MINUTES

Ordinary Meeting of Council

Wednesday, 25 July 2012, 6.00pm
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ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
held in the Council Chambers, Fremantle City Council
on 25 July 2012 at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Mayor, Mr Brad Pettitt declared the meeting open at 6.02pm and welcomed members of the public to the meeting.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

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

IN ATTENDANCE

Brad Pettitt            Mayor
Cr Doug Thompson       North Ward
Cr Robert Fittock      North Ward
Cr Rachel Pemberton    City Ward
Cr Tim Grey-Smith      City Ward
Cr Dave Coggin         East Ward
Cr Ingrid Waltham      East Ward
Cr Sam Wainwright      Hilton Ward
Cr Bill Massie         Hilton Ward
Cr Jon Strachan        South Ward
Cr Andrew Sullivan     South Ward
Cr David Hume          Beaconsfield Ward
Cr Josh Wilson         Deputy Mayor / Beaconsfield Ward

Mr Graeme Mackenzie   Chief Executive Officer
Mr Glen Dougall       Director Corporate Services
Ms Marisa Spaziani    Director Community Development
Mr Philip St John     Director Planning and Development Services
Mr Peter Pikor        Director Technical Services
Mrs Natalie Martin-Good Manager Statutory Planning
Mr Andrew Eastick    Manager Economic Development and Marketing
Mr Maurice Werder    Acting Manager Finance and Administration
Mr Jason Cunningham  Communication Advisor
Mrs Mia Zaknich       Minute Secretary

There were 8 members of the public and 1 member of the press in attendance.
APOLOGIES

Nil

LEAVE OF ABSENCE

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Aaron Lohman from Grey Rowe and Associates spoke in relation to Item PSC1207-109. Client provided advice from Mackay Urban Design today to Council and wanted to confirm advice received as per an email at 4.30pm this afternoon.

Philip St John confirmed it was received late in the day by officers. Cannot confirm all elected members received.

Mr Lohman highlighted the main point of the correspondence.

DISCLOSURES OF INTEREST BY MEMBERS

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

PETITIONS / DEPUTATIONS / PRESENTATIONS

Nil
CONFIRMATION OF MINUTES

MOVED: Mayor, Brad Pettitt

That the Minutes of the Ordinary Meeting of Council dated 27 June 2012 be confirmed as a true and accurate record.

SECONDED: Cr B Massie

CARRIED: 13/0

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ANNOUNCEMENTS BY THE MAYOR

Mayor Pettitt welcomed Bernard Seeber, Architect who was invited to the meeting and Mayor Brad Pettitt explained that the City was proud to be the recipient of two awards from the Institute of Architecture for the Hilton Community Centre Development. The facility is now up and running and has made an extraordinary transformation to the facility it is today. The award is well deserved and Bernard Seeber was asked to speak in more detail about the awards.

Bernard Seeber explained about that the awards received were the John Septimus Rowe Award for Urban Planning and the George Temple Poole Award for Most Significant Piece of Architecture for 2012. Bernard was very happy to be associated with the project and recognising the architecture of the facility.

This was a very humble project which started with a $300,000 budget and federal economic stimulus funds in 2009 allowed the project to fully come to fruition. This project also engaged the community in the development of the facility. Further, Bernard recognised Ian James for his initial contribution 9 or 10 years ago up until completion.

Finally Bernard advised that a plaque and historical information will be presented in the next couple of weeks to go on the building and acknowledged Philip Gale, Manager Infrastructure Services for his valuable contribution as Project Manager for the entirety of the project.
QUESTIONS OR PERSONAL EXPLANATIONS BY ELECTED MEMBERS

Cr Andrew Sullivan advised Council that after much consideration, he will be nominating as the representative for the Greens in the next State Election. Cr Sullivan noted that he feels that he makes a valuable contribution to the Fremantle community as Councillor, however has decided that a move into state politics will allow for him to tackle bigger issues in the broader community including Local Government Reform, Roe 8, the Fremantle Traffic Bridge and the Cockburn Coast Drive. Cr Sullivan further commented that for the time being he will continue to remain on Council serving the local community.

TABLED DOCUMENTS

The following documents were tabled at the meeting and are attached to the Minutes with the following Attachment numbers:

1. Additional document noting amendments to officer's / committee recommendations relating to SGS1207-2 and C-1207-5 and a memorandum from Manager Statutory Planning in relation to PSC1207-109.


4. Letter from Mackay Urban Design with comments relating to PSC1207-109

5. Amended Memorandum of Understanding between the University of Notre Dame Australia and the City of Fremantle.

LATE ITEMS NOTED

Nil
COMMITTEE REPORTS
PLANNING SERVICES COMMITTEE 4 JULY 2012

Cr R Fittock moved en bloc recommendations numbered PSC1207-105, PSC1207-104 and PSC1207-106.

SECONDED: Cr B Massie

CARRIED: 13/0

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The following item number PSC1207-105 was MOVED and carried en bloc earlier in the meeting.

PSC1207-105  SCHEME AMENDMENT NO. 12 - MODIFICATIONS AS DIRECTED BY THE MINISTER FOR PLANNING - RECOMMENDATIONS

DataWorks Reference: 218/016  
Disclosure of Interest: Nil  
Meeting Date: 4 July 2012  
Responsible Officer: Manager Planning Projects and Policy  
Actioning Officer: Strategic Planning Officer  
Decision Making Level: Council  
Previous Item Number/s: PSC1005-96 26 May 2010  
PSC0912-234 16 December 2009  
PSC0803-63 26 March 2008  
Attachments: 1. PSC1005-96 Scheme Amendment No. 12 – Matilda Bay Brewery Site – Final Adoption  
2. Letter – Modifications to Amendment 12 – Western Australia Planning Commission  
3. Schedule of Submissions  
4. MRS Amendment 1210/41 – Land Requirement and Change Plans (Plan No. 1.7150)
EXECUTIVE SUMMARY

On the 16 April 2012 the City received correspondence from the Minister for Planning advising that Local Planning Scheme No. 4 - Amendment No. 12 (the rezoning of the former Matilda Bay Brewery site from ‘Industrial’ to ‘Development Zone’) as adopted by Council on 26 May 2010, will not be approved until such time as the amendment can be modified.

The modifications to the amendment, as directed by the Minister, include modifying the existing provisions in Schedule 11 for Development Area 18 of the City’s Local Planning Scheme No. 4 text, to include:

- Provisions that require the ceding and leveling of land in the proposed road widening area on Stirling Highway and McCabe Street free of cost to the Crown as a condition of any future development approval; and
- The requirement for an internal link road through the area connecting McCabe Street to Coventry Parade/McCabe Place as part of any structure plan for the area.

The proposed rezoning of the subject area is to remain the same as the originally proposed amendment. The modifications were advertised for public comment for 28 days as directed by the Minister for Planning. Seventeen submissions were received in total. Of these, six submissions were from state government or other agencies, three were from owners of property affected by the amendment and one was from a consultancy on behalf an affected property owner; and seven submissions were from owners and/or occupiers of property in the surrounding area. Six objections were received; two submissions were in support with one submission neutral with comment. The remaining submissions stated no objection, with two submissions not applicable to this amendment. All submissions have been noted.

Having regard to the issues raised in submissions and also to Council’s previous resolutions on this matter, it is recommended that Council recommends to the Western Australian Planning Commission and Minister for Planning the deletion of the part of the Minister’s modification relating to requiring the ceding of land for road widening and further modification to the part of the Minister’s modification requiring a link road as part of any structure plan prior to the Minister granting final consent to Scheme Amendment 12.

BACKGROUND

On 30 October 2009 the Western Australian Planning Commission’s (WAPC) Metropolitan Region Scheme (MRS) Amendment 1168/57 - Matilda Bay Brewery Precinct was gazetted. This amendment rezoned the Matilda Bay Brewery site (former) No.’s 130, 136 and 138 Stirling Highway and No.’s 2-4 McCabe Street, North Fremantle, from ‘Industrial’ zone to ‘Urban’ zone under the provisions of the MRS. At the Minister for Planning’s discretion, the City of Fremantle’s Local Planning Scheme No. 4 (LPS4) was not concurrently rezoned with this amendment at this time, therefore making it inconsistent with the MRS and requiring a ‘standalone’ amendment to LPS4 to subsequently be initiated to render the local scheme consistent with the MRS.
The purpose of Scheme Amendment No. 12 was to render LPS4 consistent with the MRS, as required under section 124(3) of the Planning and Development Act 2005. Scheme Amendment No. 12 proposed rezoning land in the Matilda Bay Brewery (fmr) site (No. 130 (Lot 5, 12, 218, 219, 220, 221, 314 & 253), No. 136 (Lot 100) and No. 138 (Lot 8) Stirling Highway and No. 2-4 (Lot 9, 10 & 11) McCabe Street, North Fremantle) from ‘Industrial’ to ‘Development Zone’ (Development Area 18) and was adopted by Council at its Ordinary Meeting of 26 May 2010 (please see Attachment 1 for the full Council report). Eleven of the thirteen lots are in the ownership of one landowner, with the two remaining lots in individual ownership.

On 16 April 2012 the City received correspondence from the WAPC advising that Scheme Amendment No. 12, as previously adopted by Council, will not be approved by the Minister until such time as the amendment can be modified (please see Attachment 2 for correspondence). The modifications the Minister is requiring to be made to the amendment require the existing provisions of Schedule 11 for Development Area 18 (DA18) of the Local Planning Scheme No. 4’s text to be modified to include the following:

- Provisions that require the ceding and leveling of land in the proposed road widening area on Stirling Highway and McCabe Street free of cost to the Crown as a condition of any future development approval; and
- The requirement for an internal link road through the area connecting McCabe Street to Coventry Parade/McCabe Place as part of any structure plan for the area.

Additionally, the Minister requested modification to Part (i) of Council’s resolution of final adoption (see Attachment 1) to include reference to, and inclusion of, a Scheme Amendment map depicting the proposed rezoning.

As per the Ministers direction, the City advertised the modifications to Scheme Amendment No. 12 as follows:

i) Amending the Scheme map in accordance with the Scheme Amendment map (below) for No. 130 (Lot 5, 12, 218, 219, 220, 221, 314 & 253), No. 136 (Lot 100) and No. 138 (Lot 8) Stirling Highway and No. 2-4 (Lot 9, 10 & 11) McCabe Street, North Fremantle, from a zoning of Industrial to Development zone and to include the properties within Development Area 18 – McCabe-Coventry Street, North Fremantle.
Modify the existing provisions in Schedule 11 - Development Areas for Development Area (DA 18) with the following (modifications shown in italics):

12.11 Schedule 11 – Development Areas

<table>
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<th>McCabe – Coventry Street, North Fremantle 130 -138 Stirling Highway and 2-4 McCabe Street, North Fremantle</th>
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<td>1. Structure plan is to be adopted to guide subdivision, land use and development prior to approval of development applications.</td>
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<td>2. Investigation of potential site contamination to the satisfaction of the DEC.</td>
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<td>3. No development shall be permitted within the proposed road widening on Stirling Highway and McCabe Street as indicated in the proposed metropolitan Scheme Amendment 1210/41 or as in a finalized MRS amendment and the land indicated for widening is to be ceded free of cost to the Crown and to be level with the existing verge as a condition of development approval.</td>
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<td>4. Any structure plan for the land is to include an internal link road connecting McCabe Street to Coventry Parade/McCabe Place.</td>
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<td>5. Development applications received prior to adoption of a structure plan, shall be assessed via Mixed Use provisions of the Scheme. Applications for any form of residential development and subdivision should be deferred until the structure plan is adopted in order that servicing, open space provision, environmental remediation and other issues are resolved.</td>
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CONSULTATION

The Minister for Planning directed Council to advertise the modifications to Scheme Amendment No. 12 for a period of 28 days in accordance with the provisions of regulation 20(1) of the Town Planning Regulations 1967. Following advertising the Minister has directed Council to consider any submissions received and to make a recommendation in respect of each submission and forward the submissions and recommendations to the Commission.

Accordingly, Scheme Amendment No. 12 was advertised for public comment from 24 April 2012 to 25 May 2012. The City’s precinct groups, utility companies, adjoining neighbours and other interested parties and key agencies were also specifically notified. Copies of the modified amendment document were made available for viewing at the Service and Information Counter at the Town Hall Centre and were available on the City’s website. Additionally, the modifications to the Amendment were advertised in a local paper (Fremantle Gazette) on the 24 April and 1 May 2012.

Seventeen submissions were received in total. Of these, six submissions were from state government or other agencies, three were from owners of property affected by the amendment and one was from a consultancy on behalf an affected property owner; and seven submissions were from owners and/or occupiers of property in the surrounding area.

Six submissions were of no objection, two submissions were in support, six submissions objected, one submission was neutral with comment and two submissions were not applicable to the modifications to Amendment 12. The main issues as presented in the submissions are outlined below. The full Schedule of Submissions can be found at Attachment 3.

Non-applicable submissions
Two submissions received have been found to consist of content that is outside the scope of Amendment 12 and refer only to the WAPC’s Metropolitan Region Scheme (MRS) Amendment 1210/41 – Rationalisation of Stirling Highway Reservation, which is currently out for public comment. Whilst these two submissions have been noted, it is considered they are not applicable to the City’s Scheme Amendment No. 12. The submitters have been contacted and clarification between MRS Amendment 1210/41 and Scheme Amendment No. 12 has been provided. Additionally, the submitters have been directed to forward their submission to the WAPC before close of submissions on MRS Amendment 1210/41 on 27 July 2012.

Modification to Schedule 11 (DA 18) - MRS Amendment 1210/41 – Ceding free of cost to the Crown and levelling of Primary Regional Road reservation
Of the submissions received, three submissions objected to the Minister’s direction to modify the existing provisions in Schedule 11 - Development Areas for Development Area 18 (DA 18) with the following:

3. No development shall be permitted within the proposed road widening on Stirling Highway and McCabe Street as indicated in the proposed Metropolitan Scheme Amendment 1210/41 or as in a finalized MRS amendment and the land indicated for widening is to be ceded free of cost to the Crown and to be level with the existing verge as a condition of development approval.

The submitters, two owners of affected property and a consultancy on behalf of one of these affected property owners, provided the following reasons for their objection (as summarised – please see Attachment 3 for the full Schedule of Submissions):

- The requirement to cede land free of cost and without payment of compensation as a condition of future development approval on the land is an unreasonable impost given that appropriate mechanisms are provided under the MRS for land to be taken for purposes such as road widening if and when such land is required.
- The ceding of land for road widening, if required by the government, should be undertaken in accordance with the proper legislative provisions and involve payment of compensation.
- The inclusion of the words “as indicated in the proposed Metropolitan Scheme Amendment 1210/41 or as in a finalised MRS Amendment” effectively creates a local scheme provision that requires an unknown portion of land to be ceded free of cost. This places an unreasonable impost on the owners of land affected by proposed Amendment No. 12 and provides no certainty as to what their obligations will be.
- The modification refers to the granting of development approval as the catalyst for the ceding of land. Such a provision pre-empts the form of development that may occur on the site and assumes it is of a nature which would generate road widening. There is no direct nexus between development on the subject site and the Department of Planning and Main Road WA’s desire to widen Stirling Highway.
- The second part of the modification requires the land to be ceded for road widening “to be level with the existing verge as a condition of development approval”. The final layout and level of the widened road is yet to be determined. It is unreasonable for private landowners to be responsible for this design work or to be beholden to a third party (such as the Department of Planning or Main Roads WA) to provide these designs and to determine these levels. Furthermore, the landowner will be required to outlay the costs to level the verge and therefore is paying to ‘deliver’ the land free of cost to the Crown.

The key issues as raised in the submissions, and as outlined above, are discussed in further detail in Planning Comment of this report.

Modification to Schedule 11 (DA18) – Internal road link from McCabe St to Coventry Parade/McCabe Place
Three submissions received objected to the Minister’s modification to Schedule 11 – DA18 for the provision of an internal road link between McCabe Street and Coventry Parade/McCabe Place as part of any structure plan for the land. One submission received was neutral but with comment on the internal road link, with two submissions received supporting the provision of an internal road link.

The objecting/neutral submissions raised the following points:

- The internal road link will increase traffic volumes on Thompson Rd, perceived as an already congested and dangerous road;
- The expected increase traffic volumes to the area will have amenity, safety, security, parking, local identity and environmental impacts (noise, glare, fumes) on the surrounding residential area and its residents;
- Concern the increased traffic volumes will impact access and safety to Sew Park, playgrounds and the river, particularly for children, disabled and elderly;
- Concern the increase traffic volumes will impact/degrade pedestrian and bicycle use and linkages in the local area;
- Traffic management and road safety standards should be reviewed in regards to this proposal;
- Traffic calming will be required at the northern end of Thompson Rd as a result of the expected increase in traffic volumes (and the cost of this to ratepayers);
- Request for the internal road link to be a no through road at the southern end (at the connection with Coventry Pde and Thompson Rd);
- Request for the internal road link to be one-way (south to north) to minimise traffic volumes on Thompson Rd; and
- Request for the internal road link to be limited to pedestrian and bicycle use only.

The key issues as raised in the submissions, and as outlined above, are discussed in further detail in Planning Comment below.

**PLANNING COMMENT**

Modification to Schedule 11 (DA 18) - MRS Amendment 1210/41 – Ceding free of cost to the Crown and levelling of Primary Regional Road reservation

**Background**

Concurrent with the Minister’s direction to the City in respect of Amendment No. 12 to LPS4, the WAPC is currently inviting public comment on *MRS Amendment 1210/41 – Rationalisation of Stirling Highway Reservation*. The purpose of this amendment is to ensure adequate space is allocated for a consistent and safer highway design of Stirling Highway into the future. The amendment proposes to rezone or reserve approximately 29.9 hectares of land along Stirling Highway from Broadway, Nedlands, in the north to Queen Victoria Street, North Fremantle, in the south. Of this land, approximately 3.5 hectares of land, primarily between Jarrad Street, Cottesloe and Queen Victoria Street, North Fremantle, is to be included into the Primary Regional Road reservation. The City’s submission on MRS Amendment 1210/41 was endorsed by Council at its Ordinary Meeting of 27 June 2012 and has subsequently been submitted to the WAPC.
A total of thirteen lots are subject to the proposed rezoning under the City’s Scheme Amendment 12, with eleven of these lots under the ownership of one landowner. Four of the thirteen lots are proposed to be affected by the widening of the Primary Regional Road reservation (Stirling Highway) under MRS Amendment 1210/41; with two of these lots in the ownership of individual landowners. The four lots subject to MRS Amendment 1210/41 are as follows:

- 2 - 4 (Lot 9) McCabe Street;
- 130 (Lot 220) Stirling Highway;
- 136 (Lot 100) Stirling Highway; and
- 138 (Lot 8) Stirling Highway.

The additional land area required for the Primary Regional Road reservation varies for each of the four lots. On two of the lots, up to approximately 50% of each of the total lot area is required for the additional road reservation. Please see Attachment 4 for the MRS Amendment 1210/41 ‘Land Requirement and Change Plans’ (Plan No. 1.7150) as applicable to the above lots.

Comment

The Minister’s modification to Schedule 11 – DA18, under Scheme Amendment 12, includes at Part 3 of Schedule 11 the following provision:

3. No development shall be permitted within the proposed road widening on Stirling Highway and McCabe Street as indicated in the proposed Metropolitan Scheme Amendment 1210/41 or as in a finalized MRS amendment and the land indicated for widening is to be ceded free of cost to the Crown and to be level with the existing verge as a condition of development approval.

Scheme Amendment 12 was initiated by the City under section 124(3) of the Planning and Development Act, whereby if a region planning scheme is amended and is inconsistent with a local planning scheme, the local government is required within 90 days to amend the local planning scheme to be consistent with the amended region planning scheme. Under section 124(5), an amendment prepared under section 124(3) is forwarded to the Minister for approval under section 87. Section 87(2) allows the Minister to require the City to modify the amendment before it is resubmitted for the Minister’s approval.

MRS Amendment 1168/57, which re-zoned the subject area from ‘Industrial’ to ‘Urban’ under the Metropolitan Region Scheme, is the Amendment with which LPS4 is currently inconsistent. The modification to Schedule 11 – DA18 to cede land as required for MRS Amendment 1210/41 for the widening of Stirling Highway, free of cost to the Crown, does not relate to MRS Amendment 1168/57, but to a separate region planning scheme amendment, MRS Amendment 1210/41.
With regard to the above, officers consider it unreasonable to require Amendment 12 be modified to incorporate changes which are unrelated to the purpose for which the amendment was initiated under the Act. Officers consider any modifications which the Minister can direct the City to make to Amendment 12 should be confined to ensuring the local planning scheme amendment is consistent with MRS Amendment 1168/57. Legal advice obtained by officers on this matter indicates that whilst the legal position is unclear and does not appear to have been tested previously in the courts, there is certainly an argument that the Minister’s power to modify a Scheme amendment is confined to the purpose for which the amendment was required to be initiated and modifications cannot be required which are extraneous to that purpose.

Furthermore, if this modification has arisen from the perceived development opportunities presumed to be afforded to the primary landholder of 11 of the 13 subject lots, it would seem unreasonable that the two remaining small landholders would be subject to the same requirement to cede land free of cost to the Crown, whereby they will not have the opportunity to develop to the same extent as the primary landholder in this subject area. It is also noted the two individually owned properties are the most significantly affected by the MRS Amendment 1210/41 out of the 13 properties within the Amendment 12 subject area.

In consideration of submitters’ objections to this provision and for the reasons as discussed above, officers consider that Council should not support the Minister’s modification to Schedule 11 – DA 18 to include the provision at part 3 requiring landowners within DA18 (existing and proposed) to cede MRS Primary Regional Road reservation free of cost to the Crown and to level the ceded land as a condition of development approval. Consequently officers recommend that Council recommend to the WAPC and the Minister the deletion of part 3 of the modification to Schedule 11 – DA18 prior to final approval of Scheme Amendment 12.

**Wording and format of part 3 of the Minister’s modification to Amendment No. 12**

If, notwithstanding Council’s and submitters’ objections to this provision overall for the reasons outlined above, the Minister considers the modification as proposed at part 3 of Schedule 11 – DA18 is to be retained, officers consider flaws in the current wording need to be addressed. Therefore, without prejudice to the City’s primary recommendation to delete this modification, officers recommend the wording and format should be amended for the following reasons:
• The provision currently states “No development shall be permitted within the proposed road widening on Stirling Highway and McCabe Street as indicated in the proposed Metropolitan Scheme Amendment 1210/41 or as in a finalized MRS amendment…” The proposed part 3 creates an issue with respect to the relationship between LPS4 and the MRS. The effect of MRS Amendment 1210/41 will be to reserve portions of privately owned lots for the purpose of a Primary Regional Road along Stirling Highway. Once the MRS amendment 1210/41 becomes operative, development of this reserved land will not require approval under LPS4 (see clause 3.2.2 of LPS4). Therefore, the effect of the Minister’s modification at part 3 is to introduce into LPS4 a prohibition on the development of land reserved under the MRS, when development control for this land will be the sole responsibility of the WAPC under the MRS, not the City of Fremantle’s under LPS4.

• The provision refers to two separate and potentially inconsistent documents, the currently proposed and the future final approved version of MRS amendment 1210/41. Conceivably, the final version of MRS amendment 1210/41 may differ from the current proposal. If the area indicated in the proposed MRS amendment and the final, operative amendment are different, there is no mechanism under the Minister’s modification at part 3 to say which operates to determine the area to be ceded. The only version that is relevant and bearing statutory weight is the finalised MRS amendment. Consequently, reference to the propose MRS amendment is undesirable and inappropriate. It appears the Minister’s part 3 is an attempt to secure the outcome of MRS Amendment 1210/41 before that amendment becomes operative. If part 3 is to remain, it will require amendment to address this flaw.

   i) The second part the provision requires the land to be ceded for road widening “to be level with the existing verge as a condition of development approval”. The final layout and level of the widened road is yet to be determined. Officers consider it unreasonable for private landowners to be responsible for this design work or to be beholden to a third party (such as the Department of Planning or Main Roads WA) to provide these designs and to determine these levels. Furthermore, the landowner will be required to outlay the costs to level the verge and therefore is paying to ‘deliver’ the ceded land free of cost to the Crown.

   ii) In its current format, the provision applies to the whole of DA18, including property already zoned Development Zone (DA18) and not subject to Scheme Amendment 12 (specifically, 140 Stirling Highway). This is considered unreasonable. Application of the provision should be to those properties within the subject area of Scheme Amendment 12 and affected by the proposed rezoning. Further consideration should also be given to the merit of applying this provision to the two small individual landholdings at 136 and 138 Stirling Highway. These two small landholdings will not be afforded the same development opportunities as the majority landholder under the proposed re-zoning and should not be further penalised through the removal of their rights to compensation under MRS Amendment 1210/41.
Modification to Schedule 11 (DA18) – Internal road link from McCabe St to Coventry Parade/McCabe Place

The Minister’s second modification to Schedule 11 – Development Area 18 (DA18) is to introduce the following provision:
“Any structure plan for the land is to include an internal link road connecting McCabe Street to Coventry Parade/McCabe Place.”

Under the requirements of clause 6.2 and Schedule 11 of LPS4, prior to development of the land within a Development Area, the landowner must lodge with the City a Structure Plan. Furthermore, clause 6.2.6.1 of LPS4 requires in the accompanying written report of the Structure Plan the analysis of traffic management and safety as undertaken by a qualified Traffic Engineer, in addition to other such matters as site analysis, integration with the surrounding land and design rationale. Until such a time a Structure Plan is lodged with the City, it is difficult to accurately ascertain the impact the internal road link will have on traffic volumes and the amenity of the local area. Presently, the City is unaware of any proposal for the development of the Matilda Bay Brewery (fmr) site.

Two submitters support this provision, one submitter objects to the provision, and one submitter is neutral but with comment on the internal road link. Officers acknowledge the concerns raised by submitters and consider any future design of the internal road link should address such matters as ‘rat running’, pedestrian/cycle safety and residential amenity. In principle, officers consider an internal road link could provide increased connectivity, for vehicle, pedestrian and cycle use, within the local area of North Fremantle and will provide a wider range of options for access to Stirling Highway, a major connecting road. It is reasonable to expect any future structure plan for the subject land to address connectivity issues. The road design and concerns as raised by submitters could be considered in detail on the receipt and assessment of any future Structure Plan and accompanying traffic management study to the City for the subject area. Once a Structure Plan is lodged with the City, the plan (including road design) and the report would be advertised for public comment prior to determination.

With consideration to the above, officers have no objection to the principle of an internal road link between McCabe Rd and Coventry Parade/McCabe Place being made a requirement of any future Structure Plan through the provisions of Schedule 11 of LPS4 as directed by the Minister. Officers note the owner of the properties to be primarily affected by the proposed internal road (130 Stirling Highway and 2-4 McCabe St) also has no objection in principle to the provision of an internal road link. However, officers recommend for clarity the following minor amendment to the wording of the provision prior to inclusion into Schedule 11 – DA 18 of the City’s Scheme:

“Any structure plan for the land of 130 Stirling Highway and 2 - 4 McCabe Street, North Fremantle to include an internal link road connecting McCabe Street/McCabe Place to Coventry Parade/Thompson Road.”

This re-wording would make it clear that this provision only applies to the above mentioned property (i.e. the former Matilda Bay brewery site) and not to all land within DA18.
CONCLUSION

Having regard to the issues raised in submissions and also to Council’s previous resolutions on this matter, officers consider the Council should recommend to the Western Australian Planning Commission and Minister for Planning the deletion of the part of the Minister’s modification relating to requiring the ceding of land for road widening on the grounds that this modification is not required to make Local Planning Scheme No. 4 consistent with the Metropolitan Region Scheme as amended by Amendment 1168/57, which was the purpose for which Amendment 12 to LPS4 was required to be initiated. Modifications which are linked to matters extraneous to the purpose of Amendment 12, in this case land ceding for road widening which is the subject of a separate and as yet undetermined proposed MRS Amendment, could be regarded as an inappropriate use of the Minister’s power to direct modifications.

With regard to the second part of the Minister’s modification, i.e. requiring a link road as part of any structure plan, it is recommended that Council support this modification, subject to a minor re-wording, prior to the Minister granting final consent to Scheme Amendment 12.
COUNCIL DECISION

MOVED: Cr R Fittock

That Council:

1. Pursuant to Regulation 20(3) and 25 of the Town Planning Regulations 1967 (as amended) consider the submissions in Attachment 3 – Schedule of Submissions and whether in respect of each submission Amendment 12 should be modified accordingly or the submission rejected; and

2. Recommend to the Western Australia Planning Commission and Minister for Planning, in respect of the modifications to Local Planning Scheme No. 4 – Scheme Amendment No. 12 and the submissions considered at Part 1 above, the following:

   i) Uphold objections to the modification to Schedule 11 - Development Area 18 (DA 18) to include the provision at part 3 stating “No development shall be permitted within the proposed road widening on Stirling Highway and McCabe Street as indicated in the proposed Metropolitan Scheme Amendment 1210/41 or as in a finalized MRS amendment and the land indicated for widening is to be ceded free of cost to the Crown and to be level with the existing verge as a condition of development approval” and recommend deletion of this provision, on the grounds that this modification is not required to make Local Planning Scheme No. 4 consistent with the Metropolitan Region Scheme as amended by Amendment 1168/57.

   ii) If notwithstanding the City’s recommendation 2 (i) above the Minister is minded to approve the Scheme amendment with this modification, the City recommends amending the current wording and format of the Minister’s modification. The current wording and format of the provision is unclear and imprecise, and applies to some properties not within the subject area of Amendment 12. Therefore the City recommends revision of the modification at part 3 of Schedule 11 – DA18 to address these issues prior to inclusion into Local Planning Scheme No. 4.

   iii) Partly uphold submissions relating to the Minister’s modification to Schedule 11 – DA 18 to include the provision at part 4 stating “Any structure plan for the land is to include an internal link road connecting McCabe Street to Coventry Parade/McCabe Place” and recommend that this provision be amended to state “Any structure plan for the land of 130 Stirling Highway and 2 - 4 McCabe Street, North Fremantle, to include an internal link road connecting McCabe Street/McCabe Place to Coventry Parade/Thompson Road.”
3. Advise the Western Australian Planning Commission that in the event of the modification referred to in 2 (iii) above relating to provision of a link road as part of any structure plan being included in the final approved version of Scheme Amendment 12, the City would intend to address the following issues as part of its consideration of any structure plan that might subsequently be proposed for the subject land:

i) The incorporation of appropriate traffic management measures into the design and construction of the link road (including its alignment, width and surface treatments) to discourage the use of the link road, and its connection to existing local roads such as Thompson Road and Coventry Parade, by motor vehicles attempting to avoid the intersection of Stirling Highway and McCabe Street, and to generally limit the speed of all traffic using the road.

ii) The examination of opportunities for the link road to form part of an addition to the bicycle network identified in the Fremantle Local Bike Plan 2011 – 2016.

SECONDED: Cr B Massie
CARRIED: 13/0

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The following item number PSC1207-104 was MOVED and carried en bloc earlier in the meeting.

**PSC1207-104 PROPOSED RECINDING OF LOCAL PLANNING POLICY - DC2 SPECIAL PURPOSE DWELLINGS**

DataWorks Reference: 117/010  
Disclosure of Interest: Nil  
Meeting Date: 4 July 2012  
Responsible Officer: Manager Statutory Planning  
Actioning Officer: Strategic Planner  
Previous Item Number/s: None  
Attachments: DC2 Special Purpose Dwellings

**EXECUTIVE SUMMARY**

The purpose of this report is to seek Council’s approval to revoke local planning policy DC2 Special Purpose Dwellings (DC2).

The Local Planning Policy DC2 was adopted in 2004. Since the adoption date many provisions in the policy are covered in other documents such as the City's current Local Planning Scheme No. 4 (LPS4), gazetted in 2007, and the introduction of the Residential Design Codes (R-codes) 2010. The R-codes 2010 has limited scope to adopt such a policy and currently the existing policy is inconsistent with the section of the Codes that allows separate planning policies on particular design elements. To adopt a policy for Special Purpose Dwellings the City would need to ask the Western Australian Planning Commission (WAPC) permission and demonstrate a specific area need for the policy.

Officers do not recommend the adoption of a new policy. Instead it is recommended Council rescinds local planning policy DC2 Special Purpose Dwellings as such development is adequately provided for through LPS4 and the R-codes.
BACKGROUND

Local Planning Policy DC2 Special Purpose Dwellings (DC2), adopted by Council on the 19 July 2004, includes provisions for Aged or Dependant Persons Dwellings, Single Bedroom Dwellings and Ancillary Accommodation.

Definitions of each special purpose dwelling

<table>
<thead>
<tr>
<th>Ancillary Accommodation</th>
<th>Aged or Dependant Persons Dwellings</th>
<th>Single Bedroom Dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling.</td>
<td>Aged Person – A person who is over 55 years of age. Dependent person – A person with a recognised form disability requiring special accommodation for independent living or special care.</td>
<td>A dwelling that contains a living room and no more than one other habitable room that is capable of use as a bedroom.</td>
</tr>
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</table>

Please note these special purpose dwellings are separate to ‘small secondary dwellings’ which were introduced into LPS4 through scheme amendment No 46 in December 2011. Small secondary dwellings are defined by floor area and height of the dwelling and can only occur on Single House lots. Small secondary dwellings can potentially be permitted without the need to gain planning approval. There is currently no local planning policy for small secondary dwellings.

At the time DC2 was adopted the Residential Design Codes 2002 (R-codes) and Town Planning Scheme No. 3 were applicable. Since adoption of the policy in 2004 a new town planning scheme, Local Planning Scheme No. 4 (LPS4) was gazetted in 2007 and the R-codes have been updated twice, once in 2008, and more recently in 2010.

Under the R-codes 2010 a local planning policy cannot be adopted where it varies or replaces the acceptable development provisions for Design Element 6.11 Special Purpose Dwelling Requirements, which includes Aged or Dependant Persons Dwellings, Single Bedroom Dwellings and Ancillary Accommodation except in the relation to the minimum number of dwellings required in an aged or dependant persons dwelling development. Notwithstanding this, the City, with prior approval from the Western Australian Planning Commission (WAPC) can vary the acceptable development criteria for this design element where there is demonstrated a need specific to the area that warrants such a variation.

PLANNING COMMENT

As discussed in the background, a local planning policy can be adopted for aged or dependant persons’ dwellings, single bedroom dwellings and ancillary accommodation with WAPC approval, where there is a demonstrated need specific to the area for the policy. The 2004 Local Planning Policy DC2, however, has some contradictory policy provisions that are either more onerous or more generous than the Acceptable Development Criteria of the R-codes.
The discrepancies between the current policy (DC2) and the R-codes are outlined for each dwelling type below (shaded) along with a discussion on the discrepancies:

### Aged or Dependant Persons’ Dwelling

<table>
<thead>
<tr>
<th>Current DC2 provisions</th>
<th>R-code Acceptable Development (AD) provisions</th>
<th>Difference</th>
</tr>
</thead>
</table>
| May consider applications for 5 or less dwellings where the proposed is: Within 400m of a bus stop or train station; and 800m to nearest neighbourhood, local or district centre or medical centre/doctor’s surgery. Compliance with all other R-code requirements. | A minimum number of five dwellings within any single development, however this can be varied by a Performance Criteria assessment under the R-codes: *Dwellings that accommodate the special needs of aged or dependent persons and which:*  
  • are designed to meet the needs of aged or dependent persons;  
  • are located in proximity to public transport and convenience shopping;  
  • have due regard to the topography of the locality in which the site is located; and  
  • satisfy a demand for aged or dependent persons’ accommodation. | Similar requirement/outcome with the policy being more specific about distance to public transport and commercial facilities. |
| The site area requirements reduced by up to one third | The minimum site area may be reduced by up to one third | Similar requirement/outcome |
| Open space required | Open space required | Similar requirement/outcome |
| Car parking bays with wheelchair access | Wheelchair accessible car bays required as per AS4299:1995 | Similar requirement/outcome |
| Separate vehicle and pedestrian access | Accessible paths required as per AS4299:1995 clause 3.3.2 | Similar requirement/outcome |
| Carports/Garages designed in a way to accommodate wheelchair accessibility | Level entry for external doors and a minimum of 820mm clear opening for every door, corridors widened to a minimum of 1m. All as per AS4299:1995 | Similar requirement/outcome |
| Consideration of support services, access for community transport, home nursing, medical support and emergency response systems. | While not explicitly stated such requirements are considered when designing such development in accordance with AS4299:1995 | Similar requirement/outcome |

The R-codes cover the same requirements as the policy for aged and dependant persons’ dwellings with no major discrepancies. Officers agree with this approach. Since the policy and R-code requirements are similar officers consider the R-code provisions adequate and do not need to be varied or replaced by further local planning policy provisions.
<table>
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<tr>
<th>Current DC2 provisions</th>
<th>R-code Acceptable Development (AD) provision</th>
<th>Difference</th>
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<tbody>
<tr>
<td>Same as definition in the R-codes with the specific requirement that the dwelling can contain an additional ancillary room (home office, storage, study nook, Nursery walk in robe) that may not be used as an additional bedroom and does not exceed 2m in any direction.</td>
<td>Definition: A dwelling that contains a living room and no more than one habitable room that is capable of use as a bedroom</td>
<td>Similar requirement/outcome e.g. a house with one bedroom.</td>
</tr>
<tr>
<td>The site area requirements reduced by up to one third</td>
<td>The minimum site area may be reduced by up to one third</td>
<td>Similar requirement/outcome</td>
</tr>
<tr>
<td>One single bedroom dwelling per development site</td>
<td>No limit on the number of Single bedroom dwellings per development site</td>
<td>Policy more onerous than the AD criteria of the R-codes</td>
</tr>
<tr>
<td>Height limit of 4.8m external wall height with Loft</td>
<td>6m external wall height; 7m concealed roof height; 9m gabled roof height.</td>
<td>Policy more onerous than the AD criteria of the R-codes</td>
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<tr>
<td>75 sqm floor area</td>
<td>60 sqm floor area</td>
<td>Policy more generous than the AD criteria of the R-codes</td>
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There are three discrepancies between the policy provisions and the R-code requirements for single bedroom dwellings. Two of these policy provisions are more onerous than the R-codes and unreasonably so; DC2’s provisions allow for only one single bedroom dwelling per development site and for a 4.8m external wall height (single storey with loft), while the R-codes allow for multiple single bedroom dwellings per development site and an external wall height of 6m. The City has recently approved more than one single bedroom dwelling on a site and wall heights greater than 4.8m. The other discrepancy is the policy allows for an additional 15 sqm floor area more than the R-codes. Additional floor area can approved be through a Performance Criteria Assessment under the R-codes.

Either way the current policy is inconsistent with the R-codes AD requirements.
## Ancillary Accommodation

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<th>Current DC2 provisions</th>
<th>R-code Acceptable Development (AD) provision</th>
<th>Difference</th>
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<tr>
<td>Maximum floor area of 60 sqm</td>
<td>Maximum floor area of 60 sqm</td>
<td>Similar requirement/outcome e.g. a house with one bedroom.</td>
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<td>Not permitted on lots less than 450 sqm</td>
<td>The lot is not less than 450 sqm</td>
<td>Similar requirement/outcome</td>
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<td>Separate titles not permitted if density does not allow</td>
<td>Ancillary Accommodation cannot be subdivided off from the parent property if the density does not allow this.</td>
<td>Similar requirement/outcome</td>
</tr>
<tr>
<td>The applicant shall sign a statutory declaration stating that the accommodation will be occupied by a family member or a member of a spouse’s family upon lodgement of an application. Both the land owner and the occupant shall sign this declaration</td>
<td>No requirement to sign a statutory declaration.</td>
<td>Policy more onerous than the AD criteria of the R-codes</td>
</tr>
<tr>
<td>All other requirements as per the requirements of the R-codes for a grouped dwelling.</td>
<td>Development would be assessed on all other requirements for a building in the R-codes.</td>
<td>Similar requirement/outcome</td>
</tr>
</tbody>
</table>

There is one discrepancy between the policy and the R-codes for ancillary accommodation. The policy is more onerous than the R-codes as it requires the signing of a statutory declaration declaring that the accommodation will be occupied by a family member. Officers do not consider this necessary as the definition for ancillary accommodation is clear that such accommodation is only relevant to members of the same family as the occupiers of the main dwelling.

Also, outside of DC2 or the R-codes it is common practice for the City to include as condition of approval on developments that requires the applicant to place a notification on the Certificate of Title. The notification advises the owner and any subsequent owner that the use of the dwelling is ancillary accommodation and that the occupier of the ancillary accommodation is limited to a member of the family that resides in the main dwelling. This condition would cover any need for a statutory declaration.

The R-codes are currently being reviewed by the WAPC. The new R-codes may include amendments to the ancillary accommodation requirements. If this is the case the policy is likely to still be contrary to the R-codes.

### Variation to the policy

DC2 has provisions that allow for variation to floor area, density, building height and the number of single bedroom dwellings where it can be established that the proposal will not cause any amenity impact on adjoining properties and is in accordance with the aims of the LPS4. The R-codes performance criteria cannot be varied or replaced and are considered to adequately provide for discretionary decisions similar to the policy’s criteria.
The policy states that in the case of an inconsistency with the policy and the R-codes the policy prevails. This is not legally correct as the R-codes requirements would prevail over such a policy’s provisions.

If Council want to pursue a policy similar to DC2 the only option would be to ask WAPC if a local planning policy can be adopted for these dwelling types. As the R-codes is considered to adequately provide for these developments officers suggest rescinding the policy.

CONCLUSION

The current local planning policy DC2 Special Purpose Dwellings is inconsistent with the policy making provisions of the R-codes. Since the adoption date of the policy (2004) the City’s current LPS4 (in 2007) and a revised R-codes (most recently in 2010) have been gazetted. Many provisions in the policy are now similar to provisions in these other documents.

To adopt a similar Special Purpose Dwellings policy to DC2 the City would need to ask the WAPC for consent to adopt the policy and demonstrate a specific need for the policy. Officers do not recommend the adoption of a new policy. Instead it is recommended Council rescinds local planning policy DC2 Special Purpose Dwellings as such development is adequately provided for through LPS4 and the R-codes.

COUNCIL DECISION

MOVED: Cr R Fittock

That Council, in accordance with Clause 2.5.1(b) of Local Planning Scheme No 4, revoke local planning policy D.C.2 – Special Purpose Dwellings. A formal notice of revocation of the policy will be placed in the Fremantle Gazette once a week for 2 consecutive weeks.

SECONDED: Cr B Massie

CARRIED: 13/0

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The following item number PSC1207-106 was MOVED and carried en bloc earlier in the meeting.

**PSC1207-106 INITIATION OF MODIFICATION TO LOCAL PLANNING POLICY 1.1 - AMENDMENT TO AND EXTENSION TO THE TERM OF PLANNING APPROVALS - FINAL ADOPTION**

DataWorks Reference: 117/052  
Disclosure of Interest: Nil  
Meeting Date: 4 July 2012  
Responsible Officer: Manager Planning Projects  
Actioning Officer: Strategic Planner  
Decision Making Level: Council  
Previous Item Number/s: PSC1203-33 - 28 March 2012  
PSC1204-63 – 24 April 2012  
Attachments: None

**EXECUTIVE SUMMARY**

The purpose of this report is to recommend to Council final adoption of Local Planning Policy 1.1 – Amendment to and Extension to the Term of Planning Approvals (LPP1.1).

The modification to the policy, as advertised, includes provisions into the policy that increase the period within which an approved development must be substantially commenced from two years to four years. Council may grant approval a shorter period in certain circumstances.

The draft modified policy was placed out for comment for over 28 days and no submissions were received. Officers propose a further modification to the title of the policy so that it reads Amendment and Extension to the Term of Planning Approval.

It is recommended that Council resolves to adopt the Local Planning Policy with modification.

**BACKGROUND**

As previously presented to Council the current two year period within which to commence an approved development is considered unduly short, particularly for more major developments where a number of complex and potentially time-consuming matters require resolution prior to commencing development. Accordingly, at the Ordinary meeting of Council on 24 April 2012, Council resolved to amend the Local Planning Policy 1.1 – Amendment to and Extension to the Term of Planning Approvals (LPP1.1) to increase the standard term of planning approval from the current period of two years to four years, with a provision to grant approval for a shorter period where justified by the particular planning circumstances.
CONSULTATION

The modified policy was required to be advertised in accordance with Clause 2.4 of the City’s Local Planning Scheme No.4 and Local Planning Policy No. 1.3 ‘Public Notification of Planning Approvals’, for a period of no less than 28 days. The proposed policy was advertised for comment from 15 May 2012 to 15 June 2012 with advertisements being placed in the Fremantle Gazette for two consecutive weeks. The City’s precinct groups were also specifically notified and copies of the policy was made available for viewing at the Service and Information Counter at the Town Hall Centre and on the City’s website.

At the conclusion of the advertising period, the City had received no submissions.

PLANNING COMMENT

The City’s LPS4 currently governs the term of planning approvals granted by the City through clause 10.5 of LPS4. Under this clause Council has the ability to specify as part of any planning approval a period longer than 2 years within which to commence the approved development. LPP1.1’s clause 2 was modified to increase the approval period by requiring planning approvals to be commenced within 4 years, unless certain planning circumstances as identified in the policy apply to a particular application. The modified clause is as follows:

2. Term of Approval

2.1 Where the Council grants planning approval for development the period within which the development must be substantially commenced, as specified in the approval under clause 10.5.1 of Local Planning Scheme No. 4, shall be four (4) years from the date on which approval is granted, unless the circumstances set out in 2.2 or 2.3 below apply.

2.2 Where the approval of the development involves a significant exercise of discretion under the Scheme, and/or Council considers there is a reasonable prospect of a material change occurring in the physical or statutory planning considerations relevant to determination of the application, that provide grounds to consider the application may be determined differently in the future, Council may specify a period of two years as the period within which the approved development must be substantially commenced.

2.3 Where a material change to any of the statutory or policy provisions relevant to determination of an application is under active consideration that may mean the application may be determined differently in the future, Council may specify a period of one year as the period within which the approved development must be substantially commenced.

The new provisions in LPP1.1 extends the duration of planning approval to four years in normal circumstances (proposed clause 2.1) and allows Council to grant planning approval for a lesser period of two years where justified by the particular planning circumstances (as outlined in proposed clause 2.2). The existing policy provision of LPP
1.1 to grant a shorter approval period for one year where changes to statutory or policy provisions are under active consideration at the time of considering the application (proposed clause 2.3) is retained.

An additional modification is proposed to the original title of the policy. The title currently reads: *Amendment to and Extension to the Term of Planning Approvals*. It is proposed the title be amended slightly to more simply read *Amendment and Extension to the Term of Planning Approval*.

**CONCLUSION**

Extending the planning approval period from two years to four through the modification of clause 2 in *Local Planning Policy 1.1 - Amendment to and Extension to the Term of Planning Approvals* will provide better service to applicants, streamline the City’s planning processes and application workload, and offer some greater flexibility and certainty for land owners.

Accordingly it is recommended that Council adopt *Local Planning Policy 1.1 Amendment and Extension to the Term of Planning Approval* with minor modification to the title.
COUNCIL DECISION

MOVED: Cr R Fittock

That Council:

1. Adopt Local Planning Policy LPP1.1 – Amendment and Extension to the Term of Planning Approval, with minor modification, in accordance with clause 2.4 of the City's Local Planning Scheme No. 4 as shown below;

CITY OF FREMANTLE

LOCAL PLANNING POLICY 1.1

AMENDMENT AND EXTENSION TO THE TERM OF PLANNING APPROVAL

ADOPTION DATE: 27/6/2007
AMENDED: ??/??/2012
AUTHORITY: LOCAL PLANNING SCHEME NO.4

STATUTORY BACKGROUND

Clause 8.3 of the Scheme empowers the Council, on receipt of a written application from the owner of land in respect of which planning approval has been granted, to revoke or amend the planning approval. The Scheme requires that an approval may only be amended or revoked prior to the commencement of the use or development which is the subject of the planning approval.

Clause 10.5.1 of the Scheme provides that a planning approval lapses in the event that the development is not substantially commenced within the term of that approval. The Scheme specifies a period of 2 years of the date of determination as the term, unless another time period is specified in the approval.

Clause 10.5.2 of the Scheme provides that a written request may be made for an extension of the term of a planning approval at any time prior to the expiry of the approval period.

There is no provision under the Scheme to enable the Council to reconsider a Planning Application once determined.

In this policy, the term ‘Council’ includes any Committee or person exercising delegated authority on behalf of the Council under Clause 11.3 of the Scheme.
POLICY

1. Amendment of an Approval

1.1 In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposal amendment is such that the use or development the subject of the planning approval:

(a) remains, in substance, the same; or
(b) is changed so a new and different use or development is proposed.

1.2 If the nature and extent of the proposed amendments is such that there is a new and different use or development to that which was the subject of the planning approval, Council may refuse to allow amendment of the planning approval.

1.3 If an application to amend planning approval is refused, nothing in this Policy shall preclude the applicant from making, and Council from determining, a new application from planning approval for the use or development the subject of the amendment application.

1.4 Where a request to amend a planning approval is approved, a letter will be issued advising the applicant of this. A new approval will not be issued. The original planning approval (including conditions) will remain operative, subject to any amendments approved by Council.

2. Term of Approval

2.1 Where the Council grants planning approval for development the period within which the development must be substantially commenced, as specified in the approval under clause 10.5.1 of Local Planning Scheme No. 4, shall be four (4) years from the date on which approval is granted, unless the circumstances set out in 2.2 or 2.3 below apply.

2.2 Where the approval of the development involves a significant exercise of discretion under the Scheme, and/or Council considers there is a reasonable prospect of a material change occurring in the physical or statutory planning considerations relevant to determination of the application, that provide grounds to consider the application may be determined differently in the future, Council may specify a period of two years as the period within which the approved development must be substantially commenced.

2.3 Where a material change to any of the statutory or policy provisions relevant to determination of an application is under active consideration that may mean the application may be determined differently in the future, Council may specify a period of one year as the period within which the approved development must be substantially commenced.
3. Extension of the Term of Approval

3.1 Where an extension is granted, a period of up to a further two years will be granted.

3.2 In considering a request for an extension to the term of a planning approval under clause 10.5.2 of the Scheme, Council may have regard to the following factors;

(a) whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;
(b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
(c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.

3.3 Where a request to extend the term of a planning approval is approved, a letter will be issued advising the applicant of this. No new approval will be issued and all other conditions of the approval will remain unchanged.

4. Fees

An application fee will be charged for requests for an amendment to, and extension of the term of, a Planning Approval. This fee will be in accordance with the City of Fremantle Schedule of Fees and Charges.

SECONDED: Cr B Massie

CARRIED: 13/0

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PSC1207-95  SHEPHERD STREET NO.20 (LOT 1), BEACONSFIELD  CARPORT
AND OUTBUILDING ADDITION TO AN EXISTING GROUPED
DWELLING (MS DA0413/11)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 July 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1206-89 (20 June 2012)
Attachments: Development Plans
Date Received: 29 August 2011
Owner Name: M & S Dimmick
Submitted by: As Above
Scheme: Residential R20
Heritage Listing: Nil
Existing Landuse: Grouped Dwelling
Use Class: As Above
Use Permissibility: ‘D’
EXECUTIVE SUMMARY

The proposal was considered by the Planning Services Committee (PSC) on 20 June 2012 and deferred to the next appropriate PSC meeting at the request of the applicant so they could attend.

The application is presented to PSC as the proposed development does not satisfy the requirements of the City’s Local Planning Policy D.C6 - Carports/Garages in front of Dwellings/Buildings or the relevant requirements of the R-Codes relating to front setbacks.

Planning Approval is sought for the construction of a carport and store to be located in the front setback area at No.20 (Lot 1) Shepherd Street, Beaconsfield.

Given that the Carport is proposed to be built in front of the existing dwelling and that there are no other approved examples of such development in the street, the proposal is considered to be contrary to the requirements of the City’s D.C.6. nor satisfy the relevant Performance Criteria of the R-Codes. On this basis, it is recommended that the proposal be refused.

BACKGROUND

The subject site is zoned Residential under the provisions of the City’s Local Planning Scheme No.4 (LPS4) with a density coding of R20. The site is located within the Beaconsfield Local Planning Area under and is not listed on the City's Heritage List or Municipal Heritage Inventory. Furthermore, the site is not located within a designated Heritage Area in accordance with clause 7.2 of LPS4.

The subject site is located on the eastern side of Shepherd Street, Beaconsfield and has a site area of approximately 638m². The site is currently improved by a single storey Grouped Dwelling.

The proposal was considered by PSC on 20 June 2012 and deferred to the next appropriate PSC meeting at the request of the applicant so they could attend. The report is substantially unchanged from the 20 June 2012 PSC report.

DETAIL

The applicant is proposing the construction of a carport and store to be located in the front setback area at No.20 Shepherd Street, Beaconsfield. Specifically the proposal is comprised of a brick, colourbond and timber screened carport and storage area located to the northern side of the site, with a nil setback to the northern and western boundaries.

The development plans are enclosed as an attachment to this report (Attachment 1).
STATUTORY AND POLICY ASSESSMENT

In assessing the proposal, it is noted the following discretionary decisions are being sought in relation to the Acceptable Development criteria of the R-Codes:

- Front setback
- Outbuildings.

The variation to the Acceptable Development criteria of the R-Codes will be discussed further in ‘Planning Comment’ section of this report.

Additionally, the applicant is pursuing an exercise of discretion in relation to the requirements contained in the City’s D.C6 Carports/Garages in front of Dwellings/Buildings.

These variations will be discussed further in the ‘Planning Comment’ section of this report.

CONSULTATION

Community

The application was not 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.

PLANNING COMMENT

Residential Design Codes

Front setback

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<th>Required provision</th>
<th>Proposed</th>
<th>Variation</th>
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<td>6m</td>
<td>Nil</td>
<td>6m</td>
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The above variation is not supported for the following reason:

- The reduced setback is not considered to contribute to the desired streetscape of Shepherd Street in that the proposal will be contrary to the established pattern of dwellings setback in the vicinity of 6m or greater.

For the above reasons it is considered that the proposal does not satisfy the Performance Criteria of Design Element 6.10.1.
Outbuildings

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<tr>
<th>Required provision</th>
<th>Proposed</th>
<th>Variation</th>
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<tbody>
<tr>
<td>Wall height less than 2.4m</td>
<td>Maximum wall height of 3.2m</td>
<td>0.8m</td>
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<tr>
<td>Not located within primary street setback area</td>
<td>Located within primary street setback area</td>
<td>See discussion below</td>
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<tr>
<td>Complies with side boundary setbacks, but do not need to meet rear setback requirements of Table 1.</td>
<td>Nil setback to northern boundary</td>
<td>1m</td>
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The above variations are not supported for the following reason:

- The Outbuilding is not considered to be consistent with the established pattern of the streetscape, therefore may result in a detrimental impact on the visual amenity of residents or neighbouring properties;

For the above reasons it is considered that the proposal does not satisfy the Performance Criteria of Design Element 6.10.1.

Council Policy

D.C 6 Garages/Carports in front of Dwellings/Buildings

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 established pattern of Shepherd Street is predominantly comprised of carports and garages setback behind the front façade of the dwelling or as either under-croft garages or alternatively 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 differentiation in topography of the site is marginal, so as to not warrant a carport forming part of the slope/cliff or retaining wall.
The subject site is not irregular in its shape or location.

Furthermore, the setback of the existing dwelling located on site (approximately 8m) is consistent with other dwellings in the street, forming part of a largely uniform streetscape along Shepherd Street.

On this basis, the proposed carport is not considered to be consistent with the provisions contained within the City’s D.C6 Garages/Carports in front of Dwellings/Buildings.

CONCLUSION

In considering this proposal, Council should be satisfied that the development will not result in any adverse impact on the streetscape through discretionary decisions sought for the proposed location of the carport and Outbuilding.

It is considered that the proposed location of the carport is incongruous with the established streetscape of Shepherd Street, and will therefore act to diminish the uniformity of buildings setback from the primary street. Furthermore, the inclusion of an Outbuilding within the primary street setback area is not considered to be acceptable on the basis that it may establish an undesirable precedent along Shepherd Street.

For the reasons outlined within the ‘Planning Comment’ section above, it is considered that the discretionary decisions sought should not be supported on the basis that they are contrary to the relevant ‘Performance Criteria’ of the R-Codes and objectives of Council Policy.

Accordingly, the application is recommended for refusal.

OFFICER’S RECOMMENDATION

MOVED: Cr R Fittock

That the application be REFUSED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the carport and outbuilding addition to an existing Grouped Dwelling at No.20 (Lot 1) Shepherd Street, Beaconsfield for the following reasons:

The proposal does not meet the provisions of the City of Fremantle’s D.C6 Garages/Carports in front of Dwellings/Buildings policy or the performance criteria of the Residential Design Codes relating to front setbacks and outbuildings.
Cr J Wilson MOVED to defer the item to the next appropriate Planning Services Committee Meeting.

CARRIED: 4/2

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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.

COUNCIL DECISION

MOVED: Cr R Fittock

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

SECONDED: Cr T Grey-Smith

CARRIED: 8/5

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PLANNING SERVICES COMMITTEE 18 JULY 2012

PSC1207-109  HAMPTON ROAD, NO.256 (LOT 7001) BEACONSFIELD - REQUEST FOR EXTENSION TO THE TERM OF THE PLANNING APPROVAL - APPROVED CHANGE OF USE TO LIQUOR STORE, SHOWROOM, OFFICE, AND SHOP, PARTIAL DEMOLITION AND REFURBISHMENTS TO EXISTING BUILDING - (SS ET06/12)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 18 July 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Coordinator Planning Mediation
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachment 1: SAT approved plans
Attachment 2: Letter requesting extension of time to planning approval
Attachment 3: Letter from Hotchkin Hanly
Attachment 4: Letter from McLeods
Attachment 5: Letter from Freehills
Date Received: 30 April 2012
Owner Name: Coles Property Developments Limited
Submitted by: The Planning Group WA
Scheme: Development Zone
Heritage Listing: Not Listed
Existing Landuse: Private Recreation/Health Studio
EXECUTIVE SUMMARY

The request referred to the Planning Services Committee (PSC) for determination is a request for the extension of the term of a planning approval that was granted by the State Administrative Tribunal (SAT).

At its November 2009 meeting, Council refused to grant planning approval for a change of use from a health studio (Warehouse Fitness), to a liquor store, showroom, office and dive shop (was DA0390/09). The application also proposed partial demolition of a portion of the existing building, and construction of a new tenancy at the rear of the site to accommodate the existing ‘dive shop’ business that currently operates from the site.

The owners at that time, applied to SAT for review of the decision of Council. On the 25 May 2010, the SAT issued its decision to grant planning approval to the application. The planning approval was valid to the 25 May 2012.

The site changed ownership on the 30 April 2012 and the applicant, on behalf of the new owners, is seeking an extension of the term of the planning approval that was granted by the SAT. Clause 10.5.2 of Local Planning Scheme No. 4 (LPS4) allows for a written request for an extension to the term of the planning approval to be submitted to the City prior to the expiry of the approval period. On the 30 April 2012, the applicant submitted the written request (Refer to Attachment 2) prior to the expiry of the planning approval, which is within the time period specified in Clause 10.5.2.

Part 3 of Local Planning Policy 1.1 - Amendment To And Extension To The Term Of Planning Approvals (LPP1.1) provides a framework to guide Council in considering a request to extend the term of a planning approval. Such a request is not:

- a new development application for determination; nor
- a review of the approved development in terms of the objectives of the zone or the development standards of LPS4.

It is considered that, having regard to the criteria set out in LPP1.1 and the matters raised in the various letters referred to, and the assessment that has been undertaken in relation to these matters, that the request for the extension of the term of the planning approval can be granted for a further period of two years. Therefore, it is recommended that term of the planning approval issued for DA0390/09 relating to No. 256 Hampton Road, be extended for a further period of 2 years commencing from 26 May 2012.

BACKGROUND

The site is zoned ‘Development Zone DA14’ under the provisions of the City’s Local Planning Scheme No.4 (“LPS4”), and is located within the area commonly referred to as the ‘Strang Street Structure Plan’ area (SSSP). Whilst endorsed by Council, the draft structure plan for the SSSP requires changes to be made to it following consideration by the Western Australian Planning Commission (WAPC) in August 2005. The changes to the draft SSSP were not proceeded with.
To the north of the site, No. 37 (lot 56) Strang Street was subdivided into 33 lots (32 housing lots and 1 lot as open space). The WAPC in August 2006 issued a subdivision approval and subsequently endorsed the subdivision plan after the subdivision conditions had been cleared on the 19 June 2008, some 12 months prior to the lodgement of the planning application for the development ultimately approved by the SAT on 25 May 2010.

The City received an application for planning approval for that development on 7 August 2009, with amended plans submitted on 25 August, and 23 September 2009. The application was for a change of use and modifications to the existing premises at No. 256 (lot 7001) Hampton Road, Beaconsfield ("the site").

The planning application was advertised by:
- 26 letters being sent out to the surrounding property owners; and
- the erection of signs on the site.

The planning report to Council noted that 3 submissions were received during the consultation period (closed 2 October 2009) with 1 submission being received after the close of the consultation period. The following is an extract from the planning report to Council setting out the issues raised in the submissions:

- Concerns that there are already too many liquor stores in the immediate area.
- Concerns about anti social behaviour (throwing of bottles, broken glass) generated by the liquor store.
- The proposal does not satisfy the objectives of the Mixed Use zone as the large scale retailing of goods is contrary to clause 4.2.1(i) which encourages small scale retailing in Mixed Use zones.
- Provision of such a large amount of retail floor space will undermine existing local centres in South Fremantle, in particular, the local centre on the opposite side of Hampton Road.
- Fragmentation of retail activities in large scale developments is contrary to orderly and proper planning.
- The proposal is contrary to State Planning Policy 4.2 as the proposal encourages competing retail activities outside of the established hierarchy of retail centres.
- The proposal is contrary to the Fremantle Local Planning Strategy which aims to prevent the spread of retail activity into mixed use, commercial, and industrial areas.
- The proposal will prejudice the implementation of the Structure Plan as it is unlikely that the rear of the site will be developed for residential purposes as required in the Structure Plan.
- The intensity of the proposed development may compromise the residential development on the site adjacent.
- The method of calculating car parking is flawed, and the parking shortfall should not be supported.
- The development will exacerbate traffic congestion on Hampton Road, which is contrary to the Structure Plan.
The conclusion to the report stated the following:

The determination of this application represents a difficult planning question. In order to grant approval for the development, Council must be satisfied that the proposal is consistent with the objectives of the Mixed Use zone, and that the development does not compromise the eventual implementation of the Structure Plan.

As noted above, the liquor store use is a large scale retail use, and it is not located within an established or proposed retail centre. The approval of land uses such as this in Mixed Use zones on an ad hoc basis has the potential to undermine the effectiveness of neighbourhood and local shopping centres by allowing retail uses to spread into other areas that are not well suited to large scale retail. The City’s Local Planning Strategy, which was the guiding document for the preparation of LPS4, stated the intent to:

“Facilitate the development of land use in Local and Neighbourhood Centre by restricting the spread of retail development in mixed use, commercial, industrial and residential areas.”

This strategy is reflected in the objectives of the Mixed Use zone in LPS4, which refer to a preference for ‘small scale’ retail uses.

As noted earlier in this report and in the applicant’s TIA [Traffic impact assessment], the proposed liquor store is similar in scale and nature to a supermarket. This scale of retail is clearly not small scale, and as such, is not consistent with the objectives of the Mixed Use zone. Furthermore, a retail use of this scale is not contemplated by the Structure Plan for this site, with the Structure Plan indicating a preference for retail uses to be retained within the established local shopping centre on the opposite side of Hampton Road.

On the other hand, the proposal will allow for the ongoing use of a large commercial building, on a site with multiple road frontages, including frontage to a major urban arterial road. Furthermore, the application proposes to improve the building’s aesthetics, and provide sufficient car parking and loading areas on the site.

The Structure Plan has not been adopted by the WAPC, and it is unlikely that it will be adopted without the provision of an infrastructure contribution scheme, which presents a number of significant difficulties. In any event, it is considered that the approval of this development will not significantly compromise the implementation of the Structure Plan in the future.

On balance, the Scheme’s objective for small scale retail development, and the Structure Plan’s preference that retail uses remain within the adjoining local centre are considered to be of most significance to this application, and as such it is recommended that the application be refused.
The PSC refused the application for planning approval for the following reason:

1. **The proposal is not consistent with, the objectives of the Mixed Use Zone clause 4.2.1 (e)(i) of the LPS4 which requires that development provide for a limited range of small scale retailing of goods and services and be consistent with the desired future character of the area, as expressed through the Strang Street Structure Plan (January 2005).**

An application for review of the decision of the PSC was submitted to the SAT and on 25 May 2010, the SAT handed down its decision to grant conditional planning approval for the proposed development. The decision includes the SAT’s interpretation of the expression “small scale retailing of goods” which appears in clause 4.2.1(e)(i) of LPS 4.

In accordance with Clause 10.5.1(a), the development was required to be substantially commenced by the 25 May 2012.

On the 30 April 2012, settlement occurred and there was a change in the ownership of the site. On the same day, the City received a planning application for certain modifications to the approved development and a letter from the applicant on behalf of the new owners, requesting an extension to the term of the planning approval.

Since the creation of the Fullston Way/Kildare Link lots in mid 2008, 19 lots have either been developed with single houses or have had a planning approval and/or building licence issued to develop those lots.

Separately, on the 18 September 2009, the City received a planning application for a liquor store on 24/219 Hampton Road (located in the shopping complex on Douro Road to the north west of the subject site). This was an application for a liquor store with a floor area of approximately 1360sq m. Prior to a determination on the application, the owners of this site lodged an application with SAT (19 January 2010) to review the deemed refusal of the City. The basis for the request was that Council had not made a decision within the required time frame thereby leading to the deemed refusal. On 27 January 2010, Council refused to grant its planning approval for the proposed change in land use. The matter progressed through the SAT process and at its meeting held on the 17 March 2010, the PSC granted planning approval to a modified proposal for the liquor store (1250sq m). The planning approval was issued on the 24 March 2010. The term of this planning approval was extended for a further two years on the 21 February 2012, following a written request by the owners of the site to extend this term of planning approval. The planning approval now expires on the 24 March 2014.

**APPLICATION DETAILS**

A written request has been received within the permitted timeframe, seeking an extension to the term of the current planning approval, for a further two years.

If Council grants the requested time extension, then the approved development would permit the following (refer to Attachment 1):

- Change of use of the ground floor portion of the building to ‘Liquor Store’ (1619sqm total floor area).
- Change of use of the first floor portion to ‘Showroom’ and ‘Office’ (713sqm and 1144sqm respectively)
- Construction of a new ‘Showroom’ tenancy on the corner of Culver Street and Naylor Street to accommodate the existing dive shop that currently operates from the site.
- Demolition of the single storey portion of the building on the southern boundary.
- Construction of new car parking area and reconfiguration of the existing car parking to provide a total of 139 parking bays.
- Modification to the existing building to provide an internal loading dock to the liquor store.
- Replacement of the existing asbestos roof, and erection of a feature entry statement at the front of the building.
- Internal refurbishment of the liquor store, office and showroom tenancies.

STATUTORY FRAMEWORK

Local Planning Scheme No. 4

Zoning

The site is currently zoned ‘Development’ under the provisions of LPS4. The purpose of the Development zone is as follows:

‘to provide for future residential, industrial, commercial or other uses in accordance with a comprehensive structure plan or detailed area plan prepared in accordance with the provisions of the Scheme.’

The site is located within ‘Development Area 14 – Strang Court Area Beaconsfield’.

As noted above, Council adopted a Structure Plan for the Strang Court Area in February 2005. The Structure Plan has not yet been endorsed by the WAPC due to the lack of any clear direction on infrastructure provision and upgrades. Therefore, the land uses were required to be assessed in accordance with the provisions of Schedule 11 of LPS4. Schedule 11 of LPS4 states that in the absence of an adopted structure plan, development applications shall be assessed in accordance with the Mixed Use provisions of the Scheme.

Clause 4.2.1(e) sets out the objectives of the Mixed Use zone.

*Development within the Mixed Use zone shall –*

(i) Provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small scale retailing of goods and services (ie. showrooms, cafes, restaurants, consulting rooms), small scale offices and administration, entertainment, residential at upper levels and recreation,

(ii) Ensure future development within each of the mixed use zones is sympathetic with the desired future character of each area,

(iii) Ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and

(iv) Conserve places of heritage significance the subject of or affected by the development.
In accordance with the above, the planning application (DA0390/09) for the site was assessed against the Mixed Use provisions of LPS4.

**Status of Draft Strang Street Structure Plan**

In February 2005 Council resolved to adopt the draft SSSP, subject to some minor modifications and additions. The revised SSSP was then forwarded to the WAPC with a request that the WAPC endorse the adopted Plan. The WAPC required various changes, with the most significant being the preparation of a developer contribution scheme to provide the basis for the funding of infrastructure improvements required to implement the structure plan proposals, and clarifications around the provision of public open space. The Commission required a revised structure plan to be submitted by the City prior to final endorsement. The required changes were not implemented following a review of the required changes.

At its 2 March 2011 meeting (PSC1103-53), Council resolved to adopt a set of draft principles for a draft scheme amendment to LPS4. If gazetted, the draft Scheme Amendment would remove the Development Zone over the Strang Street locality, and therefore, the need for a structure plan to be created over this locality, which includes the development site. At its 22 June 2012 meeting (PSC1204-62), Council resolved to amend LPS4 by initiating proposed Scheme Amendment No. 43, which was created based on Councils initial decision in March 2011. In relation to the development site, the draft Scheme Amendment would have the effect, if gazetted, of rezoning the site to the “Mixed Use” zone. The proposed amendment is currently the subject of a public advertising period, which closes on the 27 July 2012.

**Local Planning Policy 1.1 - Amendment To And Extension To The Term Of Planning Approvals**

In relation to a written request for an extension of time to the term of the planning approval under Clause 10.5.1(a) of LPS4, LPP1.1 was developed to assist Council in considering any such request. The relevant part of LPP1.1 is reproduced below:

3. **Extension of the Term of Approval**

   3.1 Where an extension is granted, a period of up to a further two years will be granted.

   3.2 In considering a request for an extension to the term of a planning approval under clause 10.5.2 of the Scheme, Council may have regard to the following factors;

   (a) whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;

   (b) whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and

   (c) whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.
3.3 Where a request to extend the term of a planning approval is approved, a letter will be issued advising the applicant of this. No new approval will be issued and all other conditions of the approval will remain unchanged.

CONSULTATION

As a request to extend the term of a planning approval is not a planning application it is not subject to the advertising requirements in Clause 9.4 of LPS4 nor Local Planning Policy LPP 1.3 - Public Notification of Planning Proposals. This does not prevent the Council from advertising the extension request, should it wish to do so.

Even though not advertised, the written request to the City has generated 4 submissions concerning the proposed extension to the term of the planning approval. The following key issues have been raised in these submissions:

1. The PSC should determine the request rather than the matter being determined by the City under delegated authority;
2. There were material modifications to the proposal which are not covered by the request to extend the term of a planning approval, and should be the subject of a new planning application;
3. The SAT erred in its interpretation of the term “small scale” and this should be challenged;
4. The development will have an adverse impact on other retail uses;
5. The planning framework has been modified as a consequence of proposed Scheme Amendment 43;
6. New residential development is occurring in Fullston Way and Kildare Link, and the request to extend the term of planning approval should be refused to require a new planning application to allow for the new owners an opportunity to comment on the new planning application;
7. The SAT would have a different view on the locality having regard to the residential development that has now occurred;
8. No progress on the planning application has been made by the owners and therefore, the extension of time should not be extended;
9. Request to extend the term of planning approval should not be approved without community consultation;
10. Adverse precedent due to the potential for other large scale liquor outlets opening;
11. Circumstances have substantially changed due to:
   a) Liquor store changing from a Dan Murphy’s to a 1st Choice liquor outlet; and
   b) Additional residential development occurring in Fullston Way and Kildare Link;
12. Circumstances have changed since the SAT decision with the gazettal of Amendment No. 27, which now permits shops in the Mixed Use zone.

Separately, the City received a letter from Hotchkin Hanly - Lawyers - refer to Attachment 3. The City referred this letter to its solicitors (McLeods) and received legal advice in relation to the issues raised by Hotchkin Hanly – refer to Attachment 4. The City’s legal advice was then sent to the applicant and Hotchkin Hanly. The City then received a response from Freehills, acting on behalf of the new owners (refer to Attachment 5) responding to the letters from the two law firms.
PLANNING COMMENT

A written request for an extension to the term of a planning approval is possible under the provisions of clause 10.5.2 of LPS4. To assist in making a determination on such a request, LPP1.1 identifies matters to which regard is to be had in determining whether to allow the extension.

The written request for the extension of the term of the planning approval was accompanied by a planning application for approval of modifications to the approved development. The planning application was subsequently withdrawn and issues relating to copyright and changes to the approved development are no longer relevant. Any modifications to the approved development would require the submission of a planning application for a variation to the planning approval. Such an application is not presently before the City.

Part A - Consideration of matters set out in Part 3.2 of LPP1.1

LPP1.1 provides guidance on matters that are to be considered when determining a request to extend the term of a planning approval. As this is a written request to extend the term of the planning approval and not a planning application, the decision making process does not involve a re-assessment of the proposed development. The LPP sets out the following matters to be considered:

LPP1.1 – Part 3.2(a)
Whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;

It is necessary to consider whether there has been a material change to the planning framework as a consequence of proposed amendment No. 43 and amendment No. 27 to LPS 4.

Initiation of the Scheme amendment process occurred when Draft Scheme Amendment 43 (Amendment 43) was adopted by Council at its 24 April 2012 meeting. The purpose of Amendment 43 is shown below:

The purpose of this report is to recommend that Council initiate an amendment to Local Planning Scheme No. 4 (LPS4) to:

- Rezone Strang Court Area Beaconsfield from Development Zone - Development Area (DA14) to a combination of ‘Mixed Use’ zone and ‘Residential’ zone; and
- Zone a portion of unzoned land within DA14 at 256 Hampton Road (Lot 7001), Beaconsfield to Mixed Use zone; and
- Amend the common boundary of Local Planning Area 4 – South Fremantle and Local Planning Area 5 – Beaconsfield to allow DA14 to be wholly contained within Local Planning Area 4; and
- Include a new sub area and related specific development criteria and controls into Schedule 12: Local Planning Area 4 – South Fremantle; and
- Rezone No. 2 Strang Street (WA Portuguese Club site) from ‘Community Facility’ to ‘Development Zone’.

At the time of the writing of this report, proposed Scheme Amendment No. 43 was open to public comment, which closes on the 27 July 2012.
Having regard to the progress of proposed Scheme Amendment No. 43, Council is required to consider the proposed affect of this amendment as it is considered to be a seriously entertained planning proposal, albeit that it is in the very early stages of the Scheme amendment process. Whilst it is considered to be a seriously entertained planning proposal, it is just one of a number of matters that will be required to be considered in making a determination on the written request to extend the term of the planning approval.

The planning framework that existed when Council and SAT determined the application required the development proposal to be assessed against the Mixed Use provisions of the LPS4. Proposed amendment No. 43, if gazetted, will change the zoning of the locality, including the site, from the Development Zone to the Mixed Use zone. Although a draft amendment, amendment No. 43 is a seriously entertained planning proposal and therefore, a material element of the planning framework. The original planning application was assessed against the Mixed Use provisions of LPS4 and as such, granted approval by the SAT under these provisions. The objectives of the zone and relevant development standards will not change as a consequence of amendment No. 43, so whilst this will result in a change to the zoning, there is no change in the way the application would be assessed now. Consequently, draft amendment No. 43 is not regarded as a material change to the planning framework.

The gazettal of Amendment No. 27 (28 May 2010) had the effect of permitting the land use “Shop” within the mixed use zone as an “A” land use. It does not have a direct effect on the approved development as the permissibility of the proposed uses, including the liquor store, remained unchanged. Whilst the City originally considered the Dive Shop to be a shop and therefore a prohibited land use, the SAT determined that the Dive Shop was not a shop use and therefore, determined it was an unlisted land use. The SAT then determined that the unlisted land use met the objectives of the zone and could be approved.

SAT then went on to draw the distinction between a shop land use and a liquor store when considering the potential impact of a liquor store on retailing within the locality. SAT concluded the following:

The Tribunal agrees that a liquor store is not in direct competition with a local shopping centre and unlikely to jeopardise the continuation or the provision of retail floor space within the locality.

The materiality of the change brought about by amendment No. 27 relates to the question whether the liquor store has potential to undermine existing and future neighbourhood and retail centres in the locality and would, therefore, be inconsistent with the desired distribution of retail facilities in the locality. The State Administrative Tribunal found the liquor store would not have this effect. However, in reaching this conclusion the Tribunal noted that ‘shops’ were not permitted within the mixed use zone and accepted that the limited range of retailing activities in the locality would be unlikely to be affected by the liquor store.
The effect of amendment No. 27 is that shops can now be approved within the mixed use zone (and therefore, DA14) and the aspect of competition that was avoided by the previous prohibition on shops may now arise because shops can be approved. The question is whether or not the presence of the liquor store would prevent the establishment of shops within the locality. In its letter, Hotchkin Hanly has raised this issue although it provided no evidence to support the assertion that the liquor store would have an adverse impact in this regard. As the liquor store is very specific in the merchandise that it retails, it is unlikely that it would discourage the establishment of shops retailing other goods within the locality. Consequently, having regard to the effect of amendment No. 27, the liquor store component of the proposed development is not seen as problematic as a consequence of amendment No. 27.

Given these matters, it is considered that there is no material change to the planning framework that results in a need for a new assessment against either the planning objectives for that zoning or the relevant development standards for the proposal before Council. As such, consideration of this part of LPP1.1 does not justify refusal of the extension request.

LPP1.1 – Part 3.2(b)
*Whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and*

When dealing with the planning application, Council and SAT were required to consider the following discretions:

- Whether to grant approval to the Liquor Store and Warehouse, which were discretionary land uses;
- Although the Dive Shop was considered by the City to be a “Shop” use, which was a prohibited land use at the time, the SAT determined that the Dive Shop was an unlisted land use. SAT subsequently concluded that it was an acceptable Land Use within the Mixed Use zone; and
- Determination of a car parking standard for the Liquor Store. Council nor the SAT raised the matter of the car parking standard to be an issue. On the basis of the recommended car parking, it was assessed that the site complied with the parking requirements of LPS4.

There is nothing arising in relation to these matters which justifies refusal of the extension request.

LPP1.1 – Part 3.2(c)
*Whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.*

There has been no material change to the development site.

In relation to the surrounding locality, the Fullston Way/Kildare Link residential subdivision was created a year before the planning application for the approved development (including liquor store) was lodged. The City was aware of the potential for residential development in this locality having been involved in the subdivision process to create these lots as a referral authority. The developers of the residential subdivision and the surrounding property owners were consulted as part of the City’s normal
consultation process for the originally proposed development for this site, which included the liquor store proposal. The City did not receive any submissions specifically from the owners of the Fullston/Kildare Link subdivision. Since that time, there has been development/approvals issued for 19 of the 32 developable lots.

As part of its decision to approve the development, the SAT acknowledged that the area comprising development area No. 14 was in transition to a mixed use area comprising commercial and residential uses. However, it is unclear whether it specifically had the subdivision in mind in this regard. There are no identifiable planning implications which arise from this residential development and its proximity to the proposed development. Consequently, the residential development does not justify refusal of the extension request.

At the same time as the City was dealing with the large liquor store for the site, another proposal for a large liquor store was being considered at No. 24/219 Hampton Road. This application was refused by Council, but the PSC subsequently approved a modified proposal (through the SAT process). That approval was extended for a further two years in February 2012. This planning application has not yet been acted upon in terms of obtaining a building permit to carry out the required works.

In relation to the remaining area the subject of DA4 under LPS4, there has been very little development activity since the SAT decision.

Overall, it is considered that there has not been a material change to the locality.

Conclusion

Having regard to the matters raised in relation to part 3 of LPP1.1 and the above comments, it is considered that there has not been a material change in the planning framework, the development site or the surrounding locality. Further, the only areas of discretion used in the decision making process related to the car parking standards and the land use interpretation for the Dive Shop. Overall, it is considered that the circumstances have not changed in a material way to warrant not extending the term of the planning approval based on LPP1.1.

Part B – Consideration of matters raised in Legal Advice

The City received a letter from Hotchkin Hanly (Attachment 3) raising various matters in relation to the written request for the extension to the term of the planning approval for the site. The City’s solicitors were requested to respond to the issues raised in the Hotchkin Hanly letter, which is included in Attachment 4. The opinion of the owner’s solicitors is set out in Attachment 5. The following comments are made in relation to the issues raised.

Copyright and changes to the approved plans

On the 30 April 2012, the City received a written letter requesting an extension to the term of the planning approval for the site. The City also received a planning application for modifications to the approved development.
On the 22 May 2012, the City received a request from the applicant to return the planning application and associated plans, which the City then returned to the applicant on 23 May 2012. Consequently, potential issues of copyright and changes to the approved development (which should be the subject of a planning application) are no longer matters which the City must address.

Decision of SAT – interpretation of small scale

The SAT granted its planning approval to the development on the 25 May 2010, including the reasons for its determination. This decision takes effect as the City’s approval. The Hotchkin Hanly submission raised the matter of contesting the interpretation of “small scale” as set out in the decision handed down by SAT. The interpretation of scheme provisions is a legal issue. An appeal from SAT’s decision to the Supreme Court would have been necessary to challenge the SAT’s conclusion on this issue of interpretation.

Local Planning Policy LPP1.4 Applications for Review of Town Planning Decisions and Written Directions (LPP1.4) provides guidance in terms of dealing with matters that are subject to the SAT process. In particular, part 12 states the following:

12. Appeals against Decisions of the Tribunal

The City will not generally appeal a decision of the Tribunal unless, in the opinion of the Council following legal advice, it is considered that the Tribunal has made an error of law and the issue at stake has significant implications for the City or local government in general.

The decision, when handed down, was reviewed at an officer level and it was felt that an error in law had not been made and as such, legal advice was not sought nor a report presented to Council for approval to seek a review of the SAT’s decision.

The advice contained in the letter from McLeods (page 5 para 2) provides the following statement:

“In my view, the approach taken by the Tribunal in interpreting the words “small scale retailing of goods” in clause 4.2.1.(e)(i) is not one clearly in error.

The advice then goes on to state that the City should accept the Tribunals finding on this point. Therefore, it is considered that the SAT interpretation of small scale should be accepted having regard to the:
- provisions of part 12 of LPP1.4;
- advice provided by McLeods; and
- length of time that has lapsed since the decision was handed down.

Undesirable Precedent

In its letter, Hotchkin Hanly has argued that the question of undesirable precedent should have been raised at the SAT hearing. However, Hotchkin Hanly has offered no evidence on which it could be concluded that an undesirable precedent would arise if the liquor store component of the development was established.
The legal advice provided by McLeods addresses the matter of undesirable precedent and identifies the two legal requirements that need to be met for a development to be regarded as an undesirable precedent. These are:

(1) the proposed development is not in itself unobjectionable; and
(2) there is more than a mere chance or possibility that there may be later indistinguishable applications (Nicholls and Western Australian Planning commission (2005) 149 LGERA 117)

In relation to the point 1, the SAT determined that the proposed development would not be objectionable, by granting planning approval to the proposal. SAT considered the appropriateness of the development and concluded the following when deciding to grant planning approval to the proposal:

Given that the Tribunal finds that the proposed uses are consistent with the objectives of the Mixed Use zone and that the development is compatible with the desired and future character and amenity of the area and will not adversely affect the distribution of retail facilities in the locality, the Tribunal is satisfied that approval of the development is consistent with orderly and proper planning.

There is no planning ground on which to conclude that that approved development is objectionable. Hotchkin Hanly do not provide evidence of the basis on which it could be found that the proposed development, or the liquor store component in particular, would be an undesirable precedent. None can be identified by the City.

It is noted that the Council has granted planning approval for a liquor store of similar size at No. 24/219 Hampton Road.

In the absence of any planning ground on which to conclude that the approved development is objectionable, point (2) above does not need to be determined. However, if Council forms the view that the development is objectionable on some planning ground, it would also need to form the view that there may be further indistinguishable applications. What is required to establish an indistinguishable application is that there are specific sites which are the subject of the same or substantially the same planning framework and have indistinguishable characteristics from the site of the proposed development. There may be other sites that may have those indistinguishable characteristics within the Mixed Use zone, however, the City is of the view that the development has failed to satisfy the first point based on SATs decision to approve the development.

The legal advice from McLeods indicates that (page 5 para 6) the precedent effect of development is a relevant consideration, however:

"...on its own, it will not defeat a development if there is no other reason why the development should not occur. The Tribunal’s decision in 2008 does not suggest the liquor store is objectionable."

Therefore, based on the reasons set out in the SAT decision and the absence of any basis in planning to conclude that the approved development is objectionable, the undesirable precedent argument is not supported.
Material change to the Liquor Store

An issue that was raised related to the difference in terms of the operation of a Dan Murphy's store versus a 1st Choice liquor store. The differences described by Hotchkin Hanly are that as a 1st Choice liquor store, it will have a different layout, signage and business model. When granting planning approval to a use or development, the planning approval allows land to be used for that approved purpose, but it does not distinguish between which company will operate from the site. Consequently, while the liquor store may now be operated by 1st Choice with a different business model this is not relevant to the extension request. Should a different owner find that the approved building/layout or signage is not acceptable to their needs, planning approval may be required for the changes. However, these matters are not part of the request for an extension to the term of the planning approval.

Material Change to the locality

This matter has been addressed in the report section titled “Consideration of matters set out in Part 3.2 of LPP1.1”

Material Change to Planning Framework

This has been discussed in Part A above.

Requirement for Public Consultation

Refer to Consultation section of report.

Has the applicant taken active steps to implement the SAT approval

Other than the extension of time that was applied for recently, the owners have not made any apparent effort to implement the approval.

This matter alone however does not justify refusal of the extension request.

Part C - Matters raised from submissions

Within the Consultation section of this report, it was identified that there were 4 submissions received, excluding the three letters from the legal firms. The issues raised in the submissions were identified in that section. Issues 1-5, 8 and 10-12 and have been addressed in the report. The remaining issues are discussed below:

Point 6, 7 and 9

Some of the submissions have raised the matter that consultation should occur with the new owners or occupants of the residential properties in the Fullston Way/Kildare Link subdivision. As discussed in the Consultation section and raised in the letter from McLeods, there is no requirement to advertise a written request for an extension to the term of a planning approval, which is distinct from a planning application. If Council does resolve to advertise the written request, it would need to be made clear to the public what Council is seeking comment on.
It is noted that advertising of the planning application occurred during 2009, which raised various matters which were addressed by SAT in the decision making process. Whilst the owners of the Fullston Way/Kildare Link subdivision landholdings were consulted as part of the community consultation process, the City did not receive a specific submission from them. The planning report to the PSC which dealt with this matter in 2009, identified the following matter as one of a number of issues raised during the consultation process:

- *The intensity of the proposed development may compromise the residential development on the site adjacent.*

The PSC subsequently refused its planning approval based on the development not meeting the objectives for the zone. When issuing it planning approval, the SAT did have regard to the composition of the locality when assessing the application. At para 42 of its decision, the SAT made the following observation:

“Clearly, the area is in transition evolving from light industrial uses to a mix of commercial and residential uses.”

Having made its decision for the reasons set out in that decision, it would not be open to Council to re-visit those matters determined by SAT, if those circumstances have not materially changed.

The applicants would have a right to request SAT to review:
- Council’s decision to undertake a consultation process; or
- any adverse decision, in their opinion that Council may make.

Any SAT review would be based on LPP1.1 and any other matters that have been highlighted through the legal correspondence received by the City. The matter of costs then potentially becomes an issue if Council seeks to re-visit those points and it is determined that there has not been a material change to the locality or planning framework.

**CONCLUSION**

It is considered that, having regard to the criteria set out in LPP1.1 and the matters raised in the various letters, and the assessment that has been undertaken in relation to these matters, that the written request for the extension of the term of the planning approval can be granted for a further period of two years.
OFFICER RECOMMENDATION/COUNCIL DECISION

That the written request for an extension to the term of the planning approval be GRANTED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for an extension to the term of the planning approval for a period not exceeding two years, from the date of 25 May 2012, for an approved change of use to liquor store, showroom, office and dive Shop, partial demolition and refurbishments to existing building (DA0390/09) No 256 (Lot 7001) Hampton Road, South Fremantle, subject to the same terms and conditions as stated in the decision to grant planning approval by the State Administrative Tribunal, reference DR450 of 2009, delivered on 25 May 2010.

Cr A Sullivan MOVED a minor amendment to the Officer’s Recommendation to include the following wording as a footnote:

The applicant be advised that Council will not support any request for a new or transferred liquor licence for 256 Hampton Road, Beaconsfield and that the preferred location for any such facility is in the adjacent Local Centre Zone.

MOVED: Cr A Sullivan

That council amend the officer’s recommendation to be as follows:

The applicant be advised that Council will not support any request for a new or transferred liquor licence for 256 Hampton Road, Beaconsfield and that the preferred location for any such facility is in the adjacent Local Centre Zone.

SECONDED: Cr B Massie

CARRIED: 13/0

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MOVED: Cr A Sullivan

1. That the written request for an extension to the term of the planning approval be GRANTED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for an extension to the term of the planning approval for a period not exceeding two years, from the date of 25 May 2012, for an approved change of use to liquor store, showroom, office and dive Shop, partial demolition and refurbishments to existing building (DA0390/09) No 256 (Lot 7001) Hampton Road, South Fremantle, subject to the same terms and conditions as stated in the decision to grant planning approval by the State Administrative Tribunal, reference DR450 of 2009, delivered on 25 May 2010.

2. The applicant be advised that Council will not support any request for a new or transferred liquor licence for 256 Hampton Road, Beaconsfield and that the preferred location for any such facility is in the adjacent Local Centre Zone.

SECONDED: Cr R Fittock

CARRIED: 9/4

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REASON/S FOR CHANGE TO OFFICER’S RECOMMENDATION

Cr A Sullivan moved a minor amendment which became Part 2 of the Council Decision to include the wording as a footnote to the decision.
PSC1207-110  HIGH STREET NO.98 (LOT 123), FREMANTLE  ROOF TOP BAR  ADDITION TO EXISTING HOTEL (JL DA0092/11)

DataWorks Reference:  059/002  
Disclosure of Interest:  Nil  
Meeting Date:  Planning Service Committee 18 July 2012  
Responsible Officer:  Manager Statutory Planning  
Decision Making Level:  Planning Services Committee  
Previous Item Number/s:  PSC0901-11 (21 January 2009)  
Attachment 1:  Development Plans  
Attachment 2:  Heritage Report  
Date Received:  Original Plans – 25 February 2011  
Submitted by:  Michael Willicombe  
Owner Name:  Carnegies Realty Pty Ltd  
Scheme:  City Centre  
Heritage Listing:  Level 1B  
Existing Landuse:  Hotel  
Use Class:  Hotel  
Use Permissibility:  A
EXECUTIVE SUMMARY

The application is presented before Planning Services Committee (PSC) as a number of concerns have been raised by the City’s Heritage department and the Design Advisory Committee (DAC) which are unable to be addressed through conditions of Planning Approval.

The applicant is seeking Planning Approval for a Roof top bar / restaurant (café) addition to the existing Hotel building which is located at No.98 High Street, Fremantle (The National Hotel).

The applicant is seeking Council’s discretion in relation to:

- On site car parking under clause 5.7.3 of LSP4, and
- Building height under clause 5.8.1 of LSP4.

The primary matter for this application requiring Council’s consideration is in relation to the building height provisions of the City’s Local Planning Scheme No.4 (LPS4).

It is recommended that Council indicate support ‘in principle’ for a roof top bar addition and variation to on site car parking as proposed.

However, there are concerns with respect to the proposed fifth storey addition and its compatibility in terms of design and its positioning on the roof top of the building and its potential to have a detrimental impact upon the cultural heritage significance of the building on site.

Accordingly, it is recommended that the application be deferred so as to allow the applicant time to liaise with the City’s Heritage department and Design Advisory Committee (DAC) to resolve the matters of concern.

BACKGROUND

The development site is located at No. 98 High Street, Fremantle within the street block bounded by Market Street, High Street, Pakenham Street and Leake Street. The site is zoned City Centre under the LPS4.

The subject site is listed on the City’s Heritage List and Municipal Heritage Inventory (MHI) as a management category Level 1B. The site is also located within the Fremantle West End Conservation Area which is included as a Heritage Area under the provisions of LPS4.

The site is currently occupied by a four storey hotel with basement and two storey balconies along both High Street and Market Street. The site currently has no onsite car parking spaces. The existing building has nil setbacks to all boundaries.
The adjoining western property is improved by a two storey building which is occupied by the National Australian Bank. The adjoining northern property is improved by a two storey building. The adjacent southern property also has a two storey building and this is utilised as shops and offices. The adjacent eastern property is a single storey shopping complex.

The original building on this site was modified into a Hotel in the late 1890’s. Over the past 130 years the building has undergone numerous additions and alterations. Such works include increasing the building height from two to four storey’s and the construction and removal of a two storey balcony to the High and Market Street façade.

On 29 June 2009, the City granted planning approval for Repair, Restoration, Alterations and Additions to the existing hotel on site, which had been severely damaged due to fire. To date a significant amount of restoration works in relation to this application DA0382/08, have been undertaken and are currently in progress.

On 5 June 2012, the City granted planning approval for further internal alterations to the existing hotel (refer DA0120/12).

PROPERTY AND APPLICATION DETAILS

On 25 February 2011 the City received a planning application proposing a rooftop bar addition to the existing hotel located at No.98 (Lot 123) High Street, Fremantle.

City Officers inspected the subject site on 15 March 2011 with the landowners and amended plans were requested by the city, to address several discrepancies on the original submitted plans. Mid April and early May, City Officers contacted the applicant requesting an update as to the progress of the requested amend plans, however were unable to get a formal response.

On 27 July 2011, a letter was received by the city stating that the subject site was in hands of receivers, and that the receivers requested an update as to what valid planning approvals had been issued for the site and if any current applications were outstanding.

Late March 2012, the City was alerted to the fact that the subjects site was in the process of sale and the new landowner was also wishing to apply for planning approval for a roof top bar addition and internal alterations to the existing Hotel.

On 29 May 2012, the new applicant submitted amended plans which can be viewed in ‘Attachment 1’ of this report.

The proposed roof top addition consists of approximately 130m² internal area (being 85m² bar area and 45m² of Access and lobby area) and approximately 100m² of external dining area. The addition is to be positioned centrally to the existing roof top area of the hotel with all associated plant and access area to the roof top been located to the north western corner of the roof.
The existing Hotel incorporates a maximum external wall height of 18.9m above natural ground level (ngl) (wall height of the existing turret located on the south eastern corner of the roof) and a maximum roof height of 20.8m above ngl. The proposed roof top addition incorporates 2.6m high walls (equating to a total max external wall of 18.9m above ngl) and maximum roofs pitch and lift maintenance shaft of 3.7m above the flat roof area (equating to a total max roof ridge height of 19.6m above ngl).

CONSULTATION

Community

The application was advertised in accordance with Clause 9.4 of LPS4 and Local Planning Policy L.P.P1.3. Notification of the proposed development was undertaken in the form of a sign on site. The advertising period commenced on 11 April 2012 and concluded on 9 May 2012, of which no submissions were received by the City.

Fremantle Port Authority (FPA)

The subject site is within the Fremantle Ports Referral Area 2. Council’s policy L.P.P2.3: Fremantle Port Buffer Area Development Guidelines states that the potential risk and amenity impacts from the Port in Area 2 are not as great as in Area 1, however all applications for developments having the potential to accommodate 20 or more persons on a full or part-time basis shall be referred to the FPA for comment.

The development has the potential to accommodate more than 20 people and therefore the application was referred to FPA for comment. The FPA responded on 4 July 2012 stating that they did not have any objection to the proposed development; however conditions relating to the built form requirements for the new built form additions for Area 2 of the City’s Fremantle Port Buffer policy were recommended.

State Heritage Office of Western Australia (SHO)

The development application was referred to SHO as the subject site is located within the West End Conservation Area which is on the SHO Assessment Program. On 3 July 2012, the SHO submitted a letter to the City stating that SHO had made no assessment of the significance of the place and therefore were unable to make comment regarding the application.
Heritage Assessment

A Heritage Assessment was required to be undertaken in accordance with Council’s L.P.P1.6 – Preparing Heritage Assessment policy. A copy of the complete report can be viewed in ‘Attachment 2’ of the report. A summary of the assessment is as follows:

- **Overall, the building is of exceptional significance and is worthy of consideration for inclusion on the Heritage Council of Western Australia’s Register of Heritage Places.**

- **The ‘Widow’s Walk’ or roof top platform was reconstructed as part of the previous works and it is intended that the space be used as a roof top bar. This will provide an external public area that will also enable the significant views of Fremantle to be viewed. Although not part of the original form of the National Hotel the concept of a roof top bar can be considered acceptable providing that it does not have a negative impact on the heritage values of the building.**

- **However, the proposed design of the roof top bar shows a hexagon or faceted shape. This shape is intended to reference the faceted shape of the cupola. The cupola has been faithfully reconstructed to the details of the original cupola which was designed to be a visually decorative element to the roof of the building. It is considered that there will be a distortion to the understanding of the original intention of the cupola. An addition that is more similar with the form of the building would be more compatible and lessen the degree of impact to the significance of the hotel.**

- **The Burra Charter principles for new work state that “New work such as additions to the place may be acceptable where it does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation”. The cupola designed to be different in shape and as a focus from the main form of the building contributes to its significance and should remain as an individual element. The Charter also states that new work should not draw attention away from the existing features.**

- **Overall, using this angled and faceted shape is incongruous with the form of the hotel and is not supported on heritage grounds. It is recommended that consideration be given to a simple contemporary and more lightweight design that will not detract from the significance of this landmark building.**

- **The roof top bar will be visible from various nearby locations, however at present it is the faceted design which dominates rather than the bulk and height of the proposal.**

- **The proposal in its current form will have a negative impact on the heritage values of the building and within the streetscape.**

- **A roof top bar/cafe can be supported in principal, however the current form of the proposal will be a negative impact on the external aesthetics of this landmark building.**

Further discussion regarding these comments will be included in the ‘Planning Comment’ section of this report.
Design Advisory Committee (DAC)

The application was presented to the DAC meeting held 25 June 2012, of which the following recommendation was provided:

1. The committee supports in principle the use of the terrace however the shape and location of the bar needs to be reconsidered.
2. At the moment the proposed building is taking up too much roof top area and will be highly visible from certain angles. It is recommended that the proposed building be tucked back into the north-west corner.
3. Replication of existing heritage detail is not recommended.
4. The building should be simple and contemporary in design and incorporate a flat roof.
5. The option of a roofed building of modest area with more unroofed terrace area for patron use is recommended.

Further discussion regarding DAC recommendation and the applicant response to the matters raised will be included in the ‘Planning Comment’ section of this report.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No.4 (LPS4)

Car Parking

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

<table>
<thead>
<tr>
<th>Required Additional Vehicle Parking</th>
<th>Proposed</th>
<th>Discretion</th>
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</thead>
<tbody>
<tr>
<td>On site Car parking</td>
<td></td>
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<tr>
<td>1 per 5 m² - 185 m² Lounge/ Garden Area (Internal and External Area)</td>
<td>Nil</td>
<td>37 Additional On Site Car Bays</td>
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<tr>
<td>= 37 Additional onsite bays required</td>
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<td></td>
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<tr>
<td>Delivery bays</td>
<td></td>
<td></td>
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<tr>
<td>1 Service/ Storage Area</td>
<td>Nil</td>
<td>No change</td>
</tr>
</tbody>
</table>

Accordingly, the applicant is seeking a relaxation to onsite car parking provisions under clause 5.7.3 of LPS4.
Building Height

<table>
<thead>
<tr>
<th>Height Requirements</th>
<th>Existing</th>
<th>Proposed</th>
<th>Discretion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schedule 12 – Sub Area 1.3 – West End</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Height of three storeys</td>
<td>Four Storeys</td>
<td>Five Storeys</td>
<td>Not compliant</td>
</tr>
<tr>
<td>Maximum external wall height 11m, and</td>
<td>18.9m</td>
<td>18.9m external wall height above ground level.</td>
<td>Not compliant</td>
</tr>
<tr>
<td>Maximum roof plain pitch of 33 degrees)</td>
<td>Flat Roof</td>
<td>Approx. 11 to 12 degrees</td>
<td>Compliant</td>
</tr>
</tbody>
</table>

Council may consent to an additional storey subject to –
- The upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site;
- Maximum external wall height of 14m, and

Compliance with clause 1.2 of Schedule 12

Not Compliant – A fifth storey is being proposed

Council’s discretion is sought under clause 5.8.1 or 7.5 of LPS4.

Council may exercise its discretion to vary height requirements, in accordance with clause 5.8.1 of LPS4, which reads:

*Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 12, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—*

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

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

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

(d) any other relevant matter outlined in Council’s local planning policies.
Clause 5.8.4 of LPS4 states that the power conferred by clauses 5.8.1 may only be exercised if the council is satisfied that –

(a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2, and

(b) The non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

Clause 10.2.1 of LPS4 states that,

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

(k) the cultural significance of any place or area affected by the development, including but not limited to provision for the preservation, incorporation or recording (by means including public art works) and significant cultural values of the site,

(s) the way in which buildings relate to the street and adjoining lots, including their effects on landmarks, vistas, the landscape or the traditional streetscape, and on the privacy, daylight and sunlight available to private open space and buildings,

(w) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal,

(zii) the Heritage List, and

(zii) any other planning consideration.

Clause 11.8.5 of LPS4 states that, ‘When dealing with any matter involving an application for planning approval or structure plans or when dealing with any other matter involving development or land use proposal, the Council shall have due regard to any relevant recommendation of any Advisory Committee.

**Local Planning Policies**

The following Local Planning Policies is of relevance to the assessment of this application:

- D.G.F14 - Fremantle West End Conservation Area Policy; and
- DBM7 – Cash-in-lieu of Car parking for the City of Fremantle

**PLANNING COMMENT**

In determining this application Council needs to consider the following key matters.
On site car parking

As a result of an additional 37 on site car bay shortfall for the site the application is required to be assessed against the provisions of Clause 5.7.3 of LPS4. In assessing the appropriateness to waive or vary the required car parking provisions, Council should take the following into consideration:

- The subject site is located approximately 350 metres from Fremantle’s Central Train and Bus Interchange.
- Additionally, several key pick up and drop off bus zones are also located within 100m of the site (Adelaide Terrace and Queen Street).
- There are approximately 500 public and street car bays within a 200m radius from the subject site, which may be utilised by future occupiers.
- The existing Hotel use has relied upon public transport services, other public car parking and street parking facilities to transport its patrons for the last century.

Taking into consideration all of the above, the proposed car parking variation is supported as the development is considered to satisfy the criteria of Clause 5.7.3 of LPS4 and furthermore given this discretionary matter is being supported it is considered inappropriate to request a cash in lieu payment as required by DBM7.

Building Height

The issue of building height is considered the primary discretionary decision required from Council. As discussed above, the application is essentially proposing a fifth storey addition to the existing building onsite.

As the property falls within Local Planning Area 1– Fremantle; Sub Area 1.3 – West End of LPS4, Council is arguably limited to a maximum height of four storeys, with an external wall height of 14 metres. In support of the proposed height however, the applicant is requesting a discretionary decision from Council under clause 5.8.1 of LPS4.

Given that the site does contain a building that depicts a height greater than that specified in Schedule 12 of LPS4, then the four criteria outlined above must all be satisfied before the height provision can be varied. While criteria (a), (b) and (d) could be satisfied, the matter of primary consideration in this instance is whether criteria (c) is satisfied. Without (c) being met, it is immaterial whether (a), (b) and (d) are met.

However with regards to satisfying sub clause (c) of 5.8.1 of LPS4, the current design and location of the fifth storey (roof top bar) addition has been questioned by the City’s Heritage department and the Design Advisory Committee as to whether or not the addition satisfies sub clause (c) which reads as follows:

\[\text{c) conservation of the cultural heritage values of buildings on-site and adjoining.}\]
The meaning of the expression ‘conservation’ of the cultural heritage values of buildings on site is significantly affected by the definition of ‘conservation’ in Schedule 1 of the City’s Scheme which picks up the definition from the *Heritage of Western Australia Act*. There ‘conservation’ is defined as follows:

“*conservation*” means, in relation to any place, the management of that place in a manner that will—

(a) enable the cultural *heritage* significance of that place to be retained; and

(b) yield the greatest sustainable benefit for the present community without diminishing the cultural *heritage* significance of that place, and may include the preservation, stabilization, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting;

The heritage assessment (seen in Attachment 2 below) undertaken for the site, made the following comments,

‘The ‘Widow’s Walk’ or roof top platform was reconstructed as part of the previous works and it is intended that the space be used as a roof top bar. This will provide an external public area that will also enable the significant views of Fremantle to be viewed. Although not part of the original form of the National Hotel the concept of a roof top bar can be considered acceptable providing that it does not have a negative impact on the heritage values of the building.

However, the proposed design of the roof top bar shows a hexagon or faceted shape. This shape is intended to reference the faceted shape of the cupola. The cupola has been faithfully reconstructed to the details of the original cupola which was designed to be a visually decorative element to the roof of the building. It is considered that there will be a distortion to the understanding of the original intention of the cupola. An addition that is more similar with the form of the building would be more compatible and lessen the degree of impact to the significance of the hotel.

*The Burra Charter principles for new work state that “New work such as additions to the place may be acceptable where it does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation”. The cupola designed to be different in shape and as a focus from the main form of the building contributes to its significance and should remain as an individual element. The Charter also states that new work should not draw attention away from the existing features.*

*Overall, using this angled and faceted shape is incongruous with the form of the hotel and is not supported on heritage grounds. It is recommended that consideration be given to a simple contemporary and more lightweight design that will not detract from the significance of this landmark building.*’
The applicant argues that part of the design philosophy for the rooftop addition is to, ‘recreate the experience of the original rooftop promenade walk that was part of the original Hotel design of 1904’. The applicant also argues that the, ‘promenade walk experience is a fundamental part of the cultural heritage experience of the hotel’. As stated above neither City Officers nor the Design Advisory Committee (DAC) contests to utilizing the roof top area as part of the future hotel use of site. This is considered to be an appropriate adaptation in terms of use of the roof. However the key point of contention is considered to relate to the proposed design and location of the fifth storey addition and its potential to negatively impact the cultural heritage significance of the building onsite.

Furthermore the applicant argues that the design philosophy for the addition is, ‘modestly sympathetic’ and ‘would have some modest architectural merit when seen from a distance.’ The applicant also states that the, ‘this modest overall form of the café structure, even from a distance, allows the structural and sculptural form of the original Hotel roof turret to remain predominant in the skyline.’

Additionally the applicant argues that as a whole, the design philosophy for the fifth storey addition, ‘is collectively intended to retain the cultural heritage values of the Hotel as people have known them to be in the past, namely experiencing the streetscape character and presence of the building as seen in the centre of town’.

The applicant also states that, ‘the design philosophy is also intended to introduce people to the largely unknown or overlooked cultural heritage values of the Hotel, namely experiencing the streetscape character and presence of the building from the inside looking out. This experience is very different and no less significant in cultural heritage terms. Being inside looking out allows people to better appreciate the cultural heritage of the building itself but also to see, and appreciate, a whole different view of Fremantle and its collective cultural heritage value.’

Whilst the City’s Heritage Department and the Design Advisory Committee of differing professional opinions with the applicant regarding if the cultural heritage significance of the building on site will or will not be detrimentally impacted, City Officers are not satisfied that the current proposal ensures the best possible outcome for the conservation of the cultural heritage significance of the building onsite. Therefore, the development in its current form is not considered to satisfy clause 5.8.1 sub clause (c) and therefore the discretionary matter relating to building height is not supported.

However if Council are of a differing opinion to the City Officers and DAC regarding the satisfaction of clause 5.8.1, Council should note that the power to use clause 5.8.1 is restricted and that Council is required to be satisfied that:

(a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2, and
(b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.
It is noted that part (b) requires Council to be satisfied that there will not be an adverse effect – it does not identify whether that adverse effect is minor or major.

The relevant provisions of clause 10.2 that Council is required to be satisfied with are set out in the section of the report titled Statutory and Policy Assessment.

Notwithstanding the above, if Council were supportive of the proposal, under clause 11.8.5 Council is also required to have due regard to the comments raised by DAC which have been listed previously in the report. Reiterating DAC’s comments, DAC supports in principle the use of the terrace however they do have concerns to the shape and location of the addition and in their opinion it needs to be reconsidered. DAC also consider the addition to be, ‘too large and taking up too much roof top area’ and therefore they consider the development to be highly visible from certain angles when viewed from adjoining and nearby streets and view advantage points within the City. DAC have recommended that the addition be, ‘tucked back into the north-west corner’ of the roof area.

Furthermore, DAC made the additional comments

- ‘Replication of existing heritage detail is not recommended,
- The building should be simple and contemporary in design and incorporate a flat roof.
- The option of a roofed building of modest area with more unroofed terrace area for patron use is recommended.

In response to DAC’s recommendation, the applicant has provided the following response:

- the building is small and contemporary and reason made for why a flat roof...
- the building is modest in height and size and located as far back as lift and stairs allow.

Ultimately in considering the discretionary decision of the height of the National Hotel addition, Council must be satisfied that the fifth storey addition promotes the conservation of heritage values on the site. As currently presented the proposal is not considered to adequately address all of the City’s Heritage concerns or DAC’s concerns and therefore the proposal is not considered supportable under clause 5.8.1 of LPS4.

CONCLUSION

In summary, the City’s Heritage Department and Design Advisory Committee consider the proposal in its current form to be detrimental to the cultural heritage significance of the National Hotel for the reasons outlined above.

The applicant argues that the addition is modestly sympathetic to the existing building and appropriately located to be barely visible from adjoining streets.
Therefore in determining this application Council, could opt to

1) Conditionally approve the development as Council may be of the opinion that the proposal adequately satisfied clause 5.7.3 and 5.8.1 of LPS4, or

2) Refuse to grant planning approval for the development as its considered to be detrimental to the cultural heritage significance of the building onsite, or

Concur with City Officers and recommend to:

3) Defer the application but inform the applicant of the indicative support for a roof top bar addition but request amendments to the proposal to address Heritage Department and DAC concerns raised and discussed within the Officers report.

OFFICER’S RECOMMENDATION

MOVED: Cr A Sullivan

That Council, in relation to the application for planning approval for a Roof Top Bar Addition to the existing Hotel located at No.98 (Lot 123) High Street, Fremantle, will resolve to:

A. Support the proposed use of the Roof top bar and discretion sought relating onsite car parking and Clause 5.7.3 of LPS4.

B. Advise the applicant that Council is not prepared to grant planning approval to the current proposal and plans dated 29 May 2012, in their current form.

C. Invite the applicant to liaise further with the Design Advisory Committee regarding amendments and additional information to the current application.

Mayor, Brad Pettitt MOVED an amendment to the Officer’s Recommendation to include the following condition d:

D. The Council request that the DAC give consideration to the applicants wish to retain the entrance doors onto the roof deck facing the existing roof tower, and allowing the roof tower to be the first focus of attention on going on to the roof.

LOST: 3/4

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<td>Cr Andrew Sullivan</td>
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<td>Cr Robert Fittock</td>
<td>Cr Ingrid Waltham</td>
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<td>Cr David Hume</td>
<td>Cr Rachel Pemberton</td>
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<td>Cr Bill Massie</td>
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</table>
COMMITTEE RECOMMENDATION/COUNCIL DECISION

MOVED: Cr A Sullivan

That Council, in relation to the application for planning approval for a Roof Top Bar Addition to the existing Hotel located at No.98 (Lot 123) High Street, Fremantle, will resolve to:

A. Support the proposed use of the Roof top bar and discretion sought relating onsite car parking and Clause 5.7.3 of LPS4.

B. Advise the applicant that Council is not prepared to grant planning approval to the current proposal and plans dated 29 May 2012, in their current form.

C. Invite the applicant to liaise further with the Design Advisory Committee regarding amendments and additional information to the current application.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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<td>Cr Dave Coggin</td>
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<td>Cr Andrew Sullivan</td>
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<td>Cr Doug Thompson</td>
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EXECUTIVE SUMMARY

The purpose of this report is to seek Council approval to revoke four local planning policies that are no longer required as their provisions are replicated elsewhere. These include:

- DBU3 Child care centres
- DBH11 Verandahs over footpaths
- DBM6 Weathershield construction in public places
- DC3 Bed and breakfast accommodation

The provisions of the City’s current Local Planning Scheme No. 4, and/or State Planning Policies or other statutory requirements, more appropriately deal with the subject topics of the local planning policies in question.

BACKGROUND

On 8 March 2007 the City’s Local Planning Scheme No. 4 (LPS4) was gazetted, resulting in an ongoing review of local planning policies, to be carried out by the City’s Planning Services Department. The purpose of the review is to ensure that local planning policies are consistent with, and do not duplicate, the contents of LPS4.

The City currently has approximately 120 planning policies. The City is currently in the process of reviewing these policies. Several of the existing policies are no longer relevant or duplicate provisions in LPS4 or other planning instruments.
As part of this ongoing policy review, four local planning policies have been identified as being redundant and are therefore recommended to be revoked. These policies are as follows:

- DBU3 Child care centres
- DBH11 Verandas over footpaths
- DBM6 Weathershield construction in public places
- DC3 Bed and breakfast accommodation

Copies of these policies are provided as attachments to this report (Refer to attachment 1 – 4).

**STATUTORY AND POLICY ASSESSMENT**

Pursuant to clause 2.5.1(b) of the City’s Local Planning Scheme No. 4, Council may revoke a local planning policy by the publication of a formal notice of revocation by the Council once a week for 2 consecutive weeks in a local newspaper circulating in the Scheme area.

**PLANNING COMMENT**

**DBU3 Child care centres / Family Day care centres** – Adopted 22 September 1997

The objective of the policy is to “provide appropriate guidelines for the establishment and assessment of child care centres within the City of Fremantle and ensure that new child care centres complement the existing environment and do not adversely affect the amenity of the area as well as complement the work being done by the Department of Family and Children’s Services with regard to the provision of child care centres throughout the Perth metropolitan region.”

The policy provides definitions for child care centres and family day care and sets out provisions relating to where child care centres are to be preferably located, the preferred building form and appearance, fencing and operating hours. It also outlines what information is required for planning applications and planning application advertising requirements.

The uses Child Care Centre and Family Day Care were not previously in the Town Planning Scheme No. 3. Accordingly a policy was adopted to cover such developments in 1997. All of the requirements are now considered adequately covered in LPS4 including definitions in Schedule 1 (Child Care Premises and Family Day Care), application for planning approval information requirements in Part 9, permissibility of uses in Table 2 – zoning whereby child and family day care centres are an ‘A’ use (all applications are required to be advertised and approval is at Council’s discretion) in all zones except the Industrial zone where they are not permitted.

The one variation from the LPS4 in the policy is the car parking bay requirements. The policy requires more car parking bays per number of children than LPS4 (as per the car parking requirements table below). The LPS4 car parking requirements prevail over the policy and are considered adequate in providing for such uses.
Car parking requirements

<table>
<thead>
<tr>
<th>LPS4</th>
<th>DBU3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:1 Employee</td>
<td>1:1 Employee</td>
</tr>
<tr>
<td>1:10 children</td>
<td>1:5 children</td>
</tr>
</tbody>
</table>

Any application would be assessed on its merits including car parking, the design of the building in the existing streetscape (LPS4 10.2.1(s)), traffic flow and safety (LPS4 10.2.1(y)) etc. Accordingly it is considered LPS4 adequately provides for such developments, and as such, the policy DBU3 is no longer required.

**DBH11 Verandahs over footpaths** – Adopted 16 September 1985

The objectives of the policy are to:

Support the preservation of existing verandahs;

Allow the reconstruction of original verandahs where they have been removed;

Enable new verandahs to be constructed over the footpath where circumstances warrant and protect the harmony of the streetscape, along with public safety and convenience

The policy is for the purpose of considering proposals for works on buildings or in streets where historic verandahs exist. The policy includes information requirements for applications, notes that Council will encourage the reconstruction of the verandah in certain circumstances and discourage the reconstruction where there is inadequate information and provides provisions for the proper and safe construction of verandahs.

The policy states that except in exceptional circumstance the Council will not approve the addition of a verandah on a significant building where the building has been designed without a verandah and new buildings in the city centre shall be constructed with modern awnings the same as the building to which they are attached.

Planning applications for heritage listed properties currently require a heritage assessment through LPP1.6 Preparing Heritage Assessments. This provides for a holistic assessment of development taking into account the heritage significance and impact of any development proposals.

Additional to this the City’s Scheme Amendment No. 49 (Strategic Sites) which is expected to receive final Ministerial approval in the near future contains provisions that require new development fronting Queen Street, Adelaide Street and Kings Square to provide continuous weather protection at ground level for pedestrians. This provision is specific and relevant to the area. The provisions in the scheme give it more weight than if the provisions were in a policy. All other proposed applications are assessed on their own merits and design.

Accordingly it is considered that LPS4, other relevant local planning policies, and development assessment processes including the heritage assessment process and advice from the Design Advisory Committee adequately provide a framework for considering such developments, and as such, the policy DBH11 is no longer required.
DBM6 Weathershield construction in public places – Adopted 16 February 1991

“The objective of this policy is to allow for adequate means of outdoor weather protection, to be provided adjacent to and/or over sidewalk café areas within Fremantle, in an attractive, convenient and safe manner. The concept of ‘al fresco’ dining within the city centre is also encouraged however public places within the city centre are to remain accessible to the public at all times.”

This policy covers windscreens, sun screens or sun/wind structures (shade structures as defined by LPS4). The policy allows for shade structures to be constructed where protection of outdoor eating areas is needed in the City Centre and provides requirements for the erection of windshields including:

- structures are not to obstruct or restrict pedestrian movement, access to footpaths or vehicle sight lines;
- structures are to be lightweight in appearance and firmly anchored in the ground;
- the applicant has to pay for the shade structure; and
- ensure no disruption to the utilities in construction.

The policy does not cover heritage considerations. Such applications can be adequately dealt with through LPS4 provisions, and the heritage assessment process. Accordingly policy DBM6 is no longer considered to be required.

DC3 Bed and breakfast accommodation – Adopted 22 September 1997

“The objective of this policy is to establish criteria for Bed and Breakfast accommodation within the city of Fremantle whilst protecting the harmony of existing residential areas and encourage the retention of existing housing stock.”

Many of the provisions are obsolete and due to this are no longer relevant or even correct. The policy includes a definition, details on public consultation, what information is required and considered in a development application and variations to those considerations and approval conditions. These are all provided for in LPS4 including definitions in Schedule 1 (bed and breakfast), application for planning approval information requirements in Part 9, permissibility of uses in Table 2 – zoning including if advertising is required or not and the objectives of the zone (part 4).

The policy requires more car parking bays per guest bedroom than LPS4 (as per the car parking requirements table below). It also provides matters under which Council will consider a variation to car parking. The LPS4 car parking requirements under table 3 and clause 5.7.3 Relaxation of parking requirements are considered adequate requirements to provide for such uses, and statutorily LPS4’s provisions prevail over the policy’s provisions.
Car parking requirements

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Accordingly it is considered LPS4 adequately provides for bed and breakfast developments, and as such, the policy DC3 is no longer required.

CONCLUSION

These four local planning policies are considered to be obsolete or unnecessary for the reasons outlined above, and therefore revocation of these polices is recommended.

COUNCIL DECISION

MOVED: Cr A Sullivan

That Council, in accordance with Clause 2.5.1(b) of Local Planning Scheme No 4, revoke the following local planning policies:

- DBU3 Child care centres
- DBH11 Verandahs over footpaths
- DBM6 Weathershield construction in public places
- DC3 Bed and breakfast accommodation

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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CR J Strachan moved en bloc recommendations numbered SGS1207-3, SGS1207-4, SGS1207-5 and SGS1207-7.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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The following item number SGS1207-3 was MOVED and carried en bloc earlier in the meeting.

SGS1207-3 VARIANCE TO BE USED IN MONTHLY FINANCIAL REPORT FOR 2012/2013

DataWorks Reference: 087/002
Disclosure of Interest: Nil
Meeting Date: 11 July 2012
Previous Item: SGS1107-6 of 27 July 2011
Responsible Officer: Alan Carmichael, Manager Finance & Administration
Actioning Officer: Alan Carmichael, Manager Finance & Administration
Decision Making Authority: Council
Agenda Attachments: Nil

EXECUTIVE SUMMARY

The recommendation is to adopt a percentage of 2.5% in combination with a threshold amount of $200,000 below which a variance report would not be required. Compared to 2011/2012 there is no change recommended to the percentage and threshold amount that applied.
BACKGROUND

Changes to the Financial Management Regulations under the Local Government Act 1995 were proclaimed on 31 March 2005 and they applied from 1 July 2005. The changes required a monthly financial activity report with explanations being provided for material variances between year to date (YTD) budget and YTD actual. The regulations require that Council adopt a percentage or value each financial year and that is to be used in statements of financial activity for reporting of material variances.

This item seeks to adopt a percentage or value, calculated in accordance with AASB 1031 Materiality, to be used in statements of financial activity for reporting material variances in 2012/2013.

COMMENT

On the reporting of variances, extracts from AASB 1031 Materiality give some guidance as to what is regarded as material:-

15 Quantitative thresholds used as guidance for determining the materiality of the amount of an item or an aggregate of items shall, of necessity, be drawn at arbitrary levels. Materiality is a matter of professional judgement influenced by the characteristics of the entity and the perceptions as to who are, or are likely to be, the users of the financial report, and their information needs. Materiality judgements can only be properly made by those who have the facts. In this context, the following quantitative thresholds may be used as guidance in considering the materiality of the amount of items included in the comparisons referred to in paragraph 13 of this Standard:

(a) An amount which is equal to or greater than 10 per cent of the appropriate base amount may be presumed to be material unless there is evidence or convincing argument to the contrary; and
(b) An amount which is equal to or less than 5 per cent of the appropriate base amount may be presumed not to be material unless there is evidence, or convincing argument, to the contrary.

Having regard to the AASB 1031 Materiality, the fact the financial report where the materiality is to be applied is a monthly year to date financial report (as opposed to annual report), the size of the City of Fremantle budget and the nature of the local government business, it is considered a percentage figure of 2.5% with a threshold of $200,000 before a variance report is required would be an appropriate level. With monthly reporting, the key objective is seen as having monthly budget data so that any variance reporting is based on the planned situation. A lot of the revenue and expenditure, especially capital expenditure, does not occur in an even or proportional manner over the year. Timing differences can explain the majority of variances if the materiality is set too low. Also in relative terms, $200,000 equates to 0.61% of rates and 0.68% of employee costs. With a 2.5% variance, it effectively means that budgets under $8 million might have variances greater than 2.5% which would not require reporting as the value of the variance could be under $200,000. However once the budget reached $8 million, a variance greater than 2.5% would automatically trigger a variance report.
Experience from commenting on material variances during the 2011/2012 financial year has highlighted the following points:

- If budgets are not phased for expected activity, then material variances are generated and items unnecessarily reported.
- Where officers do not have a clear timeframe for their work program, then the budget(s) are scaled to be received or spent in the latter part of the financial year. This leads to materially increased variances in those months when it became obvious that the works will not occur and require carry forward to the next financial year.

**RISK AND OTHER IMPLICATIONS**

**Financial**
The item has no direct financial implications, but the reporting of variances will highlight budget issues that might need to be addressed at a later date.

**Legal**

**Operational**
The item does not impose any new operational requirements.

**Organisational**
The item does not impose any new requirements.

**CONCLUSION**
By maintaining the 2.5% percentage variation and threshold value it is not considered to impact on the quality of information that might be reported.

**STRATEGIC AND POLICY IMPLICATIONS**
The annual budget is a strategic document; therefore its ongoing monitoring should highlight any budgetary issues.

**COMMUNITY ENGAGEMENT**
Nil.

**VOTING AND OTHER SPECIAL REQUIREMENTS**
Simple Majority Required
COUNCIL DECISION

MOVED: Cr J Strachan

That with monthly financial reporting, the variance to be used in Statements of Financial Activity for reporting material variances under AASB 1031 Materiality be set for 2012/2013 at 2.5% with a threshold of $200,000 below which variance reporting is not required.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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The following item number SGS1207-4 was MOVED and carried en bloc earlier in the meeting.

SGS1207-4   WALGA DECLARATION ON CLIMATE CHANGE

DataWorks Reference:  078/023  
Disclosure of Interest:  Nil  
Meeting Date:  11 July 2012  
Previous Item:  NA  
Responsible Officer:  Philip St John, Director Planning and Development Services  
Actioning Officer:  Paul Garbett, Manager Planning Projects  
Decision Making Authority:  Council  
Agenda Attachments:  WALGA Local Government Declaration on Climate Change

EXECUTIVE SUMMARY

The Western Australian Local Government Association has prepared a Declaration on Climate Change. This declaration aligns with the City’s own current strategic direction and operational actions in respect of climate change, and accordingly the purpose of this item is to recommend that the City signs the Declaration.

BACKGROUND

Local government is often referred to as the “nimble” tier of government. It is closer to the community and in some ways less bureaucratic and more flexible than the other tiers of government. This is probably part of the reason that local government has a reputation for being more proactive on climate change.

One policy that the Western Australian Local Government Association (WALGA) has initiated is a Climate Change Declaration (Declaration) for local governments to sign. This is a document that allows local governments to publically state their belief in climate change and their commitment to climate change mitigation (i.e. reducing greenhouse gas emissions) and adaptation (i.e. dealing with inevitable climate change) measures. The City of Fremantle can reasonably regard itself as a leader in local government in relation to climate change. Some of the initiatives that the City has undertaken include:
In July 2009 it became the first carbon neutral local government in WA and just the second in the country.

Setting a 2020 emission reduction target for the organisation of 40% - at the onerous end of reduction recommendations by leading mainstream economists and scientists. The City’s Low Carbon City Plan lists projects sufficient to meet most of this target by 2015.

Running regular Living Smart Community courses and partnering with the Department of Transport to deliver the Living Smart Household project.

Installing 32kW of solar PV to date, and currently installing another 40kW and having established a rolling fund sufficient to install about 100kW each year.

Adopting sustainable planning policies such as permitting solar PV installations without the need for planning approval in many cases, and making significant amendments to the local planning scheme to facilitate the development of small secondary dwellings on existing residential lots and to promote more intensive, sustainable development on key sites in the city centre.

As such it would be fitting for the City to become a signatory to the WALGA Declaration.

**COMMENT**

The obligations that the Declaration would impose on the City are:

- To set an appropriate, individual Local Government emissions reduction target and work toward its achievement.
- Work with State and Federal Government to ensure achievement of greenhouse gas emissions reduction targets as set out in key National and International agreements.
- Work with State and Federal Government to implement key actions and activities for climate change management at a local level.
- Assess the regionally specific risks associated with climate change and implications for Local Government services, and identify areas where appropriate mitigation and/or adaptation strategies should be applied.
- Develop an internal Climate Change Action Plan (CCAP) for climate change actions across all Local Government functions, with a focus on the two, five and ten year future.
- Ensure that, at appropriate review intervals, the strategic plan and policies for the Local Government are reviewed and amended to reflect climate change management priorities and emissions reduction targets.
- Encourage and empower the local community and local businesses to adapt to the impacts of climate change and to reduce their greenhouse gas emissions.
- Monitor the progress of climate change initiatives and ensure full communication of achievements for Council and Community.

The City is already achieving most of these obligations through existing initiatives, particularly through implementation of the adopted Low Carbon City Plan which establishes an emissions reduction target for the City and sets out a range of actions which fulfil the function of a Climate Change Action Plan as referred to in the Declaration. As such, becoming a signatory would be largely a symbolic show of support for the Declaration.
RISK AND OTHER IMPLICATIONS

Financial
Nil

Legal
Nil

Operational
Nil

Organisational
Nil

CONCLUSION

The WALGA Declaration is a public declaration that many local governments have already signed. Officers consider it would be appropriate for the City of Fremantle to join these other local governments in being a signatory to the Declaration. The specific commitments under the Declaration are actions which the City has already implemented or is committed to in any event through its own strategic plans.

STRATEGIC AND POLICY IMPLICATIONS

The City’s strategic plan includes Climate Change and Environmental Protection as one of seven Strategic Imperatives.

COMMUNITY ENGAGEMENT

Nil

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required
COUNCIL DECISION

MOVED: Cr J Strachan

That Council resolves to support the Western Australian Local Government Declaration on Climate Change, and the Mayor be authorised to sign the Declaration on behalf of the City of Fremantle.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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The following item number SGS1207-5 was MOVED and carried en bloc earlier in the meeting.

SGS1207-5       PLASTIC BAG REDUCTION LOCAL LAW

DataWorks Reference:            078/013
Disclosure of Interest:         Nil
Meeting Date:                   11 July, 2012
Previous Item:                  SGS1203-7; SGS 1202-8
Responsible Officer:            Philip St John, Director Planning and Development
Actioning Officer:              Alex Hyndman, Sustainability Officer
Decision Making Authority:      Council
Agenda Attachments:             Plastic Bag Reduction Local Law 2012 - Draft

EXECUTIVE SUMMARY

The City has resolved to become a Plastic Bag Free City and appointed a Working Group (WG) to develop a draft local law to this effect and a communications strategy to implement the local law.

The WG has drafted the attached local law, but feels it would be appropriate to wait for its gazettal before preparing the communications strategy.

BACKGROUND

On 14 March, 2012 the Strategic and General Services Committee resolved to:


2. Appoints the following members to the Plastic Bag Free City Stakeholder Working Group until the project brief is concluded or the Ordinary Election held in October 2013 (whichever occurs first):

   a) The Mayor, Brad Pettitt and one other elected member representative, namely Cr J Strachan.
   b) The Chief Executive Officer of the City of Fremantle or his nominated representative.
   c) The community representatives are Wade Harrison and Sara McCallister.
   d) The business community representatives are Tim Milson and Mark Charman.
The Instrument of Appointment stipulated the following deliverables and milestones

**DELIVERABLES**

1. A communications strategy identifying the alternatives to plastic bags and the benefits of using these alternatives to both businesses and customers.

2. A draft local law to prohibit retailers providing plastic bags to shoppers. Included in this, will be definitions of exactly which plastic bags and/or products will be banned and how these are identified. It will also need to develop a compliance process and review if any minimum price should be set for provision of single-use, plastic alternative bags.

**MILESTONES**

- WG to develop a communications strategy for presentation to the Council by July 2012
- Local law to be drafted ready for public consultation by August 2012

**COMMENT**

The Working Group has been holding productive weekly meetings since its inception.

These have focussed mostly on the mechanics and structure of a local law, as well as preparing a logo that can be used for future communications regarding the local law. A detailed explanation of the process followed to draft the local law and its intent is included in the Legal section below.

As discussed in the legal section below, there is a risk that the Joint Standing Committee on Delegated Legislation (JSC) will recommend that the law be struck down. The WG felt that since this is a material risk, it would be more appropriate to wait for the JSC to review the local law before preparing a communications plan.

**RISK AND OTHER IMPLICATIONS**

**Financial**

By taking the initiative to regulate the use of plastic bags, the City accepts a responsibility to ensure a smooth transition. A logo has already been prepared for this, but a set of collateral and marketing material will need to be prepared to inform retailers and shoppers of the changes. This will require a funding, which is being considered as part of the 2012-13 budget process.
Legal

The WG researched other existing plastic bag laws and decided that the South Australian model was a good starting point for the City's local law. The key points of the SA law are:

- The law covers shopping bags – which are defined as being made of polyethylene, thicker than 35µm and having handles
- Plastic shopping bags are banned
- Retailers need to provide alternative bags, which include bags that are designed to be reusable or compostable
- Barrier bags (eg for loose fruit and veg) and plastic that is integral to packaging are excepted from the ban
- Retailers are explicitly allowed to charge for plastic bags

The WG also noted however that several of the outcomes of the SA law were not ideal. These included:

- the exception of a reusable bag is too loose and has resulted in major supermarkets providing bags that are just over the 35µm thickness and being labelled as reusable
- the WG wanted to provide an incentive for retailers to provide compostable bags instead of thicker plastic bags or bags made of alternative types of plastic
- the WG wanted to provide an incentive to reduce use of all types of shopping bags

To this end, the WG sought legal advice on a local law that was similar to the SA law, but:

- extended the definition of a plastic bag to include polyethylene, polypropylene and polyethylene terephthalate up to 60µm.
- Does not impose a requirement for retailers to provide a bag if they don’t want to
- Required retailers to charge for alternative shopping bags

The thickness of 60µm was selected on the basis that it would be cheaper for a retailer to source a single use compostable bag than a 60µm plastic bag – hence providing a financial incentive for retailers to use compostable bags.

The City sought legal advice on this basis and the following issues were raised:

1. It could be argued whether the Local Government Act allows the City to regulate around plastic bags. Of the two areas that this law could be considered to come under – environmental protection and waste avoidance - the City does appear to have the power to regulate.
2. Local governments only have limited ability to regulate activities on private land and has restrictions on how and when it can access private land. The access restrictions include a requirement to provide notice before entering private land, and this will make it a cumbersome – but not infeasible - process to enforce offences against the local law.
3. Local governments are expected to only regulate in a way that is reasonable and passes a “test of proportionality”. This means that a local law should not be more onerous than necessary to achieve the objects of the object of the Local Government Act.
In regards to the proportionality test, the WG feels that the ability for retailers to adapt to similar laws in other states indicates that regulating plastic bag use is not unreasonable. In fact several major retailers including Bunnings and Target already comply with the requirements of the proposed local law. Other retailers, such as Subway, Woolworths and Coles are operating in SA in a manner consistent with the local law.

The full local law is included as Attachment 1. They key points of this law are:

- Single use plastic shopping bags (ie less than 60µm) cannot be provided.
- Alternative shopping bags – which are defined as over 60µm or compostable according to AS4736 – can be provided by a retailer with a minimum charge of 10c.
- The modified penalty for any offence in the local law is $150.

The main risk to the local law being enacted is that the JSC may recommend to State parliament that it be disallowed. To mitigate this risk, the local law will come into effect 6 months after the date of gazettal. This will provide a reasonable period of time for the JSC to review the law and if not struck down, for the City to work with retailers to prepare a communications plan.

**Operational**

It is important to understand that this item pertains to the rationale behind and the drafting of the Plastic Bag Regulation Local Law. There will also be a range of implementation issues that will need to be resolved if the local law comes into operation.

- Transition measures and communication. As demonstrated by the discussions with Coles, it will be important to ensure that both retailers and shoppers understand the implications and implications of this local law. It is proposed that the WG reconvenes after gazettal of the law to develop a communications strategy
- Enforcement of the law will also pose an operational issue. It is expected that this law will largely self regulate – there are many laws in place that do not necessitate active enforcement. The exact enforcement strategy and requisite resources will need to be reviewed at a later date.

The process for enacting a local law is exacting and rigorous. The key steps are:

1. Preparation of local law (the key output of the WG)
2. Resolution of Council of intention to make the local law (the subject of this report)
3. Advertising of the draft local law for comment – at least 42 days
4. Notify the Minister for Local Government and Regional Development
5. Consideration of public comment
6. If there are no “significant” changes, Council can resolve to adopt the local law
7. Notification of the local law to the State Law Publisher
8. Advertise the adoption of the local law
9. Notify the Minister for Local Government and Regional Development
10. Prepare an Explanatory Memorandum and Explanatory Memorandum Checklist for submission to the Delegated Legislation Committee

This process typically takes about 6 months from step 2.
Organisational

The City has ordered different dog refuse bags that are compostable according to AS4736. These will be labelled appropriately indicating that they are “proudly compostable”.

CONCLUSION

The City’s Plastic Bag Free City Stakeholder Liaison Working Group has prepared a draft Plastic Bag Reduction Local Law 2012. This builds on the work of the South Australian local law. It creates an additional incentive for retailers to use compostable instead of plastic bags by prohibiting the provision of any plastic bag less than 60µm. It also incentivises shoppers to bring their own bags by placing a minimum charge of 10c on all alternative shopping bags.

STRATEGIC AND POLICY IMPLICATIONS

On 8 February 2012, the Council resolved to become a Plastic Bag Free City. This local law would implement this policy.

COMMUNITY ENGAGEMENT

As noted in the items that led to the creation of this working group, this WG and local law is a supportive response to the initiative of the local activist group Plastic Free Freo. They sourced approximately 3000 signatures on a petition to ban plastic bags. They also conducted surveys of shoppers at Coles and Target on the weekend of 26 May, 2012. This showed that “90% of shoppers were supportive of the Council’s plan”.

Discussions have also been held with Coles by WG members. These have indicated that Coles will not be supportive of a local law that regulates plastic bags. If one is to be passed, then they would prefer one that is as similar as possible to the SA model – so that they can use the same solutions in the Fremantle store. It must be noted that the local law as proposed would prohibit several of the options that Coles provides in SA, including 38µm “reusable” plastic bags. Having made their opinion clear, Coles have also demonstrated a commitment to help minimise any inconvenience on their shoppers caused by a local law. They have provided sample bags and marketing collateral from SA, that will inform the City’s communications campaign.

The owner of Subway has also been consulted and has explained that Subway stores in SA provide paper bags, which will be an appropriate solution in Fremantle.

General discussions with boutique retailers by the Chamber of Commerce (who are represented by Chamber’s CEO on the WG) indicate that they are broadly supportive of moves to reduce plastic bag use.

Several other local governments in WA and nationally have expressed interest in how the City’s local law progresses. If the City successfully gazettes this local law, then several of these local governments may attempt to enact similar legislation.
VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

COUNCIL DECISION

MOVED: Cr J Strachan

1. That the Plastic Bag Reduction Local Law 2012, as included in Attachment 1, be approved for public consultation.

2. That the Plastic Bag Free City Stakeholder Liaison Working Group be adjourned pending successful implementation of the local law. If the local law is successfully gazetted, then the Working Group is to reconvene to provide advice to the City on a communications strategy.

3. That a further report be brought to Council with a costing and methodology for the effect of the local law (if successfully introduced) through;
   a) Pre and post analysis of numbers of plastic bags in the domestic waste stream.
   b) Pre and post analysis of numbers of plastic bags in the litter stream.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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The following item number SGS1207 was MOVED and carried en bloc earlier in the meeting.

**SGS1207-7 CANTONMENT HILL WORKING GROUP DRAFT MASTER PLAN**

**DataWorks Reference:** 039/068  
**Disclosure of Interest:** Nil  
**Meeting Date:** 11 July 2012  
**Previous Item:** Nil  
**Responsible Officer:** Peter Pikor, Director Technical Services  
**Actioning Officer:** Lionel Nicholson, Manager City Works  
**Decision Making Authority:** Council  
**Agenda Attachments:** Cantonment Hill Final Draft Master Plan and Report (under separate cover)

**EXECUTIVE SUMMARY**

The City of Fremantle established the Cantonment Hill Working Group in April 2010 to develop a draft Master Plan for Cantonment Hill Reserve.

The Working Group was supported by Consultant Architects to develop a draft Master Plan for Cantonment Hill. In the development of this Plan consultation was undertaken with the local community on a number of occasions.

This report presents the Final Draft Master Plan for Cantonment Hill recommended by the Cantonment Hill Working Group. The draft plan proposes that the site has extensive upgrades and investment to achieve a sustainable place of interest for both visitors and locals. The draft plan is submitted for consideration of budget funding and implementation strategy.

**BACKGROUND**

In June 2010, Council directed that a number of community based working groups be formed to undertake deliberative consideration of issues that stemmed from the Council’s major strategic imperatives.

The Cantonment Hill Working Group (CHWG) was formed with objective of delivering a Master Plan for Cantonment Hill that addresses the following:

- the development objectives and philosophy,
- protection of the cultural heritage significance of the site,
- allocation of land uses including recreation and open space areas,
- landscape plan together with management strategy
- public access plan
- ongoing maintenance plan
The area which includes the Cantonment Hill Reserve, Tuckfield Street open space and Signal station and surrounds is significant at the local, state and national level and has the following classifications:

- Listed by the National Trust September 1980
- Placed on the Register of the National Estate October 1982
- Listed by the Heritage Council of WA June 1997
- Fremantle Heritage Municipal Inventory

It is proposed that Council adopts a master plan for Cantonment Hill that will:

- Ensure adequate protection of the cultural heritage significance.
- Identify opportunities for community use and access to the site.
- Protect the area in terms of its natural and built features and protection of community values.
- Establish a program for ongoing maintenance.
- Identify funding strategies and stages to be delivered, including sources of external funding where possible.
- Be consistent with the City’s strategic plan.
- Meet the criteria of being clear, concise, realistic (achievable).
- Fulfil statutory obligations.

The Working Group first met in August 2010 and has met on a regular basis over the past 22 months.

The activities of the Working group entailed interactive workshops, community consultation site visits, and extensive consideration of possibilities and issues facing the Cantonment Hill environment and community.

**COMMENT**

The heritage significance of this area gives priority to the conservation and ongoing management of all aspects of the surviving landscape, buildings and grounds.

The area is recognised to have cultural heritage significance based on ethnographic, historic, aesthetic, social and scientific values. The place has ethnographic significance to Aboriginal people.

The Working Group developed its own methodology in accordance with the City’s Strategic Plan, Development and Land use Policy D.G.F30 for this area including the specified precincts, Green Plan, Conservation Principles and Bush Forever site classification to achieve the following essential outcomes:

- Integrated management stages and plans of potential design proposals.
- Priority actions.
- Consultation with the community.
- Presenting final draft of the Master Plan to Council for consideration.
The Working Group met regularly to progress the planning for the site and has also consulted with the local community on a number of occasions, including through local street meetings, a site visit and online survey.

The group carried out a ‘brain storm’ of the opportunities and constraints analysis of the site and identified the high level of complexities of this pocket of land and associated buildings. It was recognised that the on-going sustainability of the site would also involve a cooperative working arrangement with the War Museum Foundation.

In June 2011 the Working Group selected from a competitive quotation process CODA Architects to prepare the Draft Master Plan document.

**Draft Master Plan Key Recommendations**

The key recommendations of the draft report include short and long term goals. The draft report indicates that if partial restorative works are undertaken immediately some use of the area and buildings is possible and can generate an income stream for the City.

After considering various concept plans and feedback from the community consultations a number of options were developed. These main options in the draft report shown at Attachment 1 are summarised as follows:

- **Oval Area** – Community consultation results identified that the oval area is considered a priority for a low key nature play area with interpretive signage, river views, irrigated lawn and requires earthworks to reinstate original landform. The estimated cost of these works including the indigenous garden area near the tunnel is $540,000.

- **Bush Forever Site** – Proposal to retain all trees and revegetate site, plus construct new paths, interpretive sites with detailed site management and interpretive plans are to be developed. The report provides an estimated cost of $215,000 for these works.

- **Naval Store** - This is a significant entry statement and will require part restoration in the short term. Suggested various uses include a bicycle service centre, café / kitchen, multi-purpose music performance space to semi permanent studio / office space.

- **Signal Station** – This is a highly visible landmark, and the draft report recommends that the City should carry out partial restoration including;
  - Up-lighting the building
  - Remove all fencing except those sections required for safety reasons
  - Repair windows and reconnect services.

For the Naval Store and Signal Station it is suggested that the City invite expressions of interest from commercial organisations who may be interested in leasing all or parts of these facilities for their best use in accordance with the objectives of the master plan.

The Working Group identified that to ensure continuous progress implementing the plan a governing structure similar to the Military Museum be established to operate in conjunction with the City and Museum Foundation.
The implementation of the master plan will require a staged approach spanning several years. The plan identifies short term and long term implementation priorities and strategies. The works that will initially be undertaken are dependent on funding availability.

In order for any works to occur on Cantonment Hill, consent from the Minister for Indigenous Affairs under Section 18 of the Aboriginal Heritage Act 1972 must be obtained.

**RISK AND OTHER IMPLICATIONS**

**Financial**

The draft master plan proposes a number of recommendations that will need to be considered as part of Council’s budget allocations. The draft plan identifies works to the Oval and Bush Forever areas costing $755,000. The works to the Signal Station and Naval Store have not been costed in the draft plan however are expected to be of significant amounts.

Currently there are cash-in-lieu funds of $130,000 available for Cantonment Hill.

It is expected that other longer term funding opportunities might come from the Lotteries Commission or other Federal and State Government bodies.

**Legal**

The draft master plan has been prepared in consultation with the Heritage Council of WA, Department of Planning and other stakeholders.

**Operational**

Implementation of the stages of the draft master plan can be carried out with internal resources or external contractors pending strategic and budget priorities.

**Organisational**

The implementation of the master plan will draw resources from multiple business units and require the preparation of a detailed project management plan.

**CONCLUSION**

The Cantonment Hill Working Group adopted a cooperative approach to produce a comprehensive draft report with recommendations to guide the future look and feel of the area. The draft master plan provides the opportunity to activate a significant site within the City. The draft master plan proposes that the site has extensive upgrades and investment, including potentially commercial, to achieve a sustainable place of interest for both visitors and locals. An implementation strategy with staging of the works is outlined in the draft master plan.

To achieve the outcomes in the draft master plan will require significant allocation of funds and consideration needs to be given allocating priorities and staging of the various recommended works.
STRATEGIC AND POLICY IMPLICATIONS

Strategic Imperative - Character
Sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history.

Strategic Imperative - Urban Renewal & Integration
Provide a great place to live, work and play through growth and renewal

COMMUNITY ENGAGEMENT

The whole process of setting up the working groups has been a community engagement and facilitation exercise. The preparation of the draft master plan included three open days of the signal station. These took place in September 2010, May 2011 and February 2012. Members of the group also carried out an on-line community survey and presented the report to the working group. The South West Aboriginal Land and Sea Council (SWALSC) recommended a consultant who identified the Elders for engagement. This consultation involved a meeting in Fremantle and visit to Cantonment Hill. SWALSC were sent a copy of the final draft plan for comment.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required
COUNCIL DECISION

MOVED: Cr J Strachan

That Council;

1. Receives the Draft Master Plan from the Cantonment Hill Working Group.

2. Lists funds to implement the recommendations of the draft master plan for Cantonment Hill for consideration in the 2012/13 draft budget.

3. Gives further consideration to the establishment of a governing structure to oversee the implementation of the plan and coordinated interaction between the local communities, War Museum Foundation and the City.

4. Gives further consideration to what public and commercial uses are appropriate for the Naval Store and Signal Station.

5. Thanks the Cantonment Hill Working Group for their efforts in developing the Draft Master Plan for Cantonment Hill.

SECONDED: Cr T Grey-Smith

CARRIED: 13/0

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EXECUTIVE SUMMARY

The City of Fremantle and the University of Notre Dame Australia first entered into a Memorandum of Understanding in 2003. That first MOU expired at the end of 2010. In late 2009/early 2010 the City, in course of reviewing the MOU for the purpose of negotiating a new MOU, commissioned a Community Consultation Survey of the Fremantle community to assess the level of awareness of the University, knowledge of the MOU and to gain community opinion about the performance of the University under the MOU.

On 13 April 2010 a community stakeholder workshop was held, also as part of the process of reviewing the first MOU.

In late 2010, and through 2011 and into 2012 officers of the City continued to negotiate with the University on the terms of a new MOU.

Discussion on progress on a new MOU occurred with elected members in late 2011. Arising from concern during that discussion that the terms of the proposed new MOU were not sufficient in regard to achieving the reactivation of the ground level street fronts of University owned buildings further negotiations occurred, including with the direct involvement of the Mayor and the University Vice-Chancellor.

As a consequence of those subsequent negotiations changes to the proposed new MOU were made that ensure significant and substantial attention will now be given to the street activation issue.
BACKGROUND

The City of Fremantle and University of Notre Dame Australia first entered into a Memorandum of Understanding in 2003, during the early period of the establishment of the University in the West End.

Clause 6 of the first MOU says in part, ‘The University intends to concentrate its academic activities to the area bounded by Little High Street, Phillimore Street, Henry and Marine Terrace (referred to as the UNDA zone).’

This confinement of the University was at the encouragement of the council of that time.

As the time for the expiry of the first MOU approached the City commenced a review, in preparation for a new MOU.

The review comprised, in late 2009/early 2010, a Community Consultation Survey of Fremantle residents, and on 13 April 2010 a MOU workshop.

The Community Consultation Survey, conducted by Asset Research, contacted 1,127 potential respondents residing within the Council area. Of that number 600 respondents were qualified on their awareness of the University and its location. That is, only potential respondents aware of the University and its general location were asked to complete the Survey.

The results of the Survey were:

- 45% of respondents indicated they had a good awareness of the University and its operations in Fremantle
- 38% indicated an average level of awareness
- 17% indicated a poor level of awareness
- 30% of respondents indicated an awareness of the MOU
- 70% were unaware
- 207 (of 600) of respondents felt the University makes a contribution to the city by restoring and maintaining buildings.
- 177 felt the University enlivens the area.
- 125 felt the University contributed by bringing revenue into the community.
- 103 (17%) believed the University makes little or no contribution to Fremantle.
- 204 felt the University does not need to make any improvements to its contribution to the city, or could not think of any improvements.
- 96 believed the University could improve its contribution to the city by paying full Council rates.
- 67 believed the University should give the public access to buildings and facilities.

A range of contribution areas were read out to respondents who were asked to agree or disagree with a range of statements about the University.
Responses indicated a sizeable lack of awareness within the community with support of the Fremantle Volunteer Centre (87.8% - don’t know), support of local business (82.3% - don’t know), support for non-university use of buildings and facilities (71.6% - don’t know) and encouragement of students to be active in community service in the Fremantle area (65.9% - don’t know).

Responses indicated the greatest levels of agreement came for areas of greater visibility – contribution to the physical environment (81% - agree), economic benefit to Fremantle (68% - agree), and restoration and modification of facilities in the UNDA zone (61.6% - agree).

Responses indicated the greatest levels of disagreement were given for UNDA providing street interactive activities on the ground floor (22.7% - disagree), interaction with the local community (20.1% disagree), contribution to the security of the streets (18% - disagree), bringing an economic benefit to Fremantle (16.5% - disagree) and contribution to and promoting Fremantle as a pleasant and safe living and working environment (16.2% - disagree).

A range of contribution areas were read out to respondents who were asked to indicate whether they were aware of the University’s contributions.

Responses indicated a sizeable lack of awareness within the community with the provision of a 24-hour per day security service (96.2% - unaware), subsidised community use of its facilities (91.0% - unaware) and the provision of an annual sum of approximately $80,000 to the City for infrastructure projects (81.3% - unaware).

Responses indicated the greatest level of awareness came from areas of greater visibility. Concentration of the UNDA academic activities to the area bounded by Little High Street, Phillimore Street, Henry Street and Marine Terrace (72.3% - aware) and that as an educational institution, the UNDA has a “rate exempt” status (54.6% aware).

Respondents were asked to indicate what issues should be addressed in any future MOU.

Responses indicated the largest number of respondents who were able to provide an answer felt that the UNDA should pay full Council rates (114 responses), 84 respondents believe the UNDA should create more public awareness of the UNDA, what it does and what it provides for the community, 59 respondents believe the UNDA should increase its contributions to the community in lieu of rates.

37 respondents believe the UNDA needs to enliven the area, creating a more active and vibrant atmosphere and 36 respondents believe University buildings and facilities should be made available to the public.

Overall 76.2% of respondents ‘at least’ agreed the University makes a positive contribution to the West End of Fremantle, 16.1% disagreed, and 7.7% indicated that they did not know.
The MOU workshop was attended by the City of Fremantle and University staff, students of the University, Fremantle residents and members of interested community groups. The total attendance was approximately 30.

The purpose of the workshop was:

- To work together towards a stronger and improved MOU.
- To build co-operation between the City of Fremantle, University of Notre Dame and key community groups and stakeholders.
- To identify and agree on the challenges and opportunities that exist and to find ways of marketing these to the broader community of Fremantle.

A summary of the Community Consultation Survey was presented at the commencement of the workshop.

The workshop agenda considered:

_In relation to the MOU, what is working/what is not working?_
Most comments about what was working related to the restoration and maintenance of buildings and the liveliness and activity the University brings, particularly to the West End.

What was not working did not generally relate to the MOU and included:
- parking congestion and restrictions
- lack of communication between the University and its (resident and business) neighbours
- lack of activity/‘deadness’ between semesters
- closed buildings on street frontages

**People and Vibrancy**
The challenges and issues were:
- ‘sense of closed doors’
- lack of public connection

The opportunities and ideas were:
- University spaces for small bars and offices or shops themed to learning and entertainment for students, residents and visitors.

**Place and Physical Presence**
The challenges and issues were:
- lack of interface between buildings and the street ‘buildings seeming anonymous and bare.’
- need for universal access to buildings and sustainable features

The opportunities and ideas were:
- better physical interface
- public accessibility to spaces
- converting streets to leafy malls
Programs and Marketing
The challenges and issues were:
- 'closed access'
- 'lack of awareness' of programs and benefits

The opportunities and ideas were:
- public lectures
- access to University activities and information
- volunteer program enabling residents to contribute to University life

Contribution and Giving
The challenges and issues were:
- 'perception of the University as inward thinking, self contained and distant'
- linked to lack of communication and a sense that students were 'taking' from the city without contributing back

The opportunities and ideas were:
- providing knowledge based resources to the community
- summer and evening schools
- work experience programs

Student Behaviour
The issue of managing students behaviour related to alcohol was raised and considered an important area.

The challenges and issues were:
- sharing 'networks and knowledge' with groups and other educational institutions in the city

The opportunities and ideas were:
- resident participation in student interviewed exams
- linking with local community groups and educational institutions

The key overall outcome of the workshop was the need for effective two way communication and marketing based on strong relationship building across all stakeholders and the community.

Guided by the findings of the Survey and the outcomes of the workshop the City’s negotiations with the University about a new MOU focused on:
- activation of ground level street frontage; and
- level of ex gratia payment by the University to the City in lieu of rates.
COMMENT

Many aspects of the proposed new MOU are the same or similar to the initial MOU.

The clauses of the proposed new MOU that are significantly in variance to the initial MOU are:

Clause 13
Since commencement UNDA has concentrated its academic activities within the area bounded by Little High Street, Phillimore Street, Henry Street and Marine Terrace, an area referred to in the previous MOU as the UNDA zone.

Clause 14
The City encourages UNDA to expand its academic activities to locations throughout the CBD.

Clause 15
Within two years of the date of this MOU, UNDA in conjunction with the City, is to develop a strategy on how it could develop a more diverse range of commercial activities at ground level on High Street and Phillimore Street.

Clause 19
UNDA will:
• endeavour to negotiate student accommodation throughout Fremantle and adjoining areas;
• retain its existing three halls of residence; and
• continue to maintain a database of local accommodation providers and a target of at least 50% of its students being accommodated in Fremantle.

Clause 20
A Liaison Group, comprising the senior officers of the City and UNDA, is to meet in March, July and November each year to consider matters of mutual interest arising from the MOU, including the allocation of the funds referred to in Clause 24 below.

Clause 24
UNDA will contribute up to $75,000 (GST exclusive) per calendar year for mutually beneficial projects subject to each of the City and UNDA agreeing:
• a list of potential projects; and
• commitment of funds in respect of any project;

as recommended at the Liaison Group meeting in March of each year.

Clauses 13, 14 and 15 set out a new direction and a specific action to be undertaken to achieve greater ground level street front activation of University owned property in the West End.

Clause 24 falls short of what the City was seeking as an ex gratia payment from the University, with respect to the amount ($100,000 per annum) and the indexation of the amount (Perth’s annual consumer price index).
It was considered in the negotiations that the outcome obtained from Clauses 13, 14 and 15 were sufficient to accept the outcome achieved in Clause 24.

RISK AND OTHER IMPLICATIONS

Financial
Nil

Legal
The MOU between the City of Fremantle and UNDA is a non-binding agreement but does indicate the intent of the parties in relation to the subject matter in the MOU.

Operational
Nil

Organisational
Nil

CONCLUSION

Following significant public consultation and a significant period of negotiation the proposed new MOU between the City of Fremantle the University of Notre Dame Australia includes a specific measure to examine options for increasing ground level street front activation of University occupied buildings in High Street and Phillimore Street.

STRATEGIC AND POLICY IMPLICATIONS

Economic Development
Strengthen Fremantle’s economic capacity
Implement a west end activation strategy with key stakeholders including University of Notre Dame Australia

Character
Sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history
Improve physical presentation of the city’s streetscapes

Capability
Deliver on the achievement of our strategic imperatives through good governance, strong leadership, effective communication and excellence in delivery
Establish strong partnerships with key stakeholders
COMMUNITY ENGAGEMENT

The negotiations for the new MOU between the City of Fremantle and the University of Notre Dame Australia were informed by the results of the Community Consultation Survey of Fremantle residents in late 2009/early 2010 and the MOU workshop held on 13 April 2010.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER’S RECOMMENDATION

The Memorandum of Understanding between the City of Fremantle and the University of Notre Dame Australia for the period 1 August 2012 to 31 December 2019 be agreed to.

Cr Jon Strachan moved an amendment to part 16 of the attached MOU, to read as follows:

16. **UNDA is committed to street level activation of their buildings. Operational constraints related to development of new buildings to such activation will be discussed with Council Officers prior to submitting of plans.**

CARRIED: 7/0

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REASON/S FOR CHANGE TO OFFICER’S RECOMMENDATION

The City is the authorising body when assessing any development application for UNDA buildings. The original point 16 has an underlining tenor that the final plans will be at UNDA discretion, having told the City why activation would be difficult. The alternative makes it clear that discussions between applicant and City is advantageous, however makes it clear each application will be assessed subject to its planning merits.
Cr Jon Strachan moved an amendment to part 17 of the attached MOU, to read as follows:

17. **UNDA will continue to restore and modify its facilities. UNDA will act consistently with the City’s heritage guidelines.**

CARRIED: 7/0

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

Fire & Safety requirements are BCA issues which are not negotiable at the planning application stage.

Cr Jon Strachan moved an amendment to part 18 of the attached MOU, to read as follows:

18. **The city will undertake to assess any application for a development assessment by UNDA in a timely manner. Should any application be deemed as urgent by UNDA to meet their teaching timetable, the city will undertake to expedite such applications to the extent possible under the requirements of relevant acts and planning policies.**

CARRIED: 7/0

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

This clause confers some privileges onto UNDA applications which are contrary to the "Without fear or favour" edit Council must apply when assessing planning applications.

Mayor, Brad Pettitt moved an amendment to part 14 of the attached MOU, to read as follows:
14. The city encourages UNDA to expand its academic activities to locations throughout the CBD. This expansion should not be immediately adjacent to the UNDA zone referred to in item 13 above.

CARRIED: 7/0

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REASON/S FOR CHANGE TO OFFICER’S RECOMMENDATION

The words added to part 14, where originally intended to be apart of the MOU and were missing due to an administrative error, therefore they were added back in to strengthen part 14 to ensure that the academic activities are spread out around the CBD and not all in the same location.

COMMITTEE AND OFFICER’S RECOMMENDATION

MOVED: Cr Jon Strachan

The Memorandum of Understanding between the City of Fremantle and the University of Notre Dame Australia for the period 1 August 2012 to 31 December 2019 as amended, be agreed to.

CARRIED: 7/0

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Cr R Pemberton MOVED an amendment to the Officer's Recommendation to include the following wording:

Clause 19 currently reads;

“UNDA will endeavor to negotiate student accommodation throughout Fremantle…”

Change to;

“UNDA will endeavor to **ESTABLISH** student accommodation throughout Fremantle…”

SECONDED: Cr A Sullivan

CARRIED: 13/0

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**REASON FOR CHANGE TO THE COMMITTEE RECOMMENDATION**

UNDA can *establish* student accommodation through many means, including negotiation with existing landowners, however to establish student accommodation is far more active and encouraging.

Cr R Pemberton MOVED an amendment to the Officer's Recommendation to include the following wording:

Add a new clause:

“UNDA will work with the City and key stakeholders to develop and implement a West End activation strategy.”

SECONDED: Cr A Sullivan

LOST: 4/9
COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

1. The Memorandum of Understanding between the City of Fremantle and the University of Notre Dame Australia for the period 1 August 2012 to 31 December 2019 as amended, be agreed to.

2. Include the following wording to the Memorandum of Understanding:
   Clause 19 currently reads; “UNDA will endeavor to negotiate student accommodation throughout Fremantle…”
   Change to; “UNDA will endeavor to ESTABLISH student accommodation throughout Fremantle…”

SECONDED: Cr T Grey-Smith

CARRIED: 12/1

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REASON/S FOR CHANGE TO OFFICER’S RECOMMENDATION

To include the Part 2 of the Council Decision.
Cr R Pemberton left the meeting at 7.33pm prior to consideration of the following item.

**SGS1207-6 HILTON HARVEST - COUNT ME IN INCLUSION GRANT ACCEPTANCE**

- **DataWorks Reference:** 023/002
- **Disclosure of Interest:** Nil
- **Meeting Date:** 11 July 2012
- **Previous Item:** Nil
- **Responsible Officer:** Peter Pikor, Director Technical Services
- **Actioning Officer:** Philip Gale, Manager Infrastructure Services
- **Decision Making Authority:** Council
- **Agenda Attachments:** Nil

**EXECUTIVE SUMMARY**

The City of Fremantle in partnership with the Hilton Harvest Community Garden Project successfully applied for $50,000 under the Count Me In Inclusion Grants. The project period is two years commencing in July 2012. The City will be responsible for initiating a steering committee and employing a project officer to implement the project.

**BACKGROUND**

The Count Me In Inclusion Grants are provided to Local Government Authorities (LGAs) by the Disability Services Commission to develop projects which focus on people with disability being welcomed and included in activities, clubs, events, employment and learning in their local communities.

The Inclusion Grants follow a four stage process which is implemented over a two year period commencing in July 2012. The City of Fremantle was approached by a local Hilton Harvest Community Garden group in March 2012 to consider submitting an application for funding to support increased access to the community garden through developing community initiatives and improving physical access.

The Hilton Harvest Community Garden project provides a forum for interaction between all sectors of the community, facilitating sharing of knowledge and strengthening of community cohesion. It was initiated in 2009 by a group of Hilton residents in conjunction with the City of Fremantle’s Community Development and Technical Services Directorates.

The funding proposal was successful and a total grant amount of $50,000 has been awarded to the City to deliver the project between 1st July 2012 and 30th June 2014.
COMMENT

The successful project ‘Hilton Harvest Community Garden’ project will involve encouraging new members to join drawing on the diversity of the community. The project will target Aboriginal Elders to establish a bush tucker garden element and will work closely with disability networks to attract more people with a disability.

As part of a staged approach to the delivery of the project the next steps involve creating a steering committee to be comprised of people with a disability from different backgrounds i.e. living with family and independent living along with other community members.

Initially the steering committee will undertake planning and consultation to further refine and develop the Hilton Harvest group’s original concept which includes the following elements:

- Development of a sensory garden, performance space and pathways
- Training, education and employment workshops in horticultural therapy and garden creation and maintenance
- Community ownership of garden beds

The proposal includes the employment of a temporary part-time project officer who will be responsible for the overall coordination of the project activities and reporting. The project officer will work closely with the steering committee and the project manager to ensure the outcomes of the project are achieved to the desired quality standards.

The final stage of the project involves showcasing the project outcomes and celebrating the achievements.

RISK AND OTHER IMPLICATIONS

Financial
The project is funded through an external grant. The City contribution is in officer time.

Legal
Nil

Operational
The project initially will require significant officer time to establish the committee and employ the project officer which was not an anticipated resource need.

Organisational
While one element of the project is around increasing physical access for people with a disability the majority of the outcomes relate to community development. There may be benefits for the project to be managed in partnership with the Community Development Directorate given the focus on inclusion and engaging broadly with the local community not only people with a disability.
CONCLUSION

The City successfully applied for a $50,000 grant to implement the Hilton Harvest Community Garden project. The project relies heavily on the willingness and motivation of the Hilton Harvest group to deliver on what they have put forward in the proposal. The City has already received the grant from the Disability Services Commission and the project is ready to commence in July 2012.

STRATEGIC AND POLICY IMPLICATIONS

- Urban Renewal & Integration
- Climate Change & Environmental Protection
- Community & Safety

COMMUNITY ENGAGEMENT

The Hilton Harvest group have undertaken preliminary consultation with key stakeholders from the Disability Services sector, other local agencies such as the Dept. Health and local community members, artists and the Fremantle Men’s Shed.

VOTING AND OTHER SPECIAL REQUIREMENTS

Nil

COUNCIL DECISION

MOVED: Cr J Strachan

That Council notes the information of the successful 'Count Me In' Inclusion Grant.

SECONDED: Cr D Hume

CARRIED: 12/0

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Cr R Pemberton returned to the meeting at 7.34pm.

SGS1207-8   INFRASTRUCTURE STREETSCAPE PROGRAMME - UPDATE FOR VERGE MOWING ALTERNATIVES STRATEGIES

DataWorks Reference: 045/009
Disclosure of Interest: Nil
Meeting Date: 11 July 2012
Previous Item: SGS1105-5
Responsible Officer: Peter Pikor, Director Technical Services
Actioning Officer: Lionel Nicholson, Manager City Works
Decision Making Authority: Council
Agenda Attachments: Attachment 1 - Verge Mowing Maps
                    Attachment 2 - Schedule of unsafe verges
                    Attachment 3 - Simple costing models

EXECUTIVE SUMMARY

This report provides a progress update on the implementation of the revised verge mowing program for residential properties. It is considered that the revised service level continue and funds be reallocated to improving verges on main roads and increased promotion of the water wise verges program. It is proposed that the savings from the revised verge mowing program will be allocated to specific major verge enhancement projects (approximately 70%) and verge beautification (approximately 30%), however verges that pose safety issues will still be addressed by the City.

The issue of addressing the unkempt verges of approximately 1,200 properties is complex and other metropolitan local governments do not service this gap for those residents who do not maintain the verge.

It is proposed an optional fee for a mowing service be offered to owners who do not maintain the verge and in those instances where pensioners and persons with physical disabilities have limited means to maintain the verge, the service be subsidised by the City.

BACKGROUND

At the Council meeting in May 2011 it was resolved to phase down the residential mowing service over two financial years providing only one programmed round of verge mowing in 2011/12 and the City allocate savings from the reduction in the verge mowing to improve major road presentation and increase water wise verge beautification support for residents.

At the Council meeting in July 2011, a Notice of Motion resolved that City officers develop a strategy in consultation with Councillors and interested members of the community to help residents who are unable to maintain the verges in front of their properties. It was also resolved that an approximate allocation of funds between the road improvement program and residential assistance be provided.
As part of the phasing out of the residential verge mowing service, the local community has been provided with advice on water wise verge beautification encouraging the establishment of sustainable gardens and the supply of mulch from the operations centre on four occasions per annum at no charge. The continued supply of mulch sourced from the City’s own tree operations will continue to be made available at no cost if collected by residents from the operations centre up to four times a year, if stockpiles allow.

This report provides an update on the implementation of the revised verge mowing program.

**Implementation**

The communication plan advising residents of the changes to verge mowing and the City’s Verge Beautification Program involved;

- Media release and notification of changes on website (commenced 9 September 2011) as well as helpful information on how the City can assist residents to maintain their verge.
- Booklets – hard copy at Town Hall, Precincts, the Meeting Place and downloadable online. These have been available since early September 2011. The booklets also distributed to attendees at the Healthy Lifestyle Expo and the other Verge Maintenance Workshops.
- Audits – Conducted in September 2011 and March 2012 in order to indentify number and location of unkempt verges (this was determined as any weeds or grass over 300mm high), with another audit currently underway and data being reviewed.
- Letter drops - directly targeting properties considered to have unkempt verges were carried out in 29 September 2011 and 2 April 2012.
- Practical Workshops - with residents at The Meeting Place (Verging on Inspiration held 10 March 2012), workshops with Beyond Gardens with residents at Town Hall (held 28 March 2012), consultative workshops with residents and Elected Members at Town Hall (held 13 March 2012) for the purposes of developing a community driven strategy.
- Ongoing City assistance with mulch and plants – regular free mulch pick up days and the City providing vouchers for half price native plants.

The Verge Beautification Program has involved requests for assistance with some 100 residents purchasing half price plants and almost 50 residents receiving vouchers for free mulch.

**COMMENT**

Audits of street verges in Fremantle indicate the majority of the community (approximately 80%) maintain the verges fronting onto their properties to a high standard.

Significant progress has been achieved in addressing the recommended actions associated with the reallocation of resources to verge treatments across the road classes and demographic profiles of the City.

More specifically, an update on the actions of the Council resolution is provided as follows;
1. Approves the phasing down of residential verge mowing over two financial years, providing only one programmed round of verge mowing in 2011/12.
   The City’s employed contractors commenced their final cut of residential verges in October 2011 and completed the program in January 2012.

2. Continue the verge management programme on main arterial and collector roads and corner properties
   The City’s contractors continue mowing and chemical free weed spraying along the arterial and collector roads (including corner properties). This program allows for five mows, or cuts, per year and includes mowing corner properties.

3. Officers provide a map of locations as per item 2 above.
   Maps are provided as shown on Attachment 1 and were last updated in May 2012. New additions are included in the operating schedule.

4. The City allocate savings from the reduction in the verge mowing programme as follows;
   a) The majority of the saving towards major arterial and collector roads as per item 2 above,
   b) The balance of the savings towards the residential verge mulching and planting programme.
   The City has a budget of approximately $350,000 to deliver the verge mowing service. Current expenditure during the 2011/12 year was allocated as follows;

   - $155,000 for main roads as shown on attached maps;
   - $107,500 for the final residential treatment;
   - $75,000 for three cuts to those areas identified on the unsafe verges schedule, which included much of the O’Connor industrial area and;
   - $12,500 for verge beautification program and mulch replacement on the City’s arterial roads.

   Mulch was made available for collection from the operations centre at no cost to residents, provided their verges were prepared in accordance the City’s requirements. By continuing this program, it is estimated that 70% of the savings can be available for main road verge beautification works and that residential verge beautification works will receive approximately 30% of the savings, however the increasing cost of the unsafe verges schedule will reduce capacity to improve services.

   It is noted that the City is mowing the verges in the O’Connor industrial area and consideration can be given for this service to be phased down similar to the residential program and to adopt the same strategies.
5. **Council to develop a strategy to ensure unsafe verges are maintained.**

A schedule of unsafe verges was established and lists those verges with safety concerns including sight line issues and fire hazards that come to the City’s attention by routine inspections by officers or resident’s notification (refer to Attachment 2). The schedule of unsafe verges is regularly maintained and updated and now equals 120 residences with the expectation of ongoing increases.

Also the City has increased advertising of its verge beautification program as included in item 6 below to create greater public awareness and a larger sales volume of the subsidised plants from APACE were realised.

6. **The City implements a communication plan informing affected residential property owners / residents of the phased changes to the residential verge mowing program and provides guidance on alternative verge treatments and initiatives that are available to establish water wise verges.**

A copy of the City’s Communication Plan is attached for ease of reference (Attachment 3). It details the actions taken to provide accurate information to the residents and ratepayers of Fremantle about the changes to the verge mowing program. The communication plan includes advertising in the local newspapers and the City’s webpage as well as the production of a verge beautification booklet which is available as hard copy from various locations or downloadable from the City’s website.

Alongside these actions, the City also undertook two letter drops to approximately 1,600 residences that had unkempt verges highlighting its verge beautification program. The Department of Housing was also approached to determine options for cooperation in addressing the verge issues adjacent to their properties. Whilst the Department of Housing was not receptive to looking after the verge for individual properties, it does maintain areas that has group or cluster housing.

Along with the City’s communication plan, the City also supplied the verge beautification booklets to the Precinct Groups, Freospace and on the City’s web page for download. The City has also arranged workshops through The Meeting Place. Further to this is the consideration for a ‘Best Street’ campaign and good news stories from Precinct Groups.
7. **Develop a strategy to engage with neighbours, community and not for profit groups to assist residents to manage their street verges where they are unable to.**

Developing strategies to assist a minority group who are unable or choose not to maintain the verge is a complex issue and a scan of the metropolitan local government sector indicates that none address this gap.

Recent audits indicate 1,200 properties (approximately 15% of verges) in Fremantle fall into this category with the majority found in the areas with larger than average verges.

A workshop was held in March 2012 with Councillors and interested members of the community to consider ideas for assisting those residents who are unable to maintain their verge. Unfortunately there was a low attendance from the targeted invited parties and precincts representatives who were considered to be able to offer support to manage street verges. The workshop did not yield the expected outcomes and most present raised issues such as parking or damage / alternatives approved to existing maintained verges.

However from the discussions on developing strategies to help residents who are unable to maintain their verges the following suggestions have being put forward:

- **Engaging Not for profit organisations**
  One local and two metropolitan based not for profit organisations have been approached on the feasibility of carrying out a verge mowing service. Currently, none of the organisations have a team operational on the ground, however if the City acquired the necessary equipment these agencies would assist with the placement of staffing resources. A productivity assessment would be carried out on a candidate’s ability versus ordinary performance and a pro rata rate of pay can be negotiated. Due to the independent nature of the verge mowing activity, monitoring performance and quality of workmanship would require a dedicated supervisor, however it is considered that this type of organisation maybe be able to provide resources to assist the Parks and Landscape teams with its overall activities which can then free up existing in-house resources to assist with the verge mowing program. In this regard, the allocation of funding for initially two additional resources from a not for profit or similar organisation can be listed for consideration in the 2012/13 draft budget.

- **Optional Fee for Service**
  An option to address the unkempt verges would be to introduce an optimal fee for service offering a minimum of four mows per annum to residential properties for residents who were unable to maintain their verges.
Whilst residents who are frail aged or disabled may be eligible for assistance with home maintenance or other support through the Home and Community Care programme or Department of Veterans Affairs, consideration would be given to providing a service with maximum subsidy for those in dire need.

The City ceased mowing of residential verges using in-house resources several years ago and tendered the services out to contract. Should the service be established, it would be logical to engage a contractor to undertake the work. An estimate of the likely fee for a contractor is shown on Attachment 3.

This fee can be included in the Fees and Charges Schedule for consideration in the 2012/13 draft budget.

In terms of economies of scale, the least expensive model is the owner carrying out the verge maintenance.

The City has a complex challenge attempting to assist 15 - 20 % of residents who do not maintain their verges. Any surplus of funds and benefits for the larger community from discontinuing the residential verge mowing will be consumed by trying to provide a subsidised service to these residents.

A factor contributing to the issue is the higher than average number of unkempt verges in the Hilton and White Gum Valley area if further measures are required.

Whilst local not for profit organisations are willing to assist with the placing of staff with disabilities in sustainable, open and long term employment, the criteria of these placements can conflict with operational constraints. The City would have to enter into bona-fide employment contracts, provide the capital for acquiring the required plant and equipment, and reinstate a service that was outsourced several years ago.

A consideration would be the potential amalgamations with neighbouring local governments and aligning services to be uniformly and equitably distributed.

At present, the City has not identified a more cost effective alternative (to the majority of homeowners who undertake maintaining their verge) of assisting the minority maintain their verges other than subsidising the cost for those who are unable to do so.

The City should continue to monitor the unkempt verges as an indicator of the community’s participation rate in maintaining its verges, and mow those verges identified as unsafe due to sight line issues or fire hazard.
RISK AND OTHER IMPLICATIONS

Financial
The current budget for verge mowing throughout the city is $350,000. The mowing of verges on main roads and the City’s arterial and collector roads now costs $180,000 with the mowing of unsafe verges costing $90,000. This currently allows for the savings of $80,000 to be allocated to major arterial / collector roads and residential verge mulching and planting programme. It is proposed for this year that of this amount $24,000 be allocated for residential verge beautification projects and $56,000 to be used on the main road and gateway verge beautification projects.

Legal
The City must address its obligations to Main Roads WA verges and is responsible for the care, control and management of the road reserve.

Operational
The current mowing of residential verges service is contracted out. This contract allows for mowing of the City’s main roads five times per year. Verges identified by the City as 'unsafe' will be mowed as part of this service.

Organisational
Nil.

CONCLUSION
The City will continue to encourage the owners and occupiers of residential properties that the verge beautification and maintenance responsibility is met by them, in accordance with the City’s existing guidelines and initiatives.

The City will maintain the verges on major roads to a high standard, presenting a positive image and any opportunities to improve the existing entries will be pursued. By providing encouragement and support for residents to beautify their verge, budget savings can be redirected resulting in more of the City benefiting from the positive image.

STRATEGIC AND POLICY IMPLICATIONS

Urban Renewal and Integration
Climate Change and Environmental Protection

COMMUNITY ENGAGEMENT
Public consultation has been undertaken on the changes to the verge mowing program by way of advertising in the local newspapers and the City’s webpage as well as the production of a verge beautification booklet. The City also notified the Department of Housing about the changes to the verge mowing program and the addresses affected.
VOTING AND OTHER SPECIAL REQUIREMENTS
Simple Majority Required

COUNCIL DECISION

MOVED: Cr J Strachan

That Council;

1. Continues with the revised program of only mowing main roads, collector roads, corner properties and verges with identified safety issues.

2. Considers an optional fee for service for mowing of residential verges as part of the 2012/13 draft budget with a subsidised service for those pensioners and persons with limited means to maintain the verge adjacent to their properties.

3. Continues to promote its Waterwise Verge Improvement Program and sustainability benefits of alternative verge treatments to owners and residents.

4. Considers the engagement of additional resources from a not for profit or similar organisation to assist the Parks and Landscape team with its works activities and mowing program as part of the 2012/13 draft budget.

5. Approves the phasing down of industrial property verge mowing providing only one programmed round of verge mowing in 2012/13.

SECONDED: Cr D Hume

CARRIED: 12/1

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MOTIONS OF WHICH NOTICE HAS BEEN GIVEN
Nil

REPORTS BY THE MAYOR OR OFFICERS OF COUNCIL

Mayor, Brad Pettitt MOVED en bloc recommendations C-1207-1, C1207-3 and C1207-4.

SECONDED: Cr D Coggin

CARRIED: 13/0

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STATUTORY COUNCIL ITEMS
The following item number C1207-1 was MOVED and carried en bloc earlier in the meeting.

C1207-1 MONTHLY FINANCIAL REPORT - JUNE 2012

DataWorks Reference: 087/002
Disclosure of Interest: Nil
Meeting Date: 25 July 2012
Previous Item: C1206-1 of 27 June 2012
Responsible Officer: Glen Dougall, Director Corporate Services
Actioning Officer: Alan Carmichael, Manager Finance & Administration
Decision Making Authority: Council
Agenda Attachments:
2. Statement of Financial Position to 30 June 2012
3. Determination of Closing Funds (Net Current Assets) to 30 June 2012
4. Payment Report for June 2012
5. Schedule of Accounts Paid June 2012
6. Investment Report to 30 June 2012
7. Debtors Outstanding as at 30 June 2012

EXECUTIVE SUMMARY

This report reflects the financial position to 30 June 2012. The City adopted its Annual Budget on 14 July 2011 with an estimated municipal surplus of $100,000. After the midyear budget review presented to Council on 28 March 2012 the municipal budget surplus was revised to $829,319.

This report highlights any issues post budget review that may impact on the financial position to 30 June 2012 and the opening funds for the 2012/2013 Budget. The Budget review has generally resolved issues, however some areas are still to be monitored until year end to ensure commitments are adhered to.

The Statement of Financial Position and Statement of Financial Activity report the position at mid July 2012 when the reports were prepared. With the continuing work to finalise the 30 June 2012 financial statements some of the figures in the statements will change as a result of end of financial processes and actions.

BACKGROUND

The 2011/12 Budget was adopted on 14 July 2011 with an estimated municipal cash surplus of $100,000. After consideration and adoption of the midyear budget review at the Council Meeting of 28 March 2012, the municipal surplus had increased to $829,618.

The Council at its meeting on Wednesday 27 July 2011 (Item SGS1107-6) adopted nature and type as the preferred reporting format and 2.5% with a threshold of $200,000 as the level for explanation of variances.
The Council meeting of 28 March, 2012, (C1203-2) adopted the changes from the mid-year budget review with a revised surplus of $829,319.

COMMENT

As has already been noted under the executive summary, this report relates to the month which finishes the financial year therefore detailed comments have not been provided. However the May 2012 Monthly Financial Report comments are still relevant along with carry forward projects and other information that will form part of the 2012/2013 Budget.

RISK AND OTHER IMPLICATIONS

Financial
This report is provided to enable council to keep track of how the allocation of costs is tracking against the budget. It is also provided to identify any issues against budget which council should be informed of.

Legal


Operational
This report is provided to council to keep track of the operational issues affecting the implementation of projects and activities provided for under the 2011/12 adopted budget by reporting actual revenue and expenditure against budget.

Organisational
No direct impact but results year to date may highlight matters that have arisen or may need to be addressed in the future.

CONCLUSION

The financial statements as attached are received.

STRATEGIC AND POLICY IMPLICATIONS

Nil.

COMMUNITY ENGAGEMENT

Nil.
VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

The City of Fremantle Financial Report for the period ended 30 June, 2012 is received.

SECONDED: Cr D Coggin

CARRIED: 13/0

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COUNCIL ITEMS

The following item number C1207-3 was MOVED and carried en bloc earlier in the meeting.

C1207-3  STRATEGIC PLAN PROGRESS REPORT - JUNE 2012

DataWorks Reference: 030/017
Disclosure of Interest: Nil
Meeting Date: 25 July 2012
Previous Item: C1206-5
Responsible Officer: Graeme Mackenzie, Chief Executive Officer
Actioning Officer: Glen Dougall, Director Corporate Services
Decision Making Authority: Council
Agenda Attachments: Strategic Plan Progress Report for June 2012 (under separate cover)

EXECUTIVE SUMMARY

Council adopted its current strategic plan in June 2010 and reviewed these priorities in February 2011. One of the key projects of the plan was to commence a reporting regime that informed the council and community of progress against the achievements of the plan.

The report format shows in graph form the target and actual completion of percentages cumulatively each month, the planned commencement and completion dates, and a comment from the responsible director for each project. The report also has easy to read indicators for each project and summary indicators showing overall progress against each of the strategic imperative areas from the plan.

The report ensures the City remains focused on its strategic imperatives. The report is provided for information and discussion as appropriate.

BACKGROUND

Council adopted its current strategic plan in June 2010, with a review in February 2011 as part of an annual process of review. The plan contains seven 'strategic imperative areas' within which there are a number of projects that the council determined were priority projects to achieve the outcomes it sought in each of these strategic areas.

One of the strategic areas is organisational capability. The focus of this area is to ensure the City is capable of delivering the outcomes identified in the plan within the expected timeframes. A key part of that is to ensure that progress on these projects within the strategies are regularly monitored and reported on by officers and overseen by council to ensure the focus is maintained.
COMMENT

Projects which are less than 40% of their target progress are commented below:-

1.1.1.4 - Introduce performance review of council decision making processes and structures
A literature review has commenced in relation to corporate governance and board performance assessment.

1.2.1.6 - Participate in at least one new resource sharing initiative in partnership with other local governments in the South West region
Currently meeting through South West Group Shared Services Committee. Have recently completed banking benchmark exercise which saved CoF $26,000 in annual bank fees. Have commenced review of insurance policies and expect this to be completed by August 2012.

7.3.1.3 - Develop joint approach to developing west end and Victoria Quay
Following early discussions with Fremantle Ports the emphasis for the planning for Victoria Quay has shifted to the eastern area (commercial precinct). This project will be implemented through the auspices of the Fremantle Union.

7.3.1.6 - Examine scheme provisions to encourage re-development of North Fremantle Town Centre
Only preliminary consideration of possible approach to project to date, due to resources being focused on higher priority projects such as City Centre Strategic Sites planning scheme amendment.

7.3.1.7 - Streetscape enhancement plan for Hilton Village
This project is no longer considered a priority for 2012.

7.3.1.8 - Finalise structure planning with Landcorp for the Swanbourne Structure plan area
Preliminary discussions held with LandCorp and developer partner in October 2011 regarding key issues for them to address in undertaking further structure plan preparation work. Timetable for further work regulated by contractual arrangements between LandCorp and developer partner - outside City’s control. Action needs rescheduling to 2012-13.

RISK AND OTHER IMPLICATIONS

Financial
Nil.

Legal
Local Governments are required to develop and maintain a strategic plan (for the moment known as a plan for the future).
Operational
Further development of the internal systems is being undertaken to ensure proper alignment with the local government reform agenda and reporting of progress for strategic projects.

Organisational
The whole organisation is involved in the delivery of the strategic plan. Organisational capacity and focus on achievement is recognised as a critical success factor in the plan. Reporting against progress on projects the council has identified as priorities is critical in sustaining the focus and reviewing capacity along the way.

CONCLUSION
The City of Fremantle Strategic Plan progress report for June 2012 is noted.

STRATEGIC AND POLICY IMPLICATIONS
As discussed within this report.

COMMUNITY ENGAGEMENT
Nil.

VOTING AND OTHER SPECIAL REQUIREMENTS
Simple Majority Required
COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

That Council receive the City of Fremantle Strategic Plan Progress Report for June 2012.

SECONDED: Cr D Coggin

CARRIED: 13/0

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The following item number C1207-4 was MOVED and carried en bloc earlier in the meeting.

C1207-4 INFORMATION REPORT - JULY 2012

ACCEPTANCE OF TENDER FOR VERGE MOWING

DataWorks Reference: 039/073
Author: Glen Dougall, Director Corporate Services
Agenda Attachments: Nil

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for the amount of $486625.95 Inc Gst to be awarded to Turfmaster Facility Management Pty Ltd.

The MPAP is comprised of the Director Corporate Services, the Director Community Development, the Director Technical Services and the Director Planning and Development Services or their delegate (the delegate must be an operational manager not involved as a requestor or evaluator) and one operational Manager or Coordinator who is independent to the area from which the contract or tender relates.

QUARTERLY PROJECTS REPORT

DataWorks Reference: 030/012
Author: Peter Pikor, Director Technical Services
Agenda Attachments: Attachment 1 - Capital works progress report - 4th quarter

Please refer to attachment 1 for an update on the projects that the City is undertaking for information.
COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

The information report for July 2012 be received.

SECONDED: Cr D Coggin

CARRIED: 13/0

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EXECUTIVE SUMMARY

Each year, the City is invited to submit for consideration projects qualifying for Nation Building and State Black Spot Funding. The closing date for submissions for the 2012/13 Nation Building and State Black Spot Programs was in July 2011 and advice of the successful projects funded was provided in early 2012.

In this round of the State Black Spot Program the City of Fremantle has been allocated two thirds of the funding for the removal of Traffic Signals at the Queen Victoria Street / Parry Street and Adelaide Street intersection with replacement of a roundabout treatment. Funding has also been allocated for advance design works for the proposed removal of the traffic signals at the High Street / Parry Street intersection with replacement of a roundabout to be funded in the next financial year. The City’s contribution to the proposed roundabout treatment at the Queen Victoria Street / Adelaide Street and Parry Street intersection together with the Douro Road and South Terrace roundabout modifications is required to be allocated in its 2012/13 Budget.

At its meeting of 28 March 2012, Council resolved to defer consideration in more detail the proposed installation of roundabouts at the Queen Victoria Street / Parry Street intersection and at the High Street / Parry Street Intersection. Concerns have been raised in particular on the implications for cyclists’ movements at these proposed roundabout treatments and also how they relate to the City’s urban streetscape.

BACKGROUND

The National and State Road Safety Black Spot Program is a Commonwealth and State Government initiative administered by Main Roads Western Australia (MRWA). The program targets road locations where crashes are occurring and aims to fund cost effective, safety oriented projects by focusing on locations where the highest safety benefits and crash reductions can be achieved.

All submissions are considered on their merits and evaluated against the criteria set by the Australian Transport Safety Bureau (ATSB). Separate criteria apply for the Nation Building Black Spot Program and its State counterpart.
MRWA collects all data relating to road crashes and has developed two lists relating to eligible projects within each local government i.e. Nation Building Black Spot list and State Black Spot list.

Not all crashes can be resolved by engineering means. The project list has been developed using familiar and successful treatments for reducing crashes.

The criteria used in the assessment to determine the Benefit/Cost Ratio (BCR) are:
- crashes for the 5 year period 2006 to 2010 inclusive for qualifying audits;
- crash costs based on crash type cost, not crash severity costs; and
- all capital costs, including contributions by others, and ongoing maintenance costs.

COMMENT

The schedule of projects has been developed from crash data available to the City. An 'electronic work book' developed by MRWA has been used for the evaluation of the individual sites and the results formed the basis of the submission.

The 'electronic work book' uses crash data and the results obtained from other known treatments to determine the appropriate solution to minimise the incidence of the crash type. The 'benefit to cost ratio' is the probable savings in the incidence of crashes against the capital cost of effecting the improvements.

Based on the set criteria, the intersections have been identified as warranting treatment. Each of the intersections has a record of either rear end, right angle or multiple type crashes. These projects are programmed for completion by June 2013 except for the Parry Street / High Street treatment which is programmed to be completed by June 2014.

The removal of the traffic signals at Parry Street / High Street intersection is proposed as a two stage project with planning and design work occurring in Stage 1 (year 2012/13) and construction occurring in Stage 2 (year 2013/14).

Where an identified project involves a signalised intersection an 'Agreement in Principle' from MRWA has been obtained.
The below table summarises the proposed treatments and costs for the intersections:

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Problem</th>
<th>Proposed Treatment</th>
<th>BCR Score</th>
<th>Approved Black Spot funding</th>
<th>City Fremantle funding contribution 2012/13</th>
<th>Total Project Costs 2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Street / Parry Street</td>
<td>Multiple Accident Types</td>
<td>Install Roundabout</td>
<td>2.95</td>
<td>$80,000 (Stage 1 design)</td>
<td>---</td>
<td>Construction costs in next year</td>
</tr>
<tr>
<td>Queen Victoria Street/Adelaide Street &amp; Parry Street</td>
<td>Multiple Accident Types.</td>
<td>Install Roundabout</td>
<td>1.23</td>
<td>$100,000</td>
<td>$148,500</td>
<td>$248,500</td>
</tr>
<tr>
<td>South Terrace &amp; Duro Road</td>
<td>Rear End Accidents</td>
<td>Install Pre-deflection &amp; anti – skid on Eastern Approach</td>
<td>2.29</td>
<td>$50,000</td>
<td>$39,200</td>
<td>$89,200</td>
</tr>
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</table>

At its meeting of 28 March 2012 Council resolved to defer consideration of the proposed removal of the existing traffic signals at the Queen Victoria Street and High Street intersections with Parry Street and replacement with roundabouts.

**RISK AND OTHER IMPLICATIONS**

**Financial**

As the projects have been allocated funding in the State Black Spot program the City will be required to contribute one third of the project costs.

For the Queen Victoria Street / Adelaide Street and Parry Street project this is $50,000. For the South Terrace and Duro Road project this is $25,000.

The funded cost to undertake the works relates only to the design and construction of the road treatment designed to improve the safety of road users.

Ancillary works such as landscaping, artworks or decorative lighting to enhance the urban streetscape will need to be funded by the Local Authority.

For the proposed projects in this financial year, these additional costs have been calculated and for the Queen Victoria Street / Parry Street intersection is $98,500. The additional cost for South Terrace and Duro Road is $14,200.
This accounts for;

- Landscaping and lighting to the roundabout at Parry and Adelaide Street as this is a major entrance to the City
- The balance of the funding is made up of design overheads and contingency budgets.

**Legal**

Nil

**Operational**

The proposal to remove traffic signals at the High Street / Parry Street and Queen Victoria Street / Adelaide Street and Parry Street intersections are significant traffic management projects. To estimate how these changes will affect traffic flow, an analysis of both intersections during peak hours in the morning and afternoon traffic has been undertaken.

The results of the analysis show that whilst queue lengths on one leg of the Parry Street / High Street intersection will lengthen, the estimated average wait time and levels of service of the remaining approaches remains constant.

The major advantage these changes will deliver will be during non-peak periods with improved traffic flows.

Pedestrian movement at the existing Queen Victoria Street / Parry Street and Adelaide Street intersection layout is potentially hazardous and whilst roundabouts can give concerns for pedestrian movements this intersection will become more defined for walking movements.

Currently the Parry Street / High Street intersection has pedestrian phases on the traffic signals and these will be deleted when the signals are removed, however with the roundabout treatment, the lane widths will be reduced and mid-lane pedestrian refuges will still be provided to ensure safe crossings for pedestrians.

A major concern with roundabouts is the impact on cyclists’ movements at the approach lane deflections and at the roundabout treatment. The City is making efforts to provide for a bike friendly environment and the current design standards results in bike lanes terminating at the entries to the roundabout and provision made for of off road cycling facilities. Suggestions have been made to the MRWA to trial line marking for bicycles on the left turn sweeps of the roundabout lanes. MRWA considers this treatment as unsafe. In this regard MRWA considers as the project is funded under the State Black Spot Program safety criteria has to be met and the standard requirement to allow off road marked cycle paths for inexperienced cyclists is required.

The approach lane deflections are required to control the entry speed of motorists to the roundabout.

**Organisational**

Nil
CONCLUSION

The planned traffic treatments are considered to have a significant impact on vehicle movements around the City. In particular, removal of the sets of traffic signals will see some changes to the traffic flows within the CBD.

The roundabouts will also provide an opportunity to significantly enhance the urban streetscape of both intersections - in particular the Parry Street / Adelaide Street intersection treatment will complement the streetscape works recently completed in Queen Victoria Street. This roundabout treatment will provide the future opportunity to develop the streetscape along Adelaide Street although at this stage firm concepts of the proposal have not been developed or costed.

There are however concerns with how current roundabout designs impact particularly on cyclists and at this stage MRWA supports the standard requirements. Changes to this position will not be resolved in the short term and whilst negotiations will continue with the Department on developing more bicycle friendly strategies for roundabout treatments a consideration is to decline the allocated funding at this time and leave it open to reapply in the future.

With regard to the proposed changes to the approach lane in Douro Road at the South Terrace roundabout, approval will be sought to modify the approved treatment to lessen the impact on cyclists.

STRATEGIC AND POLICY IMPLICATIONS

These projects relate directly to Strategic Imperative 6.1.1 - 'Plan Transport Initiatives'.

COMMUNITY ENGAGEMENT

As these projects relate to road safety issues and are subject to approval by external parties, if approved community engagement will take the form of information and project communication.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required
COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

That Council;

1. Declines the allocated funding from the 2012/13 State Black Spot Program for the;
   a) Queen Victoria Street / Adelaide Street and Parry Street project and
   b) High Street and Parry Street project pending further considerations on bicycle design standards and the urban streetscape associated with the proposed replacement roundabouts.

2. Seeks approval to modify the proposed treatment at Douro Road and South Terrace roundabout funded in the 2012/13 State Black Spot Program and make adjustments to the funding allocation accordingly.

SECONDED: Cr T Grey-Smith

CARIED: 13/0

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Cr T Grey-Smith vacated the chamber at 7.46pm during the following item and returned at 7.48pm prior to determination.
Cr T Grey-Smith vacated the chamber at 7.57pm during the following item and returned at 7.58pm prior to determination.

C1207-5 ADOPTION OF COUNCIL BUDGET 2012/13

DataWorks Reference: 091/014
Disclosure of Interest: Nil
Previous Item: Nil
Responsible Officer: Glen Dougall, Director Corporate Services
Actioning Officer: Glen Dougall, Director Corporate Services
Decision Making Authority: Council
Agenda Attachments: 20012/13 Statutory Budget (to be provided), Notes and Attachments to 2012/13 Budget. Fees and Charges List for 2012/13.

EXECUTIVE SUMMARY

The proposed budget is the culmination of six workshops with elected members and provides a general rate increase of 3.5 percent and minimum rates proposed at $1,050. The three differential rates introduced in 2011/12 remain within this budget, being the Nightclub differential rate, Underutilised CBD rate and residential vacant land rate. The commercial property CBD rate also remains.

The focus of the budget has been to support the strategic initiatives from the Strategic Plan, with an emphasis of providing future funding for key projects to achieve the plans goals.

The total budget expenditure being adopted is $81,542,572 as follows;

<table>
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<tr>
<th>Recurrent/Operating</th>
<th>$66,682,778</th>
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<tr>
<td>Non-recurrent/Capital</td>
<td>$14,859,794</td>
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<td>TOTAL</td>
<td>$81,542,572</td>
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STRATEGIC OVERVIEW

Since 2001, council has achieved significant structural change in its budget through a deliberate strategy designed to provide greater financial capacity to undertake new initiatives, provide key infrastructure and better respond to community needs. The following is summary of the key structural changes and achievements in that time:
• The portion of loan repayments funded from rates has halved;
• The number of full time equivalent staff has reduced from 513 to current amount of 383;
• Asset Management Plans have been completed;
• Expenditure on assets renewal has met benchmarks that ensure there is no additional cost to future ratepayers;
• Identified the asset renewal gap and commenced a review of assets to minimise that renewal gap; and
• Neutralised a differential rate that disadvantaged the commercial sector – a hangover from the time of the Americas Cup defence;

In 2001, the amount of rates and untied grants that was available for expenditure on capital works and new initiatives was only 9%. With the above achievements, that percentage has now increased to average around 30%, providing council with a greater capacity to manage its assets and undertake new initiatives.

This 2012/13 budget has largely been possible due to the earlier work of previous councils as outlined above. That said, this is a very good budget, strongly aligned to the strategic direction the council has set.

Council adopted its new strategic plan a little over two years ago and this has laid very strong foundations for the future economic growth and sustainability of the city. This includes the adoption of an economic development strategy, cultural development strategy, east end planning scheme amendment, scheme amendment 49 and the community safety plan.

The 2012/13 budget builds strongly on these foundations, allocating significant funding to implement important strategies. The budget papers provide further information on those projects and initiatives.

In preparing this budget, council has been keen to minimise rate increases whilst allocating funding for the very important initiatives that support the strategic plan, recognising that this is very much a balancing act. Continued operational efficiencies are included in the budget to assist with this endeavour.

In the coming 12 months, council will be asked to consider and adopt forward estimates, much like the state and commonwealth governments do in their budgets, to provide clear indications of future projects and initiatives intended to be funded to support the strategic plans of the city. This initiative will give the community and future councils a clear indication of the future direction of the City of Fremantle.

BACKGROUND

Each year local governments are required to prepare and adopt an annual budget. Several workshops have been held to review the budget information leading up to the preparation of the attached document, these workshops have viewed the recurrent/operational areas of the budget for each directorate, the capital and non-recurrent projects and new initiatives including detailed capital works programs, loan options and rating options.
COMMENT

General Grants

The Western Australian Local Government Grants Commission has again notified the City that an advance payment of the 2012/13 funding will be provided on the premise of assisting local governments. This year’s funding is $1,020,000.

Rates

Rates and Specified Area Rates

As mentioned above there is a general rate increase of 3.5% applied to this budget. Minimum rates have been increased to $1,050. The differential rate for City Centre Commercial is applied to generate $316,000 above the general rate for the purpose of supporting the new Business Improvement District (BID). The rate income for the budget is broken into the following categories:

<table>
<thead>
<tr>
<th>Rate Category</th>
<th>No of Properties</th>
<th>No of Minimums ($1,014)</th>
<th>Rate in $</th>
<th>Rateable Value $</th>
<th>Interim Rates $</th>
<th>Total Rates $</th>
</tr>
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<tbody>
<tr>
<td>General</td>
<td>13775</td>
<td>4704</td>
<td>0.07018</td>
<td>367,023,542</td>
<td>266,252</td>
<td>26,777,557</td>
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<td>City Centre Commercial</td>
<td>446</td>
<td>49</td>
<td>0.07439</td>
<td>75,575,954</td>
<td></td>
<td>5,636,976</td>
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<td>Vacant Land Residential</td>
<td>458</td>
<td>89</td>
<td>0.13276</td>
<td>8,449,800</td>
<td></td>
<td>1,142,927</td>
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<td>Undeveloped CBD</td>
<td>3</td>
<td></td>
<td>0.14035</td>
<td>605,500</td>
<td></td>
<td>84,988</td>
</tr>
<tr>
<td>Nightclubs</td>
<td>3</td>
<td></td>
<td>0.14036</td>
<td>2,188,367</td>
<td></td>
<td>307,159</td>
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<td><strong>TOTAL</strong></td>
<td><strong>14,473</strong></td>
<td><strong>4947</strong></td>
<td><strong>446,012,873</strong></td>
<td><strong>257,150</strong></td>
<td><strong>32,400,783</strong></td>
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<tr>
<td>Specified (CBD)</td>
<td>1,054</td>
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<td>0.001170</td>
<td>88,858,838</td>
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<td>100,495</td>
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<td>Leighton Precinct</td>
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<td>0.005050</td>
<td>7,373,815</td>
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<td>37,237</td>
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<td>Maintenance</td>
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<td><strong>TOTAL SPECIFIED AREA RATE</strong></td>
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<td><strong>96,232,653</strong></td>
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<td><strong>141,197</strong></td>
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Differential Rate Advertising

In accordance with section 6.36 of the Local Government Act 1995 the City advertised its intention to raise differential rates stating the purpose for each rate. This notice was advertised in the local newspapers from Tuesday 1\textsuperscript{st} May, 2012 with comments being sought until 28\textsuperscript{th} May, 2012. The rates advertised were for a general increase of 3.5%. The actual increase proposed in this budget is 3.5%.

The Act requires local governments to consider any submissions prior to adopting the differential rate. No comments were received.
Late Payment Interest
Interest on late rate payments will be charged at 11.0% calculated on a daily basis. This is estimated to yield $80,000 in the financial year.

Instalment Options
Instalment Options for Payment of Rates
(a) Due dates of instalments will be as follows:
   1st Instalment  2nd October, 2012
   2nd Instalment  3rd December, 2012
   3rd Instalment  4th February, 2013
   4th Instalment  4th April, 2013.

   (b) Interest will be charged on the deferred amount of the rates at 5.5% per annum and calculated on a daily basis. This is estimated to yield $150,000 in the financial year.

   (c) An administration fee of $30 per assessment will be charged to all ratepayers electing to pay by instalments. The administration fee will be recovered over the four instalments and is in addition to the interest charge in (b) above. The administration fee is estimated to yield $131,000 in the financial year.

Service Charges

Underground power connection service charges are not applicable to this financial year, the previous programs ceased at 30th June, 2012.
Recurrent/Operating Budget

City Management

The contribution to the South West Group has been maintained. Council joined this group in 2006. The Group includes the Cities of Melville, Cockburn, Rockingham and Kwinana as well as the Town of East Fremantle. The allocation is $55,000.

In accordance with Council resolution an allocation has been provided to contribute to the Fremantle Business Improvement District for the amount of $316,000. This is provided through a differential rate drawn from commercial properties in the City Centre Zone, Fishing Boat Harbour and Victoria Quay.

Allocation of $65,000 has also been made for the Australia Day “Cracker Show” to be provided by the City. Allowance has been made to seek funding from private sponsors to offset this cost and the City of Cockburn will again be a partner in the 2013 event.

Fees and allowances to Elected Members are unchanged from the previous year as no changes have been made by the Department of Local Government and Regional Development. The allocation provided for communication costs and travel for Elected Members has been continued within this budget in accordance with the current policy. An additional allocation has been included to provide a 100% electric vehicle for the Mayor, which will also be available for other elected members as a pool type vehicle.
Corporate Services

The majority of Information Technology requirements for the City are now managed through lease arrangements within the recurrent budget. The City is now leasing 95% of the equipment it uses for a general term of three to four years.

The budget makes provision for additional short term resources to support the organisation in continuation of the implementation of the Enterprise Resource Plan (ERP). In March 2008 the City signed a contract to renew its local government software systems with the company Technology One. Technology One is an ASX listed company with an international profile. The agreement was accessed via contract provision negotiated by the Western Australian Local Government Association. Stage 1 of the new system went “live” in July 2009 and further stages are now being developed. This project will see the integration of many of our systems and procedures. Provision of $250,000 has been included for this year.

Rates revenue for the year is proposed at $34 million. The ex-gratia payment from Notre Dame University is $75,000. The City will be providing approximately $300,000 in rate concessions for not for profit or community based organisations and the non nightclub use areas of the three nightclubs.

Interest earnings have recovered from the lows encountered after the Global Financial Crisis but have been provided under the view that interest rates will continue to drop over the coming twelve months. No allocation has been made to account for any further decrement in value of equity investments as it is estimated that the market will continue to settle during the next financial year.

Property revenue has been increased marginally this year by $75,000 to take into account recent changes to leases at the Point Street property and the vacancy at 7 Quarry Street. In accordance with the City’s lease agreement an amount of $150,000 will be transferred to a reserve for the Fremantle Markets for consideration of the conservation plan works. An amount of $116,156 will be drawn from this reserve to fund loan repayments for the conservation works undertaken in the previous year.

Parking Revenue remains steady in this budget. This is for all parking for on-street, off-street, Queensgate and Point Street. The corresponding expenditure provisions for carparks leased by the City have also been increased to allow for the sharing of revenue under the lease agreements.

The budget allows for the transfer of the parking revenue of $500,000 into the parking reserve which is less than the amount in accordance with council policy. This reserve allows for future parking initiatives including the replacement of capital equipment and to mitigate the risk of parking revenue downturns. This decrease is reflective of the same allocation made in the previous year. It is considered that the current reserve funds should be sufficient for any downturn in parking fees in any single year.

Revenues have been increased marginally compared to previous year levels for parking enforcement in accordance with actual revenues the previous year.
This budget still provides for the Community Safety Liaison Officers to be provided by external contractors. The City is planning to review this situation prior to December with the intention to consider bringing this service in-house.

**Community Development**

Various grants are being accessed from Disability Services, Community Services, Lotteries, Community Development and other government agencies to provide or support the provision of community services or community development activities during the year.

The Kings Square activities allocation is provided for under Culture and Recreation. This year further funding has been provided to continue the improvements to encourage activation in the square.

Allocations have been made for the Fremantle, Wardanji, Street Arts, Heritage, and Music Festivals as well as the Children’s Fiesta. Fremantle Festival has an increase of $40,000 on last year, Street Arts has also increased by $25,000 and the music Festival has doubled in budget to $80,000.

Fremantle Community Legal Centre continues to receive grant funds to support its operation. Services provided here are generally supported by several different grants.

The Fremantle Arts Centre is supported by a state grant of $671,000. The Centre has grown in the provision of events and adult education programs over the last few years and continues to do well in these areas. The provision in this area also includes the budget for Moores building activities.

Fremantle Leisure Centre revenues continued to grow last year, a trend over several years. Revenue accounts have been increased to reflect this trend. Increases in utility costs in gas and electricity have seen increases in the operational costs of this facility. Costs have also been increased to allow for equipment leases in the gym and labour costs to support the activities being offered.

The Library has an agreement with the Town of East Fremantle where they contribute $210,000 to its operations. The City of Fremantle provides free street parking, similar to the resident parking permits, for East Fremantle library members.
Planning Services

Allocations have been included to continue the work on the transit corridor and provision of $30,000 is also included for payments to the members of the Design Advisory Panel.

Building and planning fee revenues have been flat since the onset of the global financial crisis and this trend is expected to continue over the next twelve months. Allocations this year are higher than last year actual results, but only marginally.

Legal expenses continue to increase in these areas due to SAT appeals. The legal budget for planning has been separated into planning and compliance to provide greater understanding of how the legal costs are being applied. Planning Heritage assessment advice has been growing exponentially in the past so this year the City is providing an option to employee a full time staff member to support this need.

The carbon neutral funding has continued in the proposed budget. This year sees the introduction of the Carbon Reserve with 0.9% of rates ($300,000) being allocated to this reserve in accordance with the Low Carbon City Plan adopted in October, 2011. This is on top of the usual allocation to operating of $100,000.

Technical Services

The allocation for the Fremantle City Centre Transit (CAT) bus has been increased to $650,000 towards 50% of the total cost shared with state government.

An additional $107,000 has been added to the Parks allocation to allow for two new positions to support a relationship being commenced with local company SMP for the provision of employment support for people living with various disabilities. The City will be handed responsibility for the Leighton Beach parklands later this year and extra costs associated with the maintenance of this park have also been added.

Domestic waste management costs have increased by approximately $280,000 from last year. This includes an increase in the gate fee for SMRC from $194.50 per tonne to $204.50 per tonne and a greater share of the administration allocation with the departure of the City of Rockingham. The new recycling plant at the SMRC is due to open late July with the gate fee provided at half the rate of the previous contract at approximately $40 per tonne.

The City has also made provision to increase the bulk waste collection program to allow for greater opportunity for residents to take part in this program.
Operating Grants

Operating Grants have increased by $306,000 on last year, an increase of 6.4%. Main increases have been for funding from Commonwealth Grants Commission ($326,000), HACC ($53,000), legal Centre ($65,000) and a decrease for the Arts Centre ($236,000) of a specific exhibition grant.

![Operating Grants and Subsidies Comparison](image)

Staff Costs

Staffing costs have increased by approximately $2,350,000 in the proposed budget. These increases can be attributed to the following:

- Enterprise Agreement: $1,150,000
- Leave Accrual adjustment: $480,000
- 2 x Parks (SPM): $107,000
- Overtime for Waste (not provided in 2011/12): $265,000
- Heritage Project Officer (transferred from consulting): $85,000
- Increase to Casual at FLC: $70,000
- Tutors at Art Centre (correction from 2011/12): $40,000
- Increase to FCLC from Grant: $23,000
- Change to Warawee Callout: $22,000
- Admin Visitor Centre (P/T): $25,000
- Casual for Visitor Centre: $15,000
- Customer Service Centre (increased hours to improve coverage): $35,000

**TOTAL:** $2,367,000
Interest Expense on Loans

The loans for the underground power program have finished as well as the loan for street vision program and blue print programs, therefore decreasing this allocation for 2012/13 by $68,000.

Utilities

These costs have increased by $260,000 on last year. This is mainly due to power increases of approximately 9% and a $100,000 increase in water allocation for the new Leighton Beach Parklands which the City takes control of in September, 2012.

There is also an adjustment between electricity and gas costs due to an incorrect allocation last year.

Below is a comparison graph of utility costs over the past three years;
Insurance

Insurance costs have increased by $65,000 for 2012/13. The main increases here are for Workers Compensation and public liability insurance.

Trend as below;
Operating Revenue

In summary operating revenue, excluding rates, has increased by more than $1.5 million dollars as shown below:

<table>
<thead>
<tr>
<th>Insurance Break-up</th>
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</thead>
<tbody>
<tr>
<td>Property</td>
</tr>
<tr>
<td>$50,000</td>
</tr>
<tr>
<td>$300,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Revenue Comparison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rates</td>
</tr>
<tr>
<td>$32,539</td>
</tr>
<tr>
<td>$34,090</td>
</tr>
<tr>
<td>2011/12</td>
</tr>
</tbody>
</table>

Minutes - Ordinary Meeting of Council
25 July 2012
Non-recurrent/Capital Budget

The total capital and/or project budget is approximately $14,850,000. Grants and contributions amount to around $2,100,000, there is a total of $3,221,000 coming from reserves, $2,050,000 coming from new loans with the balance coming from municipal and other sources.

A copy of the Capital budget schedules is included with and attached to the budget.

Schedule One – Roads & Streets

This capital program provides a total expenditure of approximately $3,600,000. Approximately $3,000,000 of this program is for the annual road and traffic management program. $420,000 is allocated for the Bike Plan. The annual street vision program allocation is $260,000. $755,000 grant from Main Roads for road programs, $95,000 for Bike Plan works and a loan of $650,000 make up the funding streams for these activities.

Schedule Two – Footpaths

The Footpath program for 2012/13 is $313,000. This is made up of new funding of. A complete breakdown of projects is included with the attachments to the budget papers. These projects are to be funded by way of a loan.

Schedule Three - Drainage

The annual drainage program is being maintained at previous year levels of $410,000. Project works are included within the budget paper attachments.
Schedule Four – Parks and Reserves

An allocation of $2,840,000 has been provided for new works for 2012/13. Some of the new works include $350,000 for eco-zoning at Fremantle Park, $150,000 for reticulation upgrades at Hilton Park, $300,000 is included for Boo Park Decontamination and $600,000 for the development of a regional skate park at Esplanade Park.

Schedule Five – Infrastructure Buildings

An allocation of $5,300,000 is provided for in this area. The significant allocation to this area is the re-development of Leighton Beach Parkland for $620,000, completion of South Beach Toilet upgrade, new Leighton Beach Kiosk for $1,100,000, Fremantle Markets conservation works for $400,000, Co-generation for the heating of the Leisure Centre pools for $1,200,000, various other toilet upgrades for approximately $200,000, and replace the roof to the Film and Television Institute building for $600,000. This is supported by reserve transfers of $1,951,000.

Schedule Six – Freehold Land & Buildings

There is a $1,100,000 allocation for the provision of several projects. The Administration building has several projects amounting to $500,000 including Solar Panels to the building. The other significant project is an upgrade to the internal fit-out of Victoria Hall to provide wall curtains and air-displacement to the value of $400,000.

The sump on O’Hara Street which was reclaimed in 2007 in conjunction with a water harvesting project will complete its subdivision in the comings months and has been identified for sale. The subdivision will see the creation of two residential properties.

Schedule Seven – Investment Land & Buildings

The main project in this schedule is the allocation of $125,000 towards various commercial property upgrades.

New Loans

Loan funds will be drawn to support the following projects;

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Asset Program</td>
<td>$650,000</td>
</tr>
<tr>
<td>Victoria Hall upgrade</td>
<td>$150,000</td>
</tr>
<tr>
<td>Administration HVAC</td>
<td>$150,000</td>
</tr>
<tr>
<td>Leighton Beach Kiosk</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$2,050,000</td>
</tr>
</tbody>
</table>

Reserve Transfers

The following reserve fund transfers are proposed with the budget presented for adoption;
Investment Reserve

The 2012/13 Budget will break up the investment surplus funds for council to begin the process of allocating funding into the various strategic projects planned over the next ten years.

As a consequence the surplus funding will be divided into the following new reserves;

Leisure Centre Upgrade $ 2,000,000
Fremantle Town Hall Refurbishment $ 2,000,000
Cantonment Hill Master Plan $ 2,000,000
Kings Square Improvements $ 2,000,000
Stan Rielly Re-development $ 2,000,000
Play Spaces $ 1,000,000
Sustainability Reserve $ 1,000,000
TOTAL $12,000,000

The remaining surplus funds will remain as Investment Reserve.

It is anticipated that the Fremantle Trust will be formally dissolved by State Parliament this financial year. Current cash funds of approximately $2.2 million will be shifted to the City and the budget provides for this to be transferred to the investment reserve.

This budget also provides for the sale of 7 Quarry Street and the car park on the corner of Pakenham and Bannister Streets. Revenue from the sales of Quarry and Pakenham have also been identified for transfer to the investment reserve.

In May 2012 the State Government introduced changes to how local governments may invest surplus funds. Basically, the requirements are that investment funds can only be placed in approved institutions in the way of term deposits for not greater than twelve months. As a result the budget provides for an estimated $7.5 million from our managed funds to be withdrawn and placed into cash investments.

When council resolved to payout the Queensgate loan from the sale of property it also resolved to credit the equivalent loan payments back to this reserve. An amount of $690,000 is provided for this year.

Heritage Places Reserve

The allocation of 1.25% of rates will see $419,215 transferred into this reserve. $220,000 will be transferred out of this reserve for the completion of the Bathers Bay conservation works, $600,000 will be used to support the re-roofing of the Film and Television building on Princess May Park. Also heritage grants of $50,000 will be allocated for previous approvals that have not yet been finalised.

Parking Equalisation Reserve

An allocation of $500,000 will be set aside into the reserve. This is lower than the allocation provided under policy and is due to ensuring that decreased revenue streams in other areas of the budget are supported.
An amount of $301,835 has been provided from this reserve for the provision of way-finding signage for the significant off-street parking sites in Fremantle. There is a further allocation of $55,000 for the redevelopment of car park lighting, resurfacing and kerbing $40,000 and signage upgrades $15,000.

Carbon Neutrality Reserve

The Budget provides for the provision of 0.9% of rates being $300,000 into this reserve. $150,000 will be used to fund Photovoltaic Cells at Hilton Community Centre and the Administration building.

Leighton Precinct Reserve

A Specified Area Rate has been introduced to cover maintenance costs which are additional to the norm for maintenance of the Leighton Beach residential development. Any funds that are not spent from this rate will be placed in reserve.

Fremantle Markets Conservation Plan

A further $150,000 will be transferred to this reserve this year, from the rent provided through the lease. $116,156 is allocated to be used this year to support the loan repayment from stage 1 of the conservation works.

Sustainability Ratios

In the past the City of Fremantle has established financial ratios to assist monitoring its financial sustainability. The three ratios below were adopted to monitor the City’s ability to provide services and capital renewal to the community.

Debt Servicing Ratio

The debt servicing ratio is a measure of the City's reliance on loan funds. It measures total loan repayments against total rates revenue. The target for the City is to keep annual repayments less than 10% of annual rates.

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</thead>
<tbody>
<tr>
<td>New Borrowings</td>
<td>$2,037,450</td>
<td>$2,107,000</td>
<td>$4,500,000</td>
<td>$1,990,541</td>
<td>$1,849,560</td>
<td>$2,050,000</td>
</tr>
<tr>
<td>Annual Repayments</td>
<td>$1,694,634</td>
<td>$2,016,706</td>
<td>$2,425,543</td>
<td>$2,804,430</td>
<td>$2,881,773</td>
<td>$2,124,532</td>
</tr>
<tr>
<td>Ratio</td>
<td>7.8%</td>
<td>8.4%</td>
<td>9.0%</td>
<td>9.4%</td>
<td>8.8%</td>
<td>6.2%</td>
</tr>
</tbody>
</table>
Capital Expenditure Ratio

This ratio is a measure of how well the City maintains infrastructure such as roads, footpaths, drains, parks, and buildings. It measures actual expenditure in these areas against annual depreciation. The target is a ratio of 1:1, we spend as much on these areas as we depreciate each year.

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<tbody>
<tr>
<td>Capital Expenditure Ratio</td>
<td>0.92</td>
<td>0.92</td>
<td>1.23</td>
<td>1.27</td>
<td>1.27</td>
<td>1.14</td>
</tr>
</tbody>
</table>

Spike in recent years due to redevelopment of Hilton Community Centre.

Funding Ratio

The funding ratio is a measure of how much funding the City has each year to apply to new initiatives and capital works. It measures the amount of rates and untied grants available for these. The target for the City is for a 60:40 split.

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</thead>
<tbody>
<tr>
<td>Funding Ratio</td>
<td>70:30</td>
<td>71:29</td>
<td>70:30</td>
<td>70:30</td>
<td>71:29</td>
<td>73:27</td>
</tr>
</tbody>
</table>

CONCLUSION

The budget has been produced with a surplus of $100,000. As per discussions at the elected members workshops capital items which do not provide an indication of where funds will be expended have been identified as being quarantined and will need to be brought before the Strategic & General Services Committee for approval prior to any work being undertaken.
STRATEGIC AND POLICY IMPLICATIONS

The budget provides a balance of services and improvement projects in accordance with the City Plan. It demonstrates the allocation of limited resources in an efficient and effective manner to provide the outcomes expected by the community and considers the allocations under a five year budget. This year approximately $2,932,500 ($1,900,000 in 2011/12) has been applied directly to strategic projects with approximately $765,000 ($900,000 in 2011/12) in operating funding directed to strategic outcomes.

TRIPLE BOTTOM LINE IMPLICATIONS

Economic
The budget provides well maintained and developed infrastructure and services to support economic growth in the district.

Environmental
The budget strives to ensure sustainable use of natural and other resources and ensures an awareness of the value of the environment.

Social
The budget provides a balance of projects and services to ensure a good quality of life for our community.
BUDGET IMPLICATIONS

The proposed budget is presented to provide a surplus of $100,000 at the end of the financial year. The rates increase provides the minimum requirement from the community to fund all of the services provided within the document.

LEGISLATIVE AND LEGAL CONSIDERATIONS

Section 6.2 of the Local Government Act 1995 requires local governments to prepare an annual budget not later than 31st August in each financial year. Each local government is to prepare and adopt the budget in the form and manner prescribed and by absolute majority.

The budget is to detail estimates for the current year of;

1. The expenditure by the local government,
2. The revenue and income, independent of general rates, and
3. The amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue.

The budget is to incorporate;

1. Particulars of the estimated expenditure to be incurred by the local government,
2. Detailed information relating to the rate and service charges which will apply to land within the district, including the estimated amount to be yielded by the rate and the rate of interest to be charged by the local government on unpaid rates and service charges,
3. The fees and charges proposed to be imposed,
4. The particulars of borrowings and other financial accommodation proposed,
5. Details of the amounts to be set aside in, or used from, reserve accounts and the purpose for which they are to be used,
6. Particulars of proposed land transactions and major trading undertakings, and
7. Such other matters as prescribed.

PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION

Nil.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required
OFFICER'S RECOMMENDATION

1. In accordance with sections 6.36 and 6.37 of the Local Government Act 1995 the following general rate be imposed in the 2012/2013 statutory budget:

<table>
<thead>
<tr>
<th>Rate Category</th>
<th>Minimum Rate</th>
<th>Rate in the Dollar</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Rate</td>
<td>$1,050.00</td>
<td>7.018 cents</td>
</tr>
<tr>
<td>City Centre Commercial</td>
<td>$1,050.00</td>
<td>7.4390 cents</td>
</tr>
<tr>
<td>Residential Vacant Land</td>
<td>$1,050.00</td>
<td>13.2760 cents</td>
</tr>
<tr>
<td>Undeveloped CBD</td>
<td>$1,050.00</td>
<td>14.0350 cents</td>
</tr>
<tr>
<td>Nightclubs</td>
<td>$1,050.00</td>
<td>14.0360 cents</td>
</tr>
<tr>
<td>Specified Area Rate – CBD</td>
<td>–</td>
<td></td>
</tr>
<tr>
<td>Security</td>
<td></td>
<td>0.1170 cents</td>
</tr>
<tr>
<td>Leighton Precinct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance</td>
<td></td>
<td>0.5050 cents</td>
</tr>
</tbody>
</table>

2. In accordance with section 6.47 of the Local Government Act 1995 Council grants concessions to the properties identified and as prescribed in note 12 of the 2012/2013 statutory budget attached.

3. In accordance with section 6.16 of the Local Government Act 1995 Council adopts the fees and charges provided within the 2012/2013 statutory budget attached.

4. The due dates for rate instalment payments for the 2012/2013 statutory budget be:

   - 1st Instalment: 2nd October, 2012
   - 2nd Instalment: 3rd December, 2012
   - 3rd Instalment: 4th February, 2013
   - 4th Instalment: 4th April, 2013

5. An administration charge of $30.00 per assessment and an interest charge of 5.5% per annum be applied to instalment payments.

6. Penalty interest of 11% per annum be applied to overdue rates and service charges in the 2012/2013 statutory budget.

7. The fees, expenses and annual allowances paid to members of Council in the 2012/2013 statutory budget be as follows:

   - Mayor Annual Sitting Fee: $14,000
   - Mayor Local Government Allowance: $60,000
   - Mayor Vehicle Lease: $15,000
   - Deputy Mayor Local Government Allowance: $15,000
   - Councillor Annual Sitting Fee (per councillor): $7,000
   - Reimbursement of Expenses (Total): $80,000
8. a) The following reserves be closed as they have a Nil balance and they are no longer required:-
   - Building Maintenance Reserve,
   - Hilton Community Facilities Reserve,
   - Sump Relocation and Improvement.

   b) The following new reserves be created in 2012/13:-
      - Leisure Centre Upgrade $ 2,000,000
      - Fremantle Town Hall Refurbishment $ 2,000,000
      - Cantonment Hill Master Plan $ 2,000,000
      - Kings Square Improvements $ 2,000,000
      - Stan Reilly Re-development $ 2,000,000
      - Play Spaces $ 1,000,000
      - Sustainability Reserve $ 1,000,000
      TOTAL $12,000,000

9. The 2012/2013 Statutory Budget, as attached, be adopted.

Cr S Wainwright MOVED to defer the item to a Special Meeting of Council.

SECONDED: Cr R Pemberton

LOST: 12/1

<table>
<thead>
<tr>
<th>Against</th>
<th>For</th>
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<tbody>
<tr>
<td>Mayor, Brad Pettitt</td>
<td>Cr Sam Wainwright</td>
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<tr>
<td>Cr Jon Strachan</td>
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<td>Cr David Hume</td>
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<td>Cr Rachel Pemberton</td>
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<td>Cr Robert Fittock</td>
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<td>Cr Josh Wilson</td>
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<td>Cr Tim Grey-Smith</td>
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<td>Cr Ingrid Waltham</td>
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<td>Cr Bill Massie</td>
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<td>Cr Dave Coggin</td>
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<td>Cr Andrew Sullivan</td>
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<td>Cr Doug Thompson</td>
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</tbody>
</table>
Cr J Wilson MOVED an amendment to the Officer’s Recommendation to include the following wording:

That Council sets aside $20,000 for a contribution to a joint study with Fremantle Ports (with the study to occur only if they agree to co-fund) on the feasibility and cost of the Ocean Pool which Council has already endorsed in principle.

SECONDED: Cr R Pemberton

CARRIED: 13/0

<table>
<thead>
<tr>
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</tbody>
</table>
COUNCIL DECISION

MOVED: Mayor, Brad Pettitt

1. In accordance with sections 6.36 and 6.37 of the Local Government Act 1995 the following general rate be imposed in the 2012/2013 statutory budget:

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<td>7.018 cents</td>
</tr>
<tr>
<td>City Centre Commercial</td>
<td>$1,050.00</td>
<td>7.4390 cents</td>
</tr>
<tr>
<td>Residential Vacant Land</td>
<td>$1,050.00</td>
<td>13.2760 cents</td>
</tr>
<tr>
<td>Undeveloped CBD</td>
<td>$1,050.00</td>
<td>14.0350 cents</td>
</tr>
<tr>
<td>Nightclubs</td>
<td>$1,050.00</td>
<td>14.0360 cents</td>
</tr>
<tr>
<td>Specified Area Rate – CBD Security</td>
<td></td>
<td>0.1170 cents</td>
</tr>
<tr>
<td>Leighton Precinct Maintenance</td>
<td></td>
<td>0.5050 cents</td>
</tr>
</tbody>
</table>

2. In accordance with section 6.47 of the Local Government Act 1995 Council grants concessions to the properties identified and as prescribed in note 12 of the 2012/2013 statutory budget attached.

3. In accordance with section 6.16 of the Local Government Act 1995 Council adopts the fees and charges provided within the 2012/2013 statutory budget attached.

4. The due dates for rate instalment payments for the 2012/2013 statutory budget be:

   - 1st Instalment: 2nd October, 2012
   - 2nd Instalment: 3rd December, 2012
   - 3rd Instalment: 4th February, 2013
   - 4th Instalment: 4th April, 2013

5. An administration charge of $30.00 per assessment and an interest charge of 5.5% per annum be applied to instalment payments.

6. Penalty interest of 11% per annum be applied to overdue rates and service charges in the 2012/2013 statutory budget.
7. The fees, expenses and annual allowances paid to members of Council in the 2012/2013 statutory budget be as follows:

<table>
<thead>
<tr>
<th>Role</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor Annual Sitting Fee</td>
<td>$14,000</td>
</tr>
<tr>
<td>Mayor Local Government Allowance</td>
<td>$60,000</td>
</tr>
<tr>
<td>Mayor Vehicle Lease</td>
<td>$15,000</td>
</tr>
<tr>
<td>Deputy Mayor Local Government Allowance</td>
<td>$15,000</td>
</tr>
<tr>
<td>Councillor Annual Sitting Fee (per councillor)</td>
<td>$7,000</td>
</tr>
<tr>
<td>Reimbursement of Expenses (Total)</td>
<td>$80,000</td>
</tr>
</tbody>
</table>

8. a) The following reserves be closed as they have a Nil balance and they are no longer required:

- Building Maintenance Reserve,
- Hilton Community Facilities Reserve,
- Sump Relocation and Improvement.

b) The following new reserves be created in 2012/13:

- Leisure Centre Upgrade $2,000,000
- Fremantle Town Hall Refurbishment $2,000,000
- Cantonment Hill Master Plan $2,000,000
- Kings Square Improvements $2,000,000
- Stan Reilly Re-development $2,000,000
- Play Spaces $1,000,000
- Sustainability Reserve $1,000,000

TOTAL $12,000,000

9. The 2012/2013 Statutory Budget, as attached, be adopted.

10. That Council sets aside $20,000 for a contribution to a joint study with Fremantle Ports (with the study to occur only if they agree to co-fund) on the feasibility and cost of the Ocean Pool which Council has already endorsed in principle.
SECONDED: Cr I Waltham

CARRIED: 13/0

<table>
<thead>
<tr>
<th>For</th>
<th>Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor, Brad Pettitt</td>
<td></td>
</tr>
<tr>
<td>Cr Jon Strachan</td>
<td></td>
</tr>
<tr>
<td>Cr David Hume</td>
<td></td>
</tr>
<tr>
<td>Cr Rachel Pemberton</td>
<td></td>
</tr>
<tr>
<td>Cr Robert Fittock</td>
<td></td>
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<tr>
<td>Cr Josh Wilson</td>
<td></td>
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<tr>
<td>Cr Tim Grey-Smith</td>
<td></td>
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<tr>
<td>Cr Ingrid Waltham</td>
<td></td>
</tr>
<tr>
<td>Cr Sam Wainwright</td>
<td></td>
</tr>
<tr>
<td>Cr Bill Massie</td>
<td></td>
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<tr>
<td>Cr Dave Coggin</td>
<td></td>
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<tr>
<td>Cr Andrew Sullivan</td>
<td></td>
</tr>
<tr>
<td>Cr Doug Thompson</td>
<td></td>
</tr>
</tbody>
</table>

REASON/S FOR CHANGE TO OFFICER’S RECOMMENDATION
To include Part 10 of the Council Decision to have the Fremantle Ocean Pool funds available if a co-funding agreement can be reached with Fremantle Ports.
CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE MAYOR, B PETTITT DECLARED THE MEETING CLOSED AT 8.17PM.
SUMMARY GUIDE TO CITIZEN PARTICIPATION & CONSULTATION

The Council adopted a Community Engagement Policy in December 2010 to give effect to its commitment to involving citizens in its decision-making processes.

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

Effective community engagement 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.

<table>
<thead>
<tr>
<th>How consultative processes work at the City of Fremantle</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The City’s decision makers</strong></td>
</tr>
<tr>
<td><strong>Various participation opportunities</strong></td>
</tr>
<tr>
<td><strong>Objective processes also used</strong></td>
</tr>
<tr>
<td><strong>All decisions are made by Council or the CEO</strong></td>
</tr>
<tr>
<td><strong>Precinct focus is primarily local, but also city-wide</strong></td>
</tr>
<tr>
<td><strong>All input is of equal value</strong></td>
</tr>
<tr>
<td><strong>Decisions will not necessarily reflect the majority view received</strong></td>
</tr>
</tbody>
</table>
### How consultative processes work at the City of Fremantle

<table>
<thead>
<tr>
<th>Decisions made for the overall good of Fremantle</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Diversity of view on most issues</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City officers must be impartial</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City officers must follow policy and procedures</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.</td>
<td></td>
</tr>
</tbody>
</table>
### How consultative processes work at the City of Fremantle

<table>
<thead>
<tr>
<th>Community engagement processes have cut-off dates that will be adhered to.</th>
<th>1. 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, community engagement 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 community input is involved, the Council is the decision-maker and this affords community members the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizens need to check for any changes to decision making arrangements made</td>
<td>1. The City will take initial responsibility 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 the City’s website, checking the Fremantle News in the Fremantle Gazette or inquiring at the Customer Service Centre by phone, email or in-person.</td>
</tr>
<tr>
<td>Citizens are entitled to know how their input has been assessed</td>
<td>1. In reporting to decision-makers, City officers will in all cases produce a community engagement outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.</td>
</tr>
<tr>
<td>Reasons for decisions must be transparent</td>
<td>1. Decision-makers must provide the reasons for their decisions.</td>
</tr>
<tr>
<td>Decisions posted on the City’s website</td>
<td>1. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at the City’s website under ‘community engagement’ or at the City Library or Service and Information Centre.</td>
</tr>
</tbody>
</table>
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

Ordinary Meeting of Council

Wednesday, 25 July 2012, 6.00pm
ADDITIONAL DOCUMENTS

Ordinary Meeting of Council

Wednesday, 25 July 2012
## TABLE OF CONTENTS

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<th>PAGE</th>
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</thead>
<tbody>
<tr>
<td>SGS1207-2 MINOR AMENDMENT TO THE COMMITTEE RECOMMENDATION TO SGS1207-2 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FREMANTLE AND THE UNIVERSITY OF NOTRE DAME AUSTRALIA – (SUBMITTED BY CR R PEMBERTON)</td>
<td>1</td>
</tr>
<tr>
<td>PSC1207-109 SUPPORTING MEMORANDUM FROM MANAGER STATUTORY PLANNING FOR PSC1207-109 HAMPTON ROAD, NO.256 (LOT 700) BEACONSFIELD - REQUEST FOR EXTENSION TO THE TERM OF THE PLANNING APPROVAL - APPROVED CHANGE OF USE TO LIQUOR STORE, SHOWROOM, OFFICE AND SHOP, PARTIAL DEMOLITION AND REFURBISHMENTS TO EXISTING BUILDING - (SS ET06/12)</td>
<td>2</td>
</tr>
<tr>
<td>C1207-5 AMENDMENT TO THE OFFICER’S RECOMMENDATION TO C1207-5 – ADOPTION OF STATUTORY BUDGET 2012/13 (SUBMITTED BY CR J WILSON)</td>
<td>6</td>
</tr>
</tbody>
</table>
MINOR AMENDMENTS TO THE COMMITTEE RECOMMENDATION

Minor change to Clause 19:

Currently reads;

“UNDA will endeavor to negotiate student accommodation throughout Fremantle…”

Change to;

“UNDA will endeavor to ESTABLISH student accommodation throughout Fremantle…”

REASON FOR CHANGE TO THE COMMITTEE RECOMMENDATION

UNDA can establish student accommodation through many means, including negotiation with existing landowners, however to establish student accommodation is far more active and encouraging.

Add a new clause:

“UNDA will work with the City and key stakeholders to develop and implement a West End activation strategy.”

REASON FOR CHANGE TO THE COMMITTEE RECOMMENDATION

This text is taken directly from page 7 in the City’s Strategic Plan (although I added ‘and implement’ as the MOU has a longer timeframe), it is also intrinsic in the West End Working Group mandate.

This strategic aim should be supported through the MOU.
MEMORANDUM

TO: Elected Members
FROM: Manager Development Services - Natalie Martin Goode
DATE: 23 July 2012
RE: Council 25 July 2012 (PSC 1207-109 256 Hampton Rd - Extension of Term)

On 18 July 2012 planning staff received a submission that raised new issues that staff had not had an opportunity to respond to. Consequently at its meeting held on the 18 July 2012, the Planning Services Committee resolved:

"to defer the item to the Council meeting to allow further consideration of the additional information."

In response to that resolution, the following comments are made.

It has been submitted that the introduction of SPP4.2 constitutes a material change to the applicable planning framework, since the 2010 SAT approval. The submission has been made by Hotchkin Hanly, lawyers representing the interests of the shopping centre at 219 Hampden Road to the northwest of the development site, for which there is an approval for another liquor store. The shopping centre is a ‘neighbourhood centre’ under SPP4.2. The particular aspect of SPP4.2 which the submission identifies as relevant, is its promotion of the objectives of transit oriented development, which is the subject of the Western Australian Planning Commission’s Development Control Policy 1.6: Planning To Support Transit Use And Transit-Oriented Development.

Hotchkin Hanly has argued that as the Liquor Commission is likely to only allow one of the liquor stores, the City should apply the objectives of transit oriented development under SPP4.2 and DCP 1.6 and determine which of the two liquor stores best achieves these objectives. Hotchkin Hanly has argued that the proposed liquor store in its client’s shopping centre is better located in relation to public transport (adjacent to bus stop) than is the subject development. The City is not in a position to know the outcome of the Liquor Commission’s consideration of the two proposed liquor stores. Consequently, this is not relevant to the extension request. Further, in considering the extension request, it is not appropriate to consider which store better achieves the objectives of transit-oriented development. It is a question of applying those objectives to the subject development to which the extension request relates.
State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP4.2)

The SPP defines its main purpose as follows;

*The main purpose of this policy is to specify broad planning requirements for the planning and development of new activity centres and the redevelopment and renewal of existing centres in Perth and Peel. It is mainly concerned with the distribution, function, broad land use and urban design criteria of activity centres, and with coordinating their land use and infrastructure planning.*

The policy then sets out the criteria for dealing with the different hierarchal levels for centres within the Metropolitan Region. Table 2 in the document identifies the activity centres hierarchy. In relation to the City of Fremantle, the only identified activity centre within the City of Fremantle is the City’s CBD. Council, at its meeting held on the 27 June 2012, adopted a process to develop a structure plan to meet the requirements of SPP4.2 relating to the Fremantle CBD. The subject development is not located within this area.

The approved liquor store at 219 Hampden Road, having regard to the description in SPP 4.2 and its “Local Centre” zoning under the scheme, is likely to be classified as a “Neighbourhood Centre” under SPP 4.2.

The subject development at 256 Hampden Road is not located within the Local Centre zone and is proposed to be rezoned to "Mixed Use". It is reasonable to infer that the area proposed to be zoned Mixed Use is not regarded by the Council to be a retail centre per se, but rather is intended to continue to be a mixed business area which accommodates a range of land uses including some retail consistent with the Mixed Use zone objectives under LPS4.

On this basis the subject development would not be classed as a neighbourhood centre and therefore SPP 4.2 is not applicable.

Notwithstanding the above, the development site is located on a major road that is a high frequency bus route with a bus stop located immediately in front of the site and another bus stop on the other side of the road, approximately 140m away, well within the walking catchment distance of 400m. Consequently, the development site has connectivity and accessibility to public transport in the form of conveniently located bus stops. Therefore, insofar as SPP4.2 promotes achievement of the objectives of transport orientated development, the subject development is consistent with the policy.
Development Control Policy 1.6 Planning to Support Transit Use and Transit Orientated Development (DC1.6)

The development site is located within a transit oriented precinct by virtue of its location within 400 metres of bus stops or a high frequency bus route. Some of the provisions of DCP 1.6 are relevant because they apply to development within those precincts.

The majority of this policy is not applicable to the development as the policy mostly relates to neighbourhood design. Clause 4.4 relating to transit supportive design however could be relevant to the development. This clause requires land uses to:

1. Promote interaction and surveillance of the street leading to the transit facility;
2. Facilitate access and enhance legibility of transit facilities; and
3. Allow for the use of buildings to be adaptive.

It is considered that the proposed development meets all of these criteria by:

1. The entrance tower and front windows of the development being clearly visible from the street and closely located bus stop; and
2. The development proposes to use an existing building which demonstrates that the building is adaptive.

Also having a bus stop on a high frequency route in front of the site will encourage the use of public transport around the transport node. The further development of non-residential and residential uses along this high frequency public transport route and within the walking catchment area will provide support to the public transport system as well as assisting in supporting the neighbourhood shopping centre and development that is adjacent to the neighbourhood centre.

As such, it is considered that the proposal is consistent with the applicable objectives of this development control policy to encourage development that will benefit from their proximity to public transport.

CONCLUSION

Whilst SPP4.2 was introduced after the 2010 SAT approval, the question is whether this constitutes a “material change” relevant to the subject development.

Notwithstanding that the subject site is not classified as a neighbourhood centre therefore SPP 4.2 does not apply and is therefore not a “material change”, it is considered that SPP4.2 does not impact on the development site and the request to extend the term of planning approval as it is considered that the subject development meets its requirements.
Further, the re-use of the site and the proposed zoning changes would help facilitate achieving the objectives of DC1.6 by creating appropriate development along the transit corridor and in particular, around the existing high frequency bus stops located in close proximity to the development site.

 Regards

Natalie Martin Goode
Manager Development Services
C1207-5  AMENDMENT TO THE OFFICER’S RECOMMENDATION TO C1207-5 – ADOPTION OF STATUTORY BUDGET 2012/13 (SUBMITTED BY CR J WILSON)

AMENDMENT TO THE OFFICER’S RECOMMENDATION

That Council sets aside $20,000 for a contribution to a joint study with Fremantle Ports (with the study to occur only if they agree to co-fund) on the engineering feasibility and cost of the Ocean Pool which Council has already endorsed in principle.

REASON FOR CHANGE TO THE OFFICER’S RECOMMENDATION

An amendment to the budget be prepared following the announcement by the Leader of the Opposition that if elected, a Labor Government will fund 3 ocean pools. In these circumstances it seems sensible to have the Fremantle Ocean Pool option in a position to put its best foot forward.
ATTACHMENT 2
ATTACHMENT 3
ATTACHMENT 4

John Symington
Humich Nominees Pty Ltd

By email to: johns@humich.com.au

25 July 2012

Re: 257 Hampton Road, Beaconsfield

Dear John

Thank you for your request for independent advice on the proposed extension of the approval for a liquor outlet at 257 Hampton Road and the relevance of the Activity Centres Policy. I offer the following comments:

Extent of an Activity Centre
Whist I am unaware of any specific boundary defining an ‘activity centre’ in the area, the Activity Centre Policy is quite clear in that when a structure plan or detailed area plan is produced, the boundary should be sufficient to embrace an area broad enough to accommodate a range of different land uses.

The previously superseded Activity Centres Policy (October 2000) predominantly related to shopping centres and was considered in the context of specific centre zonings.

However, given the broader scope of the new Activity Centres Policy (August 2010), it is reasonable to assume that any structure plan or Detailed Area Plan for the centre would extend beyond the current zone for the shopping centres and incorporate, at a minimum, the mixed-use lots along Hampton Road and some of the adjacent residential areas.

Therefore, it is reasonable to assume that the Activity Centres Policy is relevant to the site in question and should be taken into account as a planning consideration.

Activity Centres Policy
Since the proposal was approved the WAPC’s overarching Activity Centres Policy SPP4.2 has been gazetted (in August 2010). The changes to the policy (for which I was a contributor) have been significant, particularly in relation to the amount of allowable floorspace (not an issue in this matter), the extent of an activity centre, the mix of uses within an activity centre, and the quality of the built and public environment. In the case of the built and public environment, the provisions and principles are more rigorous and would likely deliver a different and better outcome than the proposed development.

In my opinion, the provisions and principles of the updated policy would certainly be applicable to any new application for the site and, given the sweeping extent of the changes, ought to be applicable to the consideration of an extension of the existing approval.
Retail form
The proposed retail form is for a stand-alone, single-themed (liquor) outlet of over 1600sqm. By normal industry standards, the stand-alone nature, the single-theme, and the size clearly constitute a 'large format' retail outlet (otherwise referred to in the Activity Centres Policy as 'Bulky Goods' retailing).

Whilst it could be argued that the proposed outlet could be described as the 'retailing of small-scale goods', it is clearly not the 'small-scale retailing of goods' as referred to in LPS4. They may be the same words but have completely different meaning. In this respect, it is my opinion that SAT's interpretation was wrong.

To illustrate the points, a shop is generally one of many tenancies within a building, or, if separately owned, attached to other buildings to form a street edge. Shops generally have a depth between 9-18 metres (typically 15m) and a width typically between 6-12m, giving a floorspace range 54sqm-216sqm. In shopping centres, tenancies of 1600sqm are typically described as mini-majors, or majors in the case of smaller centres.

On the other hand, the floorspace of the proposal is not attached to another building, it has its own car-parking and service arrangements, has a floorspace far in excess of what would normally constitute a shop, and would predominantly sell one type of goods (liquor) that is commonly sold in bulk form (cartons, boxes) requiring the use of a car for transportation.

Bulky-Goods in the Activity Centres Policy
Clause 5.6.1 (1) states that "bulky goods retailing is unsuitable to the walkable catchment or the core of activity centres given their size and car-parking requirements, low employment densities and need for freight vehicle access".

The proposal is clearly within, and close to the core of the walkable catchment of the South Fremantle centre.

Clause 5.6.1 (4) also promotes the clustering of bulky goods outlets together into a precinct as opposed to stand-alone outlets at ad-hoc opportune sites.

Activity Centres Policy – Urban design and planning principles
The inclusion of a more extensive suite of principles both within the Activity Centres Policy (August 2010) and the appended Model Centre Framework is one of the most significant changes from the previous policy.

The principles provide guidance on best practice planning and urban design practice in order to improve the quality of the built environment within activity centres (although many of the principles are just as applicable to areas outside activity centres too). The suite of principles was expanded in recognition of the common opinion that the previous policy (October 2000) was insufficient when it came to addressing the issue of amenity in and around centres.

The proposal fails to satisfy many of the policy principles. The proposal:

- Encourages car use rather than walking, cycling and public transport, by virtue of the emphasis on bulk retailing.
- Has public frontages visually dominated by car parking.
Fails to reduce the number of crossovers (it has 7 in total) and, thus, fails to reduce the risk of pedestrian/vehicle conflicts.

Disrupts the continuity of the built form.

Provides minimal opportunity for street activation, vitality or passive surveillance.

Diminishes the quality of the pedestrian environment through the placement of car parking between the building and the adjacent streets and fails to provide weather protection for pedestrian comfort.

Locates blank walls and service yards/loading docks adjacent to the public domain.

Establishes a poor interface with the existing residential development across Culver Street.

Whist the proposal was approved (albeit through the intervention of SAT) within the context of the superseded Activity Centres Policy (October 2000), the changes to the policy since then means that the proposal would most likely not warrant approval if it were submitted as a fresh application.

**Copyright issue**

Finally, I believe that the advice provided to the City of Fremantle is correct in that the City doesn’t need to buy into the argument over copyright. It is an issue between two other parties and not a planning consideration.

However, in practice it could well be a ‘showstopper’ in that a new application may need to be submitted to avoid the copyright issue, and any new application will need to be consistent with the principles of the current Activity Centres Policy (August 2010).

As a consequence, any extension of the existing approval may prove to be somewhat academic and a waste of the applicant’s, and Council’s, time.

I trust the above is of value to you.

Yours sincerely

Malcolm Mackay
Director- Mackay Urbandesign