



MINUTES

Planning Services Committee

Wednesday, 17 October 2012, 6.00pm

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PLANNING SERVICES COMMITTEE

Minutes of the Planning Services Committee
held in the Council Chambers, Fremantle City Council
on **17 October 2012** at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.01 pm.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

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

IN ATTENDANCE

Brad Pettitt	Mayor
Cr Robert Fittock	Deputy Presiding Member / North Ward
Cr Rachel Pemberton	City Ward arrived 6.17pm
Cr Andrew Sullivan	Presiding Member / South Ward
Cr Ingrid Waltham	East Ward
Cr Bill Massie	Hilton Ward
Cr Josh Wilson	Beaconsfield Ward
Mr Matthew Piggott	Acting Director Planning and Development Services
Ms Natalie Martin Goode	Manager Development Services
Mr Paul Garbett	Manager Planning Projects and Policy
Ms Natalie Bowring	Strategic Planning Officer
Mrs Michelle Gibson	Minute Secretary
Mrs Kayla Beall	Minute Secretary

There were approximately 1 member 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

Nil

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke in favour of the Officer's Recommendation for item PSC 1210-165:

Sam Payne

DISCLOSURES OF INTEREST BY MEMBERS

Nil

LATE ITEMS NOTED

Nil

CONFIRMATION OF MINUTES

MOVED: Cr A Sullivan

That the Minutes of the Planning Services Committee dated 3 October 2012 as listed in the Council Agenda dated 24 October 2012 be confirmed as a true and accurate record.

CARRIED: 6/0

For	Against
Mayor, Brad Pettitt Cr Ingrid Waltham Cr Robert Fittock Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan	

TABLED DOCUMENTS

Nil

DEFERRED ITEMS (COMMITTEE DELEGATION)

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

Nil.

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

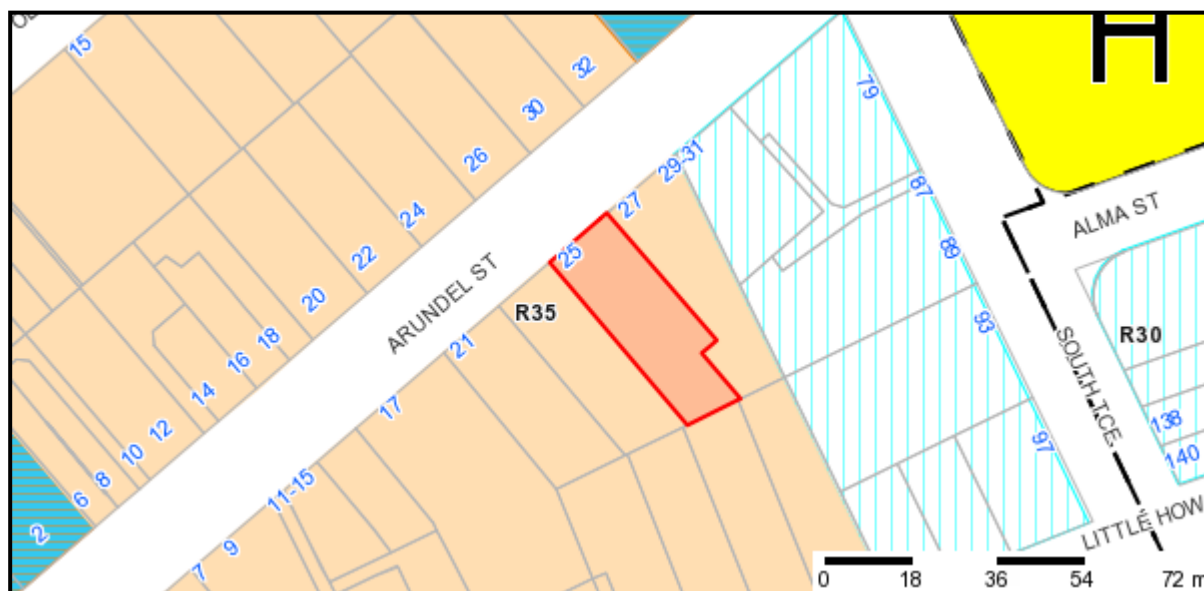
The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

PSC1210-165 ARUNDEL STREET, NO. 25A (LOT 2) FREMANTLE TWO STOREY GROUPED DWELLING (JS DA0387/12)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 17 October 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1111-485 (PSC November 2011)
PSC1111-185 (Council November 2011)
PSC1112-207 (PSC December 2011)

Attachments: Development Plans (attachment 1)
Previous PSC Item (VA0040/11)

Date Received: 17 August 2012
Owner Name: Coral Beeck and David Ellwood
Submitted by: Payne Designs
Scheme: Central City Zone
Heritage Listing: No
Existing Landuse: Vacant Site
Use Class: Residential – Grouped Dwelling
Use Permissibility: 'D'



EXECUTIVE SUMMARY

The City of Fremantle is in receipt of an application which seeks Planning Approval for a two storey Grouped Dwelling to be constructed at No. 25A Arundel Street, Fremantle.

Of note is that a similar application was previously approved by PSC in 2010 and expired on 24 May 2012. This application incorporates some very minor modifications to the previously approved plans.

The application is presented before the Planning Services Committee, due to the applicant applying for a variation against the building height requirements of Schedule 12 – Local Planning Area 4 – South Fremantle – Sub Area 4.3.1 (Schedule 12 – Sub Area 4.3.1) of the City's Local Planning Scheme 4 (LPS4). There was also an objection received that cannot be resolved via a condition of planning approval.

The applicant is also requesting performance based assessments for variations from the Residential Design Codes 'Acceptable Development' requirements:

- *Design Element 6.3.1 Buildings setback from the boundary* in relation to the reduced southern and western boundary setbacks;
- *Design Element 6.3.2 Buildings on boundary* in relation to the northern and eastern boundary walls.

One submission was received during the advertising process which raised concerns regarding:

- Building bulk impacts

The proposed variations have been assessed and are considered to have minimal impact upon the amenity of adjoining properties and neighbours.

Therefore, it is recommended that the application be conditionally approved.

BACKGROUND

The subject site (the site) is zoned Residential under the provisions of LPS4 and has a density coding of R35. The site is not listed on the Heritage List nor is it located within a designated Heritage Area in accordance with the provisions of LPS4.

The site is the rear lot of a two lot survey strata, located on the southern side of Arundel Street, Fremantle with a north east -south west orientation. The site is 271m² including 65m² of shared common property with 25 Arundel Street. The site is currently vacant and the topography of the site is relatively flat.

The northern adjoining property, the front lot of the two lot survey strata, 25 Arundel Street is zoned Residential and has a density coding of R35. The site is improved by a single storey Grouped Dwelling, which is listed on the City's Heritage List and Municipal Heritage Inventory (MHI) as a Management Category Level 3.

The site at 25 Arundel Street incorporates a southern boundary wall as part of an existing double garage located at the rear of the site.

The western adjoining property, 23 Arundel Street is zoned Residential and has a density coding of R35. The site is improved by a single storey Single House with a north-south orientation. The site at 23 Arundel Street is approximately 1.2m lower in natural ground level to the site at 25 Arundel Street. The site is listed on the City's Heritage List and MHI as a Management Category Level 3.

The eastern adjoining property, 27 Arundel Street is zoned Residential and has a density coding of R35. The site is improved by an existing single storey commercial building at the front of site and two three storey Grouped Dwellings at the rear, which incorporates a north-south orientation. The site is also listed on the City's Heritage List and MHI as a Management Category Level 3.

The southern adjoining property, 20 Howard Street is zoned Residential with a density coding of R35. The site is improved by a single storey Single House with a south-north orientation. The site incorporates a detached double garage to the rear of the property. The site is not listed on the City's Heritage List.

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

On 15 November 2005, the City granted Planning Approval for a Two Storey Grouped Dwelling (DA587/05) at 25A Arundel St, Fremantle. This approval was never acted upon and consequently has lapsed.

On 25 October 2007, the City refused an Extension of Time to Planning Approval DA587/05 due to Town Planning Scheme provisions having changed in a material way with respect to building height.

On 24 May 2010, the City granted Planning Approval for a two storey Grouped Dwelling (DA0711/09) at 25A Arundel Street, Fremantle. This approval was never acted upon and has consequently lapsed.

On 14 December 2011, the City granted Planning Approval for the Variation to Previous Planning Approval (two storey Grouped Dwelling) at 25A Arundel Street, Fremantle (VA0040/11). This approval expired on the 30 April 2012.

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme 4

The proposed development has been assessed against the relevant provisions contained within LPS4, the R-Codes and Local Planning Policies. The proposal is seeking the following discretions:

- Wall Height (LPS4)
- Boundary Walls
- Boundary Setbacks
- DGF 29 - Suffolk to South Streets Local Area

Assessment and discussion of these discretions are contained within the Planning Comment section of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Council policy *LPP 1.3 Public Notification of Planning Approvals* and LPP 2.4 as the applicant is proposing variations including building height requirements of LPS4 and boundary walls. At the conclusion of the advertising period, being 1 February 2010, the City had received one (1) submission. The submitter raised the following issues:

- Concerns regarding building bulk

The concern raised will be discussed further in the 'Planning Comment' section of this report.

PLANNING COMMENT

In considering this application, Council shall have regard to the following key points:

Building Height

Clause 5.8.1 – Variation to Height Requirements

Element	Permitted	Proposed	Discretion Sought
Wall Height	4.8m	5.8m (skillion roof – lower side) 7.8m (higher side)	1.2m-3m
No. of Storeys	1plus Loft	2	1

Discretions are sought for the physical dimensions of the building, and also for the proposed dwelling's internal layout depicting two distinct storeys. In accordance with clause 5.8.1 of LPS4, Council may vary this requirement where the site contains or are adjacent to buildings that depict a height greater than that specified in requirements of Schedule 12, subject to being satisfied to sub-parts clause 5.8.1.

The site at 25A Arundel Street adjoins an existing building at 27 Arundel Street which depicts a height greater than that specified in the requirements of Schedule 12 – Sub Area 4.3.1. The adjoining property depicts a maximum height of 9.4m in accordance with Planning Approval granted by the City on 9 March 2005 (DA485/04).

In accordance with clause 5.8.1, Council must therefore be satisfied with the following:

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

Amenity is defined under LPS4 as:

‘means all factors which combine to form the character of an area and include the present and likely future amenity.’

Even though the proposal seeks a 3m (maximum) height discretion on the western side, the dwelling is setback a minimum of 1m from the western property and is therefore not considered to create a significant detrimental impact on the adjacent neighbour.

It is acknowledged that the eastern adjoining Grouped Dwellings incorporate a maximum wall height of 9m. The eastern adjoining property’s western boundary wall is a ‘saw tooth’ design and incorporates an external wall height between approximately 4.8m and 6.5m.

The western and southern adjoining properties NGL’s are below the subject site’s:

- West (23 Arundel Street) – approximately 1.2m;
- South (20 Howard Street) – approximately 0.8m.

The northern, western and southern adjoining properties are single storey dwellings.

The proposed development satisfies the ‘Acceptable Development’ criteria of the R-Codes, including overshadowing requirements and visual privacy, except in relation to reduced boundary setbacks to the south and west and the proposed northern and eastern boundary walls. Further assessment and discussion is contained below regarding these elements which require performance based assessments.

The proposed development is located on a rear survey strata lot and therefore the impact to the existing streetscape of Arundel Street would be minimal.

It is therefore considered that the proposed building height variation of the development would not have a significantly detrimental impact on the amenity of adjoining properties or the locality.

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

The existing buildings to the north, west and south portray single storey developments. The proposed variation is considered consistent with other single storey with loft developments in the locality. The east adjoining property at 27 Arundel Street contains elements of three storeys and therefore the proposed development would graduate the scale of dwellings between 27 Arundel Street and the existing adjoining single storey dwellings.

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

The northern and eastern adjoining sites at 25 and 27 Arundel Street respectively, are listed on the City's Heritage List and MHI as Management Category Level 3. The proposed north and eastern boundary walls of the development do not abut original fabric of either site. Both boundary walls abut existing boundary walls located on the respective sites which consist of non-original fabric of each dwelling. As they will abut existing boundary walls, the majority of the impact of building bulk and scale created by the development will be adequately blocked.

The building materials used in the proposed development are in keeping with those used in the surrounding locality. Furthermore, as mentioned previously, as the site is a rear survey strata lot, there will be minimal impact on the existing streetscape of Arundel Street.

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

The site is located within sub-precinct Area A of the policy area outlined in DGF 29 which states that residential development '...should be predominantly single storey and in accordance with Council policy *DBH 1 Urban Design and Streetscape Guidelines...*'. The provisions of Council policy DGF 29 specifically focus upon the impact of new development on existing streetscapes. The proposed development is located on a rear survey strata lot and therefore would have a minimal impact on the existing streetscape Arundel Street and sub-precinct Area A of the policy.

It is considered that the height requirements of DGF 29 are contrary to the requirements of Schedule 12 – Sub Area 4.3.1 which require development to be single storey with loft. In accordance with clause 2.3.1 of LPS4, the provisions of LPS4 shall prevail insofar where there is a discrepancy between DGF 29 and LPS4.

As the proposed development is on the rear survey strata lot it is considered that the development will have a minimal impact on the existing streetscape and is consistent with the requirements of DBH 1.

5.8.4 – Power Conferred by Clause 5.8.1

Power conferred by clause 5.8.1 may only be exercised if the Council is satisfied that:

- ‘(a) approved of the proposed development would be appropriate having regard to the criteria set out in clause 10.2,’*

The following criteria of clause 10.2 of LPS4 are relevant to this application:

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

Please refer to the discussion above against clause 5.8.1 of LPS4 in relation to these matters.

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

Please refer to the discussion above against clause 5.8.1 of LPS4 in relation to these matters.

Boundary Walls

Eastern Boundary Wall	6.9m long and ranges in height from 6.1 to 7.2m
Northern Boundary Wall	8.0m long and ranges in height from 6.3m to 7.7m

The above discretions are supported for the following reasons:

- The eastern boundary wall will abut an existing constructed boundary wall of similar dimensions, which complies with A2 b) of the Policy.
- The northern boundary wall is to abut an existing single storey garage boundary wall of the existing building at 25 Arundel Street. It is considered that the proposed boundary wall will make an effective use of space and would not have a significant detrimental impact on the northern adjoining property.
- As the boundary wall will be located abutting the southern elevation of the existing building at 25 Arundel Street, the development will not restrict direct sun access to the building or outdoor living areas of the adjoining property.

Therefore it is considered that the proposed northern boundary wall satisfies the ‘Performance Criteria’ of DE 6.3.2.

Boundary Setbacks

	Required	Provided	Discretion
West	1.9m	1.0m	0.9m
South	3.1m	1.1m – 4.0m	2.0m (minimum)

The above discretions are supported for the following reasons:

Western Boundary Setback

- The 8% overshadowing to the western adjoining property has been assessed and satisfies the R-Codes 'Acceptable Development' criteria of *Design Element 6.9.1 Solar access for adjoining sites* (DE 6.9.1). It is therefore considered that the reduced western setback would still allow for the provision of adequate direct sun and ventilation to the building and to the western adjoining property.
- No major openings are proposed to the upper floor of the western elevation of the development which assists in the protection of privacy between the two properties.

Therefore it is considered that the western boundary setback satisfies the 'Performance Criteria' of DE 6.3.1.

Southern Boundary Setback

- The proposed development will overshadow approximately 8.0% of the rear of site at 20 Howard Street. The overshadowing to the southern adjoining property has been assessed and satisfies the R-Codes 'Acceptable Development' criteria of DE 6.9.1. It is therefore considered that the reduced southern setback would still allow for the provision of adequate direct sun and ventilation to the building and to the southern adjoining property.

Therefore it is considered that the southern boundary setback satisfies the 'Performance Criteria' of DE 6.3.1.

CONCLUSION

The proposed development has been assessed against the provisions of LPS4, the R-Codes and relevant Council local planning policies. Performance based assessments have been undertaken for the proposed variations to building height, boundary walls and boundary setbacks requirements. It is considered that the proposed variations will not have a significant detrimental impact upon the amenity of adjoining neighbours, the existing streetscape or the immediate locality.

Therefore it is recommended that the application be conditionally approved.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Grouped Dwelling at No. 25A (Strata Lot 2 on S045663) Arundel Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 August 2012. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site.**

Prior to occupation, the boundary wall located on the north and east shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.

CARRIED: 6/0

For	Against
Mayor, Brad Pettitt Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

PSC1210-166 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY (3.61.21)

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

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the information is noted.

CARRIED: 6/0

For	Against
Mayor, Brad Pettitt Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1210-167 PROPOSED SCHEME AMENDMENT NO. 55 - BICYCLE PARKING AND END OF TRIP FACILITIES - ADOPTION OF PUBLIC ADVERTISING

DataWorks Reference: 165/008 and 117/061
Disclosure of Interest: Nil
Meeting Date: 17 October 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Strategic Planner
Decision Making Level: Council
Previous Item Number/s: PSC1206-85 – 6 June 2012
PSC1207-102– 4 July 2012
Attachments: 1. Aust Roads Part 14 - Table 2 bicycle Parking

EXECUTIVE SUMMARY

On 4 July 2012 Council adopted a set of principles upon which to draft a Scheme Amendment that would introduce into the City's Local Planning Scheme No. 4 provisions for bicycle parking in new developments (including zero parking residential developments) or on public land and new end-of-trip facility provisions. Accordingly, officers have prepared a scheme amendment to Local Planning Scheme No. 4 (LPS4) based upon these principles.

It is recommended Council resolve to initiate Scheme Amendment No. 55 to LPS4 to clarify the type of bicycle parking and end of trip facilities required in change of use and new developments.

BACKGROUND

At its Planning Services Committee meeting 4 July 2012, Council resolved to: *support incorporating the following principles on bicycle parking and end of trip facilities into a draft scheme amendment report:*

1. Bicycle racks

- a) The Austroads Table 10-1 bicycle parking requirements being used as a basis to amend the bicycle racks requirements of Table 3 of the Scheme.*
- b) The draft scheme amendment to include requirements for both long and short term bicycle parking with a capacity to allow, with the agreement of the Council and where in its opinion the provision of short term parking on site would be incompatible with the overall design of the development, for the required number of short term racks to be provided on public land in the immediate vicinity of the development or for a cash contribution, equivalent to the cost of installation of the racks, to be made to the Council for provision in the immediate vicinity of the development.*

2. End-of-trip facilities - Shower and change facilities

- a) Showers are to be required in new developments based on the following ratio:
 - i. Developments below 2000m² gross floor area: One male and one female shower (or 2 unisex) required for every 5 long stay bicycle racks required
 - ii. Developments over 2000m² gross floor area: One male and one female shower (or 2 unisex) required for every 10 long stay bicycle racks required
- b) Lockers are to be provided in new developments on a ratio of one locker for every one long stay bicycle rack required.

3. Zero parking residential developments.

- a) The number of bicycle racks needed to satisfy the requirement is to be based on the number of people provided for in a dwelling e.g. one long stay bicycle rack per small dwelling (single bedroom) and two long stay bicycle racks per medium or large dwelling (two or more bedrooms); and One scooter park is to be provided for every three apartments

For further background information please see the minutes (PSC1207-102).

PLANNING COMMENT

In light of recent Scheme amendments (East End Amendment No. 38 and Strategic Sites Amendment No. 49) and other Council initiatives (e.g. Low Carbon City Plan) there is an increasing need to consider the City's approach to bicycle parking on public and private land and the provision of end-of-trip facilities for new developments. On 4 July 2012, Council supported the principles of a scheme amendment that included distinguishing the types of bicycle racks (long stay (Class 1 and 2) or short stay (Class 3)) Council considers appropriate for new commercial development, how end of trip facilities should be provided (showers and storage lockers) and the requirements for bicycle parking in zero parking residential developments. The three topics are each addressed below:

Bicycle racks

The provision of bicycle racks has been in the City of Fremantle Local Planning Scheme No. 4 (LPS4) since it was gazetted in March 2009 and is defined as:

Bicycle rack: has the same meaning as given to it in the Austroads standards part 14.

Engineering Practice Bicycles Part 14 - Austroads (Austroads), outlines three different types of bicycle racks: Class 1 and 2 (long stay i.e. staff bicycle parking) and class 3 (short stay i.e. visitor bicycle parking) bicycle parking. However LPS4 only specifies one type of bicycle rack and there is uncertainty around how specifically the bicycle racks in LPS4 are to be provided with reference to three different bicycle rack classes under Austroads. Accordingly officers propose updating LPS4's table 3 bicycle rack requirements using the class 1, 2 and 3 bicycle rack standards prescribed in Austroads (see attachment 1) for each land use. Austroads does not cover all of LPS4's potential land uses. Where this is the case officers have used the requirements of a similar use in Austroads to prescribe the bicycle rack standards.

As part of the amendment the definition of 'Bicycle Rack' in LPS4 will not be modified, but for clarity the following note will be added to LPS4 after the vehicle parking table following gazettal of the scheme amendment (as notes are for explanatory reasons only and do not form part of the scheme text).

Note:

Class 1 – High security level – Fully enclosed individual lockers

Class 2 – Medium security level – Locker compounds fitted with Class 3 facilities with communal access using duplicate keys

Class 3 – Low security level – Facilities to which the bicycle frame and wheels can be locked

For more information see Engineering Practice Bicycles Part 14 – Austroads

The Austroads bicycle parking standards in the Scheme will mean that each new development will have to provide both short (class 3) and long stay (class 1 and 2) bicycle racks on site (Australian Standards 2890.3-1993 apply). This is considered appropriate for long stay racks as new developments can easily incorporate these into the design, however incorporating short stay racks into developments, especially those with a nil setback to the street, may not be possible in all instances. Accordingly, as part of a scheme amendment the following provision is proposed:

Council may waive the Class 3 bicycle rack requirement where the provision of such bicycle racks would:

- (i) be incompatible with the overall design of the development; and*
- (ii) the required number of class 3 racks to be provided can adequately be provided by the applicant on public land in the immediate vicinity of the development; and*
- (iii) a cash contribution, equivalent to the cost of installation of the required class 3 bicycle racks is negotiated and made to the City of Fremantle for provision of bicycle racks in the immediate vicinity of the development.*

Additionally, the class 1 and 2 bicycle rack requirements would not be relevant to small change of use applications as requiring long stay bicycle parking facilities to be retrofitted in small existing buildings would be difficult to achieve. This is made clear in a proposed provision in the draft scheme amendment.

End-of-trip facilities - Shower and change facilities

End of trip facilities such as shower and change facilities, are related to bicycle parking but can also provide convenience to staff for other activities such as alternative ways of getting to work or exercising during the work day. Showering facilities are not currently required by LPS4 or other planning policies or explicitly required under the National Construction Code of Australia (there are requirements in the construction codes for disability access bathrooms which include a shower, however these are for a different purpose than end of trip facilities).

The City's Low Carbon City plan 2011 – 2015 supports requiring showers as part of end-of-trip facilities in new development and officers consider it reasonable for Council to require large developments to provide showers, especially those with reduced vehicle parking requirements such as an office development on any of the strategic sites in the Scheme amendment No. 49 area (gazettal pending). Therefore the following provisions are proposed:

Any new commercial use class development shall include shower and change facilities for employees in accordance with the following table 4.

TABLE 4 - SHOWER FACILITIES

<i>Size of development</i>	<i>Ratio of number of showers required to the number of bicycle racks required</i>
<i>Developments below 2000m² gross floor area</i>	<i>One male and one female shower (or 2 unisex) required for every 5* Class 1 or 2 bicycle racks required in Table 2</i>
<i>Developments over 2000m² gross floor area</i>	<i>One male and one female shower (or 2 unisex) required for every 10** Class 1 or 2 bicycle racks required in Table 2</i>

**Calculations rounded up to the nearest 5*

***Calculations rounded up to the nearest 10*

Additional to shower facilities it is considered reasonable for a development to also provide locker facilities. Accordingly the proposed scheme amendment will include a provision that requires one locker per long stay bicycle rack required.

Zero parking residential developments

There are currently provisions for zero parking residential development in LPS4 (Local Planning Area 2 - Fremantle - Sub Area East End) and further provisions are likely to be introduced through the proposed provisions of Scheme amendment No 49. These residential developments do not need to provide vehicle parking where the development is expressly designed and marketed as a zero parking development. Instead the developments need to incorporate such elements as:

- Provision of parking on site for bicycles / scooters;
- Operation of a formal shared vehicle ownership scheme amongst the residents.

However, there is currently no guidance for applicants, in the Scheme or policy, on what criteria Council would consider appropriate to waive the car parking requirements for the above types of development. Accordingly, Council provided in principle support to including provisions into LPS4 on how to provide for zero parking developments. After further consideration it is recommended the following would more appropriately be provided for in a local planning policy. Officers are currently drafting a car parking policy which will provide further guidance on the waiving of car parking requirements. Officers recommend the following provisions be included in this policy:

Where a residential development is designed and marketed as a zero parking development, any onsite bicycle/scooter parking is to be provided in accordance with the following table 3 - Bicycle and Scooter Parking in Residential Zero Parking Development.

**TABLE 3 - BICYCLE AND SCOOTER PARKING IN
RESIDENTIAL ZERO PARKING DEVELOPMENT**

<i>Size of zero parking dwelling</i>	<i>Minimum requirement for bicycle parking</i>	<i>Minimum requirement for scooter parking</i>
<i>Small: One bedroom</i>	<i>One bicycle space (Class 1 or 2) for each small dwelling</i>	<i>One scooter park for every two zero parking dwellings</i>
<i>Medium and large: Two or more bedrooms</i>	<i>Two bicycle spaces (Class 1 or 2) for each medium or large dwelling</i>	

CONCLUSION

This scheme amendment includes clarifying the bicycle parking (rack) requirements for new and change of use applications and including new end-of-trip facility requirements (i.e. shower and locker facilities). The requirements for zero parking residential developments are considered more appropriately provided for in policy.

The provisions in the proposed scheme amendment are in accordance with Council's in principle support (4 July 2012), which supported the inclusion of such provisions into a Scheme Amendment.

Therefore, it is recommended Council resolve to initiate Scheme Amendment No. 55 to LPS4 for public advertising.

OFFICER'S AND COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

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

- a) Rename 'Table 2 – Zoning' to 'Table 1 – Zoning' and replace all other references to 'Table 2' throughout the Local Planning Scheme to refer to 'Table 1'.**
- b) Replace the Bicycle Racks column in Table 3 – Vehicle Parking with the following and replace all other references to 'Table 3' throughout the Local Planning Scheme to refer to 'Table 2'.**

TABLE 2—VEHICLE PARKING

Use Class	Bicycle Racks
RESIDENTIAL USE CLASSES	
Single house Grouped dwelling Multiple dwelling Aged or Dependent persons dwelling Ancillary Accommodation Single bedroom dwelling	As per Residential Design Codes
Small secondary dwelling	Not applicable
Home business	Not applicable
Home occupation	Not applicable
Home office	Not applicable
Residential Building	Class 1: 1 per 4 lodging room Class 3: 1 per 16 lodging rooms Nursing home: Class 1: 1 per 7 beds Class 3: 1 per 60 beds
Bed & breakfast accommodation	Not applicable

Use Class	Bicycle Racks
COMMERCIAL AND INDUSTRIAL USE CLASSES	
Child care premises	Not applicable
Commercial	
Bank/building society	Class 1 or 2: 1 per 200 m ² gla Class 3: Two
Funeral parlour	Not applicable
Garden centre Hardware store	Not applicable
Market	Class 3: 1 per 10 stalls
Nursery	Not applicable
Office	Class 1 or 2: 1 per 200 m ² gla Class 3: 1 per 750 m ² gla over 1000 m ² gla
Showroom Trade display	Class 1: 1 per 750 m ² nla Class 3: a per 1000 m ² nla
Veterinary consulting rooms	Class 2: 1 per 8 practitioners
Veterinary hospital	Class 2: 1 per 8 practitioners
Education Establishment	
Primary school	Class 2: 1 per 5 students, over year 4
High school	Class 2: 1 per 5 students
Tertiary school	Class 1 or 2: 1 per 100 fulltime students Class 2: 2 per 100 fulltime students
Entertainment	
Amusement (public)	Class 3: 2 plus 1 per 50 m ² gla
Betting agency	Class 1 or 2: 1 per 200 m ² gla Class 3: 1 per 750 m ² gla over 1000 m ² gla
Cinema	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Club premises	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Fast food outlet	Class 1: 1 per 100 m ² gla Class 3: 1 per 50 m ² gla
Hotel/tavern	Class 1: 1 per 25m m ² bar floor area and 1 per 100 m ² lounge and beer garden Class 3: 1 per 25m m ² bar floor area and 100 m ² lounge and beer garden
Motel	Class 1: 1 per 40 units
Night club	Not applicable
Private recreation	Class 1 or 2: 1 per 4 employees Class 3: 1 per 200 m ² gla
Reception centre	Class 3: 1 per 30 seats or* 1 per 100 people accommodated
Restaurant	Class 1 or 2: 1 per 100 m ² public area Class 3: Two
Tourist accommodation	Not applicable
Health Services	
Consulting rooms	Class 2: 1 per 8 practitioners Class 3: 1 per 4 practitioners

Use Class	Bicycle Racks
Medical centre	Class 2: 1 per 8 practitioners Class 3: 1 per 4 practitioners
Hospital/ nursing home/hostel	Class 1: 1 per 15 beds Class 3: 1 per 30 beds
Place of worship	Not applicable
Shop	
Convenience store	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Lunch bar	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Shop local	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Shop with dwelling	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Shopping centre	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
	Class 1: 1 per 300 m ² gla Class 3: 1 per 500 m ² gla (over 1000 m ² gla)
Civic Use	Class 2: 1 per 1500 m ² gla Class 3: 2 and 1 per 1500 m ² gla
Community Purpose	Class 2: 1 per 1500 m ² gla Class 3: 2 and 1 per 1500 m ² gla
Transport	
Commercial vehicle parking	Not applicable
Marine technology and ship building	Not applicable
Motor vehicle, boat or caravan sales	Not applicable
Motor vehicle wash	Not applicable
Service station	Not applicable
Petrol filling station	
Cottage	Not applicable
General	Class 1 or 2: 1 per 150 m ² gla
Light	Class 1 or 2: 1 per 1000 m ² gla
Service	Class 1: 1 per 800 m ² gla
Storage	
Fuel depot	Not applicable
Storage yard	Not applicable
Warehouse	Not applicable
Transport	
Motor vehicle repair	Not applicable
Motor vehicle wrecking	Not applicable
Transport depot	Not applicable

Note:

Class 1 – High security level – Fully enclosed individual lockers

Class 2 – Medium security level – Locker compounds fitted with Class 3 facilities with communal access using duplicate keys

Class 3 – Low security level – Facilities to which the bicycle frame and wheels can be locked
For more information see Engineering Practice Bicycles Part 14 – Austroads

c) Insert after Clause 5.7.3.2 (Scheme Amendment 49 clause) the following clause 5.7.3.3:

5.7.3.3 Council may waive the Class 1 or 2 bicycle rack requirements of Table 2, where, in the opinion of the Council, the development application is for a minor change of use.

5.7.3.4 Council may waive the Class 3 bicycle rack requirement where the provision of such bicycle racks would:

(i) be incompatible with the overall design of the development; and

(ii) the required number of class 3 racks to be provided can adequately be provided by the applicant on public land in the immediate vicinity of the development; and

(iii) a cash contribution, equivalent to the cost of installation of the required class 3 bicycle racks is negotiated and made to the City of Fremantle for provision of bicycle racks in the immediate vicinity of the development.

d) Insert after clause 5.15 the following clause 5.16:

5.16 End of Trip Facilities

5.16.1 Any new commercial use class development shall include shower and change facilities for employees in accordance with the following table 4 Shower facilities.

TABLE 4 - SHOWER FACILITIES

Size of development	Ratio of number of showers required to the number of bicycle racks required
Developments below 2000m² gross floor area	One male and one female shower (or 2 unisex) required for every 5* Class 1 or 2 bicycle racks required in Table 2
Developments over 2000m² gross floor area	One male and one female shower (or 2 unisex) required for every 10** Class 1 or 2 bicycle racks required in Table 2

***Calculations rounded up to the nearest 5**

****Calculations rounded up to the nearest 10**

5.16.2 For every Class 1 or 2 bicycle rack required in table 2 one locker shall be provided within the development in a location that is easily accessible to the shower facilities required under clause 5.16.1, where required.

e) Include the following provisions into the parking review policy:

Where a residential development is designed and marketed as a zero parking development, any onsite bicycle/scooter parking is to be provided in accordance with the following table 3 - Bicycle and Scooter Parking in Residential Zero Parking Development.

**TABLE 3 - BICYCLE AND SCOOTER PARKING IN
RESIDENTIAL ZERO PARKING DEVELOPMENT**

Size of zero parking dwelling	Minimum requirement for bicycle parking	Minimum requirement for scooter parking
Small: One bedroom	One bicycle space (Class 1 or 2) for each small dwelling	One scooter park for every two zero parking dwellings
Medium and large: Two or more bedrooms	Two bicycle spaces (Class 1 or 2) for each medium or large dwelling	

2. That the Mayor and Chief Executive Officer be authorised to execute the relevant Scheme Amendment documentation.
3. That the Local Planning Scheme Amendment to be submitted to the Environmental Protection Authority requesting assessment prior to commencing public consultation.
4. That the Local Planning Scheme Amendment be submitted to the Western Australian Planning Commission for information.

That upon receipt of the environmental assessment from the Environmental Protection Authority, the amendment be advertised for a period of not less than 42 days in accordance with requirements of the Town Planning Regulations 1967 and Council's Local Planning Policy LPP 1.3 'Public Notification of Planning Approvals'.

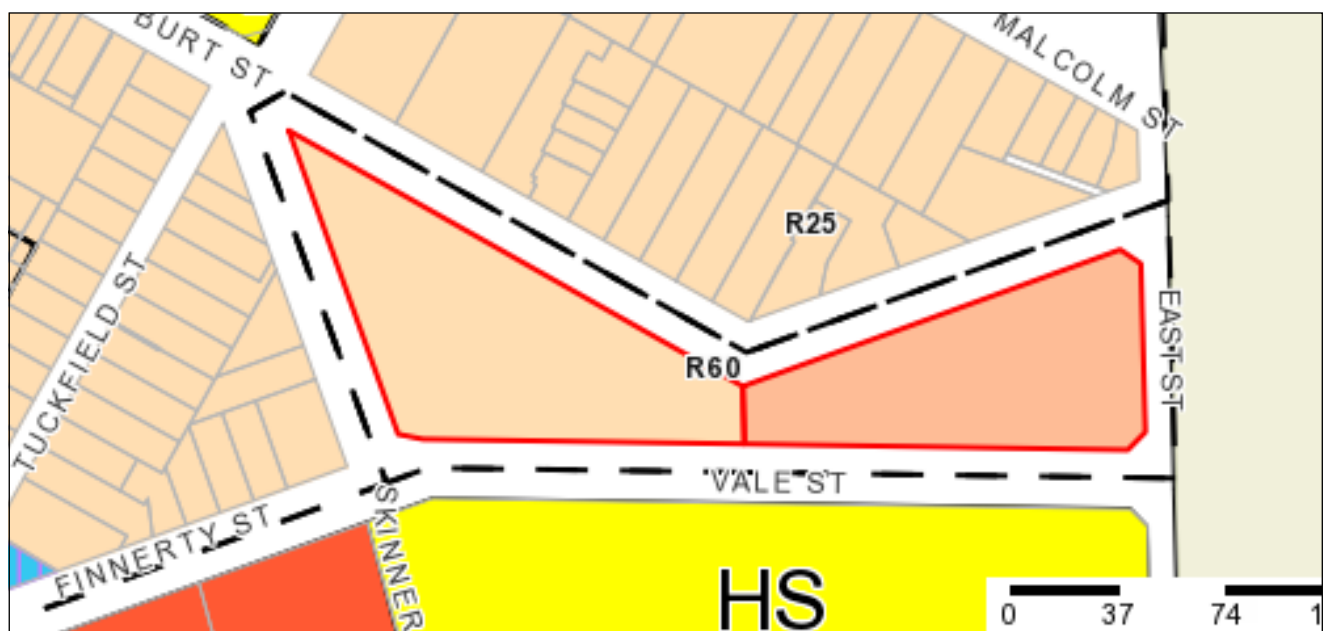
CARRIED: 6/0

For	Against
Mayor, Brad Pettitt Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

Cr R Pemberton arrived at 6.17 pm prior to consideration of the following item.
Cr R Fittock vacated the chamber at 6.50 pm.
Cr R Fittock returned to the meeting at 6.51 pm.

**PSC1210-168 CONSIDERATION OF THE PRINCIPLES OF A PROPOSED SCHEME
AMENDMENT AND DEVELOPMENT DEED AT 19-21 AND 23-25
BURT STREET, FREMANTLE**

DataWorks Reference:	059/002
Disclosure of Interest:	Nil
Meeting Date:	17 October 2012
Responsible Officer:	Manager Planning Projects and Policy
Actioning Officer:	Strategic Planner
Decision Making Level:	Council
Previous Item Number/s:	Nil
Attachments:	<ul style="list-style-type: none"> 1. Letter from Department of Housing 2. AHD Building Height Planes 3. Topography Map



EXECUTIVE SUMMARY

The City has been requested by the Department of Housing (DoH or the Department), owner of 19-21 (Lot 1873) and 23-25 (Lot 1907) Burt Street, to consider whether, in principle, it would be likely to support an amendment to Local Planning Scheme No.4 to allow an increase in the residential density from R60 to R160, subject to specific development provisions and a Deed of Agreement between the City of Fremantle and the DoH to secure specific outcomes from the redevelopment of the subject sites. The purpose of this report is to present this proposal for Council's preliminary consideration.

The Department considers that the topography and location of the site, combined with their vision of a high quality mixed tenure redevelopment (public, affordable and private housing), would require a significant increase to the existing residential density to enable redevelopment to achieve a yield that would render the project financially viable. The DoH proposes to deliver this project through a joint venture arrangement with a private sector developer, secured through a tender process. DoH is therefore seeking a degree of certainty from the City that redevelopment at a higher density would be supported, prior to engaging in the tender process.

The DoH acknowledges that the City cannot reasonably be expected to support a 'blanket' up-coding to a substantially higher density in the absence of a clear design proposal. However a detailed design for any redevelopment would not be prepared until after a joint venture partner has been appointed. To address this issue and attempt to provide some level of certainty to the City and the local community about future development outcomes, and in exchange for allowing a significant increase in the residential density of the subject sites, the Department proposes that concurrent to commencement of a Scheme amendment process a Deed of Agreement is entered into between the City of Fremantle and the DoH. The Deed of Agreement would set out development requirements relating to the subject sites should redevelopment occur at the higher density, including the following:

- Housing diversity and affordability outcomes
- Vehicle access
- Building height
- Sustainable design

Should Council support the principles of such an arrangement as outlined in this report, officers will subsequently prepare a Scheme Amendment and a draft Deed of Agreement between the City and DoH, for further consideration by Council.

BACKGROUND



Aerial: 19 – 21 and 23 - 25 Burt Street, Fremantle

Site Description and Planning History

No.'s 19-21 (Lot 1907) and 23-25 (Lot 1873) Burt Street, Fremantle, are located approximately 1km north east of the Fremantle City centre and is wholly bound by Burt, East, Vale and Skinner Streets, with a combined total land area of 13,742m². The subject sites are adjoined by John Curtin College of the Arts to the south, the Fremantle Arts Centre to the south-west, the Local Government Authority boundary with the Town of East Fremantle to the east, and medium density residential development to the north and east. The two sites slope significantly from east to west.

Recorded planning history over the subject sites shows planning approval was granted in 1972 to the State Housing Commission for seven multiple dwelling buildings, and further approval for a community centre granted in 1976. In 2011, the City was referred an application from the Western Australian Planning Commission (WAPC) for public works for the demolition of six of the existing multiple dwelling buildings and the community centre at the subject sites, with the retention of the multiple dwelling block nearest to Skinner Street. A Heritage Assessment was undertaken in line with the City's Local Planning Policy 1.6 – Preparing Heritage Assessments and found that 'the place had limited or no heritage significance'. The application was therefore referred to the WAPC for approval for public works for the demolition of six multiple dwelling buildings and community centre on 2 September 2011 and the sites have subsequently been cleared of these structures.

Statutory Planning Provisions

The properties are located within Schedule 12: Local Planning Area 2 (LPA2) – Fremantle and are currently zoned ‘Residential’ under Local Planning Scheme No. 4 (LPS4), with a residential density coding of R60. Under LPA2, the height provisions for ‘Residential’ development are as per the requirements of the Residential Design Codes (R Codes). Under the R Codes, for multiple dwellings with a density of R60, a maximum external wall height of 9 metres is allowed, with a maximum roof height of 12m (top of pitched roof). Additionally, under the current density of R60, at Table 4 of the R Codes, a maximum plot ratio of 0.7 for multiple dwellings is allowed, with a minimum of 45% of the site as open space.

Neither of the subject sites are located on the City’s Heritage List, however they are located within an area of high heritage significance due to their proximity to the State Heritage listed Fremantle Arts Centre.

Public Works

Under the WAPC’s ‘Planning Bulletin 94 – Approval requirements for Public Works and Development by Public Authorities’ and section 6 of the *Planning and Development Act 2005* (PD Act), the Department of Housing, as a public authority, is permitted to undertake public work without obtaining development approval from the responsible authority under the relevant planning scheme. However, the public authority is required to consult with the relevant local government authority and public works undertaken under the Metropolitan Region Scheme (MRS) requires application to the WAPC for development approval. The City’s Scheme supports this at clause 8.2 (j) of LPS4, permitting ‘*works by any public authority acting pursuant to the provisions of any Act on, in, over or under a public street, or works for a utility service.*’

However, the public authority are still required to comply with requirements of section 6(2) and (3) of the PD Act whereby they must have regard to the purpose and intent of the City’s Scheme, have regard to the principles of proper and orderly planning and the amenity of the area, and are to consult with the City when a proposal for public works is being prepared. Also of note, only public housing, and not private market housing, is considered public works under the *Public Works Act 1902*.

PLANNING COMMENT

Further to preliminary discussions between City officers and DoH regarding the possible redevelopment of the subject sites, the City received a letter from the DoH (dated 25 September 2012 – please see Attachment 1) formally requesting in principle support of an amendment to Local Planning Scheme No. 4 (LPS4) to allow an increase in the residential density from the existing density of R60 to a maximum density of R160 at the subject sites in order to facilitate a high quality mixed tenure development. The DoH is proposing a redevelopment comprising of a mix of social rental housing, other ‘affordable housing’ tenures such as shared equity and subsidised private rental housing, and market housing for sale. The DoH considers that a density of up to R160 is necessary to enable redevelopment to achieve a yield that would render the project financially viable.

Because the redevelopment of the subject sites is proposed to contain a portion of private market dwellings, in addition to the provision of public and affordable housing, the redevelopment could not be considered 'public works' under the *Public Works Act 1902* and therefore would be assessed under the requirements of the City's Scheme. With consideration of this the density required to facilitate the development outcomes and financial viability as proposed by the DoH is not consistent with the current density of the Scheme and therefore an amendment to the Scheme to allow an increase to the residential density would be required.

The DoH proposes to deliver this project through a joint venture arrangement with a private sector developer. A partner would be secured through a tender process; therefore DoH is seeking some degree of certainty that the City would support a higher density redevelopment before going to the market. At the same time, the DoH acknowledges that the City cannot reasonably be expected to support a 'blanket' up-coding to a substantially higher density without some mechanism to ensure that if redevelopment at the higher density does occur, it will deliver a quality of design and other planning outcomes necessary to render development at this density acceptable.

Proposed Deed of Agreement

To provide certainty to the City (and the local community) about future development outcomes in exchange for allowing a significant increase in the residential density of the subject sites, and in the absence of a clear design proposal, DoH has proposed a Deed of Agreement be entered into between the City and DoH, setting out a number of detailed development requirements that must be fulfilled should the DoH/partner developer proceed in the development of the site at a density greater than R60, and subject to the approval of a Scheme amendment to allow an increase in the existing density to R160. The Deed would provide certainty to the City that specific development requirements will be met within the development, without discretion. Additionally, it is also considered that the assumed value of any such development would require a planning application to be assessed by a Development Assessment Panel (DAP). A Deed would ensure specific development outcomes as agreed upon by the City and DoH will still be met, irrespective of any interpretation of Scheme provisions and/or conditions of development approval applied by the DAP.

Officers recognise the dual process of both an amendment to the Scheme and the provision of a Deed of Agreement is an unusual approach, however with regard to the substantial increase in density proposed, it is considered that a Deed would ensure better development outcomes are achieved than the existing Scheme provisions and density currently provide for these sites. The City is statutorily limited as to what development provisions can be prescribed through a Scheme amendment and an amendment is of course subject to final approval (and possible modification) by the WAPC and Minister for Planning. Consequently outcomes such as a mandatory requirement to provide a certain amount of affordable housing units and to achieve a high standard of sustainable building design could not be incorporated into the Scheme as a prerequisite for allowing an increase in residential density, however such requirements could be included in a Deed voluntarily entered into by the DoH as landowner (which would be binding on successors in title) and the City.

Officers consider there is potential to achieve a contemporary redevelopment of the subject sites that would incorporate significant diversity in housing stock as well as high quality sustainable design, and the proposal to enter into a Deed of Agreement with the City could ensure these outcomes are achieved. In addition, this proposal could help meet the objectives of the City's 2010-2015 Strategic Plan to provide more diverse and affordable housing and innovative and renewed City and suburban areas, and would contribute to housing supply targets as set out in the WAPC's strategic policy *Directions 2031 and Beyond*.

If supported in principle by Council, it is envisaged at this stage that a Deed of Agreement would be prepared concurrently with preparation of an amendment to the Scheme to allow an increase in density up to R160. However it may be appropriate for a Deed to be agreed and executed before a Scheme amendment is formally initiated, thereby providing certainty to both parties of support in principle for the development concept and providing a foundation for the DoH to proceed with engaging a development partner at an early stage.

Proposed Scheme Amendment

If the principles of this proposal are supported by Council, further investigation into allowing an increase to the residential density through a Scheme amendment would be required. In preliminary investigation, officers consider a Scheme amendment based on the structure of previous Scheme amendments, such as Amendment No.43 – Development Area 14 (Strang Court Development Area) and No. 32 – Hilton Commercial Centre, would be an appropriate mechanism. Under this structure, the proposed amendment would include the creation of a new sub area containing the subject sites into Schedule 12 - LPA 2, with a suite of specific development criteria that would have to be met in order for the application of a maximum density of R160 to be allowed. The specific development criteria to be met would generally reflect the development provisions as proposed under the Deed (except for those matters which could not be made a mandatory requirement through the Scheme) and would include development criteria relating to vehicle access, housing diversity, and setbacks. If these criteria are not satisfied, development would only be permitted at the 'default' current density coding of R60.

This is considered a more appropriate option than, for example, rezoning the site a Development Area which would require a structure plan to be prepared and approved to guide the density and general form of future development. Given the particular circumstances of this site and the DoH's proposed approach of a joint venture arrangement, Development Area provisions in the Scheme would not provide sufficient certainty about outcomes to either the City or the DoH at an early stage in the process.

Key Development Requirements of a Proposed Deed

In the Department's request for Council's in principle support of an increase in the residential density of the subject sites to R160, the DoH sets out a number of suggested provisions to be included within a Deed of Agreement with the City. These are discussed below. A number of additional considerations as recommended by officers for inclusion in a Deed, should Council support this proposal, are also outlined.

Housing diversity and affordability

The DoH request inclusion in the Deed the provision of a percentage of public housing and that this is limited to a maximum of 15% of the total dwelling yield of the site. Additionally, it is recommended that the 'balance' of the development cater for affordable home ownership, private rental for low to moderate incomes and key workers. A component of the development of private market dwellings will also be included to contribute to the social diversity and financial viability of the proposal.

Officers also note that should the City's Scheme Amendment No. 49 be granted approval by the WAPC and Minister for Planning, the following provision will also have application to the subject sites in the provision of housing diversity:

'In development comprising of ten or more Multiple Dwellings, a minimum of 25 per cent of the total number of dwellings must have a maximum floor area of 60 square metres or less and no more than 40 per cent of the total number of dwellings may have a floor area of 120 square metres or more.'

Should Council support this overall proposal in principle, officers recommend the following development requirements as related to the provision of housing diversity and affordability should be included in the Deed of Agreement, and where applicable, in the concurrent Scheme amendment:

- 1) Between 10% to 15% of the total dwelling yield shall be public housing; and
- 2) A further 25% to 30% of the total dwelling yield shall be other forms of affordable housing as defined below:

'Affordable housing' refers to dwellings which households on low-to-moderate incomes can afford, while meeting other essential living costs. It includes public housing, not-for-profit housing, other subsidised housing under the National Rental Affordability Scheme together with private rental and home ownership options for those immediately outside the subsidised social housing system.

Vehicle Access

The DoH recommends vehicle access to the proposed development occur from Vale Street and the design of future development must achieve this. With consideration to the steep topography at the subject sites boundary with Burt St, the topography of Burt St itself, and the existing residential development fronting Burt St, officers support this recommendation. The topography of Vale St, in addition to its location adjacent to the school oval of John Curtin College and connection with both Quarry St via James St and East St, supports the planning consideration of Vale St as the primary access for vehicles to the development.

Maximum Building Height Planes

Although no conceptual work on the built form of future development has yet been undertaken, both the DoH and City officers consider that in order to achieve a density of up to R160, and the related maximum plot ratio of 2.0 as specified in the Residential Design Codes for multiple dwelling developments at this density, the built form of new development on the site is likely to involve buildings of generally 3 to 4 (possibly up to 5) storeys in height, depending on final design. The DoH acknowledges that building height is likely to be an issue of significant interest to existing neighbouring residents as well as to the City.

In order to provide some level of reassurance, in advance of preparation of detailed design proposals, that development will not adversely affect local amenity due to building scale and bulk the DoH proposes that some basic maximum building height controls be included within the Deed as well as in Scheme amendment provisions. After some discussion with City officers, the DoH proposes that this be achieved in the form of specified horizontal height 'planes' expressed as Australian Height Datum (AHD) levels, which represent the maximum height that external walls of any new development must not exceed. These are depicted in Attachment 2 of this report. The maximum building height as set out in Table 4 of the R Codes for a density of R160 would not apply.

The DoH proposes that the subject sites be divided into three zones (A, B and C on the plan at Attachment 2) with a horizontal height plane nominated for each zone. The three zones correspond to parts of the site with significant differences in topography and existing ground levels and reflect the general stepping down in topography from east to west.

It is considered the application of a 'height plane' will allow for appropriate flexibility in building design and respond more appropriately to the site's unusual topography than the maximum building height as prescribed in the R Codes which is generally measured from natural ground level. The proposal to apply a different height plane to each zone reflects the general stepping down in topography from east to west as discussed previously above. At Attachment 2 the following height planes are recommended for each of the three zones:

- Zone A - AHD of 37m;
- Zone B - AHD of 40m;
- Zone C - AHD of 45m.

In zones B and C, the proposed maximum AHD would generally allow for three storey development with scope for a pitched or sloping roof design. In Zone A, 4 to 5 storeys could be facilitated; assuming development occurs from existing ground levels with no major excavation or fill. Overall, the proposed maximum building AHD height planes for the three zones would generally present as a maximum three storey development to street level as viewed from the adjoining existing residential properties in Burt and East Streets, which are elevated above street level (by a significant amount in some cases).

Sustainable Building Design

At clause 5.16 of the Scheme, and in conjunction with the City's Local Planning Policy 2.13 – Sustainable Building Design Requirements, multi-residential development 'shall be designed and constructed in such a manner so as to achieve a rating of not less than 4 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool'.

Although not a development consideration set out by the DoH in the suite of conditions to be included in a Deed of Agreement, officers consider in allowing development to occur at a significantly higher density, additional provisions relating to sustainable building design should also be applied to the subject sites. Notwithstanding the requirements of LPP 2.13 as outlined above, officers consider a higher Star Green Star rating (or equivalent measure of sustainable building design) should be required of any development proposed on the subject sites at a density greater than R60. This should be secured as an obligation on the developer under the Deed, as it could not be statutorily required through provisions in LPS4. The precise method of defining this may require further investigation and discussion with DoH but as a principle, officers consider a requirement to attain a 5 Star Green Star rating for multiple residential developments should apply.

Overall Building Design

Officers consider that given the location and topography of the site, the significant increase in density proposed and the proximity of the northern and eastern boundaries of the subject sites with existing residential properties, and in the absence of prescribing specific design outcomes, the Deed should include an obligation that the DoH/developer commits to the following prior to lodgement of a formal development application in order to achieve appropriate high quality design outcomes:

- a commitment to consideration of the development plans by the City's Design Advisory Committee, and
- an agreed process for community consultation
- consultation with the State Heritage Office having regard to the site's proximity to the State registered Fremantle Arts Centre, and provision of a heritage assessment for consideration by the City.

CONCLUSION

This proposal represents an unusual approach to consideration of a potential amendment to the Local Planning Scheme to facilitate a higher density redevelopment of a significant site. The offer of a Deed to guarantee certain development outcomes, applied in parallel with the Scheme amendment process, is considered by officers to have merit in this instance for the reasons outlined in this report. However it is appropriate for Council to consider whether it supports this approach in principle before further work is undertaken on this matter by either City officers or the Department of Housing.

OFFICER'S AND COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

That the Department of Housing be advised that Council would support in principle the following process to facilitate a redevelopment of 19-21 and 23-25 Burt Street, Fremantle at a residential density of up to R160:

1) A Deed of Agreement/Development Deed should be executed between the Department of Housing and the City of Fremantle, to include obligations upon the Department and any successors in title to deliver the following outcomes as part of any new development on the subject land at a residential density higher than R60:

- i. Between 10% and 15% of the total dwelling yield shall be public housing; and
- ii. A further 25% to 30% of the total dwelling yield shall be other forms of affordable housing as defined below:

'Affordable housing' refers to dwellings which households on low-to-moderate incomes can afford, while meeting other essential living costs. It includes public housing, not-for-profit housing, other subsidised housing under the National Rental Affordability Scheme together with private rental and home ownership options for those immediately outside the subsidised social housing system.

- iii. Primary vehicle access to the development shall be from Vale Street;
- iv. Building height is to be contained within a maximum Australian Height Datum height plane as set out in Attachment 2 of this report;
- v. The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool, or equivalent;
- vi. Pre-consultation with the City of Fremantle's Design Advisory Committee and a consultation process with the local community are required to be undertaken prior to lodgement of a development application.

2) Concurrent with completion of the Deed referred to in (1) above, City officers shall prepare an amendment to Local Planning Scheme No. 4 to allow an increase in the residential density of 19-21 and 23-25 Burt Street to R160 subject to specific development provisions, to be presented to Council for formal initiation.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

**PSC1210-169 PROPOSED AMENDMENT 54 TO LOCAL PLANNING SCHEME NO. 4
- THIRD OMNIBUS OF MINOR CHANGES - INITIATION**

DataWorks Reference: 218/060
Disclosure of Interest: Nil
Meeting Date: 17 October 2012 – Planning Services Committee
Responsible Officer: Manager Planning Projects
Actioning Officer: Senior Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: Nil
Attachments: None

EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council initiate a third omnibus amendment to Local Planning Scheme No. 4 ('LPS4' or 'Scheme').

The proposed amendment is a collection of relatively minor changes to the Scheme text and Scheme map. The majority of recommended changes relate to incorrect clause numbering, typographical errors and references to other planning documents that have since been reviewed or superseded. Other minor changes are also intended to improve the clarity and consistency of the Scheme document.

The opportunity has also been taken to recommend changes to other sections of the Scheme, summarised as follows:

- Amend the provisions relating to the South Fremantle Landfill Site Development Area to allow Council to consider development on Nos 38 and 40 Daly Street, prior to the adoption of a structure plan.
- Rezone 2 Doepel St North Fremantle to be consistent with the constructed development on-site;
- Introduce new terms and definitions for 'external wall height' and 'building height';
- Include maps of Local Planning Areas in Schedule 12 of the Scheme;
- Delete 2 redundant Development Plans (DP16 and DP19) from the Scheme; and
- Changes to the objectives of the Local Centre, Neighbourhood Centre and Mixed Use zones.

Should Council resolve to initiate Amendment 54, community consultation will be undertaken in accordance with the provisions of the *Town Planning Regulations 1967* and local planning policy 1.3.

BACKGROUND

Since LPS4 was gazetted in March 2007, two omnibus amendments have been gazetted – Amendment 9 gazetted 3 March 2009 and Amendment 35 gazetted 5 April 2011. As the Scheme is a working planning document, inconsistencies and errors will arise from time to time and therefore it is considered appurtenant to review and correct these inconsistencies on fairly regular basis.

PLANNING COMMENT

There are 34 recommended changes to the Scheme. The proposed changes to the Scheme are described separately as follows:

1. 1	2. Minor text change to incorrectly referenced clause
3. Existing provision	4. cl. 2.5.1(a) – <i>‘the adoption by a Council of a new policy under clause 2.5 that is specifically expressed to supersede the existing local planning policy, or ...’</i>
5. Proposed provision (changes shown in bold)	6. cl. 2.5.1(a) – <i>‘the adoption by a Council of a new policy under clause 2.4 that is specifically expressed to supersede the existing local planning policy, or ...’</i>
7. Explanation for proposed change	8. To reference the relevant clause dealing with the preparation and adoption of local planning policies. Cl. 2.5 deals with the revocation of LPPs.
9. 2	10. Change the term ‘mixed use’ to ‘mixed use development’
11. Existing provision	12. Schedule 1 of the Scheme includes general terms and definitions used in the Scheme. ‘Mixed use’ is one such term and is defined as <i>‘means, when used in relation to a Planning Application, a combination of one or more of the residential use classes specified in Table 2 – Zoning and any other land use or uses, and where the residential use class and any other one use class each comprise a minimum of 25 percent of the gross lettable area of the development.’</i>
13. Proposed provision (changes shown in bold)	14. Amend the term to ‘mixed use development’ .
15. Explanation for proposed change	16. The change is recommended to avoid confusion with the ‘Mixed use’ zones within the Scheme area and to be consistent with the use of the phrase ‘mixed use development’ throughout the Scheme.

17. 3	18. Minor change to reflect the revised R-Codes
19. Existing provision	20. cl. 5.2.4 – ‘ <i>Except in the Residential Development zone, where there is no Residential Design Code density applicable to land within the Scheme area, the provisions of clause 7.3 of the Residential Design Codes shall be applied as relevant.</i> ’
21. Proposed provision (changes shown in bold)	22. cl. 5.2.4 – ‘ <i>Except in the Residential Development zone, where there is no Residential Design Code density applicable to land within the Scheme area, the R-AC3 provisions of the Residential Design Codes shall be applied as relevant.</i> ’
23. Explanation for proposed change	24. The R-Codes were amended in November 2010. The Scheme reference to clause 7.3 of the R-Codes was for the set of development provisions relating to inner city housing requirements of the R-Codes pre-Nov 2010. The equivalent provisions in the current R-Codes are dealt with by the R-AC3 provisions. The only areas within the Scheme that aren’t assigned a density code are Industrial zones (where residential uses are prohibited), Development zones (where the relevant structure plan would guide residential development) and the City Centre zone, so effectively this clause relates to residential development in the City Centre zone only.

25. 4	26. Minor text change to incorrectly referenced clause
27. Existing provision	28. cl. 5.4.4.2 – ‘ <i>in consultation with the Water Corporation, the Corporation recommends to the Council that there are exceptional circumstances which warrant a variation to the requirements in clause 5.4.5.1 or ...</i> ’
29. Proposed provision (changes shown in bold)	30. cl. 5.4.4.2 – ‘ <i>in consultation with the Water Corporation, the Corporation recommends to the Council that there are exceptional circumstances which warrant a variation to the requirements in clause 5.4.4.1 or ...</i> ’
31. Explanation for proposed change	32. Clause 5.4.5.1 has recently been deleted from the Scheme with the gazettal of Amendment 45 on 12 September 2012. Nevertheless former clause 5.4.5.1 dealt with energy efficiency measures and was not relevant to this clause. The correct clause to reference in this context is 5.4.4.1 which deals with sewerage systems and residential development.

33. 5	34. Minor text change to incorrectly referenced clause of R-Codes
35. Existing provision	36. cl. 5.5.1 – <i>‘Where mixed use development is proposed, the provisions of Clause 7.2 of the R-Codes will apply.’</i>
37. Proposed provision (changes shown in bold)	38. cl. 5.5.1 – <i>‘Where mixed use development is proposed, the provisions of Part 7 of the Residential Design Codes will apply.’</i>
39. Explanation for proposed change	40. The R-Codes were amended in Nov 2010 and the mixed use development provisions that were previously contained under clause 7.2 are now dealt with under all of Part 7 of the R-Codes.

41. 6	42. Minor text change to incorrectly referenced clause
43. Existing provision	44. cl. 5.7.4(b) – <i>‘the Council having adopted a local planning policy pursuant to clause 2.6 detailing the costs ...’</i>
45. Proposed provision (changes shown in bold)	46. cl. 5.7.4(b) – <i>‘the Council having adopted a local planning policy pursuant to clause 2.4 detailing the costs ...’</i>
47. Explanation for proposed change	48. To correctly reference the clause dealing with the preparation and adoption of local planning policies. Cl. 2.6 deals with the local planning policies that were made under the previous town planning scheme.

49. 7	50. Change to South Fremantle Landfill Site provisions prior to the adoption of a structure plan
51. Existing provision	<p>52. Schedule 11 – DA2 – Daly and Hollis Street tip site, South Fremantle landfill sites.</p> <p>53. <i>'1. Structure plan is to be adopted to guide subdivision, land use and development prior to approval of development applications.</i></p> <p>54. <i>2. Investigations of potential site contamination to the satisfaction of the DEC.</i></p> <p>55. <i>Subdivision and development applications for this site will not be determined until a structure plan is adopted for the area.'</i></p>
56. Proposed provision (changes shown in bold)	<p>57. Schedule 11 – DA2.</p> <p>58. <i>'1. Structure plan is to be adopted to guide subdivision, land use and development prior to approval of development applications.</i></p> <p>59. <i>2. Investigations of potential site contamination to the satisfaction of the DEC.</i></p> <p>60. Subdivision and development applications for this site will not be determined until a structure plan is adopted for the area.</p> <p>61. Notwithstanding the above, on Lots 1, 4 & 5 on Plan 122 (Nos 40 and 38) Daly Street development applications received prior to the adoption of a structure plan shall be assessed against the Mixed Use zone provisions of the Scheme. Applications for any form of residential development and subdivision applications should be deferred until a structure plan is adopted in order that servicing, open space provisions, environmental remediation and other issues are resolved.'</p>
62. Explanation for proposed change	<p>63. There are two properties (3 lots) bound by Development Area 2 that are in private ownership and have been operating as light industrial type uses for a number of years. Currently the provisions of Schedule 11 provide Council with no discretion to approve any form of development on these properties, even though the properties are located outside of the former tip site and are not subject to any contamination classifications as viewed on the contaminated database on the Department of Environment and Conservation website 14 May 2012. The proposed provision to allow the Council to consider and approve development on these properties is consistent with other discretionary 'interim' clauses within other Development Areas – such as Knutsford St and Strang St.</p>

64. 8	65. Rezoning of No. 2 Doepel Street, North Fremantle and application of residential density code
66. Existing provision	67. No. 2 Doepel St (and No. 30 Kwong Alley), North Fremantle is currently zoned 'Development' and has no residential density coding applicable to the property.
68. Proposed provision	69. Amend the Scheme map to apply a 'Mixed Use' zone to the land and a residential density of R160.
70. Explanation for proposed change	71. The development recently completed on this site was first approved in August 2007 and has been subject to a number of minor variation approvals since then. Part A of the August 2007 Council resolution was that the development proposal effectively became the adopted Detailed Area Plan for the land. As development on the site has completed, it is recommended that the site be rezoned to Mixed Use to reflect the residential and small scale commercial uses of the approved development and the equivalent density of the development (58 dwellings, plot ratio of 1.82).

72. 9	73. Deletion of Schedule 11 provisions relevant to DA16 – Lot 28 Doepel St, North Fremantle
74. Existing provision	75. <i>'A Detailed area plan is to be adopted (cl. 6.2.15) to guide land use and development prior to the approval of development applications.'</i>
76. Proposed provision	77. Delete the provision in its entirety.
78. Explanation for proposed change	79. The provision will be no longer necessary or relevant as a consequence of rezoning the property in accordance with recommendation 8.

80. 10	81. New term 'external wall height' and definition
82. Existing provision	83. n/a
84. Proposed provision	85. <i>'External wall height: the vertical distance at any point from ground level to the uppermost part of the wall of the building above that point.'</i>
86. Explanation for proposed change	87. The height provisions of the Scheme regularly refer to 'external wall height' however this term is not defined and as such there is, at times, uncertainty how to measure a building's 'external wall height'. The proposed introduction of a new term and definition is intended to clarify this uncertainty.

88. 11	89. New term 'building height' and definition
90. Existing provision	91. n/a
92. Proposed provision	93. 'Building height: the vertical distance at any point from ground level to the uppermost part of the building above that point.'
94. Explanation for proposed change	95. The height provisions of LPS4, particularly the recent Amendments 38 (East End) and 49 (City Centre Strategic Sites) refer to 'building height' however this term is not defined and as such there could be uncertainty how to measure a proposed development's 'building height'. The proposed introduction of a new term and definition is intended to clarify this uncertainty.
96. 12	97. Amending the definition for the term 'floor area'
98. Existing provision	99. <i>Floor area: when used in relation to a building that is used for –</i> 100. 101. <i>(a) residential purposes, has the same meaning as in the Residential Design Codes; or</i> 102. 103. <i>(b) purposes other than residential, has the same meaning as in the Building Code of Australia 1996 published by the Australian Building Codes Board.'</i>
104. Proposed provision (changes shown in bold)	105. <i>Floor area: when used in relation to a building that is used for –</i> 106. 107. <i>(a) residential purposes, has the same meaning as the term 'plot ratio area' as in the Residential Design Codes; or</i> 108. 109. <i>(b) purposes other than residential, has the same meaning as in the National Construction Code published by the Australian Building Codes Board.'</i>
110. Explanation for proposed change	111. 1. The term floor area is not defined in the R-Codes, however for the purposes of the Scheme in using the term 'floor area', the R-Codes definition of plot ratio area is considered appropriate. 112. 113. Plot ratio area is defined in the R-Codes as 'the floor area of buildings on a site as delineated in the definition of plot ratio.' 114. 115. Plot ratio is defined as 'the ratio of the gross total of all floors of buildings on a site to the area of land in the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of any lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies, bin storage areas

	<p>or amenities areas common to more than one dwelling, or balconies, verandahs, courtyards and roof terraces.'</p> <p>116.</p> <p>117. 2. The 'Building Code of Australian 1996' has been superseded by the 'National Construction Code'.</p>
118. 13	119. Amending the definition for the term 'storey'
120. Existing provision	<p>121. 'storey: means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it, but does not include any portion of a building used solely for car parking and having 50% or more of its volume below ground level.'</p>
122. Proposed provision (changes shown in bold)	<p>123. 'storey: means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it, but does not include a loft, or any portion of a building that has 50% or more of its volume below ground level.'</p>
124. Explanation for proposed change	<p>125. Officers are regularly questioned whether a loft is considered a storey for the purpose of the Scheme. Even though 'loft' is a term defined by the Scheme, the definition does not explicitly exclude a loft from also being considered a storey. The City's legal advice however, based on State Administrative Tribunal decisions, is that a loft should not be considered a storey and therefore it is proposed that the definition of storey be amended to explicitly state that a storey does not include a loft.</p> <p>126.</p> <p>127. Secondly it is recommended to remove the reference that only below ground areas used for car parking are excluded from the definition of 'storey'. It is considered that the use of a portion of a building that has 50% or more of its volume below ground level shouldn't matter for the purpose of the definition as the application of a height limit in 'storeys' is relevant to the above ground impact of the development on the surrounding area, rather than what exists below ground. Circumstances have arisen where an applicant may propose a cellar, storage area and car parking below ground in a two storey development but due to a two storey limit on development, the cellar and storage area require a discretionary decision of Council in relation to building height. This proposed change to the definition of 'storey' will allow for greater uses in the below ground portions of buildings without the area being classed as a 'storey'.</p>

128. 14	129. Insert a new clause to clarify the link to Development Plans, particularly the South Beach Village
130. Existing provision	131. n/a
132. Proposed provision (changes shown in bold)	133. Clause 6.1.1 – <i>‘(f) the development plan areas shown on the Scheme map as “DP” with a number and included in Schedule 14.’</i>
134. Explanation for proposed change	135. Schedule 14 of LPS4 contains development plans which are generally previous structure plans adopted under the former Scheme TPS3. In all cases except the South Beach Village, the development plans relate to land that is currently zoned ‘Development’ and therefore the plans have statutory relevance by reference to Schedule 14 under Part 6 of the Scheme. The difference with the South Beach Village is that this land is zoned Residential and even though Development Plan 14 is indicated on the Scheme map as “DP14”, the relationship between the land and the provisions of the development plan has been interpreted as somewhat unclear. The proposed provision is intended to clarify this relationship.

136. 15	137. Reordering of general terms in Schedule 1 to be in alphabetical order
138. Existing provision	139. The term and definition for ‘bicycle rack’ is currently out of alphabetical order in Schedule 1 of the Scheme.
140. Proposed change	141. Relocate the term and definition for ‘bicycle rack’ so that is in alphabetical order.
142. Explanation for proposed change	143. Self explanatory minor change to the order of the terms in Schedule 1.

144. 16	145. Correct an error in the gazettal notice for Amendment 20
146. Existing provision	147. n/a
148. Proposed provision	149. Amend the Scheme map to zone the property addressed as No. 29 (Lot 31) Jarvis St, O’Connor to ‘Commercial’.
150. Explanation for proposed change	151. Amendment 20 was gazetted in November 2009. One of the changes was to rezone Lot 31 (No. 29) Jarvis Street, O’Connor from ‘Residential’ to ‘Commercial’. The gazettal notice incorrectly referred to the property as ‘No. 229 Jarvis Street, O’Connor’ and based on advice from the WAPC, this error should be corrected through a further amendment to the Scheme, even though the Scheme map currently has a ‘Commercial’ zoning over the land. It is noted that there is no property addressed as ‘No. 229 Jarvis Street, O’Connor’ and that this gazettal error has had no material effect since the date of gazettal.

152. 17	153. Delete sub area 8.3.2 and its associated provisions from Schedule 12.
154. Existing provision	155. <i>'Density: R80'</i>
156. Proposed provision	157. Delete sub area 8.3.2 and its associated provisions from Schedule 12.
158. Explanation for proposed change	159. Sub area 8.3.2 of Local Planning Area 8 – O'Connor was created as part of Amendment 25. The Amendment originally proposed minimum rear setback requirements for new development however the Minister for Planning modified the Amendment to remove these provisions. Consequently, the only provision relevant to the sub area in Schedule 12 is the residential density coding, which is already provided for on the Scheme map. It is noted that building height within the Local Centre zone in O'Connor LPA is limited to 11m external wall height – a provision that exists outside of the specific provisions of the sub area.

160. 18	161. Minor grammatical text change
162. Existing provision	163. cl. 9.4.6(b) – <i>'provide a hard copy of the request documents – in which case the person requesting the documents must pay the City's reasonable costs of providing the copy.'</i>
164. Proposed provision (changes shown in bold)	165. cl. 9.4.6(b) – <i>'provide a hard copy of the requested documents – in which case the person requesting the documents must pay the City's reasonable costs of providing the copy.'</i>
166. Explanation for proposed change	167. Minor grammatical correction – 'request' replaced with 'requested'.

168. 19	169. Clarification of lot numbers and property addresses in Sub area 3.3.3 – Northbank
170. Existing provision	171. Within sub area 3.3.3, three properties are nominated as having specific height requirements and are identified as follows: 172. <i>Lot 28 Doepel St/Kwong Alley</i> 173. <i>Lot 27 Swan Street</i> 174. <i>Lot 102 Pensioner Guard Road</i>
175. Proposed provision (changes shown in bold)	176. Lot 28 on DP21859 (No. 2 Doepel Street and No. 30 Kwong Alley) 177. Lots 103 and 104 on DP21469 (Nos 8, 10, 12, 14 & 16 Bick Lane and No. 1 Swan Street) 178. Lot 102 on DP21469 (No. 2-4 Pensioner Guard Road)
179. Explanation for proposed change	180. The current references to the properties are unclear as each of the properties have since been either subdivided or readdressed. The proposed changes are to clarify what provisions relate to each property by updating the lot numbers and street addresses.

181. 20	182. Renumbering of subclauses to correct error
183. Existing provision	184. There are 2 subclauses (viii) under clause 5.7.6.
185. Proposed provision	186. Renumber the second subclause (viii) to (ix).
187. Explanation for proposed change	188. The change is to remove the duplication of sub clause numbering under this clause.

189. 21	190. Include maps of Local Planning Areas in Schedule 12
191. Existing provision	192. Local Planning Areas are designated on the Scheme map. Schedule 12 of the Scheme contains general and specific development controls for application within the local planning areas, however only contains maps for the sub areas within the local planning areas.
193. Proposed change	194. To include maps of the local planning areas within the Schedule 12, immediately beneath the relevant local planning area heading. Local planning areas will still be designated on the Scheme map.
195. Explanation for proposed change	196. The inclusion of local planning area maps in Schedule 12 would assist in the day-to-day use of the local planning scheme, particularly in situations where access to the City's electronic mapping system is unavailable. Also, including the local planning area maps would be consistent with the format of including the sub area maps in Schedule 12. Any future amendments to the local planning areas boundaries would then affect the Scheme map as well as the maps included in Schedule 12.

197. 22	198. Insert an extra line in Schedule 12 to cross reference other specific requirements relevant to the O'Connor Industrial Interface Area
199. Existing provision	200. Sub area 8.3.1 of local planning area 8 – O'Connor relates to the O'Connor Industrial Interface Area. A map of the Interface Area and a maximum building height requirement are stated under the sub area 8.3.1 provisions of Schedule 12, however there are numerous other land use and development controls relevant to the Interface Area that are stated under clause 6.6 of the Scheme.
201. Proposed provision (changes shown in bold)	202. Insert new line under sub area 8.3.1. of local planning area 8 – O'Connor to state '<i>Refer also to the land use and development requirements of clause 6.6 – O'Connor Industrial Interface Area.</i>'
203. Explanation for proposed change	204. The recommended new line is to ensure the land use and development requirements of clause 6.6 are read in conjunction with the requirements of Schedule 12.

205. 23	206. Minor text change
207. Existing provision	<p>208. Under the vehicle parking requirements Table 3, Note (2) states:</p> <p>209. <i>'Refer to schedule 12 (local planning areas) for local variations in LPA1 City Centre, Sub Area 1 West End; LPA4 South Fremantle Sub Area 1 South Terrace'.</i></p>
210. Proposed provision	<p>211. Delete the specific references so the Note shall read:</p> <p>212. <i>'Refer also to Schedule 12 – Local Planning Areas (Development Requirements) for specific local planning area requirements.'</i></p>
213. Explanation for proposed change	<p>214. Recently gazetted and currently proposed amendments to the Scheme include provisions to be included in Schedule 12 relating to on-site vehicle parking. For example – Amendment 49 Sub area 1.3.2 of Local Planning Area 1, Amendment 13 Hilton commercial area Sub area 7.3.1 of Local Planning Area 7. Rather than specify these local planning areas in Note (2), it is recommended that the Note simply refer to other specific requirements contained in Schedule 12.</p>
215. 24, 25 & 26	216. Changes to the wording of the first objectives of the Local Centre, Neighbourhood Centre and Mixed Use zones
217. Existing provisions	<p>218. <u>Local centre zone</u></p> <p>219. cl. 4.2.1(c)(i) – <i>'provide for weekly and convenience retailing including small-scale shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local serving role of the centre.'</i></p> <p>220.</p> <p>221. <u>Neighbourhood centre zone</u></p> <p>222. cl. 4.2.1(d)(i) – <i>'provide for daily and convenience retailing, shops, cafe, office, administration and residential uses (at upper levels or where proposed as part of a mixed use development) which serve the local community and are located within and compatible with residential areas.'</i></p> <p>223.</p> <p>224. <u>Mixed use zone</u></p> <p>225. cl. 4.2.1(e)(i) – <i>'provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small scale retailing of goods and services (i.e. showrooms, cafes, restaurants, consulting rooms), small scale offices and administration, entertainment, residential (at upper levels) and recreation.'</i></p>

<p>226. Proposed provision (changes shown in bold and strikethrough effect)</p>	<p><u>Local centre zone</u> cl. 4.2.1(c)(i) – ‘provide for weekly and convenience retailing including small-scale shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local serving role of the centre.’</p> <p><u>Neighbourhood centre zone</u> cl. 4.2.1(d)(i) – ‘provide for daily and convenience retailing, small scale shops, cafe, office, administration and residential uses (at upper levels or where proposed as part of a mixed use development) which serve the local community and are located within and compatible with residential areas.’</p> <p><u>Mixed use zone</u> cl. 4.2.1(e)(i) – ‘provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small-scale retailing of goods and services including small scale shops, (i.e. showrooms, cafes, restaurants, and consulting rooms), where the retail use would not be detrimental to the viability of retail activity in the City Centre, Local Centre and Neighbourhood Centre zones, small scale offices and administration, entertainment, residential at upper levels or also at ground level providing the residential component is designed to contribute positively to an active public domain, (at upper levels) and recreation.’</p>
<p>235. Explanation for proposed change</p>	<p>236. There are two aspects to the recommended changes above – retail and residential – which are discussed as follows.</p> <p>237.</p> <p>238. <u>Retail:</u></p> <p>239. The general principle regarding zoning and retail uses is that higher order zones (City Centre, Local Centre) should cater for all or most forms of retailing, whilst the lower order zones (Neighbourhood Centre, Mixed Use) should cater for localised or specialised retailing.</p> <p>240.</p> <p>241. There are inconsistencies and ambiguity in the current wording of the objectives of the Local Centre, Neighbourhood Centre and Mixed Use zones, and these could potentially lead to proposals which are inappropriate to the subject zone. A recent example is the Liquor Store proposal at No. 256 Hampton Rd within the Mixed Use zone. The objective of the Mixed Use zone regarding retailing was interpreted by the State Administrative Tribunal as being for goods of a small scale, rather than shops of a small scale which has been the City’s interpretation. Further analysis of the objectives of the zones shows that the use of the phrase ‘small scale’ is</p>

	<p>inconsistent and unclear with the general principle of a hierarchy of retailing land uses. For example, Local Centre refers to small scale shops, Neighbourhood Centre makes no reference to 'small scale' and Mixed Use refers to 'small scale retailing.'</p> <p>242.</p> <p>243. The proposed changes to the use of the phrase 'small scale' are to clarify this general principle of a retail hierarchy in relation to the zones.</p> <p>244.</p> <p>245. Furthermore it is recommended that the references to 'weekly and convenience' and 'daily and convenience' retailing be removed from the objectives as these phrases are considered to have no material impact on the assessment of retail proposal within the zones, particularly when considered with the proposed changes to the use of the term 'small scale'.</p> <p>246.</p> <p>247. In addition, reference has been made to the retail status of the other zones (City Centre, Local Centre and Neighbourhood Centre) to ensure that the retailing within the Mixed Use zone isn't to the detriment of these other zones.</p> <p>248.</p> <p>249. <u>Residential</u></p> <p>250. Amendment 17 (gazetted March 2009) modified the objective of the Neighbourhood Centre zone to allow Council to consider residential uses at ground level where part of a mixed use development ['Mixed use development' is defined in the Scheme – refer recommendation 2 of this report for the definition]. The justification for the modification was that as long as the overall development contained a mix of uses, then a residential component at ground floor could be considered appropriate, bearing in mind that residential uses within the Neighbourhood Centre zone still require discretionary decisions of Council to approve.</p> <p>251.</p> <p>252. Similar reasoning is considered relevant to residential uses within the Mixed Use zone. Currently the objective of the Mixed Use zone effectively prohibits residential uses at ground level, however it is considered that appropriately designed residential development at ground level would be consistent with the overall objective of the zone to provide a mix of land uses. It is worth bearing in mind that that residential uses are discretionary land uses within the Mixed Use zone and therefore Council is in a strong position to decide whether particular residential developments are appropriate or not for their particular location. Furthermore the current restriction on ground floor residential uses within the Mixed Use zone as stated</p>
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	<p>in the objective may lead to unintended difficulties in approving redevelopment within the Precinct 3 area ('East End') where it is considered likely that development along Beach St and Quarry St will primarily be residential. The proposed wording is therefore to allow greater flexibility in considering residential development within the Mixed Use zones, whilst still ensuring appropriate design and levels of activity.</p> <p>253.</p> <p>254. It is noted that the proposed changes to the Mixed Use zone objective differ from that of Amendment 17 (Neighbourhood Centre zone) in that the residential use does not need to be part of a mixed use development. However this is considered reasonable as the size and locations of the Mixed Use and Neighbourhood Centre zones differ considerably. Neighbourhood Centre zones generally consist of a handful of smaller lots (eg. Minilya St in White Gum Valley or McCombe Ave in Samson) and therefore in order to achieve a mix of land uses, development on these smaller lots need to consist of a land use other than, or as well as, residential. Mixed Use zones on the other hand are generally much larger (eg. East End, Stirling Highway in North Fremantle and South Tce in South Fremantle) and therefore the ability to, and likelihood of, achieving a mix of uses throughout the zone is greater. There is therefore a lesser need to mandate such a mix of land uses within a Mixed Use zone.</p>
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255. 27	256. Relocate the land use 'Liquor Store' from the Entertainment Use Classes to the Commercial Use Classes under Table 2 – Zoning
257. Existing provision	258. Under Table 2 – Zoning, the defined land uses of the Scheme are grouped together under Land Use Classes. Liquor Store is currently grouped under the Entertainment Use Classes, along with other land uses as Cinema Theatre, Restaurant, Hotel and Small Bar.
259. Proposed change	260. Relocate 'Liquor Store' to fall under the 'Commercial Use Classes' grouping.
261. Explanation for proposed change	<p>262. A Liquor Store is considered to better fit the 'Commercial Use Class' grouping than that of the 'Entertainment Use Class' under Table 2 - Zoning, as a Liquor Store's services are similar to those of a Shop rather than those of a Restaurant, Hotel or Small Bar.</p> <p>263.</p> <p>264. The implication of the proposed change relates primarily to the objectives of the Zones, specifically the Mixed Use zone, which mentions 'entertainment' as a potential use class within the zone, however offers no further specific criteria. In association with the proposed recommended changes to the objective of the Mixed Use zone (Recommendation 26), in exercising discretion for Liquor</p>

	Store use, Council will consider whether the proposed use is consistent with the objective for <i>'retailing of goods and services including small scale shops'</i> rather than considering the Liquor Store use simply as <i>'entertainment.'</i>
265. 28	266. Delete Development Plan 16
267. Existing provision	268. Development Plan 16 refers to portions of land that were previously part of the Fremantle Eastern Bypass land – i.e. reserved as 'Primary Regional Roads'. Development Plan 16 outlines general requirements to be addressed prior to development on this land, mostly dealing with referrals to the Department of Environment and Conservation for possible land contamination issues.
269. Proposed changes	270. Delete Development Plan 16 in its entirety.
271. Explanation for proposed change	272. The land covered by Development Plan 16 is also within the Development zones – Development Area 7 (Lefroy Rd and Mather Rd subdivision) and Development Area 1 (Knutsford St). The Scheme requires that a structure plan is to be adopted within these zones prior to subdivision or development of land. As part of the structure plan process, or subdivision process, issues such as possible land contamination are addressed in consultation with the Department of Environment and Conservation and these established mechanisms effectively deal with this issue. As such the provisions and inclusion of Development Plan 16 is unnecessary as it duplicates existing provisions within the Scheme and processes that occur regardless of the Scheme. For these reasons, Development Plan 16 is recommended to be deleted in its entirety.
273. 29 & 30	274. Delete Development Plan 19 and zone 'Location 223' to Residential with a residential density coding of R35.
275. Existing provision	276. Development Plan 19 (DP19) also refers to portions of land that were previously part of the Fremantle Eastern Bypass land within Beaconsfield – i.e. reserved as 'Primary Regional Roads'. DP19 outlines general requirements to be addressed prior to development on this land, mostly dealing with referrals to the Department of Environment and Conservation for possible land contamination issues. 277. 278. DP19 also contains specific requirements to the Salentina Ridge subdivision, east of Longford Road (referred to as 'Location 223'). DP19 states that <i>'the land will be subdivision as a final stage of subdivision at the R35 Density Code of the Residential Design Codes.'</i>
279. Proposed changes	280. 1. Delete Development Plan 19 in its entirety. 281. 2. Rezone 'Location 223' to Residential with a density coding of R35.

282. Explanation for proposed change	<p>283. It is recommended to delete Development Plan 19 in its entirety for the same reasons as discussed above in Recommendation 28.</p> <p>284.</p> <p>285. 'Location 223' is currently unzoned on the Local Planning Scheme map and has no residential density coding assigned to it. It is recommended that the land (with the exception of the Public Access Way) be zoned Residential with a density coding of R35, which would be consistent with the approved subdivision for the land.</p>
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286. 31	287. Delete references to Development Plans 16 & 19
288. Existing provision	289. Schedule 11 of LPS4 outlines requirements to be met for development and land use within Development Areas. Development Areas 1 (Knutsford St) and 7 (Lefroy Rd) refer to the provisions of Development Plans 16 & 19.
290. Proposed change	291. Delete the cross referencing to Development Plans 16 & 19 as a consequence of Recommendations 28 and 29 above.
292. Explanation for proposed change	293. Development Plans 16 & 19 will no longer exist in the Scheme and therefore the cross references to these DPs will be irrelevant.

294. 32	295. Zone unzoned portion of land to Residential
296. Current status	297. A portion of Lot 324 on DP32503 (No. 399 South St, Hilton) is currently zoned Urban under the Metropolitan Region Scheme (MRS), however is unzoned under LPS4.
298. Proposed change	299. Zone the portion of Lot 324 to Residential.
300. Explanation for proposed change	<p>301. The unzoned portion of Lot 324 (approximately 620sqm) appears to have once been part of a proposed road widening area, however as the land is no longer reserved for road purposes under the MRS and is part of the residential property at No. 399 South St (zoned Residential), it is appropriate to rectify this Local Planning Scheme anomaly. The land is already within a R15 density coded area.</p> <p>302.</p> <p>303. Whilst the City is unaware of any proposed changes to the MRS reserves in this area that may impact on the proposed zoning, it is noted that consultation with Main Roads WA/Department of Transport will occur as part of normal scheme amendment consultation process.</p>

304. 33	305. Zone unzoned portion of land to Mixed Use
306. Current status	307. A portion of Lot 73 on DP40941 (No. 126 Stirling Hwy, North Fremantle) is currently zoned Urban under the MRS, however is unzoned under LPS4.
308. Proposed change	309. Zone the portion of Lot 73 to Mixed Use.

<p>310. Explanation for proposed change</p>	<p>311. The unzoned portion of Lot 73 (approximately 294sqm) appears to have once been part of a proposed road widening area, however as the land is no longer reserved for road purposes under the MRS and is part of the property at No. 126 Stirling Hwy (zoned Mixed Use), it is appropriate to rectify this Local Planning Scheme anomaly. The land is already within a R25 density coded area.</p> <p>312.</p> <p>313. Planning approval was recently granted on No. 126 Stirling Hwy for a mixed use development over the entire site (including the unzoned portion) (refer DA0515/11, granted 12 July 2012). During the assessment process the proposal was referred to the Department of Transport for comment, particularly given the recently advertised MRS amendments proposed as part of the Stirling Highway Activity Corridor Study (SHACS), however the Department raised no objection. The unzoned portion of the property isn't subject to proposed amendments as part of the SHACS but nevertheless the Department of Transport's comment will be sought on the proposed zoning as part of the normal amendment consultation process.</p>
<p>314. 34</p>	<p>315. Insert a height control for the Neighbourhood Centre zone within Local Planning Area 7 – Hilton</p>
<p>316. Existing provision</p>	<p>317. Schedule 12 of LPS4 provides specific and general development requirements for the Local Planning Areas. One lot within LPA7 – Hilton is zoned Neighbourhood Centre (Nos. 36-40 Paget St, Hilton), however there is no maximum building height specified under Schedule 12 for the Neighbourhood Centre zone.</p>
<p>318. Proposed change</p>	<p>319. Insert a maximum external wall height for the Neighbourhood Centre zone in LPA7 – Hilton of 6.0 metres.</p>
<p>320. Explanation for proposed change</p>	<p>321. The buildings at Nos. 36-40 Paget St are not individually heritage listed but are part of the Hilton Garden Suburb Heritage Area. The existing building on site has a maximum external wall height of 6.0 metres and therefore it is considered appropriate to nominate 6.0 metres as the maximum external wall height limit for the zone. This height equates generally to two storey development which is considered appropriate for the locality.</p>

CONCLUSION

The changes contained in this proposed 'omnibus' scheme amendment will improve the clarity and functioning of the Scheme text and remove the possibility of certain provisions being misinterpreted or incorrectly applied. Accordingly it is recommended that Council resolve to initiate Amendment No. 54.

OFFICER'S RECOMMENDATION

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

- (1) Amending clause 2.5.1(a) by replacing the reference to 'clause 2.5' with 'clause 2.4', so the clause reads as follows:

'(a) the adoption by a Council of a new policy under clause 2.4 that is specifically expressed to supersede the existing local planning policy, or ...'

- (2) Amending the term 'mixed use' contained in clause 12.1 Schedule 1 – Dictionary of Defined Words and Expressions to 'mixed use development'.

- (3) Amending clause 5.2.4 as follows:

Delete the words 'the provisions of clause 7.3 ...' and replace with 'the R-AC3 provisions ...' so the clause shall read:

'5.2.4 Except in the Residential Development zone, where there is no Residential Design Code density applicable to land within the Scheme area, the R-AC3 provisions of the Residential Design Codes shall be applied as relevant.'

- (4) Amending clause 5.4.4.2(a) as follows:

Delete the reference to 'clause 5.4.5.1' and replace with 'clause 5.4.4.1' so the clause shall read:

'(a) in consultation with the Water Corporation, the Corporation recommends to the Council that there are exceptional circumstances which warrant a variation to the requirements in clause 5.4.4.1 or,'.

- (5) Amending clause 5.5.1 by replace the reference to 'clause 7.2 of the R-Codes' with 'Part 7 of the Residential Design Codes' so the clause shall read:

'5.5.1 Where mixed use development is proposed, the provisions of Part 7 of the Residential Design Codes will apply.'

- (6) Amending clause 5.7.4(b) by deleting the reference to 'clause 2.6' and replacing with a reference to 'clause 2.4' so the clause shall read:

'(b) the Council having adopted a local planning policy pursuant to clause 2.4 detailing the costs ...'

- (7) Amending clause 12.11 Schedule 11 – Development Areas as follows:

For DA 2 – Daly and Hollis Street tip site South Fremantle Landfill Sites, amend the text in the right hand column (Provisions) by:

a) Deleting 'Subdivision and development applications will not be determined until a structure plan is adopted for the area.' And;

b) Adding 'Notwithstanding the above, on Lots 1, 4 & 5 on Plan 122 (Nos 40 and 38) Daly Street development applications received prior to the adoption of a structure plan shall be assessed against the Mixed Use zone provisions of the Scheme. Applications for any form of residential development and subdivision applications should be deferred until a structure plan is adopted in order that servicing, open space provisions, environmental remediation and other issues are resolved.'

- (8) Amending the Scheme map to replace the 'Development Zone (DA16)' with a 'Mixed Use' zoning and applying a residential density coding of R160 to Lot 28 on DP21859 (No. 2 Doepel Street and No. 30 Kwong Alley) Doepel Street, North Fremantle.

- (9) Amending clause 12.11 Schedule 11 – Development Areas as follows:

Delete the row referring to DA 16 – Lot 28 Doepel Street North Fremantle including the associated provisions.

- (10) Including a new term, 'external wall height', and definition in clause 12.1 Schedule 1 - Dictionary of Defined Words and Expressions, as follows:

'External wall height: the vertical distance at any point from ground level to the uppermost part of the wall of the building above that point.'

- (11) Including a new term, 'building height', and definition in clause 12.1 Schedule 1 – Dictionary of Defined Words and Expressions, as follows:

'Building height: the vertical distance at any point from ground level to the uppermost part of the building above that point.'

- (12) Amending the definition for the term, 'floor area', in clause 12.1 Schedule 1 – Dictionary of Defined Words and Expressions, as follows:

'Floor area: when used in relation to a building that is used for –

- (a) residential purposes, has the same meaning as the term 'plot ratio area' as in the Residential Design Codes; or
- (b) purposes other than residential, has the same meaning as in the *National Construction Code* published by the Australian Building Codes Board.'

- (13) Amending the definition for the term 'storey' in clause 12.1 Schedule 1 - Dictionary of Defined Words and Expressions, by deleting the current definition and replacing with the following definition:

'storey: means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it, but does not include a loft, or any portion of a building that has 50% or more of its volume below ground level.'

- (14) Insert a new sub clause under clause 6.1.1 to read as follows:

'(f) The development plan areas shown on the Scheme map as "DP" with a number and included in Schedule 14.'

- (15) Amending clause 12.1 Schedule 1 – Land Use Definitions, as follows:

Reorder the definition for 'bicycle rack' to be in alphabetical order so that it follows on from the definition of 'amenity'.

- (16) Amending the Scheme map to rezone the property addressed as No. 29 (Lot 31) Jarvis Street, O'Connor as "Commercial", to correct an error in the gazettal notice of Amendment 20 to Local Planning Scheme No. 4 which incorrectly referred to the property as No. 229 Jarvis Street, O'Connor.

- (17) Amending clause 12.12 Local Planning Area 8 – O'Connor by deleting 'Sub area 8.3.2' and its associated map and residential density coding of R80.
- (18) Amending clause 9.4.6(b) by replacing the term 'request' with 'requested' so the clause shall read:

 '(b) provide a hard copy of the requested documents ...'
- (19) Amending and clarifying the lot numbers referenced in Sub area 3.3.3 Northbank in Local Planning Area 3 – North Fremantle, as follows:
 - a) Replace 'Lot 28 Doepel Street/Kwong Alley' with 'Lot 28 on DP21859 (No. 2 Doepel Street and No. 30 Kwong Alley)';
 - b) Replace 'Lot 27 Swan Street' with 'Lots 103 and 104 on DP21469 (Nos 8, 10, 12, 14 & 16 Bick Lane and No. 1 Swan Street)'; and
 - c) Replace 'Lot 102 Pensioner Guard Road' with 'Lot 102 on DP21469 (No. 2-4 Pensioner Guard Road)'.
- (20) Amending clause 5.7.6 by renumbering the duplicated second sub clause (viii) to '(ix)'.
- (21) Amending clause 12.12 Schedule 12 – Local Planning Areas by inserting maps for each Local Planning Area.
- (22) Amending clause 8.3.1 of clause 12.12 Local Planning Area 8 – O'Connor by adding an extra line under the "Height" requirements and inserting the words "Refer also to clause 6.6 of the Scheme – O'Connor Industrial Interface Area" within this new line.
- (23) Deleting the wording of Note (2) under Table 3 – Vehicle Parking and replacing with the following words:

 '(2) Refer also to Schedule 12 – Local Planning Areas (Development Requirements) for specific local planning area requirements.'
- (24) Amending the objective of the Local Centre zone, clause 4.2.1(c)(i), as follows:

 '(i) provide for retailing including shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local serving role of the centre.'

- (25) Amending the objective of the Neighbourhood Centre zone, clause 4.2.1(d)(i), as follows:
- ‘(i) provide for retailing, small scale shops, cafe, office, administration and residential uses (at upper levels or where proposed as part of a mixed use development) which serve the local community and are located within and compatible with residential areas.’
- (26) Amending the objective of the Mixed Use zone, clause 4.2.1(e)(i), as follows:
- ‘(i) provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, retailing of goods and services including small scale shops, showrooms, cafes, restaurants and consulting rooms, where the retail use would not be detrimental to the viability of retail activity in the City Centre, Local Centre and Neighbourhood Centre zones, small scale offices and administration, entertainment, residential at upper levels or also at ground level providing the residential component is designed to contribute positively to an active public domain, and recreation.’
- (27) Amending Table 2 – Zoning by relocating the land use Liquor Store from the Entertainment Use Classes to be located under the Commercial Use Classes below the land use Shop.
- (28) Amending clause 12.14 Schedule 14 – Development Plans as follows:
- Delete ‘Development Plan 16 – Land Previously Reserved in the Metropolitan Region Scheme for the Fremantle Eastern By-Pass’ in its entirety and remove all reference to ‘DP16’ from the Scheme map.
- (29) Amending clause 12.14 Schedule 14 – Development Plans as follows:
- Delete ‘Development Plan 19 – Beaconsfield’ in its entirety and remove all reference to ‘DP19’ from the Scheme map.
- (30) Amend the Scheme map by zoning Lot 9002 on DP42137 (Nos. 5-27 and 31-43 Longford Road, Beaconsfield) to Residential with a residential density coding of R35. Public Access Way 247 on DP42137 is not included in this zoning.
- (31) Amending clause 12.11 Schedule 11 – Development Areas by deleting the phrases that refer to Development Plans 16 and 19, as a consequence of Recommendations 28 and 29 above.

- (32) Amending the Scheme map by zoning the unzoned portion of Lot 324 on DP32503 (No. 399 South Street, Hilton) to Residential.
- (33) Amending the Scheme map by zoning the unzoned portion of Lot 73 on DP40941 (No. 126 Stirling Highway, North Fremantle) to Mixed Use.
- (34) Amending Schedule 12.12 – Local Planning Areas (Development Requirements) as follows:

Under Local Planning Area 7 – Hilton, clause 7.1, inserting a line in the Height Requirements table for the Neighbourhood Centre zone, with an applicable maximum external wall height of 6m.

- 2. That the Mayor and Chief Executive Officer be authorised to execute the relevant amendment to the documentation.
- 3. That the Local Planning Scheme Amendment be submitted to the Department of Environment and Conservation requesting assessment prior to commencing public consultation.
- 4. That the Local Planning Scheme Amendment be submitted to the Western Australian Planning Commission for information.
- 5. That upon receipt of the environmental assessment from the Department of Environment and Conservation, the amendment be advertised for a period of not less than 42 days in the “West Australian” and a local newspaper.

Cr A Sullivan MOVED an amendment to the Officer's Recommendation to Re-word recommendation 26 as follows:

(26) Amending the objective of the Mixed Use zone, clause 4.2.1(e)(i), as follows:

Development within the mixed use zone shall –

- (i) provide for a mix of compatible land uses including light, service and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;***
- (ii) provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;***

And renumber existing paragraphs (ii) to (iv) of clause 4.2.1(e) as (iii) to (v) accordingly.

COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

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

- (1) Amending clause 2.5.1(a) by replacing the reference to 'clause 2.5' with 'clause 2.4', so the clause reads as follows:**

'(a) the adoption by a Council of a new policy under clause 2.4 that is specifically expressed to supersede the existing local planning policy, or ...'

- (2) Amending the term 'mixed use' contained in clause 12.1 Schedule 1 – Dictionary of Defined Words and Expressions to 'mixed use development'.**

- (3) Amending clause 5.2.4 as follows:**

Delete the words 'the provisions of clause 7.3 ...' and replace with 'the R-AC3 provisions ...' so the clause shall read:

'5.2.4 Except in the Residential Development zone, where there is no Residential Design Code density applicable to land within the Scheme area, the R-AC3 provisions of the Residential Design Codes shall be applied as relevant.'

- (4) Amending clause 5.4.4.2(a) as follows:**

Delete the reference to 'clause 5.4.5.1' and replace with 'clause 5.4.4.1' so the clause shall read:

'(a) in consultation with the Water Corporation, the Corporation recommends to the Council that there are exceptional circumstances which warrant a variation to the requirements in clause 5.4.4.1 or,'.

- (5) Amending clause 5.5.1 by replace the reference to 'clause 7.2 of the R-Codes' with 'Part 7 of the Residential Design Codes' so the clause shall read:**

'5.5.1 Where mixed use development is proposed, the provisions of Part 7 of the Residential Design Codes will apply.'

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- (7) Amending clause 12.11 Schedule 11 – Development Areas as follows:

For DA 2 – Daly and Hollis Street tip site South Fremantle Landfill Sites, amend the text in the right hand column (Provisions) by:

- a) Deleting 'Subdivision and development applications will not be determined until a structure plan is adopted for the area.' And;
- b) Adding 'Notwithstanding the above, on Lots 1, 4 & 5 on Plan 122 (Nos 40 and 38) Daly Street development applications received prior to the adoption of a structure plan shall be assessed against the Mixed Use zone provisions of the Scheme. Applications for any form of residential development and subdivision applications should be deferred until a structure plan is adopted in order that servicing, open space provisions, environmental remediation and other issues are resolved.'

- (8) Amending the Scheme map to replace the 'Development Zone (DA16)' with a 'Mixed Use' zoning and applying a residential density coding of R160 to Lot 28 on DP21859 (No. 2 Doepel Street and No. 30 Kwong Alley) Doepel Street, North Fremantle.

- (9) Amending clause 12.11 Schedule 11 – Development Areas as follows:

Delete the row referring to DA 16 – Lot 28 Doepel Street North Fremantle including the associated provisions.

- (10) Including a new term, 'external wall height', and definition in clause 12.1 Schedule 1 - Dictionary of Defined Words and Expressions, as follows:

'External wall height: the vertical distance at any point from ground level to the uppermost part of the wall of the building above that point.'

- (11) Including a new term, 'building height', and definition in clause 12.1 Schedule 1 – Dictionary of Defined Words and Expressions, as follows:

'Building height: the vertical distance at any point from ground level to the uppermost part of the building above that point.'

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'Floor area: when used in relation to a building that is used for –

- (a) residential purposes, has the same meaning as the term 'plot ratio area' as in the Residential Design Codes; or
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- (13) Amending the definition for the term 'storey' in clause 12.1 Schedule 1 - Dictionary of Defined Words and Expressions, by deleting the current definition and replacing with the following definition:

'storey: means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it, but does not include a loft, or any portion of a building that has 50% or more of its volume below ground level.'

- (14) Insert a new sub clause under clause 6.1.1 to read as follows:

'(f) The development plan areas shown on the Scheme map as "DP" with a number and included in Schedule 14.'

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Reorder the definition for 'bicycle rack' to be in alphabetical order so that it follows on from the definition of 'amenity'.

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- (17) Amending clause 12.12 Local Planning Area 8 – O'Connor by deleting 'Sub area 8.3.2' and its associated map and residential density coding of R80.
- (18) Amending clause 9.4.6(b) by replacing the term 'request' with 'requested' so the clause shall read:

 - '(b) provide a hard copy of the requested documents ...'
- (19) Amending and clarifying the lot numbers referenced in Sub area 3.3.3 Northbank in Local Planning Area 3 – North Fremantle, as follows:

 - a) Replace 'Lot 28 Doepel Street/Kwong Alley' with 'Lot 28 on DP21859 (No. 2 Doepel Street and No. 30 Kwong Alley)';
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 - c) Replace 'Lot 102 Pensioner Guard Road' with 'Lot 102 on DP21469 (No. 2-4 Pensioner Guard Road)'.
- (20) Amending clause 5.7.6 by renumbering the duplicated second sub clause (viii) to '(ix)'.
- (21) Amending clause 12.12 Schedule 12 – Local Planning Areas by inserting maps for each Local Planning Area.
- (22) Amending clause 8.3.1 of clause 12.12 Local Planning Area 8 – O'Connor by adding an extra line under the "Height" requirements and inserting the words "Refer also to clause 6.6 of the Scheme – O'Connor Industrial Interface Area" within this new line.
- (23) Deleting the wording of Note (2) under Table 3 – Vehicle Parking and replacing with the following words:

 - '(2) Refer also to Schedule 12 – Local Planning Areas (Development Requirements) for specific local planning area requirements.'

- (24) Amending the objective of the Local Centre zone, clause 4.2.1(c)(i), as follows:

‘(i) provide for retailing including shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local serving role of the centre.’

- (25) Amending the objective of the Neighbourhood Centre zone, clause 4.2.1(d)(i), as follows:

‘(i) provide for retailing, small scale shops, cafe, office, administration and residential uses (at upper levels or where proposed as part of a mixed use development) which serve the local community and are located within and compatible with residential areas.’

- (26) Amending the objective of the Mixed Use zone, clause 4.2.1(e)(i), as follows:

Development within the mixed use zone shall –

- (i) *provide for a mix of compatible land uses including light, service and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;*
- (ii) *provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;*

And renumber existing paragraphs (ii) to (iv) of clause 4.2.1(e) as (iii) to (v) accordingly.

- (27) Amending Table 2 – Zoning by relocating the land use Liquor Store from the Entertainment Use Classes to be located under the Commercial Use Classes below the land use Shop.
- (28) Amending clause 12.14 Schedule 14 – Development Plans as follows:

Delete 'Development Plan 16 – Land Previously Reserved in the Metropolitan Region Scheme for the Fremantle Eastern By-Pass' in its entirety and remove all reference to 'DP16' from the Scheme map.

- (29) Amending clause 12.14 Schedule 14 – Development Plans as follows:

Delete 'Development Plan 19 – Beaconsfield' in its entirety and remove all reference to 'DP19' from the Scheme map.

- (30) Amend the Scheme map by zoning Lot 9002 on DP42137 (Nos. 5-27 and 31-43 Longford Road, Beaconsfield) to Residential with a residential density coding of R35. Public Access Way 247 on DP42137 is not included in this zoning.

- (31) Amending clause 12.11 Schedule 11 – Development Areas by deleting the phrases that refer to Development Plans 16 and 19, as a consequence of Recommendations 28 and 29 above.

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- (34) Amending Schedule 12.12 – Local Planning Areas (Development Requirements) as follows:

Under Local Planning Area 7 – Hilton, clause 7.1, inserting a line in the Height Requirements table for the Neighbourhood Centre zone, with an applicable maximum external wall height of 6m.

2. That the Mayor and Chief Executive Officer be authorised to execute the relevant amendment to the documentation.
3. That the Local Planning Scheme Amendment be submitted to the Department of Environment and Conservation requesting assessment prior to commencing public consultation.
4. That the Local Planning Scheme Amendment be submitted to the Western Australian Planning Commission for information.
5. That upon receipt of the environmental assessment from the Department of Environment and Conservation, the amendment be advertised for a period of not less than 42 days in the "West Australian" and a local newspaper.

CARRIED: 7/0

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 7.15 PM.

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.

How consultative processes work at the City of Fremantle		
The City's decision makers	1.	The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
Various participation opportunities	2.	The City provides opportunities for participation in the decision-making process by citizens via its council appointed working groups, its community precinct system, and targeted community engagement processes in relation to specific issues or decisions.
Objective processes also used	3.	The City also seeks to understand the needs and views of the community via scientific and objective processes such as its bi-ennial community survey.
All decisions are made by Council or the CEO	4.	These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
Precinct focus is primarily local, but also city-wide	5.	The community precinct system establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
All input is of equal value	6.	No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
Decisions will not necessarily reflect the majority view received	7.	Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or

How consultative processes work at the City of Fremantle	
	limitations associated with the issue.
Decisions made for the overall good of Fremantle	8. The Local Government Act requires decision-makers to make decisions in the interests of “the good government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
Diversity of view on most issues	9. The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
City officers must be impartial	10. City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
City officers must follow policy and procedures	11. 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.

How consultative processes work at the City of Fremantle	
Community engagement processes have cut-off dates that will be adhered to.	12. As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, 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.
Citizens need to check for any changes to decision making arrangements made	13. 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.
Citizens are entitled to know how their input has been assessed	14. 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.
Reasons for decisions must be transparent	15. Decision-makers must provide the reasons for their decisions.
Decisions posted on the City's website	16. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at the City's website under 'community engagement' or at the City Library or Service and Information Centre.

Issues that Council May Treat as Confidential

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

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



MINUTES ATTACHMENTS

Planning Services Committee

Wednesday, 17 October 2012, 6.00 pm

