.

Further discussion is contained in the 'Planning Comment' section of this report.

Use of Private ROW

The City sought legal advice regarding use of the private ROW by clients of the proposed home business. Planning Bulletin 33 states under section 3 that section 167 A of the *Transfer of Land Act 1893* indicates that the present owners of abutting lots have the right to use the right of way "along with guest and invitees". The legal advice confirmed clients of the proposed Home Business would be classified as 'guests and invitees' in accordance with section 167A of the *Transfer of Land Act 1893*.

Further discussion is contained in the 'Planning Comment' section of this report.

PLANNING COMMENT

Traffic

As mentioned previously, the applicant has advised that the maximum number of students is to be restricted to eight. The applicant has advised that a maximum of seven cars are able to be parked at the rear of site, as depicted on the amended site plan dated 27 October 2010.

It is noted that the plans submitted 27 October 2010 do not meet Australian Standards in terms of configuration, however it is estimated that approximately six vehicles could be accommodated at the rear in a different configuration that would meet the Australian Standard ASN2890.1.

Ample street parking is located within direct proximity to the site including:

- Verge recessed in front of site (Wray Avenue) providing three timed bays for a maximum of two hours;
- Timed parking provided on Wray Avenue east of site for a maximum of two hours;
- Timed parking provided on Wray Avenue west of site between 15 minutes and 2 hours;
- Timed parking provided on the Attfield Street (south) to maximum of two hours.

Public transport is provided by bus route along Wray Avenue and within the locality.

As mentioned previously, the shopfront portion of the site has been used as commercial premises since the 1950's. It is considered that the proposed Home Business would be of a lesser impact as traffic to the site is restricted to either side of class times and potentially more consistent than previous retail/commercial uses of the site.

The applicant has stated that approximate age groups of classes include high school students. It is considered that a portion of these students would most likely not have a driving licence and therefore would be dropped off and collected or potentially catch public transport to the site which will reduce the impact on availability of parking within the locality.

The applicant has indicated that in the future, tutoring will be focused towards 'e-learning' which will reduce the number of students physically attending the site and subsequent traffic impacts on the locality.

It is considered that the proposed use will not significantly impact on the amenity of the locality nor create traffic difficulties.

Heritage

As mentioned previously, the heritage assessment supported the proposed change of use and associated signage. The proposed painting to the façade of the shopfront is considered to satisfy the provisions of *LPP 2.5 External Treatment of Buildings* as the shopfront has an acrylic paint finish and therefore acceptable to the fabric. The colour scheme is considered to be an improvement on aesthetic values of the shopfront compared to previous pink/mauve colour scheme and is therefore supported.

Submitter Concerns

Parking Within Private ROW

Please refer to comments made in the 'Use of Private ROW' section of this report.

Impact of Traffic on Condition of Private ROW

As stated previously, the clients of the proposed Home Business have the legal right to use the private ROW. Any issue related to the condition of the ROW is a matter for the owners of the ROW.

Inappropriate Use of Street Parking

Inappropriate use of street parking is enforced through the City's Ranger Services.

Ample parking is provided within locality on Wray Avenue and Attfield Streets. As mentioned previously, ample parking is provided on site for a maximum number of six car bays.

CONCLUSION

The proposed land use has been assessed against the provisions of LPS4 and relevant Council Local Planning Policies. Subject to the imposition of conditions, it is considered that the proposed land use will not have a significant detrimental impact upon the amenity of the adjoining neighbours or the immediate locality and is considered compatible with the objectives of the Residential Zone.

Therefore it is recommended that the application be conditionally approved.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Change of Use to Home Business (Tutoring) & Signage at No. 41-43 (Lot 13) Wray Avenue, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the change of use and signage as indicated on the approved plans, dated 16 July 2010 (development plans) and 27 October 2010 (revised parking site plan). It does not relate to any other development on this lot.**
- 2. The sign hereby permitted shall not contain any flashing or moving light at any time**
- 3. The Home Business hereby permitted shall not employ more than 2 persons who are not members of the occupier's household.**

4. The Home Business (Tutoring) hereby permitted shall not involve the retail sale, hire or display of goods that are not directly associated with the Home Business (Tutoring).
5. This approval allows the Home Business (Tutoring) hereby permitted to be conducted by Eileen O'Sullivan. If Eileen O'Sullivan ceases to operate the Home Business (Tutoring) hereby permitted or occupy the subject site, this approval will expire.
6. The Home Business (Tutoring) hereby permitted shall not occupy an area of greater than 50sqm.
7. A revised parking plan shall be submitted to the City of Fremantle prior to commencement of the Home Business to depict parking bays in accordance with the Australian Standards ASN 2890.1 to the satisfaction of the Chief Executive Officer, City of Fremantle.

The Home Business hereby permitted shall have a maximum number of eight students per class at any one time.

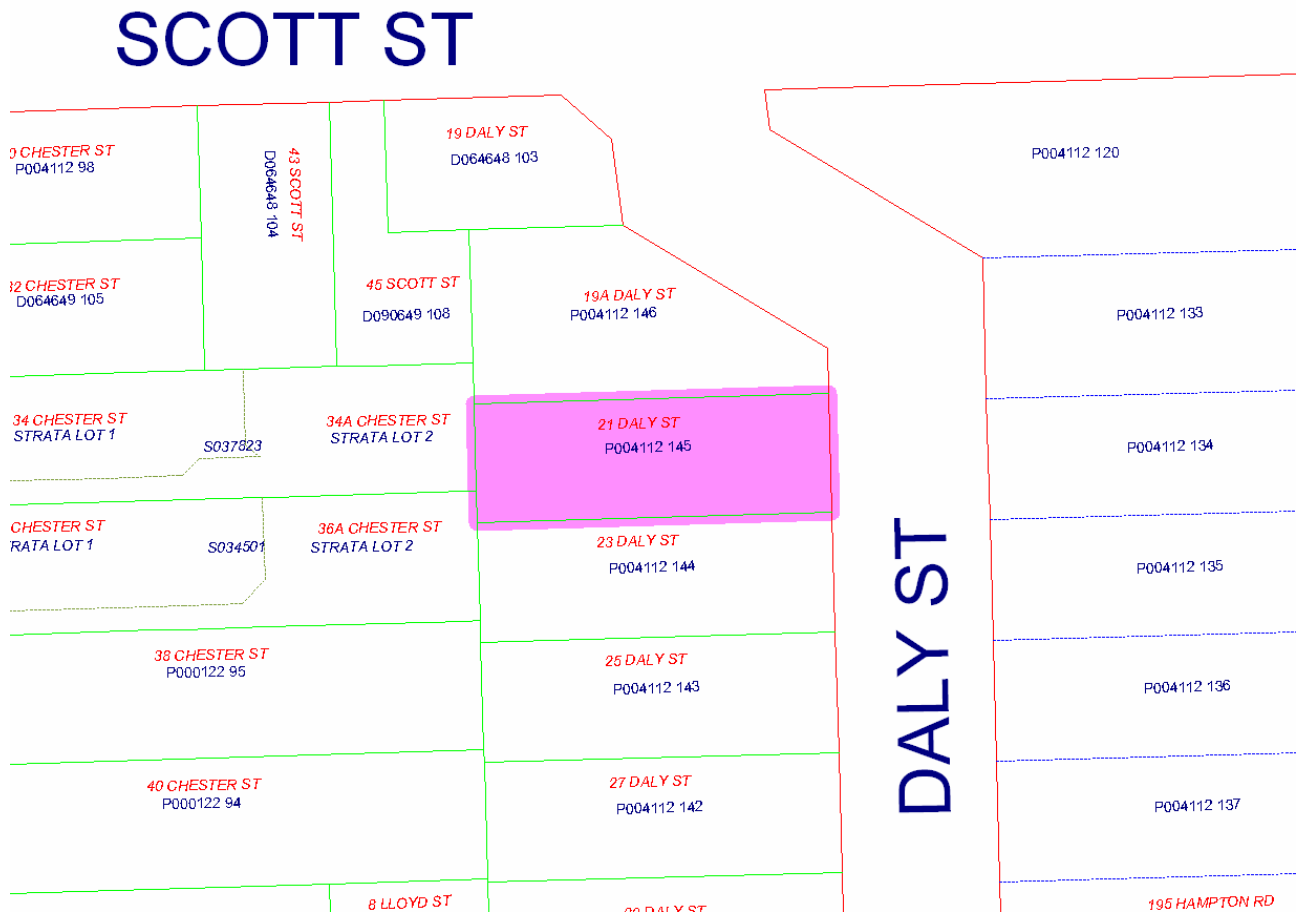
CARRIED:7/0

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 R Fittock vacated the chamber at 8:15 pm.
Cr R Fittock returned to the meeting at 8:16 pm.
Cr B Massie vacated the chamber at 8:28 pm.
Cr B Massie returned to the meeting at 8:30 pm.

PSC1011-213 DALY STREET NO.21 (LOT 145), SOUTH FREMANTLE CARPORT ADDITION TO AN EXISTING SINGLE HOUSE (MS DA0147/10)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 3 November 2010
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: Site Photos
Date Received: 17 March 2010
Owner Name: G Lonsdale & T Bilcich
Submitted by: Pheonix Patios
Scheme: Residential R25
Heritage Listing: Nil
Existing Landuse: Single House
Use Class: Residential
Use Permissibility: 'P'



EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee as the proposed development does not satisfy the requirements of the City's Local Planning Policy DC 6 - Carports/Garages in front of Dwellings/Buildings.

Planning Approval is sought for a Carport to be located in the front setback area at No.21 (Lot 145) Daly Street, South Fremantle.

The Carport is proposed to be built in front of the existing dwelling; furthermore there are no other examples in the street of this type of development.

At Planning Services Committee on 7 July 2010 a report was presented with draft provisions to amend Local Planning Policy DC 6. The application has been modified having regard to the draft policy provisions. Furthermore at its meeting on 15 September 2010 the council resolved to approve a Carport located forward of the dwelling subject to the proposal being accordance with the proposed amendments to the City's D.C6.

Notwithstanding, given the preliminary nature of the draft provisions it is considered that the application should be refused.

BACKGROUND

Site Description

The subject site is zoned Residential under the provisions of the City of Fremantle's (the City) Local Planning Scheme No.4 (LPS4) with a density coding of R25. The site is located within the South Fremantle Local Planning Area under the provisions of LPS4. The site is not listed on the City's Heritage List or Municipal Heritage Inventory, but is located within the South Fremantle Heritage Precinct which is designated as a Heritage Area under clause 7.2 of LPS4.

The subject site is located on the western side of Daly Street, South Fremantle and has a site area of approximately 690m². The site is currently improved by a single storey Single House.

Proposed review of D.C6 Garages/Carports in front of Dwellings

It is considered worth noting that a possible review of L.P.P D.C6 was discussed at a special Planning Services Committee (PSC) meeting on 30 June 2010.

Possible draft provisions were presented to the PSC to allow Carports to be located in front of dwellings in specific circumstances. However the PSC were unable to discuss these provisions throughout the course of the meeting and as such the item was deferred for further consideration. To date, the PSC has not yet revisited the proposed review of D.C6, however in the determination of a carport development application (18 Duffield) in relation to the draft requirements, Council sought clarification with regard to the definition what 'light weight' construction meant. The draft policy provisions are discussed further in the Planning Comment section of this report.

DETAIL

The applicant is proposing the addition of a carport to the existing Single House at No.21 Daly Street, South Fremantle. The proposed carport is to be of steel and colourbond construction. The carport is to be located forward of the existing dwelling with a front setback of 4.5m.

The development plans are enclosed as an attachment to this report (attachment 1).

CONSULTATION

The application was required to be advertised in accordance with Clause 9.4 of LPS4 and the City's L.P.P1.3 *Public Notification of Planning Proposals* as the applicant is seeking discretionary decisions in relation to the R-Codes and Council Policy.

At the conclusion of the advertising period, being 21 October 2010, the City had received one submission that raised the following concerns:

- That the current location of the existing fence is not in accordance with the cadastral boundary of the site, thus emphasis on the proposed setback of 0.5m being from the cadastral boundary rather than the fence line;
- The proposal being built in accordance with the current policy provisions pertaining to Carports located in the front setback.

In relation to the side setback of the proposed carport, the provided development plans indicate a 0.5m setback from the southern common boundary, should the proposal be approved, as standard practice a condition will be imposed restricting the applicant to develop as depicted on the provided plans. Thus in the event the applicant does not build in accordance with the approved plans, they may be issued an infringement or prosecuted in accordance with the City's L.P.P1.5 Planning, Building, Health and Compliance Policy.

The concerns raised in regard to the carport being contrary to adopted council policy are discussed further in the Planning Comment section of this report.

STATUTORY AND POLICY ASSESSMENT

Residential Design Codes 2008 (R-Codes)

The proposed development has been assessed against and complies with the relevant 'Acceptable Development' requirements of the R-Codes, with the exception of Design Element 6.3.1 – Buildings setback from boundary.

Local Planning Policies

The application has been assessed the City's D.C.6 Garages/Carports in front of Dwellings/Buildings. Further discussion is contained in the Planning Comment section of this report.

PLANNING COMMENT

Boundary Setbacks

The applicant is proposing the following departures from the Acceptable Development Criteria of Design Element 6.3.1:

Required	Provided	Variation
<u>Southern Elevation</u> Carport – 1 metre	<u>Southern Elevation</u> Carport – 0.5 metres	0.5 metres

The proposed reduced setbacks have been assessed against the Performance Criteria of Design Element 6.3.2.

The Performance Criteria of the R-Codes relating to boundary setbacks 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 is not anticipated to limit ventilation to the subject site nor the southern adjoining property.

The proposal will contribute to an increased extent of overshadow on the southern adjoining property, however the shadow cast is not anticipated to significantly limit the access to northern light due to the location of the carport. The projected overshadow falls onto the driveway area of No.23 Daly Street and as a result does not shadow any major openings or outdoor living areas.

The impact caused on the southern adjoining neighbour in relation to bulk is not anticipated to be significant due to the lightweight and small scale of the structure.

On this basis, it is considered that the proposal meets the Performance Criteria of the R-Codes relating to building setback from boundaries.

Council Policy

The City’s D.C 6 Garages/Carports in front of Dwellings/Buildings states that:

1. *Carports and garages will not be allowed in the front setbacks unless:*
 - (i) *There is an existing pattern of carports/garages in the street;*
 - (ii) *The topography of the land is such that the carport/garage can form a part of the existing slope/cliff or retaining wall;*
 - (iii) *The topography of the land is such that the existing house is significantly below the street level;*

- (iv) *The house is located on a corner lot. In this case a carport/garage can be built to the secondary street;*
- (v) *The existing house's setback is significantly greater than other setbacks in the street or*
- (vi) *The subject lot is irregular in shape and location.*

The existing carports and garages located within Daly Street are setback behind the front façade of the street and located as either under-croft garages or located at the side of dwellings. There is not considered to be an existing pattern of carports/garages in the front setback areas in the street.

The topography of the land is gently sloping from east to the west by approximately 1.5m, but not to the extent that the carport can form part of the slope/cliff or a retaining wall.

The house is located approximately 1m below the street level, though not to any extent that would be deemed significant.

The existing house's setback of 9.3m is consistent with other setbacks in the street, which forms part of a largely uniform streetscape along Daly Street. Furthermore, the property is located across the road from the back of a shopping centre, thus the streetscape in this circumstance is limited to the western side of Daly Street.

Furthermore, the lot is not irregular in shape or location.

Therefore, the proposed carport is not considered to comply with Local Planning Policy DC 6 Garages/Carports in front of Dwellings/Buildings.

Proposed recommended amendments to Local Planning Policy DC 6 Garages/Carports in front of Dwellings/Buildings

As mentioned previously, a report was presented to PSC on the 7 July 2010 for the purposes of discussion.

In relation to the location of Carports, the following recommendations were presented:

1. *Garages and carports are to be setback in line with or behind the front wall of the dwelling.*
2. *Carports may be located in front of the dwelling where:*
 - a. *The carport is open on all sides with no door;*
 - b. *The carport is of simple and lightweight construction;*
 - c. *The carport will be located so as to maintain visibility of the house from the street and surveillance from the house to the street; and*
 - d. *The maximum width of a carport is to be 6 metres on a property with a frontage of 10 metres or greater. On a property with a frontage of less than 10 metres, the maximum width of a carport is to be 3 metres.*

3. *Variations to the above requirements may be considered subject to discretionary criteria relating to consistency and compatibility with the streetscape.*

Further to the above being considered by PSC, clarification was sought as to what was specifically meant by “lightweight construction” as referred to in 2b above. Subsequently the City has drafted provisions which further explains how simple and lightweight are defined. Based on the definition contained in the draft Hilton Local Planning Area Policy, 2 (b) has been amended to read:

“The carport is lightweight in construction with timber or steel vertical supports no greater than 150mm in width in any direction.”

The proposal is consistent with the above requirements however, this draft policy is not a seriously entertained planning proposal as Council has not yet endorsed the draft policy for advertising. In the instance an application for review is lodged with the State Administrative Tribunal against any determination, the Tribunal will rely on the existing D.C.6 policy given that the draft policy has not been adopted.

CONCLUSION

In assessing the proposed Carport, Committee may acknowledge the above recommended policy provisions in considering this application. It is also noted that on the 15 September 2010 Council supported development consistent with these guidelines.

However, it is recommended that given the above provisions have not been subject to discussion within Council, nor adopted as a draft or advertised to the public, reliance on these provisions in determining this reconsideration may be premature.

Thus in relation to the City’s Current policy provisions, the proposed Carport is inconsistent with the requirements on the City’s D.C.6 as discussed previously. It is on this basis that the proposal is recommended for refusal.

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Carport Addition to an existing Single House at No.21 (Lot 145) Daly Street, South Fremantle, for the following reasons:

1. The proposal does not meet the provisions of the City of Fremantle’s DC 6 Garages/Carports in front of Dwellings/Buildings policy.

Cr R Fittock MOVED to defer the item to the next appropriate Planning Services Committee to enable the applicant to consider redesigning the carport to reduce its streetscape impact.

CARRIED: 4/3

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

REPORTS BY OFFICERS (COUNCIL DECISION)

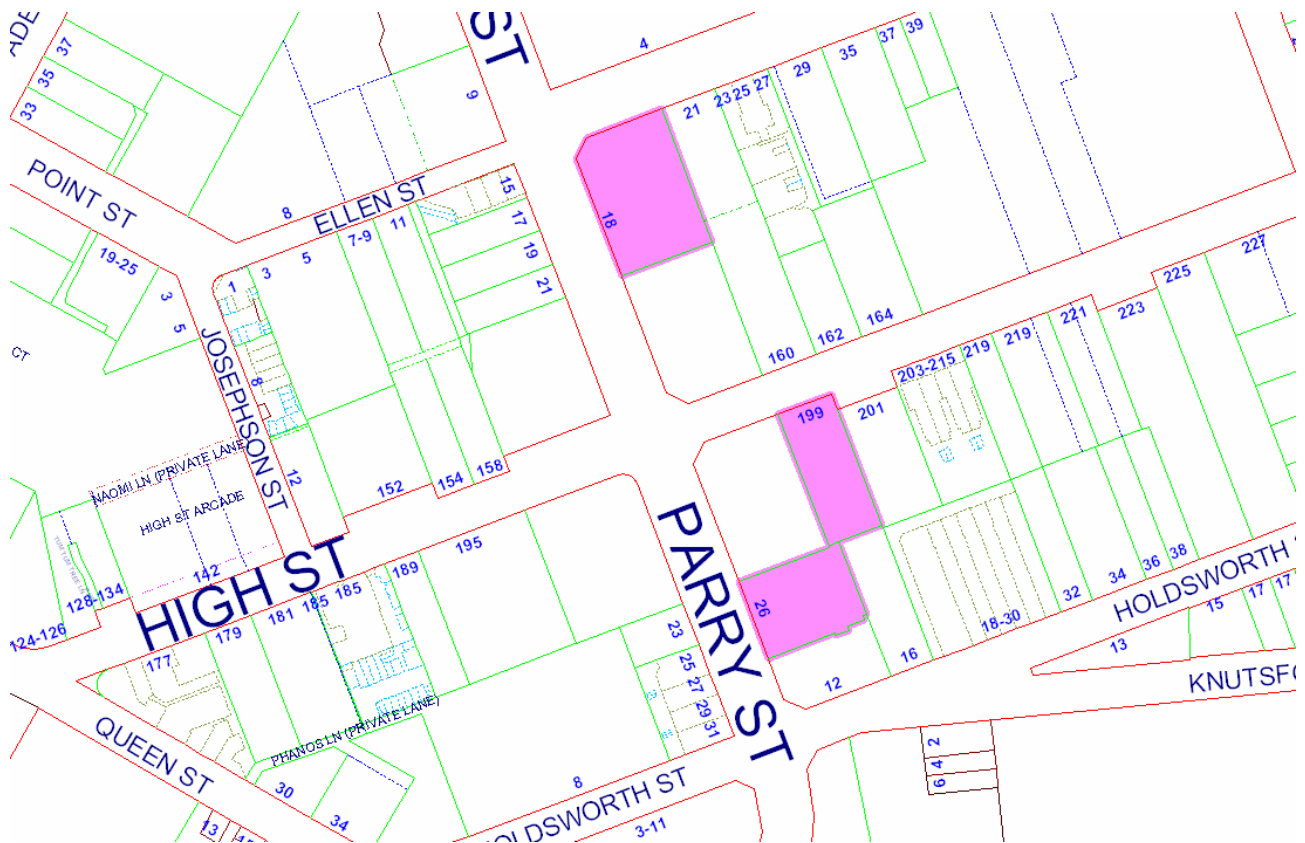
Mayor, Brad Pettitt vacated the chamber at 8:30 pm.

Mayor, Brad Pettitt returned to the meeting at 8:49 pm.

Cr T Grey-Smith left the meeting at 9:03 pm prior to consideration of the following item and did not return.

**PSC1011-216 SCHEME AMENDMENT NO. 30 TO LOCAL PLANNING SCHEME NO. 4
4 ADDITIONAL SCHEDULE 12 PROVISIONS FOR PROPERTIES ON
EASTERN SIDE OF PARRY STREET ADJOINING QUEENS SQUARE
FINAL ADOPTION**

DataWorks Reference: 218/034
Disclosure of Interest: Nil
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planner
Decision Making Level: Council
Previous Item Number/s: PSC0908-144 (Council 26 August 2009)
PSC1006-122 (Council 23 June 2010)
Attachments: 1. Schedule of Submissions



EXECUTIVE SUMMARY

The purpose of this report is to enable Council to determine whether or not to adopt an amendment (scheme amendment No. 30) to the City's Local Planning Scheme No. 4 to increase the maximum permitted building height applicable to three properties on the eastern side of Parry Street which abut Queens Square. The proposed provisions include a maximum height of three storeys (maximum external wall height of 11 metres) with the provision to consider an additional storey (up to a total of 14 metres external wall height) if set back from the street.

The amendment was placed out for comment and 11 submissions were received. 3 submissions stated no objection, 1 supported the amendment and 7 expressed objections. All submissions have been considered and noted.

It is recommended that Council resolves to adopt the amendment with certain modifications, including amending the definition of 'visible from the street', requirements to prevent blank building walls facing street frontages and Queens Square, and the inclusion of minimum and maximum setbacks to the adjoining streets and Queens Square. These modifications address some of the issues raised in submissions.

BACKGROUND

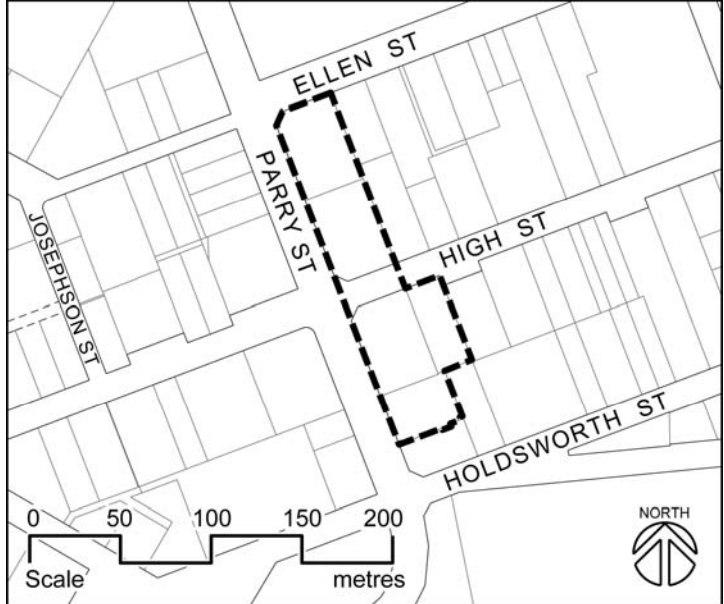
In 2009 the City was requested to consider an amendment to the Local Planning Scheme No. 4 (LPS 4), submitted on behalf of the owner of No. 26 (Lot 440) Parry Street, Fremantle. The purpose of the amendment was to bring development standards for those properties adjoining Queens Square on the eastern side of Parry Street closer to the standards applicable within the City Centre zone on the opposite side of Parry Street (see table below for comparison of development standards). Council resolved on 26 August 2009 to express 'in principle' support for such an amendment, subject to specific development standards and subject to a heritage assessment being undertaken to consider the impact of potential development anticipated by the amendment upon the area's heritage listed places and upon view corridors between Queens Square and the Fremantle Prison.

Current Development standards on each side of Queens square are as follows:

Western side of Parry Street	Eastern side of Parry street
<p>Zoning: City Centre</p> <p>Density: R-IC (no R-Code value however maximum dwelling yields do apply)</p> <p>Height: Maximum building height 4 storeys (maximum 14 metres) with potential for a 5th storey (maximum 17 metres) based on specific development standards as set out in Schedule 12.12, Local Planning Area 1 – City Centre clause 1.1</p>	<p>Zoning: Mixed Use</p> <p>Density: Maximum residential density of R60, where residential development is proposed as part of a mixed use development</p> <p>Height: Maximum building height of 7.5 metres (2 storeys)</p>

A scheme amendment and supporting heritage assessment were subsequently submitted and scheme amendment No. 30 was initiated by Council on 23 June 2010. The amendment includes the addition of new development standards for three properties directly abutting the square namely: No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street (see proposed scheme amendment below). For further background see PSC0908-144 (Council 26 August 2009) and PSC1006-122 (Council 23 June 2010)

Proposed Scheme amendment:

<p>Sub Area: 2.3.2 Queens Square</p>	
<p>2.3.2.1 Height Requirements</p>	<p>Despite the general height requirements outlined in 2.1 above, building height shall be limited to a maximum height of three storeys (maximum external wall height of 11* metres as measured from ground level with a maximum roof plain pitch of 33 degrees).</p> <p>Council may consent to an additional storey subject to –</p> <ul style="list-style-type: none"> (a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site, (b) maximum external wall height of 14* metres, (c) compliance with clause 2.2 above, and <p>* inclusive of roof parapet and spacing between floors.</p> <p>Note: 'Visible from the street' will be based on an assumed line of sight measured at a perpendicular angle from the streets adjoining the subject land, at an assumed point of 1 metre less than the street width and 1.6 metres above ground level.</p>
<p>2.3.2.2 Building Requirements</p>	<p>New buildings shall provide for activated ground level frontages to High Street and/or Parry Street and passive surveillance to Queens Square.</p>

CONSULTATION

Following referral from the Environmental Protection Authority advertising was undertaken in accordance with regulation 25(2) of the Town Planning Regulations 1967. The proposed scheme amendment was advertised for comment from 10 August 2010 until 24 September 2010, with advertisements being placed in the Fremantle Herald and West Australian newspapers.

The City's precinct groups, utility companies, adjoining neighbours and other interested parties and key agencies were also specifically notified and copies of the amendment documents were made available for viewing at the Service and Information Counter at the Town Hall Centre and on the City's website.

11 submissions were received (refer to Attachment 1 – schedule of submissions - for further information). 3 submissions stated no objection, 1 supported the amendment and the Heritage Council of Western Australia (HCWA) and 6 land owners/occupiers objected to the scheme amendment. The main issues are discussed below:

Views to the Fremantle Prison

HCWA generally acknowledge and agree with the conclusion of the heritage report that development around the square will not impact on the views to the Fremantle Prison due to there currently being limited views because of existing buildings, the topography of the area and mature vegetation in and around the square.

Impact of development on heritage buildings and Queens Square

Several of the submitters are impressed with the work Council has done in re-establishing the Queens Square precinct. However, these same submitters express concern that the square and heritage buildings surrounding the square will be negatively impacted on by buildings significantly higher than current limits. Some submitters fear that the heritage buildings will be dwarfed by new development and the heritage value of the area will subsequently be compromised in both appearance and dimension.

HCWA note that while there is currently some variation in scale and detail, the general character of development surrounding Queens Square is low level, and new development to the proposed heights and setback would have a considerable impact on the Square further weakening the character of the Square and impacting on the 'landmark qualities' of the heritage buildings surrounding the Square.

Provisions for the extra storey setback from the street

HCWA and another submitter further note that the three lots included in the amendment have secondary elevations to Queens Square and other residential properties that have not been adequately addressed; while the fourth storey (14m external wall) will not be visible from the street it could potentially be seen from the Square and/or rear residential buildings which could potentially impact on the amenity of the area.

Boundary setbacks

HCWA point out that there are no street or boundary setback requirements for the mixed-use zone in LPS4; setbacks are only required for residential development and are as per the R-Codes. HCWA suggests this could pose an issue in agreeing to acceptable side setbacks for the heights proposed for commercial developments and suggest prescribing

acceptable setbacks in the Scheme (as part of the scheme amendment) to provide greater clarity.

Included Lots

Three submitters (including HCWA) commented on the Lots included in the scheme amendment:

- HCWA commented that the lots nominated for amendment appear to be relatively arbitrary and without sufficient justification, the result being that each of the three sites would be out of context with their immediate neighbours, with the potential for significant disparity.
- Two of the submitters ask Council to consider the inclusion of 201 High Street in this amendment as the current building on the property fits the description of an 'inappropriate structure' (as per the scheme amendment report) as it was developed in late 1970s and to enable a more orderly and equitable development of this area.

For further information on the submissions see the schedule of submissions in Attachment 1.

PLANNING COMMENT

The scheme amendment is consistent with Council's 'in principle' support from 26 August 2009, with recommendations contained in the City's Local Identity Code and with the intent of the concept plans endorsed by Council in 2000 to enhance the attraction of this sector when upgrading the amenity of the square.

The applicant contends that the purpose of the scheme amendment is to provide a development framework that will:

- Reinforce the formal layout and definition of the park (Queens Square) by enhancing the hard urban edges to its boundaries;
- Ensure that the development within the precinct is sympathetic to the existing heritage buildings in the locality;
- Ensure an appropriate height and scale of development consistent with existing development controls applying to the western side of Parry Street;
- Provide for active frontages on the ground floor of buildings;
- Encourage passive surveillance through residential development to upper levels; and
- Provide a catalyst to promote appropriate redevelopment.

However, through the public comment period some concerns have been raised and these are addressed below:

Impact of height on heritage buildings and Queens Square

Officers acknowledge the issues raised in regards to height; allowing for three storey development with potentially a fourth storey set back represents an increase 'as of right' of one storey (with a possible further additional storey) compared to the current Scheme provisions which limit building height to 7.5m (effectively two storeys). However, the increase in scale and bulk (height) and potential impact on Queens Square and the surrounding heritage buildings has been carefully considered. These issues are discussed below.

Impact on Queens Square

The urban design/architectural rationale supporting this amendment is to provide a well defined edge, or 'urban wall', around the square. Three storey development adjoining the square, providing active ground level frontages to the square and passive surveillance from upper storeys, would assist in achieving this urban form more effectively than is the case with current buildings on the subject lots. In particular, the current buildings at 199 High Street and 26 Parry Street are predominantly single storey in scale and provide little or no definition or sense of enclosure to the south-eastern quadrant of Queens Square.

Redevelopment of the subject lots in accordance with the proposed scheme amendment development standards could provide a better quality sense of place, add vibrancy and enhance the amenity of the area (see discussion below for proposed prescribed setbacks to the square). However, to ensure that any redevelopment of these sites does not create buildings with 'dead' frontage to Queens Square it is recommended that development standards requiring new buildings to have activated ground level frontages to High Street and Parry Street should apply also to building frontages facing the edges of the square itself. A modification to the text of the scheme amendment is therefore recommended as follows -

Building requirements - New buildings shall provide for activated ground level frontages and passive surveillance from upper floors to High Street and/or Parry Street and to Queens Square.

Building height

The recommendations of the non statutory Local Identity Code (LIC) reinforce the central role of High Street as the main street into the city. The LIC advocates retaining High Street's existing character and high walls and enhancing Queens Square as a green square with urban walls to give the square an edge. The LIC recommends heights for the properties adjoining Queens Square as follows:

- Area 4a - North eastern side of square – wall height of 15.5 metres with a 1 metre plus or minus deformation and a minimum building height of 14.5 metres.
- Area 4b - South western side of the square - building heights of 10.5 metres with a 1 metre plus or minus deformation and no prescribed minimum building height.

This scheme amendment has taken the heights recommended in the LIC into account as well as attempting to relate to the provisions of the City Centre zone opposite, resulting in the prescribed three storey (11m wall height) height limit with the potential for a fourth storey (14m wall height) if set back. The heights are considered a compromise between the recommendations of the LIC and the higher provisions applicable to the properties opposite in the city centre while still being sympathetic to the character of High Street.

Impact on heritage buildings

In considering the development standards proposed in the scheme amendment City officers have taken into account the potential impact of new development on adjoining buildings. With regard to the impact of new development on the existing heritage buildings, the heritage report indicates that the Square being separated by the two streets (High Street and Parry Street), dividing it through the middle, is the main factor that would limit the impact of future development on the area's heritage buildings. Due to this separation, out of the three properties, only new development on 18 Parry Street would directly adjoin a heritage listed building at 21 Ellen Street and 160 High Street, although it should be noted that all three subject properties adjoin Queens Square which is itself heritage listed. 160 High Street is listed on the State Register of Heritage Places so any development proposal at 18 Parry Street would be forwarded to HCWA for comment. Nonetheless, regardless of whether the development site abuts a heritage listed building or not, the impact of any development on the existing streetscape and setting is assessed as part of a planning application under the current provisions of LPS4.

Notwithstanding current Scheme provisions regarding building height applying to properties east of Parry Street, existing buildings at 18 Parry Street (subject to the scheme amendment) and at 160 and 201 High Street which directly adjoin properties covered by the scheme amendment are substantial two storey buildings, and in the case of 18 Parry Street some parts of the building are of a height similar to a typical three storey building.

Therefore on balance, officers consider the three storey 'urban wall' heights as proposed would be of a scale appropriate to enclose the edges of the square and would not overwhelm existing adjoining buildings or other nearby heritage listed buildings in terms of bulk and scale. However, it is considered that the provisions for the discretionary additional fourth floor need to be considered further (see discussion below).

Provisions for extra storey setback from the street

Submitters note that while the fourth floor elevations may not be 'visible from the street' they may be visible from, and thus impact on, Queens Square itself. This is a valid point. Planning officers consider it reasonable to treat Queens Square as a 'street elevation' for the purposes of determining setback requirements for any proposed fourth storey. Depending on several factors in the calculation of 'visible from the street' (e.g. width and length of building, third and fourth storey wall height, width of adjoining street, building setback from boundary etc) it is considered, due to the large size (>1000m²) and width and length of the three Lots, that all three sites have the potential to accommodate an appropriately designed fourth storey with the setback restriction.

Accordingly officers recommend modifying the proposed building height provision to say:

Council may consent to an additional storey subject to –

- (a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site,
- (b) maximum external wall height of 14* metres,
- (c) compliance with clause 2.2 above, and

* inclusive of roof parapet and spacing between floors.

Note: 'Visible from the street' will be based on an assumed line of sight measured at a perpendicular angle from the subject land's lot boundary into the adjoining street for the width of the street and 1.6 metres above ground level. For the purposes of this clause for this sub area:

1. Queens square will be considered to be a street with an assumed width of 20 metres;
2. High Street is deemed to be 13 metres wide; and
3. Parry Street and Ellen Street are deemed to be 18 metres wide.

Setbacks

The scheme amendment as submitted and advertised does not provide specific street or boundary setback requirements. The comment that there should be street and or boundary setbacks for mixed use is more relevant to a residential environment and not entirely applicable to the commercial/mixed use setting of these properties, however to fulfil the purpose of the amendment a specified setback to the adjoining streets and Queens Square may be appropriate.

Appropriate development under the provisions of the scheme amendment should enclose the square with a hard edge and provide active frontages at ground level and passive surveillance from the upper floors to High Street, Parry Street and Queens Square. Setting back a building from the boundary to the square and/or street by an excessive amount would not achieve an appropriate urban design outcome. Therefore it is considered appropriate to specify a maximum setback which might allow a small forecourt area consistent with active ground floor uses (e.g. a café) however a lesser or nil setback to the boundary could be acceptable if the building design complies with Building Code requirements. Accordingly a provision of a zero minimum setback and a 3m maximum setback to Queens Square is recommended as a modification to the Scheme amendment provisions in relation to all three subject properties, along with the other specific setback provisions below:

18 Parry Street (Lot 35) - Zero minimum and 3m maximum setback to Parry Street

The building at 18 Parry Street is already built approximately up to the boundary along Parry Street and this is considered appropriate to carry through into the scheme, in the event of redevelopment on the site.

199 High Street (Lot 1) - 3m minimum setback and 6m maximum setback to High Street

The adjoining building at 201 High Street is setback approximately 6m from the footpath. The Lot boundary is approximately 5m from the footpath, not adjoining the footpath like the properties (including 199 High Street) either side. The Lot setback is presumably the result of previous land ceding for road reserve widening when the building currently on site was developed. The property adjoining 201 High Street to the north is heritage listed and has a similar setback distance from the High Street footpath. Accordingly new development up to the High Street boundary on 199 High Street would be in front of the established setback of the two properties adjoining the site and may be inappropriate. To limit the impact of such development a minimum and maximum setback are recommended as above.

26 Parry Street Lot 440 - 3m minimum setback and 6m maximum setback to Parry Street

The adjoining property at 12 Holdsworth Street is setback approximately 10.5m. New development at 26 Parry street up to the lot boundary would be quite a way forward of this, and could also have some impact upon the setting of single storey heritage listed cottages on the opposite side of Parry Street. Accordingly a minimum and a maximum setback are recommended as stated above. The maximum setback is recommended to limit provision of parking at the front of any new development for streetscape reasons.

All other setbacks will be provided for as matter of design for example setbacks will be required for pedestrian and car access, to meet the fire separation requirements of the building codes and/or if residential development is proposed the boundary setback provisions of the Residential Design Codes will be apply.

Included Lots

As stated above, the reasoning behind the scheme amendment is to more effectively enclose the square on all sides to the next adjoining road. Accordingly, only those properties directly abutting the square were included and this reasoning is still considered valid. Only one property that directly abuts the square (160 High Street (Dalkeith House)) was left out of the scheme amendment.

160 High Street is listed on the State Heritage Register and is considered to have reached its full development potential. Including it in this amendment could put the existing building at risk of incompatible development applications, which would not likely be supported by Council, even if the Scheme provisions potentially allow for such development.

CONCLUSION

It is considered that the proposed scheme amendment that will allow three storey development with the possibility of a set back fourth storey on those properties adjoining Queens Square on the eastern side of Parry Street is appropriate. Officers consider it would strike a reasonable balance between enabling a built form of development that would more effectively define and enclose an urban public square whilst also safeguarding the setting of a number of nearby heritage listed places.

Some modification to the amendment is considered necessary (modified definition of 'visible from the street' and other wording and addition of minimum and maximum setback requirements) to further maintain the amenity of the area and respond to a number of issues raised in submissions.

Accordingly It is recommended Council note the submissions received and adopt scheme amendment No. 30 with modifications as outlined in this report to apply to three properties adjoining Queens Square on the eastern side of Parry Street being No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street.

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council:

1. Note the submissions received as detailed in the Officer's report and attachment 1;
2. Resolve, pursuant to Section 75 of the Planning and Development Act 2005 and Regulation 17(2)(a) of the Town Planning Regulations 1967, to adopt with modification the following amendment to the City of Fremantle Local Planning Scheme No. 4:
 - a) Amending Clause 12.12 Schedule 12 Local Planning Areas (Height Requirements) Local Planning Area 2 – Fremantle to include under clause 2.3 a new sub area 2 with provisions relevant to No. 199 (Lot 1) High Street, No. 26 (Lot 440) Parry Street and No. 18 (Lot 35) Parry Street, to read as follows:

<p>Sub Area 2 Queens Square (east)</p>	
<p>2.3.2.1 Height Requirements</p>	<p>Despite the general height requirements outlined in 2.1 above, building height shall be limited to a maximum height of three storeys (maximum external wall height of 11* metres as measured from ground level with a maximum roof plain pitch of 33 degrees). Council may consent to an additional storey subject to – (a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site,</p>

	<p>(b) maximum external wall height of 14* metres, (c) compliance with clause 2.2 above, and * inclusive of roof parapet and spacing between floors.</p> <p>Note: 'Visible from the street' will be based on an assumed line of sight measured at a perpendicular angle from the subject land's lot boundary into the adjoining street for the width of the street and 1.6 metres above ground level. For the purposes of this clause for this sub area: Queens Square will be considered to be a street with an assumed width of 20 metres; High Street is deemed to be 13 metres wide; and Parry and Ellen Street are deemed to be 18 metres wide.</p>	
2.3.2.2 Setbacks	18 Parry Street (Lot 35)	Zero minimum setback and 3m maximum setback to Parry Street zero minimum setback and 3m maximum setback to Queens Square
	199 High Street (Lot 1)	3m minimum setback and 6m maximum setback to High Street zero minimum setback and 3m maximum setback to Queens Square
	26 Parry street Lot 440	3m minimum setback and 6m maximum setback to Parry Street zero minimum setback and 3m maximum setback to Queens Square
2.3.2.1 Other Building Requirements	New buildings shall provide for activated ground level frontages and passive surveillance from upper floors to High Street and/or Parry Street and to Queens Square.	

3. Authorise the Mayor and the Chief Executive Officer to execute the relevant documentation and affix the common seal of the City of Fremantle on the documentation; and,
4. Request the Minister for Planning grant final consent to Scheme Amendment No. 30

Cr J Wilson moved to defer the item to the next Planning Services Committee.

CARRIED: 6/0

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

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

PSC1011-214 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: <Right Click> Councillor Name

That the information is noted.

<RIGHT CLICK> DECISION HEADING

CARRIED: 6/0

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

REPORTS BY OFFICERS (COUNCIL DECISION)

Cr J Wilson left the meeting at 9:15 pm prior to consideration of the following item and did not return.

Mayor, Brad Pettitt left the meeting at 9:17 pm prior to consideration of the following item and did not return.

PSC1011-215 SUBMISSION TO WAPC DRAFT CENTRAL METROPOLITAN PERTH SUB-REGIONAL STRATEGY

DataWorks Reference:	102/009
Disclosure of Interest:	Nil
Responsible Officer:	Manager Planning Projects and Policy
Actioning Officer:	Planning Officer
Decision Making Level:	Council
Previous Item Number/s:	PSC0908-153 – Proposed Submission to WAPC’s “Directions 2031 – Draft Spatial Framework for Perth and Peel” PSC0908-154 – Proposed Submission to WAPC’s “State Planning Policy Activity Centres for Perth and Peel (Draft)”
Attachment 1:	<i>Directions 2031</i> changes
Attachment 2:	<i>SPP4.2 Activity Centres for Perth and Peel</i> changes
Attachment 3:	Desktop review of Fremantle housing targets

EXECUTIVE SUMMARY

The Western Australian Planning Commission (WAPC) has released a key metropolitan strategic policy document for public comment – *Central Metropolitan Perth Sub-Regional Strategy*. The strategy is to complement the recently released final version of *Directions 2031 and beyond: Metropolitan planning beyond the horizon*, by providing specific strategic planning objectives for the central sub-region.

The sub-regional strategy primarily focuses on the delivery of 121,000 new dwellings required to accommodate for the central sub-region’s projected population growth of 29% to 910,000 people by 2031. Housing targets for each of the 19 local governments within the sub-region have been derived, with the City of Fremantle targeted to provide an additional 3,500 new dwellings by 2031. The strategy also deals with employment opportunities, key infrastructure planning and improvements, and timeframes and responsible agencies critical to the implementation of the strategy’s objectives.

The closing date for submissions on the draft strategy is 29 November 2010. The purpose of this report is to outline key issues raised in the draft strategy and to recommend to Council a submission on behalf of the City of Fremantle to be lodged with the WAPC for consideration.

BACKGROUND

Directions 2031 and beyond: Metropolitan planning beyond the horizon

The Western Australian Planning Commission released a draft version of *Directions 2031 – Draft Spatial Framework for Perth and Peel* for public comment in June 2009. Briefly, *Directions 2031* is a high level spatial framework and strategic plan that establishes a vision for future growth of the metropolitan Perth and Peel region. *Directions 2031* supersedes *Network City* and replaces *Metroplan*, as the guiding strategic planning document for the Perth and Peel metropolitan region.

In August 2009 Council approved the contents of a submission on behalf of the City of Fremantle in response to the draft version of *Directions 2031*. A summary of the contents of the City's submission is set out in Attachment 1 to this report.

The final version of *Directions 2031 and beyond: Metropolitan planning beyond the horizon* was released in August 2010. A number of changes were made to the document which overall are considered to improve the clarity and purpose of the document, particularly a greater focus on linking the document's outcomes with the stated objectives and providing specific timeframes. However perhaps the most significant modification relevant to the City of Fremantle is the reclassification of the activity centres network hierarchy.

The final *Directions 2031* has removed Rockingham and Joondalup from the 'primary centre' status (2nd tier) and has nominated these centres as 'strategic metropolitan centres' (3rd tier), along with Fremantle and 7 other centres within the central sub-region. The 'primary centre' level in the activity centres hierarchy still remains in the final *Directions 2031*, however the WAPC has determined that no centre currently fulfils the role of a primary centre. The retention of the primary centre status in the document is intended as a target for the strategic metropolitan centres to aspire to achieve, with on-going review of the centre hierarchy proposed by the WAPC as part of the implementation of *Directions 2031*.

Attachment 1 of this report outlines the City's response to the draft *Directions 2031* document from August 2009 and details what changes have been made to the final version in response to these comments.

State Planning Policy 4.2: Activity Centres for Perth and Peel

The WAPC released the draft *State Planning Policy Activity Centres for Perth and Peel* in June 2009. The policy intended to introduce more effective measures to promote the growth of activity centres of all scales throughout the Perth and Peel region.

Council's submission in August 2009 was to generally support the purpose of the draft policy as a strategic document to guide the development of new and established activity centres in Perth and Peel. However Council expressed reservations about the implementation of the policy, particularly the heavy reliance on the roles of local government, the lack of measurable objectives and clear timeframes and implications of the resources of various departments. Further, Council expressed specific concerns relating to the various areas of the policy.

The WAPC released the final *State Planning Policy 4.2 Activity Centres for Perth and Peel* on 31 August 2010. Perhaps the most notable change from the draft policy is an incentive attached to the requirement for activity centres to prepare structure plans, which is related in part to the lack of designated primary centres in *Directions 2031*. The final policy requires activity centre structure plans to be prepared and adopted within 3 years of the gazettal of the document. The policy then states, 'The classification under the activity centre hierarchy may be reviewed in line with this requirement.' This statement is an obvious incentive for centres, particularly the 10 strategic metropolitan centres including Fremantle, to adopt a structure plan in line with the requirements of the policy, which may result in a reclassification of the centre's importance under the activity centre hierarchy.

Attachment 2 of this report outlines the City's response to the draft policy from August 2009 and details what changes have been made to the final version in response to these comments.

Draft Central Metropolitan Perth Sub-Regional Strategy

The draft *Central Metropolitan Perth Sub-Regional Strategy* has been released for public comment, along with a draft *Outer Metropolitan Perth and Peel Sub-Regional Strategy*. These strategies are intended to complement *Directions 2031* by providing more detailed guidance at a local level.

The City of Fremantle is included in the *Central Metropolitan Perth Sub-Regional Strategy* (herein referred to as the 'SRS'). The central sub-region covers an area of 45 290 hectares and includes the inner and middle planning sectors of the Perth metropolitan region, comprising 19 local government areas.

The SRS provides a broad framework for delivering the objectives of *Directions 2031* and identifies a strategic plan of actions, agency responsibilities and delivery timeframes. Key aspects of the SRS are housing and employment targets, infrastructure planning (movement network) and implementation.

1. Housing targets

By 2031, the central metropolitan Perth sub-region population is projected to grow by approximately 29 percent to at least 910 000 people, requiring at least 121 000 new dwellings to be constructed in the central sub-region. The SRS provides specific 'minimum' housing targets for each of the 19 local governments within the sub-region, mainly based upon housing projections devised by the Housing Targets Development Program (HTDP) which were developed to measure the capacity for housing growth to 2050 and involved consultation with State and local government and service agencies from 2007. The SRS assumes a proportional take-up of this identified growth equivalent to approximately 55% of the potential maximum housing growth.

The SRS proposes an additional 3500 new dwellings to be provided within the City of Fremantle by 2031, representing a 27% increase from the current provision of approximately 12 900 dwellings. Fremantle's percentage increase of dwellings is at the lower end of the range of the increases across the sub-region, which ranges from a 19% increase for the Town of East Fremantle to a 145% increase for the City of Perth. As

some examples, Town of Vincent's targets represent a 36% increase, Town of Victoria Park a 73% increase, and City of Subiaco a 36% increase. Throughout the entire central sub-region, an increase of 121 000 dwellings represents a 38% increase from the existing 319 000 dwellings.

As mentioned above, the housing targets have been mainly derived from the Housing Targets Development Program conducted during 2007 however consideration has also been given to Housing Industry Association projections of housing demand over a 10 year period within the sub-region. The SRS intends for these targets to be met through a combination of small scale incremental development provided by increased residential densities (two lot subdivisions for example) and through targeted redevelopment opportunities – referred to as 'Planned urban growth areas'. However the SRS is unclear on the precise method of calculating the housing targets.

For instance, the following table shows the various figures stated in the SRS relevant to housing targets within Fremantle.

Source of housing	Housing target
Vacant land supply (July 2009)	449 lots
Planned urban growth areas	4775
Small scale incremental growth	1700
Total	6924
SRS draft housing targets	3500

The HIA projects a 10 year housing demand for Fremantle of 1477 new dwellings (including replacement dwellings) based upon the housing activity between 1996 and 2006 and assuming continuing demand trends. Using this same forecast over a twenty year period, i.e. to 2031, this figure would be 2954 – roughly close to 3500 but not exact. Similarly the total figure above of 6924 is roughly twice that of 3500, perhaps representing a 50% 'success rate', however this is not clear in the SRS.

In addition to the stated housing targets, the SRS identifies other elements of housing delivery to be reviewed either at a state planning level or through local planning strategies and schemes, namely aged care housing, ancillary accommodation, affordable housing and diversity in housing design.

Aged Care housing

The SRS recognises the changing demographic profile of the sub-region due to the ageing of the population, stating that by 2031 at least 60 000 more residents over 65 years of age are expected to be living in the sub-region. Fremantle is listed as a local government with a particularly high proportion of people over the age of 65. The SRS recommends revisions of current planning provisions to encourage greater aged or dependent person's housing as well as encouraging suitable partnerships between the WAPC, local government and state government agencies to facilitate such housing.

Ancillary Accommodation

Single detached houses make up approximately 65% of the current housing stock within the sub-region. The proportion of single detached houses within Fremantle is 62%. The SRS aims to increase the diversity of housing stock within the sub-region in order to provide more affordable housing options.

One particular initiative referred to in the SRS is the possible relaxation of the current planning provisions in the Residential Design Codes regarding small, self-contained but ancillary accommodation – commonly referred to as ‘granny flats’. The SRS suggests the removal of the current occupancy restrictions limiting the occupancy of ancillary accommodation to family members as *‘it is not apparent whether the ancillary accommodation occupancy restriction continues to serve any town planning purpose.’* The small unit accommodation would not be strata titled and could readily be adapted back in to the main dwelling as ownership or household circumstances change. These amendments could potentially allow broader development and occupation of simple small unit accommodation predominantly aimed at the rental housing market.

Affordable housing

In conjunction with the proposed review of the ancillary accommodation provisions of the R-Codes and local planning schemes, the SRS targets increased housing densities around activity centres, consistent with the objectives of *State Planning Policy 4.2 – Activity Centres*. The recently issued ‘Multi Unit Housing Code’ (amended R-Code provisions for multiple dwellings) is discussed as a planning tool to help implement this objective, along with incentives to *‘increase the provision of affordable housing or density bonuses to promote higher-density developments that include diverse or affordable forms of housing which meet performance criteria.’*

Diversity in housing design

The SRS intends to promote flexible building designs *‘capable of conversion to dual or multiple occupancy’* as well as the construction of smaller homes, possibly with innovative features such as rooms that can perform dual functions and compact kitchens linked to outdoor dining areas to reduce the need for a formal dining room.

2. Employment targets

The SRS recognises the existing employment centres within the sub-region and seeks to ensure these centres’ long-term viability to ensure the sub-region’s ‘employment self-sufficiency’ (i.e. the number of jobs in the sub-region matches or exceeds its resident labour force). Within the central sub-region, there was a labour force in 2008 of 324,000 for the 423,000 jobs in the sub-region, representing an employment self-sufficiency of 124%. The SRS projects an additional 127,000 persons to enter the sub-region’s labour force by 2031 and projects an additional 147,000 jobs.

According to the SRS figures from 2006, Fremantle has an employment self-sufficiency of 193%, 23 842 jobs for the 12 361 employed residents which is considered reflective of Fremantle’s importance as a regional centre providing employment opportunities to residents far beyond the City’s bounds. The SRS particularly recognises the O’Connor

industrial area as a strategic industrial area for Fremantle and the south-west metropolitan region. The SRS seeks to protect these existing industrial centres from encroachment by inappropriate non-industrial uses whilst still allowing some flexibility of uses within the industrial centres. Reviews of local planning strategies and schemes are flagged as the appropriate tools for achieving this objective.

3. Infrastructure Planning

The SRS recognises that future population growth and residential development within the central sub-region will need to be supported by new or upgraded essential service infrastructure, particularly in order to deliver the specified housing targets. Two critical areas of infrastructure identified by the SRS are the transport, or movement network, and essential services such as wastewater and water supply.

Within the movement network, the SRS identifies four categories – road network, freight network, public transport network and active transport network.

The SRS makes the following general statements regarding each of the categories:

1. Road network – Much of the central sub-region's road network has already been developed and thus there are limited opportunities to establish or plan for new routes.
2. Freight network – SRS seeks to protect major transport corridors and freight operations from incompatible urban encroachment, particularly those leading to major ports.
3. Public transport network – The SRS recognises the need for rapid transit systems that support the connection of major centres. The SRS provides a diagram of possible key public transport connections throughout the central sub-region. With the exception of a small possible linkage extending north from the Bayswater train station, presumably to Ellenbrook, the possible public transport linkages shown do not extend beyond the boundaries of the central sub-region.
4. Active transport network – Further promotion and implementation of the Perth bicycle network.

The SRS identifies the following specific movement network capital projects relating to Fremantle:

Stirling Highway – upgrade from High Street to Tydeman Road.

Curtin Avenue – construction between North Fremantle and Cottesloe.

Queen Victoria Street – traffic bridge replacement.

High Street, Fremantle – upgrade.

Stock Road – upgrade and grade separate intersections.

Fremantle bus priority – Hampton Road to Fremantle rail station.

South Fremantle bus priority – Hampton Road (Douro Road to Rockingham Road).

No specific timeframes have been set for these identified capital works in the SRS. In terms of implementation, the SRS proposes on-going consultation with infrastructure stakeholders through the Department of Planning's Urban Development Program.

4. Implementation

The SRS outlines the relevant responsible authorities and agencies to deliver the objectives of the strategy. In most cases, the implementation of the objectives relies on the cooperation of multiple agencies requiring a 'whole of government' approach. The SRS identifies local governments as '*responsible for delivering realistic, market-orientated plans and strategies for encouraging infill.*' The SRS goes further to suggest that local governments could achieve urban regeneration objectives at a local level by:

- directly undertaking selected projects;
- joint ventures with private landowners to mitigate the development risk as a means of allowing projects to proceed that otherwise might not be within the capacity of a private owner;
- underwriting the specific aspects of development projects where the private sector is unable or unwilling to carry the risk involved; and
- aggregation of sites to enable development to occur on a suitable scale to achieve the desired density of land use outcomes.

The SRS recognises the practical constraints faced by local government in undertaking independent or partnership ventures, discussing the numerous provisions of the *Local Government Act 1995* that prevent a local government from operating on normal commercial terms. However changes to the *LG Act 1995*, as proposed by the Western Australian Local Government Association (WALGA) are cited as potentially freeing up the ability of local government to undertake urban renewal projects.

Local planning strategies and schemes are repeatedly mentioned throughout the SRS as the practical tools for implementation of the strategy's objectives. The SRS recommends the review of these documents within a short-term timeframe (1-2 years) to ensure consistency with the SRS, *Directions 2031* and various other state planning policies, specifically *SPP4.2 Activity Centres*.

The SRS anticipates that the central sub-region housing targets will be reviewed every five years or as circumstances require. Over the next five years the Department of Planning will develop a process for reviewing progress towards the housing targets and effectiveness of government policies to deliver desired outcomes. The Department of Planning's Urban Development Program will serve as an evaluation tool to measure the delivery of the key aims of *Directions 2031* and the central sub-regional strategy.

PLANNING COMMENT

1. Housing targets

The overall central sub-region target of providing at least 121,000 additional dwellings in the sub-region by 2031 is considered a realistic and achievable target which reflects the sub-region's capacity to accommodate significant infill development in a manner compatible with the preservation of cultural heritage and existing neighbourhood character.

It is also considered appropriate that the sub-region housing target be broken down into targets for each local government area. However, as discussed above, the exact method for calculating and apportioning the housing targets in the SRS is unclear. It is

considered critical that the housing targets be applied across all local governments in a transparent, consistent and equitable manner, particularly to avoid the public perception that one local community is being expected to accommodate a disproportionate share of infill development.

The SRS proposes a housing target of 3,500 new dwellings for the City of Fremantle; however 4,775 new dwellings are projected from the 19 'planned urban growth areas'. Based upon a desktop review of the planned urban growth areas, these figures could be increased by 810 dwellings to 5,585 dwellings with specific increases in the Fremantle strategic metropolitan centre from 800 to 1300, McCabe Street from 255 to 350 and Strang Street from 85 to 300. Refer to Attachment 3 for further details of the desktop review of these 19 planned urban growth areas. Given the lack of clarity in the SRS calculation methods of the housing targets, it is difficult to recommend exactly what a revised housing target should be, however it is considered a housing target in the order of 4,000 – 4,500 dwellings for the City of Fremantle would be appropriate (4,000 would be a 31% increase from the current housing stock within the City).

Greater local population growth in the future would help sustain and strengthen Fremantle's current role as a strategic metropolitan centre, and support the City's aspiration to perform in the future the function of a Primary Centre as defined in *Directions 2031* and *State Planning Policy 4.2 'Activity Centres for Perth and Peel'*, with a role secondary only to Perth CBD.

Small Dwellings

Independently of the above target, the Council is currently giving preliminary consideration to the possibility of proposing an amendment to the Local Planning Scheme to enable the development of small dwellings for independent occupation on the same title as an existing single dwelling. This concept would be a modified version of the proposed revisions to ancillary accommodation provisions suggested in the SRS. In the event of Council in due course deciding to support such a scheme amendment, and if the proposal also received approval from the WAPC and Minister for Planning, it would be appropriate to further review the City's housing target in the SRS because there would be potential to achieve an additional supply of small dwellings through infill over and above the level of incremental infill (in the form of conventional subdivisions) already assumed by the WAPC in producing the current housing target for the City.

2. Employment targets

The SRS provides an overview of current employment trends and distribution, and stresses the need for a strong focus on the employment function of activity centres. However, the document fails to provide any further guidance on the State Government's vision for the future employment role of particular centres within the sub-region, for example whether higher order centres in the activity centres hierarchy should be regarded as priority locations for particular types of employment such as office jobs. The document tends to deal with non-industrial sector employment in a generic manner, and provides no recognition or guidance on opportunities for particular centres in the sub-region to capitalize upon linkages to certain employment sectors – for example Fremantle's obvious linkages to Port and other maritime-related employment, and the tourism sector. The City considers this is a significant omission from the SRS which should be addressed.

The City of Fremantle is currently working towards developing its own aspirational targets for employment levels in the city, particularly the city centre, through the work of the City Centre Strategic Sites and Economic Development Working Groups. Subject to the outputs of the Working Groups' current work, it is considered that the City should aim to maintain its current level of employment 'self-sufficiency' (i.e. ratio of jobs to residents) of nearly 2:1 into the future in line with the projected increase in population.

The draft SRS projects an overall employment target of 147,000 more jobs being required in the sub-region by 2031 to match the growth in population, but does not provide any breakdown of this figure between individual local government areas (unlike housing supply requirements). The City considers that employment targets of some type for areas smaller than the sub-region as a whole would provide helpful guidance to local governments undertaking economic development and employment planning at a local level. Officers consider there could be benefit in offering for the City to work collaboratively with the State Government to explore how the local employment target work the City is currently undertaking might feed into the SRS.

The City supports the statement in the draft SRS that existing industrial estates need to be protected from encroachment by inappropriate non-industrial uses which might undermine the viability of those estates as important generators of industrial sector jobs. In the context of Fremantle, this statement should apply to North Fremantle and O'Connor which are identified in Directions 2031 as existing industrial centres.

3. Infrastructure Planning

Road Network

Fremantle's road network has been well developed, which limits opportunities to establish or plan new routes, which is basically a reflection of the characteristic of the central sub-region's road network system. The City acknowledges the fact that future growth will put additional pressure on all forms of transport, especially road and public transport.

Freight Network

The SRS acknowledges that significant volumes of container freight arrive at Fremantle Harbour and is transported via rail and road to intermodal terminals at Kewdale-Welshpool area for intra-state distribution. In September 2009, the City commented on a report by Parsons Brinkerhoff, Fremantle Port and Outer Harbour Development (27 August 2009) by supporting the increase of rail based container transport (from 2% in 2002 to 15% in 2008), with an achievable target of 30% by 2013. While this increasing trend is welcomed by the City, the gross amount of road based container traffic continues to increase as the container port operations expand.

The City supports the retention of the container operations on the North Quay, and in 2009 Council advised the Minister for Transport and the Fremantle Ports Optimum Planning Group to have regard to acceptable levels of road based freight movement rather than the capacity being determined by the physical operating capacity of the Inner Harbour facilities and infrastructure. A policy should be developed collaboratively with the City, in such a manner to balance the viability of the container operations with the impacts of land based transport infrastructure on the amenity and character of Fremantle.

With the further development of the Outer Harbour, the City submits that hazardous, livestock export, vehicle import, and non containerised goods operations should be relocated to the Outer Harbour, once developed. This will support the City's notion that the Inner Harbour is a fundamental element of Fremantle's identity and heritage and that it has played a significant role in shaping the built environment, and social fabric that the City consists of today. It is considered that the existence of a working port within Fremantle's Inner Harbour is essential for the retention of Fremantle's identity and character.

The movement of hazardous goods along established land transport routes should be carefully considered in any future studies relating to industrial buffer zones and freight transport from Fremantle Port, especially in regards to important industrial sites located further south in the outer sub-regional areas and part of the outer harbour development.

The City of Fremantle recognises the importance of a 'whole of government' approach to planning for the future operation of Fremantle Port, including the planning and provision of transport infrastructure serving the Port, and consideration of land use conflicts in and around the Port. Any future decisions relating to the viability and longevity of Fremantle Port, and in particular the Inner Harbour operations should be made as part of a collaborative process, involving local government in partnership with State government. On this basis, the City requests ongoing dialogue with government in relation to this critical issue.

Public Transport Network

The City supports the objective of an effective public transport system to reduce congestion and lessen reliance on use of private road vehicles. The SRS also proposes possible key public transport connections within the sub-region, with a public transport link from Fremantle to Murdoch University/Fiona Stanley Hospital flagged as a key east-west link. However no mention is made of the proposed regional transport link between Fremantle and growth areas in the City of Cockburn, particularly the Cockburn Coast District Structure Plan area, via Cockburn Road and the proposed Cockburn Coast Drive.

As part of the detailed planning and implementation of the Cockburn Coast project, an Integrated Land Use and Transport Plan is currently being developed. This will include definition of key public transport routes, within the regional context as shown in the Cockburn Coast Structure Plan. The Cockburn Railway Station and Fremantle station are key regional links and the regional context of traffic movement should therefore be a key consideration in the SRS.

The City of Fremantle has recently commissioned a transit corridor study to identify a strategic corridor to accommodate higher order public transport infrastructure (such as light rail or similar type of transport mode) in the future, beyond the traditional bus service. The City will shortly be commencing public consultation on the findings of the study. In parallel with this consultation, the City is keen to work collaboratively with the City of Cockburn and relevant State agencies (especially the PTA) to plan for the future provision of higher quality public transit in this growth corridor.

Active Transport Network

The City recently completed its Local Bicycle Plan: 2011-2016 in which higher order commuter cycling links are proposed along major connecting routes for efficient access between communities within both the City and adjacent local government areas and access to activity centres outside the City boundaries. These regional links are planned to extend bicycle routes along major road networks such as Strock Road south connecting to the City of Cockburn, and along South Street towards the east connecting to the City of Melville.

4. Implementation

The City supports the recognition in the draft Sub-regional Strategy that all tiers of government as well as the private sector have roles to play in implementing the objectives and actions identified in the document. The City also supports the recognition in the document that local government may move beyond its traditional role as a planning authority to achieve urban regeneration objectives at a local level, for example through partnership initiatives with the private sector or other agencies.

The City of Fremantle is already proactively involved in a number of initiatives of this nature, such as its partnership with LandCorp to bring forward for development a number of brownfield sites such as the Knutsford Street and Swanbourne Street Development Areas and the Lefroy Road Quarry site which are identified as Planned Urban Growth Areas in the draft Sub-regional Strategy.

However, it is important to recognize that the successful redevelopment of sites of this nature will require resolution of significant constraints such as ground contamination and lack of adequate services and infrastructure. These constraints are unlikely to be overcome without a coordinated 'whole of government' approach, and the importance of such an approach being adopted should be expressed in much stronger terms within the Sub-regional Strategy than is currently the case.

CONCLUSION

The Central Metropolitan Sub-Regional Strategy, once formally adopted by the WAPC, will form a major component of strategic planning policy for the metropolitan area, and will have some specific implications for Fremantle as a place and for the City of Fremantle as a local government. It is therefore appropriate for the City to make a submission, focussing on the City's individual housing projections, further planning and details for employment within the sub-region, greater recognition of networks (particularly public transport) that extend beyond the sub-regional boundaries, and support for implementation measures that promote a whole-of-government approach and partnerships between the public and private sectors.

OFFICER'S RECOMMENDATION

That Council authorise the Chief Executive Officer to submit the following comments to the Western Australian Planning Commission as the City of Fremantle's submission on the draft Central Metropolitan Perth Sub-regional Strategy:

General Comments

The City of Fremantle supports the principle of the Western Australian Planning Commission (WAPC) producing sub-regional strategies as a means to provide greater detail and direction on the implementation of the overall spatial planning objectives set out in Directions 2031.

The City also supports the 8 strategic priorities identified in the draft Strategy for the Central Metropolitan Sub-region which includes the City of Fremantle. These priorities align closely with a number of the Strategic Imperatives and Outcomes contained in the City's recently adopted Strategic Plan for 2010-15. The priorities in the Sub-regional Strategy reflect the capacity of the Central or 'inner' sub-region to accommodate a significant proportion of the overall housing and employment requirements associated with the projected growth in metropolitan Perth's population in a sustainable manner which optimizes the efficient use of previously developed land and existing services and infrastructure, supports the economic and social vitality of established centres including Fremantle, supports cost-effective investment in improved infrastructure (particularly transport infrastructure) and limits the requirement to accommodate growth through less sustainable and more costly patterns of development on the urban fringe.

The City requests the WAPC to give consideration to the following more detailed comments prior to adoption of the final version of the Sub-regional Strategy.

Housing Supply Targets

The City of Fremantle supports the principle of seeking to accommodate with the central sub-region significant infill development and greater diversity of housing stock in a manner compatible with the preservation of cultural heritage and existing neighbourhood character.

The City also supports the principle of the sub-regional target being broken down into targets for each local government area. However, it is important that the manner in which targets have been calculated and apportioned to individual local governments is clearly justified in the Sub-regional Strategy and that targets are out in a transparent way. The current draft Sub-regional Strategy document contains only a limited explanation of how individual local government targets have been derived, and this explanation should be expanded in the final document.

It is critically important that targets are applied across all local governments in a consistent and equitable manner, to avoid creating a public perception that any particular local community is being expected to accommodate a disproportionate share of infill development. The role of the WAPC and Minister for Planning in ensuring that all local governments meet their commitments in relation to housing targets will be important in relation to this issue.

Based on a desktop review of the targets for the City of Fremantle contained in the draft document and subject to comments, the City considers the current target of 3,500 total new dwellings is achievable. However having regard to proactive work the City is undertaking to facilitate increased population in and around Fremantle city centre through the current Local Planning Scheme amendment for the East End area and the work of the City Centre Strategic Sites Working Group, together with a review of the potential capacity of key redevelopment sites such as the Knutsford Street/Swanbourne Street, McCabe Street and Strang Street Development Areas, the City advocates an increase in the target for Fremantle to a minimum of 4,000 additional new dwellings.

Independently of the above target, the City is currently giving preliminary consideration to the possibility of proposing an amendment to its Local Planning Scheme No. 4 to enable the development of small dwellings for independent occupation on the same title as an existing single dwelling. This concept would be a modified version of the proposed revisions to ancillary accommodation provisions of the Residential Design Codes suggested in the Sub-regional Strategy. In the event of Council in due course deciding to support such a scheme amendment, and if the proposal also received approval from the WAPC and Minister for Planning, it would be appropriate to further review the City's housing target because there would be potential to achieve an additional supply of small dwellings through infill over and above the level of incremental infill (in the form of conventional subdivisions) already assumed by the WAPC in producing the current housing target for the City.

Greater local population growth in the future would help support Fremantle's current role as a strategic metropolitan centre, and support the City's aspiration to perform in the future the function of a Primary Centre as defined in Directions 2031 and State Planning Policy 4.2 'Activity Centres for Perth and Peel', with a role secondary only to Perth CBD.

Employment

The Sub-regional Strategy provides an overview of current employment trends and distribution, and stresses the need for a strong focus on the employment function of activity centres. However, the document fails to provide any further guidance on the State Government's vision for the future employment role of particular centres within the sub-region, for example whether higher order centres in the activity centres hierarchy should be regarded as priority locations for particular types of employment such as office jobs. The document tends to deal with non-industrial sector employment in a generic manner, and provides no recognition or guidance on opportunities for particular centres in the sub-region to capitalize upon linkages to certain employment sectors – for example Fremantle's obvious linkages to Port and other maritime-related employment, and the tourism sector. The City considers this is a significant omission from the Sub-regional Strategy which should be addressed.

The City of Fremantle is currently working towards developing its own aspirational targets for employment levels in the city, particularly the city centre. The City would wish to maintain its current level of employment 'self-sufficiency' (i.e. ratio of jobs to residents) of nearly 2:1 into the future in line with the projected increase in population.

The draft Sub-regional Strategy projects an overall employment target of 147,000 more jobs being required in the Sub-region by 2031 to match the growth in population, but

does not provide any breakdown of this figure between individual local government areas (unlike housing supply requirements). The City considers that employment targets of some type for areas smaller than the sub-region as a whole would provide helpful guidance to local governments undertaking economic development and employment planning at a local level. The City would be keen to work collaboratively with the State Government to explore how the local employment target work the City is currently undertaking might feed into the Sub-regional Strategy.

The City supports the statement in the draft Sub-regional Strategy that existing industrial estates need to be protected from encroachment by inappropriate non-industrial uses which might undermine the viability of those estates as important generators of industrial sector jobs. In the context of Fremantle, this statement should apply to North Fremantle and O'Connor which are identified in Directions 2031 as existing industrial centres.

Transport

The City supports the statement in the draft Sub-regional Strategy that an objective of Government should be to maximize the use of rail as opposed to road for freight transport. This is particularly important for Fremantle in the context of anticipated further growth in trade (especially container trade) through the Inner Harbour. In relation to this issue the City wishes to reiterate its adopted position as previously communicated to the Minister for Transport in September 2009 and summarized below:

- The City supports the retention of container operations on North Quay on the basis that the operating capacity of the Inner Harbour should be determined through policy, having regard to acceptable levels of road based freight movement, rather than by the physical operating capacity of the Inner Harbour facilities and infrastructure. This policy should be developed collaboratively with the City, in such a manner to balance the viability of container operations with the impacts of land based transport infrastructure on the amenity and character of Fremantle.
- The policy referred to above should be formulated as a matter of priority initially by seeking the extension of the work of the Fremantle Ports Optimum Planning Group.

The City supports the recognition in the draft Sub-regional Strategy of the need for a rapid public transport system supporting the connection of major centres. The recognition of the corridor between Fremantle and Murdoch/Fiona Stanley Hospital as a key public transport connection is supported; however a significant omission from the current Sub-regional strategy document is any recognition of the critically important north-south linkage between Fremantle and parts of the South-west sub-region, especially the major planned growth area of Cockburn Coast which directly abuts the City of Fremantle and Central Sub-region boundary. The WAPC's adopted Cockburn Coast District Structure Plan identifies the promotion of an efficient public transport system providing connections to Fremantle as a core component of the sustainable development of this major residential and employment growth area. Consequently the City considers this linkage across the sub-regional boundaries should be explicitly recognized and included in the Central Sub-regional Strategy.

The City supports the explicit reference to the importance of active transport (walking and cycling) networks as part of the overall planning framework for transport. The City wishes to draw attention to its recently completed Local Bicycle Plan 2011-2016, and particularly the regional bike path/lane linkages, as a component of the Perth Bicycle Network referred to in the Sub-regional Strategy.

Implementation and Governance

The City supports the recognition in the draft Sub-regional Strategy that all tiers of government as well as the private sector have roles to play in implementing the objectives and actions identified in the document. The City also supports the recognition in the document that local government may move beyond its traditional role as a planning authority to achieve urban regeneration objectives at a local level, for example through partnership initiatives with the private sector or other agencies. It is important that all local governments recognise and fulfil their obligations to play a constructive role in managing and shaping the future growth of the sub-region.

The City of Fremantle is already proactively involved in a number of initiatives of this nature, such as its partnership with LandCorp to bring forward for development a number of brownfield sites such as the Knutsford Street and Swanbourne Street Development Areas and the Lefroy Road Quarry site which are identified as Planned Urban Growth Areas in the draft Sub-regional Strategy.

However, it is important to recognize that the successful redevelopment of sites of this nature will require resolution of significant constraints such as ground contamination and lack of adequate services and infrastructure. These constraints are unlikely to be overcome without a coordinated 'whole of government' approach, and the importance of such an approach being adopted should be expressed in much stronger terms within the Sub-regional Strategy than is currently the case.

COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

That Council authorise the Chief Executive Officer to make a submission based on the following comments to the Western Australian Planning Commission as the City of Fremantle's submission on the draft Central Metropolitan Perth Sub-regional Strategy:

General Comments

The City of Fremantle supports the principle of the Western Australian Planning Commission (WAPC) producing sub-regional strategies as a means to provide greater detail and direction on the implementation of the overall spatial planning objectives set out in Directions 2031.

The City also supports the 8 strategic priorities identified in the draft Strategy for the Central Metropolitan Sub-region which includes the City of Fremantle. These

priorities align closely with a number of the Strategic Imperatives and Outcomes contained in the City's recently adopted Strategic Plan for 2010-15. The priorities in the Sub-regional Strategy reflect the capacity of the Central or 'inner' sub-region to accommodate a significant proportion of the overall housing and employment requirements associated with the projected growth in metropolitan Perth's population in a sustainable manner which optimizes the efficient use of previously developed land and existing services and infrastructure, supports the economic and social vitality of established centres including Fremantle, supports cost-effective investment in improved infrastructure (particularly transport infrastructure) and limits the requirement to accommodate growth through less sustainable and more costly patterns of development on the urban fringe.

However, the City considers that the boundary between the Central sub-region and the South-west sub-region should be amended to include the City of Cockburn within the Central rather than the South-west sub-region. A number of established communities within the City of Cockburn such as Hamilton Hill, Coogee, Coolbellup and Spearwood relate to Fremantle as the strategic level activity centre which provides the primary source of higher order services and facilities. It would be inappropriate for a relatively arbitrary boundary in a strategic planning document to create a sense of disconnection between Fremantle and some of these catchment areas.

The City also requests the WAPC to give consideration to the following more detailed comments prior to adoption of the final version of the Sub-regional Strategy.

Housing Supply Targets

The City of Fremantle supports the principle of seeking to accommodate with the central sub-region significant infill development and greater diversity of housing stock in a manner compatible with the preservation of cultural heritage and existing neighbourhood character.

The City also supports the principle of the sub-regional target being broken down into targets for each local government area. However, it is important that the manner in which targets have been calculated and apportioned to individual local governments is clearly justified in the Sub-regional Strategy and that targets are set out in a transparent way. The current draft Sub-regional Strategy document contains only a limited explanation of how individual local government targets have been derived, and this explanation should be expanded in the final document.

It is critically important that targets are applied across all local governments in a consistent and equitable manner, to avoid creating a public perception that *any* particular local community is being expected to accommodate a disproportionate share of infill development. The role of the WAPC and Minister for Planning in ensuring that all local governments meet their commitments in relation to *housing* targets will be important in relation to this issue.

Based on a desktop review of the targets for the City of Fremantle contained in the draft document and subject to *the above* comments, the City considers the current

target of 3,500 total new dwellings is achievable. However having regard to proactive work the City is undertaking to facilitate increased population in and around Fremantle city centre through the current Local Planning Scheme amendment for the East End area and the work of the City Centre Strategic Sites Working Group, together with a review of the potential capacity of key redevelopment sites such as the Knutsford Street/Swanbourne Street, McCabe Street and Strang Street Development Areas, the City advocates an increase in the target for Fremantle to a minimum of 4,500 additional new dwellings.

Independently of the above target, the City is currently giving preliminary consideration to the possibility of proposing an amendment to its Local Planning Scheme No. 4 to enable the development of small dwellings for independent occupation on the same title as an existing single dwelling. This concept would be a modified version of the proposed revisions to ancillary accommodation provisions of the Residential Design Codes suggested in the Sub-regional Strategy. In the event of Council in due course deciding to support such a scheme amendment, and if the proposal also received approval from the WAPC and Minister for Planning, it would be appropriate to further review the City's housing target because there would be potential to achieve an additional supply of small dwellings through infill over and above the level of incremental infill (in the form of conventional subdivisions) already assumed by the WAPC in producing the current housing target for the City.

Greater local population growth in the future would help support Fremantle's current role as a strategic metropolitan centre, and support the City's aspiration to perform in the future the function of a Primary Centre as defined in Directions 2031 and State Planning Policy 4.2 'Activity Centres for Perth and Peel', with a role secondary only to Perth CBD.

Employment

The Sub-regional Strategy provides an overview of current employment trends and distribution, and stresses the need for a strong focus on the employment function of activity centres. However, the document fails to provide any further guidance on the State Government's vision for the future employment role of particular centres within the sub-region, for example whether higher order centres in the activity centres hierarchy should be regarded as priority locations for particular types of employment such as office jobs. The document tends to deal with non-industrial sector employment in a generic manner, and provides no recognition or guidance on opportunities for particular centres in the sub-region to capitalize upon linkages to certain employment sectors – for example Fremantle's obvious linkages to Port and other maritime-related employment, and the tourism sector. The City considers this is a significant omission from the Sub-regional Strategy which should be addressed.

The City of Fremantle is currently working towards developing its own aspirational targets for employment levels in the city, particularly the city centre. The City would wish to maintain its current level of employment 'self-sufficiency' (i.e. ratio of jobs to residents) of nearly 2:1 into the future in line with the projected increase in population.

The draft Sub-regional Strategy projects an overall employment target of 147,000 more jobs being required in the Sub-region by 2031 to match the growth in population, but does not provide any breakdown of this figure between individual local government areas (unlike housing supply requirements). The City considers that employment targets of some type for areas smaller than the sub-region as a whole would provide helpful guidance to local governments undertaking economic development and employment planning at a local level. The City would be keen to work collaboratively with the State Government to explore how the local employment target work the City is currently undertaking might feed into the Sub-regional Strategy.

The City supports the statement in the draft Sub-regional Strategy that existing industrial estates need to be protected from encroachment by inappropriate non-industrial uses which might undermine the viability of those estates as important generators of industrial sector jobs. In the context of Fremantle, this statement should apply to North Fremantle and O'Connor which are identified in Directions 2031 as existing industrial centres.

Transport

The City supports the statement in the draft Sub-regional Strategy that an objective of Government should be to maximize the use of rail as opposed to road for freight transport. This is particularly important for Fremantle in the context of anticipated further growth in trade (especially container trade) through the Inner Harbour. In relation to this issue the City wishes to reiterate its adopted position as previously communicated to the Minister for Transport in September 2009 and summarized below:

- The City supports the retention of container operations on North Quay on the basis that the operating capacity of the Inner Harbour should be determined through policy, having regard to acceptable levels of road based freight movement, rather than by the physical operating capacity of the Inner Harbour facilities and infrastructure. This policy should be developed collaboratively with the City, in such a manner to balance the viability of container operations with the impacts of land based transport infrastructure on the amenity and character of Fremantle.
- The policy referred to above should be formulated as a matter of priority initially by seeking the extension of the work of the Fremantle Ports Optimum Planning Group.

The City supports the recognition in the draft Sub-regional Strategy of the need for a rapid public transport system supporting the connection of major centres. The recognition of the corridor between Fremantle and Murdoch/Fiona Stanley Hospital as a key public transport connection is supported.

However, the City considers that the higher priority transit corridor in this part of the sub-region is the critically important north-south linkage between Fremantle and new growth areas within the City of Cockburn, especially the major planned growth area of Cockburn Coast which directly abuts the City of Fremantle and Central Sub-region boundary. The lack of any reference to this corridor linking

across the currently proposed sub-regional boundary is a significant omission from the current Sub-regional strategy.

The WAPC’s adopted Cockburn Coast District Structure Plan identifies the promotion of an efficient public transport system providing connections to Fremantle as a core component of the sustainable development of this major residential and employment growth area. *The City of Fremantle considers that this public transport system should take the form of a light rail system, and the need for a planned corridor to accommodate such public transport infrastructure should be explicitly recognized and included in the Central Sub-regional Strategy.*

The City supports the explicit reference to the importance of active transport (walking and cycling) networks as part of the overall planning framework for transport. The City wishes to draw attention to its recently completed Local Bicycle Plan 2011-2016, and particularly the regional bike path/lane linkages, as a component of the Perth Bicycle Network referred to in the Sub-regional Strategy.

Implementation and Governance

The City supports the recognition in the draft Sub-regional Strategy that all tiers of government as well as the private sector have roles to play in implementing the objectives and actions identified in the document. The City also supports the recognition in the document that local government may move beyond its traditional role as a planning authority to achieve urban regeneration objectives at a local level, for example through partnership initiatives with the private sector or other agencies. It is important that all local governments recognise and fulfil their obligations to play a constructive role in managing and shaping the future growth of the sub-region.

The City of Fremantle is already proactively involved in a number of initiatives of this nature, such as its partnership with LandCorp to bring forward for development a number of brownfield sites such as the Knutsford Street and Swanbourne Street Development Areas and the Lefroy Road Quarry site which are identified as Planned Urban Growth Areas in the draft Sub-regional Strategy.

However, it is important to recognize that the successful redevelopment of sites of this nature will require resolution of significant constraints such as ground contamination and lack of adequate services and infrastructure. These constraints are unlikely to be overcome without a coordinated ‘whole of government’ approach, and the importance of such an approach being adopted should be expressed in much stronger terms within the Sub-regional Strategy than is currently the case.

CARRIED: 4/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Bill Massie Cr Andrew Sullivan	

**PSC1011-217 REVISED PROPOSED AMENDMENT NO 24 TO LOCAL PLANNING
SCHEME NO. 4 INITIATION OF REVISED AMENDMENT**

DataWorks Reference: 218/028
Disclosure of Interest: Nil
Meeting Date: 20 October 2010
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: PSC 0901-13, PSC0907-131 and PSC0907-132
Attachments: Nil

EXECUTIVE SUMMARY

The purpose of this report is to recommend Council to authorise action on two related matters concerning the control of advertising signs as follows:

1. Make modifications to proposed Amendment No. 24 to Local Planning Scheme No. 4, and re-advertise the modified scheme amendment for public comment.
2. Discontinue the previously initiated Signs and Advertisements Local Law 2009.

The Department of Local Government has indicated it will not support a proposed new Local Law approved by Council in 2009. The intended purpose of the local law was to regulate types of signs not permanently attached to buildings or land. An amendment to Local Planning Scheme No. 4 (LPS4) designed to complement the Local Law, to ensure that the two legal instruments would not duplicate controls over the same type of signage, was prepared at the same time in 2009.

Given the opposition to the proposed Local Law at State Government level, officers have considered alternative means of achieving the City's original aims in relation to reforming controls over signage. As an alternative way forward, officers recommend discontinuing the Local Law and instead modifying the scheme amendment. This approach would exempt certain categories of signs from requiring planning approval under LPS4 but also clarify an existing scheme provision that empowers the Council to require removal or modification of an existing advertisement in circumstances where the advertisement (even if exempt from requiring planning approval) is in conflict with the amenity of the locality. To guide Council in exercising this power, a draft local planning policy will be prepared which identifies criteria Council should have regard to when determining whether an existing advertisement is in conflict with the amenity of the locality.

BACKGROUND

At an Ordinary Council meeting on 28 January 2009 (PSC 0901-13) Council resolved to review and amend the statutory provisions relating to the control and regulation of advertising signs based on the following principles –

- All signs not permanently attached to a building, structure or land, and all signs for the purpose of public information and/or safety on land reserved for roads or recreation where vested in or owned by the City of Fremantle, should be exempt from requiring planning approval under Local Planning Scheme No. 4 (LPS4);
- The definition of 'permanently attached' should be based on the principle that removal of a permanently attached sign would require the use of a tool rather than being able to be done by hand;
- Signs not 'permanently attached' (as defined above) should be controlled through a new Local Law rather than through the provisions of LPS4;
- Definitions contained within the Scheme should create certainty about the matters relevant to advertising signs that have planning implications, including a definition for 'permanently attached', but make it clear that planning controls through LPS4 will not attempt to regulate the content of advertising signs.

Council subsequently resolved to initiate an amendment to the Local Planning Scheme (22 July 2009 - PSC0907-132) based on the above principles and at the same time resolved to adopt a new draft local law (the Advertisements and Signs Local Law 2009) for the purpose of public advertising (PSC0907-131).

These two documents were advertised for a period of 42 days. At the completion of this period no submissions had been received and the Local Law was sent to the Minister for Local Government in accordance with the requirements of the *Local Government Act 1995*. As the content of both instruments assumed the existence of the other in order to be effective, final adoption of the Scheme amendment was put on hold pending the outcome of the Local Law. However, in December 2009 the Department of Local Government advised the City that it was very likely the Joint Standing Committee on Delegated Legislation would seek disallowance of the local law by the Minister on the grounds that it deals with certain matters intended by the Planning and Development Act 2005 to be dealt with in a local planning scheme.

The City subsequently obtained legal advice on how it might respond to the position expressed by the Department of Local Government and the Joint Standing Committee. The advice indicated that although the City could seek to challenge the Joint Standing Committee's stance through the Supreme Court, such action would be costly and time consuming with no certainty of success. As an alternative course of action to secure improvements to controls over advertisements, the advice suggested deleting the proposed 2009 local law and instead making changes to planning controls under LPS4 and also amendments to one or both of two current local laws – the *Activities in Thoroughfares and Public Places Trading Local Law* and the *Signs, Hoardings and Billposting Local Law*.

CONSULTATION

Following referral from the Environmental Protection Authority advertising was undertaken on the original scheme amendment in accordance with regulation 25(2) of the Town Planning Regulations 1967. The proposed scheme amendment was advertised for comment for 42 days finishing on the 24 November 2009. No submissions were received.

Under the revised approach recommended in this report the modified Scheme amendment will require re-advertising for 42 days. The WAPC will need to be informed of the new advertising period and requested to agree to the City being given an extended time period in which to deal with the amendment under the *Town Planning Regulations 1967*.

PLANNING COMMENT

In light of the opposition to the proposed local law from the Department of Local Government and the Joint Standing Committee, and having regard to the legal advice received on potential alternative courses of action available to the City to try to achieve its original aims in relation to reforming controls over signage, officers recommend discontinuing the proposed 2009 Local Law and modifying the previously proposed amendment to LPS4. This alternative approach is detailed below, and still seeks to address as far as possible the principles endorsed by Council in its resolution of January 2009 (see Background above).

The key elements of the approach now recommended are as follows:

- Signs not permanently attached to a building, structure or land, and all signs for the purpose of public information and/or safety on land reserved for roads or recreation where vested in or owned by the City of Fremantle, would still be exempt from requiring planning approval under LPS4, as originally proposed. This would not affect any controls over certain types of signs which exist as part of existing City of Fremantle local laws.
- Existing powers under clause 11.2 of LPS4 could be used to require the removal or modification of existing advertisements which, in the opinion of Council, conflict with the amenity of the locality. This power could be exercised in relation to advertisements which are exempt from requiring planning approval.
- To assist Council in exercising its discretionary power under clause 11.2 to require removal or modification of existing advertisements, a local planning policy should be adopted setting out the factors Council will have regard to in forming an opinion on whether an advertisement is in conflict with the amenity of the locality.
- Improved definitions relating to advertisement signage matters to provide greater clarity, including making clear that changes to the content of an existing approved advertising sign do not require further planning approval, would still be included in the Scheme amendment as originally proposed.

The recommended contents of the modified Scheme amendment and the draft local planning policy are described in more detail below.

Modified Scheme Amendment No. 24 – Signs and Advertisements

Elements of Amendment No. 24 as originally proposed and advertised which are still proposed in modified version of Amendment

- Delete existing clause 5.10.1 in its entirety and introduce the following wording (but located in clause 8.2 Permitted Development rather than 5.10 as previously proposed):

Any change to the words, pictures, symbols, or colours of any approved advertisement where the change does not alter the size or purpose of the approved advertisement.

- Clause 8.2(d) is to be modified so as to not refer to the heritage list or heritage areas and therefore reads -
8.2 (e) *“any of the exempted classes of advertisements listed in Schedule 5,”*
- New definitions for ‘advertisement’ and ‘permanently attached’.

New or revised provisions recommended to be included in modified version of Amendment

- New definitions for ‘sign’, ‘window sign’, and ‘temporary sign’.
- Schedule 5 – Exempted Advertisements (an existing Schedule in LPS4 which lists types of advertisements not requiring planning approval subject to limitations on size, number of signs and location) would be modified as follows:
 - Property disposal (already in Schedule 5 – retain)
 - Construction sites (already in Schedule 5 – retain)
 - Temporary sign (already in Schedule 5 – retain)
 - Sign not permanently attached (proposed to be added to Schedule 5 under original version of Amendment 24)
 - Signs erected by a public authority, or on its behalf for the purpose of public safety or information and/or the direction and control of people, animals or vehicles (proposed to be added to Schedule 5 under original version of Amendment 24)
 - Window sign (proposed further addition to Schedule 5)
 - Plaques or plates (proposed further addition to Schedule 5)
 - Building identification sign (proposed further addition to Schedule 5)
- Minor modifications to Clause 11.2.1 and 11.2.2 to (a) include a provision that a notice can be issued on the owner and occupier as well as the advertiser; and (b) decrease the period for compliance with a notice served under this clause from 60 days to 28 days.

Draft Local Planning Policy

As stated above, the power to require removal or modification or repair of an advertisement under clause 11.2.1 of LPS4 is a discretionary power – it may be exercised in circumstances where *‘in the opinion of Council’* an advertisement is in conflict with the amenity of the locality. The power is exercised through the service of a notice requiring specified action to be taken (e.g. removal of the advertisement) within a stated compliance period. A person upon whom such a notice is served has a right to apply to the State Administrative Tribunal for review of the Council’s decision.

Consequently it is considered important that guidance is available to assist Council in exercising this power in a consistent and reasonable manner. Clear criteria relating to the factors that Council will have regard to in forming an opinion on whether or not a particular advertisement is considered to be in conflict with the amenity of its locality would provide such guidance, and be a relevant consideration in the event of a Council decision being reviewed by the SAT. Officers are currently drafting a policy that provides this guidance, and the draft policy will be presented to Council for consideration in the near future. Given that the modified Scheme amendment requires re-advertising (if Council supports the officer’s recommendations) the preparation of the draft policy can occur whilst the Scheme amendment is being advertised.

CONCLUSION

Officers consider the revised approach to Scheme amendment No. 24 is an appropriate way forward to progress development controls for advertising signage in the City of Fremantle whilst adhering as closely as possible to the principles previously endorsed by Council. It is therefore recommended that Council support the modified version of the scheme amendment detailed in this report and authorise its re-advertising for public comment, and also resolve to discontinue the previously proposed Advertisements and Signs Local Law 2009.

COMMITTEE/OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

1. That Council resolve, pursuant to Section 75 of the Planning and Development Act 2005, to amend Local Planning Scheme No 4 by:

A. Delete 5.10.1 in its entirety

B. Insert the following into clause 8.2 after the current 8.2(c) -

“8.2(d). Any change to the words, pictures, symbols, or colours of any approved advertisement where the change does not alter the size or purpose of the approved advertisement.”

C. Delete from Clause 8.2(d) the words “except in respect of a place included on the Heritage List or in a heritage area” (as below) and reorder the lettering from this clause (now 8.2(e)) to clause 8.2(o).

“8.2 (e) Any of the exempted classes of advertisements listed in Schedule 5.”

D. Delete the following from Schedule 1:-

“Advertisement: means any word, letter, model, sign, placard, board, notice, device or representation, whether illustrated or not, in the nature of, and employed wholly or partly for the purposes of, advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to service the purpose of advertising.”

And replace with the following:

“Advertisement:

(a) means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, an advertisement, announcement or direction; and includes:

- (i) any hoarding or similar structure, used, or adapted for use, for the display of advertisements; and
- (ii) any airborne device anchored to any land or building and any vehicle or trailer or other similar device placed or located so as to service the purpose of advertising.”

E. Delete the following from Schedule 1:-

“Sign: means a sign as defined under the Council’s Signs, Hoardings and Bill Postings by-laws”

And replace with the following:

“Sign: has the same meaning as “advertisement” in this Schedule.”

F. Insert into Schedule 1 under Permeability the following: -

“Permanently attached: in relation to an advertisement, means attached to a building or structure or to land in such a manner that it is unable to be removed by hand or by key.”

G. Insert into Schedule 1 under Storey the following: -

“Temporary Sign: An advertisement that is not permanently attached and will not be erected for more that 4 weeks in any calendar year.”

H. Insert into Schedule 1 under Wholesale the following: -

‘Window Sign: means an advertisement attached to the inside or outside of a window and includes posters and signs painted on to the window.’

I. Insert the following into, Schedule 5:

12.5 Schedule 5—Exempted Advertisements

Land Use and/or Development	Exempted Sign*	Maximum Size & requirements
In all zones	Property disposal	One sign per street frontage advertising for sale, lease or rent the property on which the sign is situated. Sites less than 5000 sqm - 2 sqm Sites greater than 5000sqm - 5 sqm
In all zones	Construction sites	One sign per street frontage advertising details of the project, architects, contractors or builders, displayed only for the duration of the construction. Maximum area as follows—

		Sites less than 5000 sqm—2 sqm Sites greater than 5000 sqm—5 sqm
In all zones	Temporary sign (refer to definition in Schedule 1)	Maximum area as follows— Sites less than 5000 sqm—2 sqm Sites greater than 5000 sqm—5 sqm One sign per road frontage.
In all zones, excluding the Residential zone.	Sign not permanently attached (refer to definition in Schedule 1)	One per street frontage, located on the lot to which the sign relates and directly relating to the goods, services, or functions of the property on which it is located, maximum area 2sqm and does not pose a hazard or obstruction to vehicle and/or pedestrian movement or sightlines.
In all zones except Residential	Window sign (refer to definition in Schedule 1)	Provided the sign is/are displayed on the windows of the business premises from which the advertised item is sold, or the advertised services are supplied, and the total sign does not cover more than 50% of the total window area of the tenancy as viewed from the street.
In all zones	Plaques or plates.	On the site to which they pertain. Maximum area 0.2 sqm
In all zones	Building identification Sign	A single line of letters not exceeding 300mm in height and fixed to the façade of the building.
Local Reserves	Signs erected by a public authority, or on its behalf for the purpose of public safety or information and/or the direction and control of people, animals or vehicles	N/A
Road Reserves	Signs erected by a public authority, or on its behalf for the purpose of public safety or information and/or the direction and control of people, animals or vehicles	N/A

***The exempted signs specified exclude signs which contain any illumination or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design or structure.**

- J. include into clause 11.2.1 and 11.2.2 the words owner or occupier after advertiser.**
- K. Decrease the number of days in clause 11.2.3 from 60 days to 28 days.**

- 2. That the Mayor and Chief Executive officer be authorised to execute the relevant modified Scheme Amendment documentation.**
- 3. That the Western Australian Planning Commission be requested under Regulation 25(2)(j)(k) of the Town Planning Regulations 1967 to increase the timeframe for consideration of submissions to 31 March 2011.**
- 4. That the Local Planning Scheme Amendment No. 24 as modified be submitted to the Western Australian Planning Commission for information.**
- 5. That the amendment be advertised for a period of not less than 42 days in accordance with requirements of the Town Planning Regulations 1967.**
- 6. That the Advertisements and Signs Local Law 2009 be discontinued.**

CARRIED:4/0

For	Against
Cr John Dowson Cr Robert Fittock Cr Bill Massie Cr Andrew Sullivan	

CONFIDENTIAL MATTERS

Nil.

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 via

How consultative processes work at the City of Fremantle	
	personal representations to individual Elected Members and via presentations to Committee and Council Meetings.
Citizens need to check for any changes to decision making arrangements made	1 The City will take initial responsibility, via 3 '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/DE FAULT.CFM, checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.
Citizens are entitled to know how their input has been assessed	1 In reporting to decision-makers, City officers will in 4 all cases produce a Schedule of Input received . that summarises comment and recommends whether it should be taken on board, with reasons.
Reasons for decisions must be transparent	1 Decision-makers must provide the reasons for 5 their decisions. .
Decisions posted on www.freofocus.com/projects/html/default.cfm	1 Decisions of the City need to be transparent and 6 easily accessed. For reasons of cost, citizens . making input on an issue will not be individually notified of the outcome, but can access the decision at WWW.FREOFOCUS.COM/PROJECTS/HTML/DE FAULT.CFM or at the City Library or Service and Information counter.

Issues that Council May Treat as Confidential

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

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



MINUTES ATTACHMENTS

Planning Services Committee

Wednesday, 3 November 2010, 6.00 pm

