



MINUTES

Planning Services Committee

Wednesday, 7 November 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 **7 November 2012** at 6.00 pm.

DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.02 pm.

NYOONGAR ACKNOWLEDGEMENT STATEMENT

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

IN ATTENDANCE

Brad Pettitt	Mayor Arrived 6:03pm left 8:03pm
Cr Robert Fittock	Deputy Presiding Member / North Ward
Cr Rachel Pemberton	City Ward
Cr Andrew Sullivan	Presiding Member / South Ward
Cr Ingrid Waltham	East Ward
Cr Bill Massie	Hilton Ward
Cr David Hume	Beaconsfield Ward
Cr Sam Wainwright	Observed from 6:02pm to 6:29pm
Mr Philip St John	Director Planning and Development Services
Ms Natalie Martin Goode	Manager Statutory Planning
Mr Paul Garbett	Manager Planning Projects and Policy
Mr Alan Kelsall	Heritage Coordinator
Miss Alexis Abrahams	Minute Secretary
Mrs Kayla Beall	Minute Secretary

There were approximately 7 members of the public in attendance.

APOLOGIES

Nil

LEAVE OF ABSENCE

Cr Josh Wilson

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

DEPUTATIONS / PRESENTATIONS

The following member/s of the public spoke against the Officer's Recommendation for item PSC1211-170:

Jacqui Carter

The following member/s of the public spoke in favour of the Officer's Recommendation for item PSC1211-171:

Stephen Jennings

The following member/s of the public spoke against the Officer's Recommendation for item PSC1211-171:

Peter Bright

The following member/s of the public spoke in favour of the Officer's Recommendation for item PSC1211-172:

Julie Laird

The following member/s of the public spoke in favour of the Officer's Recommendation for item PSC1211-173:

Bruce Abbott

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 17 October 2012 as listed in the Council Agenda dated 24 October 2012 be confirmed as a true and accurate record.

CARRIED: 7/0

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

TABLED DOCUMENTS

**PSC1211 – 170 PSC MEETING STANDARD - OFFICE 2007 (MINUTES) – LATE
ADDITIONAL INFORMATION**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 7 November 2012
Responsible Officer: Manager Planning Projects and Policy
Actioning Officer: Strategic Planner
Decision Making Level: Planning Services Committee

EXECUTIVE SUMMARY

The purpose of this report is to present to Council late additional information as received from the Department of Housing (DoH) on 6 November 2012 in review and response to the Committee's recommendation for item PSC1211-0 – Consideration of the Principles of a Proposed Scheme Amendment and Development Deed at 19-21 and 23-25 Burt Street, Fremantle. Overall, the DoH has no objection to the Committee recommendation for this item, however, the DoH has requested modification to the wording of part 1(ix) of the Committee recommendation with regard to the provision of public art.

BACKGROUND

Council previously considered this item at the Ordinary Council Meeting on 24 October 2012, and resolved to refer the matter back to the Planning Services Committee on 7 November 2012, and to delegate to the Committee authority to make a final resolution on the matter. This was due to several amendments being proposed to the previous officer's and Committee recommendation, which were not all able to be considered by Council on 24 October.

PLANNING COMMENT

The DoH has requested a modification to part 1(ix) of the Committee recommendation of item PSC1211-0.

Part 1(ix) of the Committee recommendation states the following:

- 1 (ix) A cash amount equal in value to 1% of the estimated total project cost for the development shall be paid to the City, to be used by the City for the purpose of providing public art works or other works to enhance the public realm within the locality of the subject site. Council, in consultation with the Department of Housing, may decide to use part or all of the cash contribution to meet the cost of works associated with the conservation, restoration or interpretation of proximate public buildings, structures or places of cultural heritage significance instead of or in addition to the provision of public art where it is satisfied that all of the following criteria are met:*
- (a) The heritage project involves a public building or place owned by or vested in the City of Fremantle; and*
 - (b) The building or place is included on the Heritage List under clause 7.1 of the City of Fremantle Local Planning Scheme 4; and*
 - (c) The building or place is located in close proximity to the site of the proposed development; and*
 - (d) The works funded by the contribution create a direct improvement in the appearance and condition of the building or place in terms of its presentation to the public realm.*

The DoH requests this recommendation be modified to state the following:

- 1 (ix) The development will incorporate a public art component equal in value to 1% of the estimated total cost for the development, in accordance with the policies and requirements of the Western Australian State Government Percent for Art Scheme.*

The Western Australian State Government's Percent for Art Scheme, as referred to in the amended provision above, is a partnership between Department of Culture and the Arts (DCA) and the Department of Treasury and Finance's Building Management and Works Division (BMW) and allocates up to one percent of the estimated total construction cost of a State capital works project, valued at \$2 million and over, to a commissioned Western Australian artwork.

The objectives of the Western Australian State Government Percent for Art Scheme are as follows:

1. To improve the quality of the built environment and the value of public facilities.
2. To create opportunities for Western Australian artists through the commissioning of public artworks using an allocation of a percentage (up to one per cent) of the estimated total cost of the State's capital works and major infrastructure projects.
3. To foster the capacity of the WA State Government Percent for Art Scheme to recognise:
 - Aesthetic excellence and quality of artwork in the built environment
 - The social value added by arts and culture across government buildings and the broader community
 - The multidisciplinary qualities of contemporary art practice
 - The need for critical analysis of commissioned artworks
 - The role of art and artists in sustainable cultural development, and
 - The diversity of community groups and importance of local perspectives in commissioned artwork projects.

Officers observe there are no specific policies associated with the Western Australian State Government Percent for Art Scheme. It is understood the Percent for Art Scheme is guided and implemented by the objectives and processes of the DCA and BMW, and that a panel of art coordinators from the DCA work with the commissioning agent(s) to develop project briefs, implement a selection process, contract artists and support the project to completion. Local stakeholders are generally consulted and/or involved in this process but are not the determining authority on the location and type of artwork. The Percent for Art Scheme refers to public art work(s) only, and does not extend to the conservation or restoration of proximate public heritage listed buildings/places.

With regard to the above, it is considered the DoH's proposed modification to part 1(ix) of the Committee's recommendation is consistent with the intent of Council's existing recommendation and that the objectives and requirements of the Western Australian State Government Percent for Art Scheme are generally consistent with the proposed objective and provisions of the City's draft Local Planning Policy 2.19 – Percent for Public Art.

The current wording of part 1(ix) sets out the location of the proposed public art and/or heritage work and the stakeholders of the consultation process. However, officers note the DoH's modified provision does not specify the location of the public art component, nor if the City will be consulted during the Percent for Art Scheme process. Therefore, in further discussion and with the agreement of the DoH, officers recommend the following amendment to the DoH's wording of part 1(ix) to provide this clarification and ensure consistency with intent of the Committee's recommendation of part 1(ix):

1(ix) The development will incorporate a public art component equal in value to 1% of the estimated total cost of the development, to be provided within the locality or area of the subject site, in accordance with the objectives and requirements of the Western Australian State Government Percent for Art Scheme and in consultation with the City.

Officers support the amended wording of part 1(ix) as above should Council choose to move this modification as an alternative recommendation to the part 1(ix) of the Committee's recommendation of item PSC1211-0 at the Planning Services Committee meeting of 7 November 2012.

DEFERRED ITEMS (COMMITTEE DELEGATION)

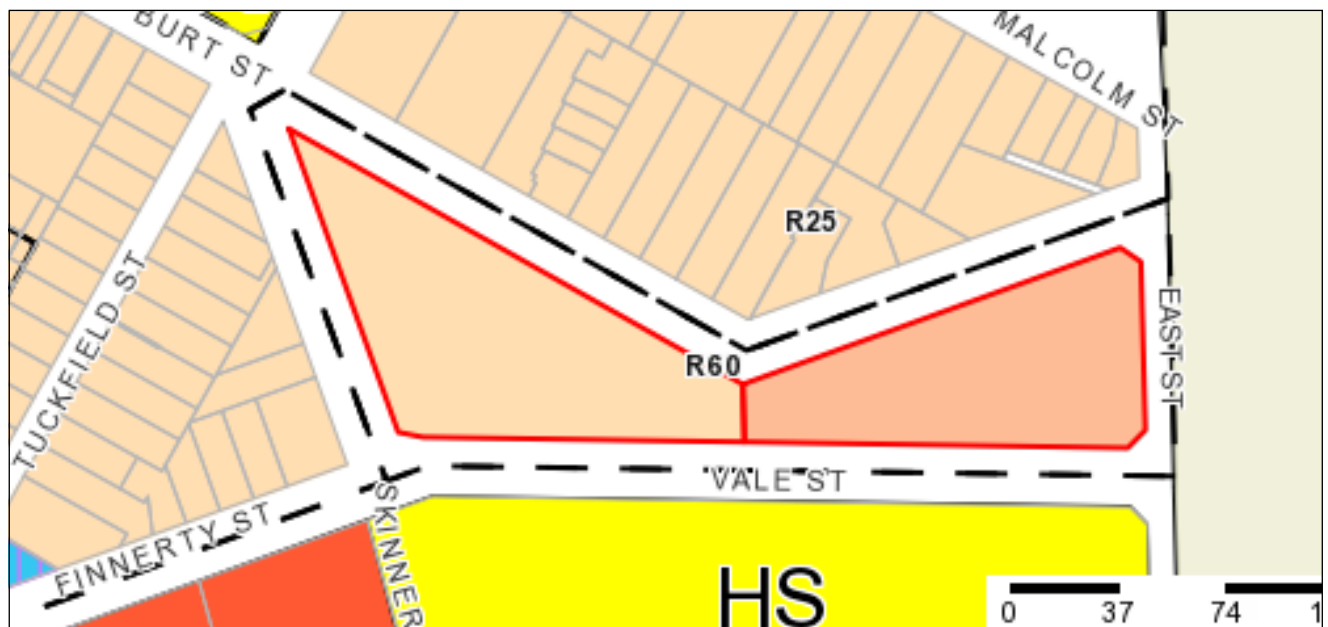
The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

Cr R Fittock vacated the chamber at 6.53 pm.

Cr R Fittock returned to the meeting at 6.54 pm.

**PSC1211-170 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:	7 November 2012
Responsible Officer:	Manager Planning Projects and Policy
Actioning Officer:	Strategic Planner
Decision Making Level:	Committee
Previous Item Number/s:	Nil
Attachments:	<ol 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.

Council considered this item at the Ordinary Council Meeting on 24 October 2012, and resolved to refer the matter back to the Planning Services Committee on 7 November 2012, and to delegate to the Committee authority to make a final resolution on the matter. This was due to several amendments being proposed to the previous officer's and Committee recommendation, which were not all able to be considered by Council on 24 October.

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.

RECOMMENDATION FOLLOWING RESOLUTION OF COUNCIL ON 24 OCTOBER 2012

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 minimum 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.
 - vii. A high standard of landscape amenity that includes and is integrated with the surrounding public areas, including a commitment to plan in liaison with the City and the community the landscape and urban design; and to joint fund the implementation of public realm improvements. The public realm improvements are to include but are not limited to: opportunities to retain existing trees and provide significant new planting; retention and/or interpretation of any features of cultural heritage or landscape significance; improved and increased public parking to accommodate visitors to the new development and the existing high demand for parking in the area; and, visual and physical connectivity through the site.

- viii. A base target dwelling yield across the site of 180 dwellings, but with an express aim of utilising the opportunity to increase that yield up to the maximum permissible under the density coding of R160 and the plot ratio of 2.0 specified in Table 4 of the Residential Design Codes 2010 (approximately 220 – 250 dwellings), provided that: (a) at least 45% of the first 180 dwellings consists of a mix of public and ‘affordable housing’; and (b) all of the other dwellings in excess of the base target yield provide to the commercial marketplace or as ‘affordable housing’ a diverse range of specialised accommodation types such as housing with universal access; studio or single bedroom housing; aged or dependent person accommodation; artist studio houses; and/or, housing for students and key workers.
 - ix. A cash amount equal in value to 1% of the estimated total project cost for the development shall be paid to the City, to be used by the City for the purpose of providing public art works or other works to enhance the public realm within the locality of the subject site. Council, in consultation with the Department of Housing, may decide to use part or all of the cash contribution to meet the cost of works associated with the conservation, restoration or interpretation of proximate public buildings, structures or places of cultural heritage significance instead of or in addition to the provision of public art where it is satisfied that all of the following criteria are met:
 - (a) The heritage project involves a public building or place owned by or vested in the City of Fremantle; and
 - (b) The building or place is included on the Heritage List under clause 7.1 of the City of Fremantle Local Planning Scheme 4; and
 - (c) The building or place is located in close proximity to the site of the proposed development; and
 - (d) The works funded by the contribution create a direct improvement in the appearance and condition of the building or place in terms of its presentation to the public realm.
 - x. A minimum 25% of the total dwelling yield shall be designed in a manner that makes it readily adaptable to accommodate people with disabilities.
- 1) 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.

When the Deed of Agreement/Development Deed document referred to in (1) above has been prepared, it is to be reported back to Council for further consideration prior to being executed.

Cr A Sullivan MOVED an amendment to the Officer's Recommendation to change 1(ix) to state the following:

1(ix) The development will incorporate a public art component equal in value to 1% of the estimated total cost of the development, to be provided within the locality or area of the subject site, in accordance with the objectives and requirements of the Western Australian State Government Percent for Art Scheme and in consultation with the City.

CARRIED: 7/0

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

Cr A Sullivan MOVED an amendment to the Officer's Recommendation to change the wording of 1 (viii):

Delete “with universal access” and replace with “that is adaptable to accommodate people with disabilities”

CARRIED: 7/0

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

COMMITTEE DECISION

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 minimum 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.

vii. A high standard of landscape amenity that includes and is integrated with the surrounding public areas, including a commitment to plan in liaison with the City and the community the landscape and urban design; and to joint fund the implementation of public realm improvements. The public realm improvements are to include but are not limited to: opportunities to retain existing trees and provide significant new planting; retention and/or interpretation of any features of cultural heritage or landscape significance; improved and increased public parking to accommodate visitors to the new development and the existing high demand for parking in the area; and, visual and physical connectivity through the site.

viii. A base target dwelling yield across the site of 180 dwellings, but with an express aim of utilising the opportunity to increase that yield up to the maximum permissible under the density coding of R160 and the plot ratio of 2.0 specified in Table 4 of the Residential Design Codes 2010 (approximately 220 – 250 dwellings), provided that: (a) at least 45% of the first 180 dwellings consists of a mix of public and ‘affordable housing’; and (b) all of the other dwellings in excess of the base target yield provide to the commercial marketplace or as ‘affordable housing’ a diverse range of specialised accommodation types such as housing that is adaptable to accommodate people with disabilities; studio or single bedroom housing; aged or dependent person accommodation; artist studio houses; and/or, housing for students and key workers.

ix *The development will incorporate a public art component equal in value to 1% of the estimated total cost of the development, to be provided within the locality or area of the subject site, in accordance with the objectives and requirements of the Western Australian State Government Percent for Art Scheme and in consultation with the City.*

x. A minimum 25% of the total dwelling yield shall be designed in a manner that makes it readily adaptable to accommodate people with disabilities.

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.

3) When the Deed of Agreement/Development Deed document referred to in (1) above has been prepared, it is to be reported back to Council for further consideration prior to being executed.

CARRIED: 7/0

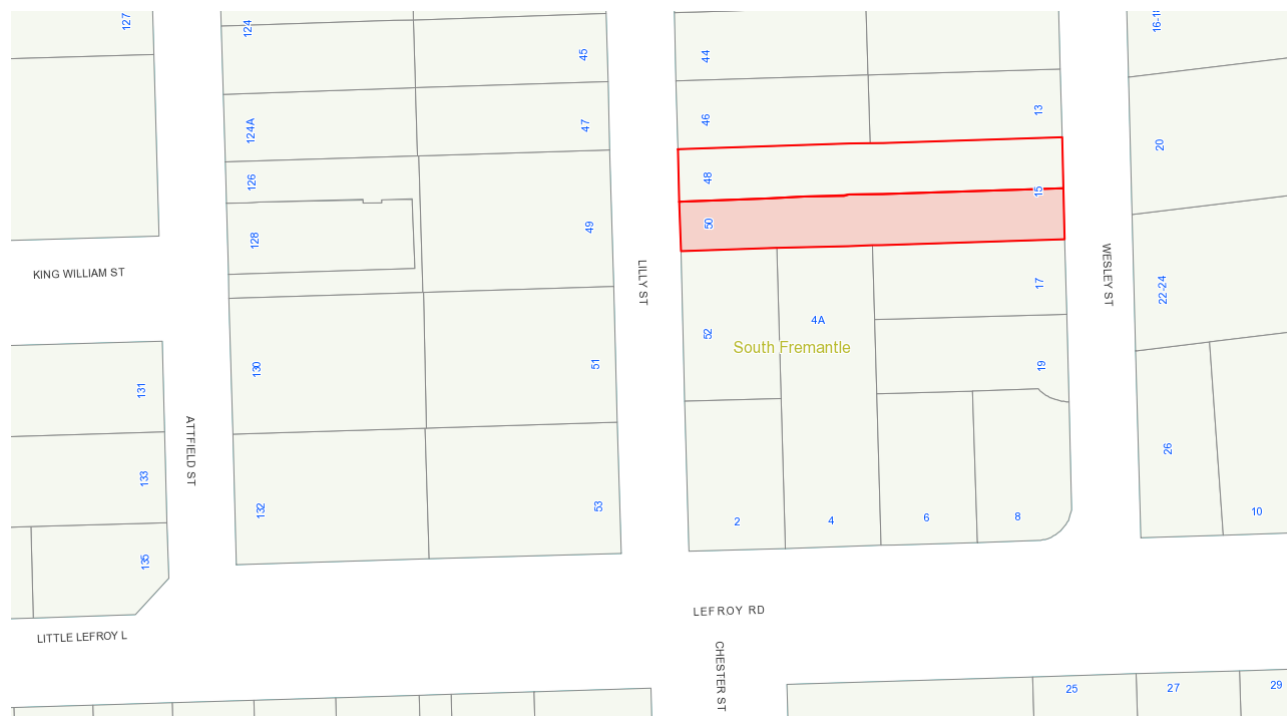
For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

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

PSC1211-171 LILLY STREET, NO. 48 & 50 (LOTS 1 & 2) SOUTH FREMANTLE - FOUR LOT SURVEY STRATA SUBDIVISION (WAPC637-12)

DataWorks Reference:	059/002
Disclosure of Interest:	Nil
Meeting Date:	7 November 2012
Responsible Officer:	Manager Statutory Planning
Actioning Officer:	Manager Statutory Planning
Decision Making Level:	Planning Services Committee
Previous Item Number/s:	PSC0604-53 (26 April 2006) & PSC1002-21 (3 February 2010)
Attachment 1:	Subdivision plan
Attachment 2:	February 2012 approved plans
Attachment 3:	April 2006 approved plans
Attachment 4:	Site photo
Date Received:	30 July 2012
Owner Name:	Robert Gordon and Marianna Michniewicz
Submitted by:	Stephen Jennings – Planning and Development
Scheme:	Residential R25
Heritage Listing:	South Fremantle Heritage Precinct and Level 3
Existing Land use:	Four Dwellings



EXECUTIVE SUMMARY

The Western Australian Planning Commission (WAPC) has referred to the City for comment a proposed subdivision involving two lots being subdivided into four. The City is only a referral agency and the WAPC is the determining authority for subdivision applications.

The City provided a referral response to the WAPC recommending that the application be refused as the minimum lot size of the R Codes were not met.

This matter is referred to the Planning Services Committee (PSC) as some Elected Members have indicated that the proposed subdivision should be considered further.

The PSC has 3 options that include:

1. Affirm the officer recommendation for refusal dated 4 September 2012;
2. Recommend that the WAPC defer consideration of the subdivision pending the rezoning of the property to accommodate subdivision;
3. Offer additional advice to the WAPC supporting the proposed subdivision.

BACKGROUND

1. On 26 April 2006, Ordinary Council granted Planning Approval for two storey additions to two existing single storey Single Houses at 40 & 50 Lilly Street, South Fremantle (DA0343/05 and DA0344/05). Five objections were received during the advertising period objecting to, amongst other things, the potential for future subdivision;
2. On 26 October 2006, WAPC endorsed two lot survey strata subdivision of 48 & 50 Lilly St (DA147/05);
3. On 2 December 2009, Retrospective Planning Approval granted for alterations to windows at 50 Lilly St (DA0286/09);
4. On 3 February 2010 PSC considered two storey additions to the existing Single House (DA0338/09) and granted approval. Three objections were received during the advertising period objecting to, amongst other things, the potential for future subdivision;
5. On 30 July 2012 the WAPC referred a subdivision application to the City for comment. The subdivision plans are included in attachment 1.
6. On 4 September 2012 the City provided the WAPC the following referral advice:

That the application be REFERRED to the Western Australian Planning Commission with a recommendation for REFUSAL under the under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, for the following reasons:

1. *The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area requirements.*
2. *Planning approval was granted by the City for two storey detached additions to the existing Single Houses at the subject properties. Unauthorised internal works (installation of a kitchen) have been undertaken to the existing heritage buildings at 48 & 50 Lilly Street, South Fremantle to facilitate the creation of separate self contained dwellings without planning approval*

DETAIL

It is proposed to subdivide two existing Single Houses with two storey detached additions into four Single Houses. The existing 2 lots are 433m² and 425m² in area. The 4 proposed lots range in size from 165m² to 268m².

STATUTORY AND POLICY ASSESSMENT

The proposed subdivision has been assessed against the requirements of the City of Fremantle Local Planning Scheme No.4 (LPS4) and the Residential Design Codes (R Codes). Discretions sought against the requirements of the R Codes are discussed in the Planning Comment section of this report.

CONSULTATION

No consultation is required as the City is not the determining body.

PLANNING COMMENT

Minimum Lot Frontage

Required	Provided	Discretion
8.0m	7.3 – 7.8m	0.2 – 0.7m

The above discretions are supported as they are considered minor and do not affect the streetscape. This is not considered to be a reason for refusal.

Car Parking

Required	Provided	Discretion
2 per dwelling	Nil proposed for Lots 1 and 2)	4 bays

The above discretions are on balance supported for the following reasons:

- it is common in narrow in urban traditional streetscapes for no on site car parking to be provided;
- on street parking is available immediately in front of the lots;

Minimum and Average Site Area

Required	Provided	Discretion
320m ² min 350m ² average	165 m ² - 268m ² minimum 214.5m ² average	52 m ² - 155m ² minimum 135.5m ² average

The performance criteria of the R Codes relating to minimum site area allows for the creation of lots less than the minimum and/or average site area than specified in the R Codes provided that the proposed variation would meet the following criteria:

1. *Be no more than 5% less in areas that that specified in table 1; and*
2. *Facilitate the protection of an environmental or heritage feature; or*
3. *Facilitate the retention of a significant element that contributes towards and existing streetscape worthy of retention; or*
4. *Facilitate the development of lots with separate and sufficient frontage to more than 1 public street; or*
5. *Overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature; or*
6. *Allow land to be developed with housing of the same type and land within the vicinity which would not otherwise be able to be developed; or*
7. *Achieve specific objectives of the LG's scheme and where applicable the local planning strategy.*

While the proposal satisfies criteria 4 above, as the proposed lot sizes are significantly more than a 5% variation (between 16% to 49% variation proposed) and therefore do not satisfy criteria 1 and the relevant performance criteria of the R Codes.

The R Codes performance criteria also state that the WAPC or a council may also approve the creation of survey strata lot or strata lot for an existing authorised grouped dwelling or multiple dwelling development of a lesser minimum and average site area than specified in table 1 where in the opinion of the WAPC or council, the development on the resulting survey strata is consistent with the objectives of the codes and the orderly and proper planning of the locality. As planning approval has not been granted for the conversion of the two dwellings into 4 dwellings, the existing 4 dwellings are not "authorised" and therefore do not meet the performance criteria.

Clause 3.5.2 of the WAPC's *Development Control Policy 1.1- Subdivision of Land - General Principles* states that:

"Lots which cannot be developed in accordance with relevant statutory requirements will not be approved. The WAPC will also ensure that, by creating a new lot, it does not render an existing lot or development upon that lot illegal in terms of statutory requirements. Such matters may include lot sizes, car parking, setbacks or the provision of services."

The above comments form the basis of the City's recommendation of refusal to the WAPC.

Support for undersized lots

The arguments in favour of the subdivision include:

1. There are no significant additional physical impacts created by effectively putting legal boundaries over land;
2. The WAPC has discretion to approve the subdivision; and
3. The proposal is consistent with general planning objectives relating to achieving a more diverse housing mix for a changing and growing population.

An additional argument to support undersized lots could be if the proposed lot sizes are consistent with the lot sizes in the area. The street block that contains 48 – 50 Lilly Street includes a range of lot sizes that vary from 190m² to 755m² with an average of approximately 400m². The proposed lot sizes of 165m² - 268m² are therefore not consistent with the lot sizes in the area.

Whilst there are arguments in support of this proposal, officers are of opinion that these do not outweigh the fundamental requirement of the prescribed lot size under the Codes. The consistent application of these requirements is considered to be the primary issue in this instance.

The planning system in WA determines residential density based on lot size and coding, and this, by and large, is fairly well entrenched in planning decision making, neighbours expectations, and real estate transactions. It is correct that the WAPC is not statutorily bound by the scheme and R codes and the subdivision is legally capable of approval, it is acknowledged that there are not any specific physical impacts caused by this subdivision. However, this argument could be made in any subdivision case where the buildings exist but it should be stressed in this case that these buildings have not been approved as individual dwellings.

The primary issue of concern in this case is that if the City supported this subdivision it could create an undesirable precedent for instances on undersized lots people could develop additional dwellings under the guise of 'extensions', and then seek subdivision approval.

While individual case by case arguments can be considered, the Council needs to consider the general principle of the established statutory system being eroded, the message such a decision would send and the uncertainty that may be created.

While the City of Fremantle might feel that it generally wants to create greater flexibility in density than the R Codes offer, this however should be based on some consideration of broader issues associated with this and embodied in an appropriate scheme amendment/policy. Should this be how Council wishes to proceed, it would be appropriate to conduct further discussions about how this could be achieved through appropriate legal means.

Options

Options relating to the proposed subdivision include that the PSC:

1. Affirm the officer recommendation for refusal dated 4 September 2012;
2. Recommend that the WAPC defer consideration of the subdivision pending the rezoning of the property to accommodate subdivision;
3. Offer additional advice for the WAPC supporting the proposed subdivision.

Should the Committee wish to proceed with option 1 the following recommendation would be applicable:

That the Planning Services Committee of the City of Fremantle reaffirms the advice previously provided to the WAPC on 4 September 2012 namely:

That the application be REFERRED to the Western Australian Planning Commission with a recommendation for REFUSAL under the under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, for the following reasons:

1. *The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area requirements.*
2. *Planning approval was granted by the City for two storey detached additions to the existing Single Houses at the subject properties. Unauthorised internal works (installation of a kitchen) have been undertaken to the existing heritage buildings at 48 & 50 Lilly Street, South Fremantle to facilitate the creation of separate self contained dwellings without planning approval*

Should the Committee wish to proceed with option 2 the following recommendation would be applicable:

That Planning Services Committee of the City of Fremantle recommend that the application be REFERRED to the Western Australian Planning Commission with a recommendation for DEFERRAL of the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, as detailed on plans dated 26 July 2012 (Department of Planning date) to allow for the rezoning of the property to accommodate subdivision.

Should the Committee wish to proceed with option 3 the following recommendation would be applicable:

That Planning Services Committee of the City of Fremantle recommend that the application be REFERRED to the Western Australian Planning Commission with a recommendation for APPROVAL under the under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, as detailed on plans dated 26 July 2012 (Department of Planning date) subject to the following conditions:

- 1. The subdivision being in accordance with the approved plan dated 26 July 2012 (WAPC date) including any amendments placed thereon, other than any modifications that may be required by the conditions that follow.*
- 2. All buildings and effluent disposal systems having the necessary clearances from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations*
- 3. Common walls being shown on the strata plan as prescribed "party wall easements"*
- 4. Pursuant to Regulations 14G of the Strata Titles General Regulations 1996 and Section 5D of the Strata Titles Act 1985.*

RECOMMENDATION

MOVED: Cr D Hume

That the Planning Services Committee of the City of Fremantle reaffirms the advice previously provided to the WAPC on 4 September 2012 namely:

That the application be REFERRED to the Western Australian Planning Commission with a recommendation for REFUSAL under the under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, for the following reasons:

- 1. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area requirements.*
- 2. Planning approval was granted by the City for two storey detached additions to the existing Single Houses at the subject properties. Unauthorised internal works (installation of a kitchen) have been undertaken to the existing heritage buildings at 48 & 50 Lilly Street, South Fremantle to facilitate the creation of separate self contained dwellings without planning approval*

LOST: 2/5

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

RECOMMENDATION

MOVED: Mayor, Brad Pettitt

That Planning Services Committee of the City of Fremantle recommend that the application be REFERRED to the Western Australian Planning Commission with a recommendation for DEFERRAL of the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, as detailed on plans dated 26 July 2012 (Department of Planning date) to allow for the rezoning of the property to accommodate subdivision.

LOST: 1/6

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

RECOMMENDATION

MOVED: Cr R Fittock

That Planning Services Committee of the City of Fremantle recommend that the application be REFERRED to the Western Australian Planning Commission with a recommendation for APPROVAL under the under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the proposed Four Lot Survey Strata Subdivision at No. 48 & 50 (Lots 1 & 2) Lilly Street, South Fremantle, as detailed on plans dated 26 July 2012 (Department of Planning date) subject to the following conditions:

- 1. The subdivision being in accordance with the approved plan dated 26 July 2012 (WAPC date) including any amendments placed thereon, other than any modifications that may be required by the conditions that follow.*
- 2. All buildings and effluent disposal systems having the necessary clearances from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations*
- 3. Common walls being shown on the strata plan as prescribed "party wall easements"*
- 4. Pursuant to Regulations 14G of the Strata Titles General Regulations 1996 and Section 5D of the Strata Titles Act 1985.*

LOST:3/4

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

As no decision on this item was made by the Committee, the original officer's decision on this matter remains unaltered.

Cr R Fittock vacated the chamber at 7.59 pm.

Cr R Fittock returned to the meeting at 8.00 pm.

Mayor, Brad Pettitt left the meeting at 8.03 pm prior to consideration of the following item and did not return.

PSC1211-172 SAMSON STREET NO. 15A (LOT 45), FREMANTLE DELETION OF CONDITION NO. 4 OF PLANNING APPROVAL FOR DA0481/09 (TWO STOREY SINGLE HOUSE) (AD DA0386/12)

DataWorks Reference:	059/002
Disclosure of Interest:	Nil
Meeting Date:	7 November 2012 (PSC)
Responsible Officer:	Manager Statutory Planning
Actioning Officer:	Senior Planning Officer
Decision Making Level:	Planning Services Committee
Previous Item Number/s:	PSC0912-224 (2 December 2009)
Attachment 1:	Development plans (as amended);
Attachment 2:	Photos from site inspection (taken 13 September 2012)
Date Received:	17 August 2012 (amended plans received on 13 September 2012)
Owner Name:	Kerry & Brenda Taylor
Submitted by:	Brian Kloppe
Scheme:	Residential (R25)
Heritage Listing:	Not listed; Not within Heritage Area
Use Class:	Single House
Use Permissibility:	'P'



EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee (PSC) due to the nature of the proposed variations regarding the proposed development.

The applicant is seeking Planning Approval for the deletion of condition No. 4 of Planning Approval for DA0481/09 (two storey Single House) at No. 15A (Lot 45) Samson Street, Fremantle. Specifically, Condition No. 4 of Planning Approval for DA0481/09 (two storey Single House) dated 7 December 2009 stated as follows:

“4. Prior to occupation, 80% solid surface area / obscured balustrading to a minimum height of 1.6m above the floor level shall be provided to the northern and western elevation of the proposed balcony in accordance with clause 6.8.1 A1 of the Residential Design Codes, and thereafter maintained to the satisfaction of the Chief Executive Officer.”

It is noted that whilst the above Condition required both the northern and western elevations of the balcony to be screened, the applicant is only seeking that the requirement for the screening to the northern elevation be deleted. The screening to the western elevation has already been erected.

The applicant is pursuing a discretionary decision in relation to ‘Acceptable Development’ requirements of the Residential Design Codes (R-Codes) pertaining to the following Design Element:

- Visual privacy.

It is considered that the deletion of the requirement to provide screening to the northern elevation of the balcony would compromise the visual privacy of the western adjoining property in a manner that is not consistent with the applicable ‘Performance Criteria’ of the R-Codes.

For these reasons, on balance the application is recommended for refusal.

BACKGROUND

The site is zoned ‘Residential’ under the City’s Local Planning Scheme No. 4 (LPS4) with a density coding of R25 and is located within the South Fremantle Local Planning Area 4 (LPA 4) as prescribed in Schedule 12 of LPS4. The site is located in the street block bound by Solomon Street to the west, Samson Street to the north, Edmund Street to the east and South Street to the south. The site is not on the City’s Heritage List, nor is it located within any prescribed Heritage Area.

The subject site is a rear battleaxe lot with an area of 447m² and is located on the southern side of Samson Street, Fremantle. The subject site is currently improved by a two storey Single House. In terms of its topography, the subject site is relatively flat.

A review of the property file revealed the following information relevant to planning and/or to this application:

- At its meeting held on 2 December 2009, the Planning Services Committee (PSC) resolved to grant conditional Planning Approval for a two storey Single House at No. 15A (Lot 45) Samson Street, Fremantle (refer DA0481/09 & PSC0912-224). It is noted that Condition No. 4 of this Planning Approval stated as follows:
“4. Prior to occupation, 80% solid surface area / obscured balustrading to a minimum height of 1.6m above the floor level shall be provided to the northern and western elevation of the proposed balcony in accordance with clause 6.8.1 A1 of the Residential Design Codes, and thereafter maintained to the satisfaction of the Chief Executive Officer”;
- On 21 December 2010, the City granted conditional Planning Approval for minor amendments to DA0481/09 for two storey Single House at No. 15A (Lot 45) Samson Street, Fremantle (refer DA0641/10);
- At its meeting held 7 March 2012, the PSC resolved to take no further action in relation to a minor encroachment of a limestone dividing fence and architectural feature associated with No. 15A (Lot 45) and No. 17 (Lot 2) Samson Street, Fremantle (refer PSC1203/30).

DETAIL

On 17 August 2012 the City received an application seeking Planning Approval for the deletion of condition No. 4 of Planning Approval for DA0481/09 (two storey Single House) at No. 15A (Lot 45) Samson Street, Fremantle. Specifically, Condition No. 4 of Planning Approval for DA0481/09 (two storey Single House) dated 7 December 2009 stated as follows:

“4. Prior to occupation, 80% solid surface area / obscured balustrading to a minimum height of 1.6m above the floor level shall be provided to the northern and western elevation of the proposed balcony in accordance with clause 6.8.1 A1 of the Residential Design Codes, and thereafter maintained to the satisfaction of the Chief Executive Officer.”

As outlined in the Executive Summary, it is noted that whilst the above Condition required both the northern and western elevations of the balcony to be screened, the applicant is **only** seeking that the requirement for the screening to the northern elevation be deleted. The screening to the western elevation has already been erected.

As part of their covering letter submitted as part of this application, the applicant has outlined that they are only seeking Planning Approval for the deletion of the requirement for the screening along the northern elevation of the balcony only, and not for the screening along the western elevation, of which has already been erected:

“... I now wish to apply for planning approval for the deletion of the northern screen previously required by DA 0481/09.

The screen on the west side of the upstairs terrace has been constructed and it preserves the privacy and prevents relevant overlooking of the western neighbour.

The screen to the north has not been constructed ...”

The proposed development plans are contained as 'Attachment 1' of this report.

The City's Officers undertook a site inspection on 13 September 2012. Photos from this site inspection are contained as 'Attachment 2' of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and Council's *Local Planning Policy 1.3 - Notification of Planning Proposals* (LPP 1.3), as the applicant is proposing a variation from the 'Acceptable Development' standards of the Residential Design Codes (R-Codes). Letters were sent to both owners and occupiers of adjoining properties affected by the discretionary decision on 5 October 2012 and at the conclusion of the advertising period, being 30 October 2012 (additional week extension granted), the City had received two (2) submissions pertaining to the proposal, raising the following relevant planning concern:

- Visual privacy.

It is noted that of the two (2) submissions received, one stated their non-objection to the proposal.

Accordingly, the relevant planning concerns outlined above will be discussed in the 'Planning Comment' section of this report.

STATUTORY AND POLICY ASSESSMENT

The proposal was assessed against the relevant provisions of LPS4, R-Codes and Council's Local Planning Policies.

Variations to the prescribed standards sought by this application are discussed in the 'Planning Comment' section of this report.

PLANNING COMMENT

Visual privacy

Required	Proposed	Discretion
Setback 7.50m	<ul style="list-style-type: none"> • 2.20m setback to northern adjoining property • 3.00m setback to western adjoining property 	<ul style="list-style-type: none"> • 5.30m • 4.50m

Visual privacy setback distance to northern adjoining property

- This discretionary decision is supported as the extent of overlooking of the northern adjoining property is limited to the outbuilding (detached garage) and does not overlook any habitable spaces or that properties outdoor living area(s); and
- Further, the owners of the northern adjoining property have provided no-objection in relation to this discretionary decision.

Visual privacy setback distance to the western adjoining property

- This discretionary decision is not supported as the proposal for no screening along the northern elevation of the balcony would result in direct overlooking of a habitable room ('kitchen') as well as a portion of the outdoor living area of the western adjoining property.

It is noted that the approved development plans dated 7 December 2009 for DA0481/09 depicted screening along the entire length of the northern elevation of the balcony. In this regard, and given the requirement of the above condition, the entire length of the northern elevation of the balcony was not actually required to be screened in order to comply with the 'Acceptable Development' standards for visual privacy of the R-Codes. In order to satisfy the 'Acceptable Development' standards as detailed in Condition 4 above, only the western most 3.40 metres of the northern elevation of the balcony would be required to be screened so as to satisfy the 7.50 metre setback requirement to the western adjoining property as measured within the cone of vision (at the 45 degree angle from the face of the wall).

Therefore, if Council were of the opinion that a compromise between the applicants desire to remove screening on the northern elevation of the balcony and the need to protect the privacy of the western adjoining property is something that could be entertained, it is considered that such a compromise could be achievable. If the applicant was required to appropriately screen the northern elevation of the balcony at a length of 3.40 metres from its western most side towards the east, this would ensure that the required 7.50 metre setback from the boundary – as measured within the cone of vision (at the 45 degree angle from the face of the wall) – would be realised and as such, satisfy the 'Acceptable Development' standards of the R-Codes. Given that the length of the balcony as viewed from its northern elevation is approximately 5.50 metres, this would allow approximately 2.10 metres of the eastern most portion of the balcony to remain unscreened, whilst ensuring that the proposal complies with the 'Acceptable Development' standards for visual privacy to the western adjoining property.

CONCLUSION

It is considered that the provision of no screening along the northern elevation of the balcony would compromise the visual privacy of the western adjoining property, and in this regard such a proposal would not be considered to satisfy the relevant 'Performance Criteria' of the R-Codes and should not be supported. Notwithstanding, if the applicant was required to screen the western most 3.40 metres of the northern elevation of the balcony, this would bring the development into compliance with the 'Acceptable Development' standards of the R-Codes.

Overall, the proposed development is not considered to be consistent with the objectives of the Residential zone as prescribed by Clause 4.2.1(a) of LPS4.

On balance, for the reasons outlined above the application is recommended for refusal.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the deletion of condition No. 4 of Planning Approval for DA0481/09 (two storey Single House) at No. 15A (Lot 45) Samson Street, Fremantle, as detailed on plans dated 13 September 2012, for the following reason:

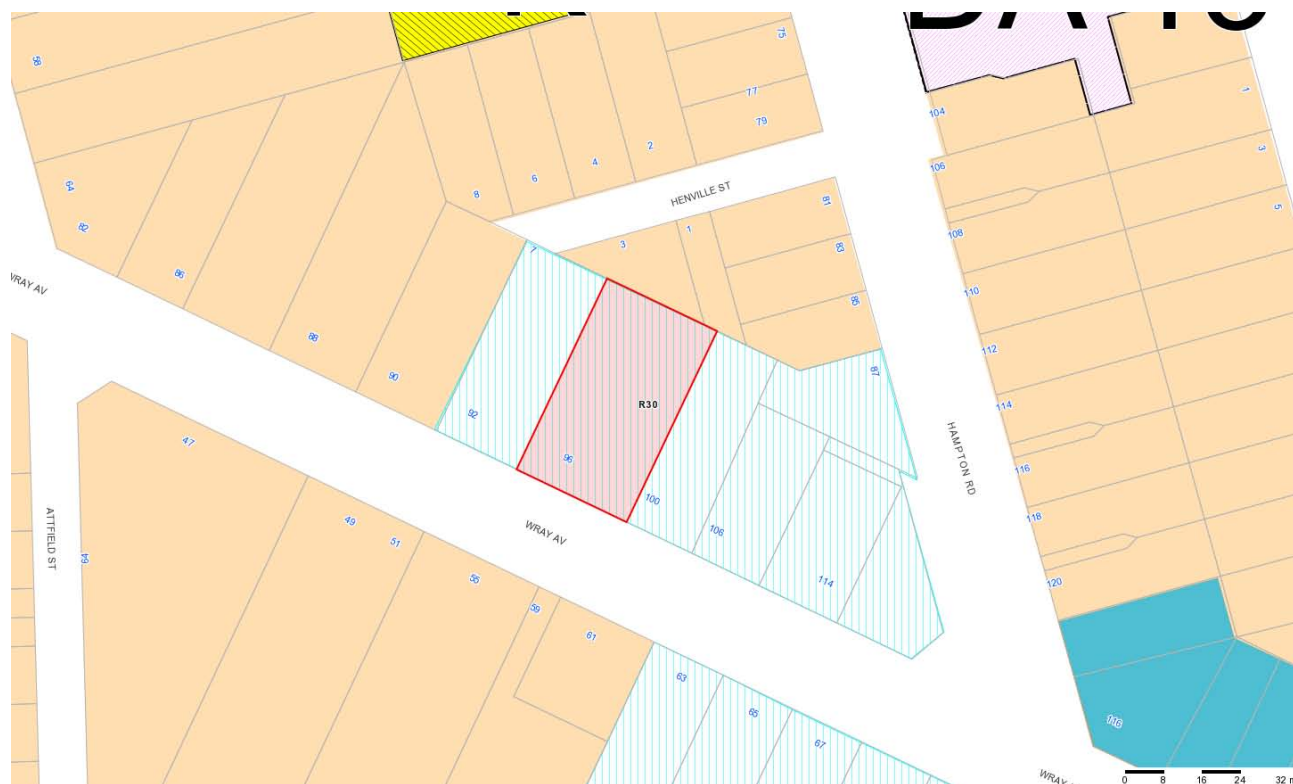
- 1. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to Clause 6.8.1 – Visual privacy.**

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

**PSC1211-173 SAT MATTER - WRAY AVENUE, NO. 96 (LOT 36) FREMANTLE -
REQUEST FOR RECONSIDERATION: PARTIAL CHANGE OF USE
TO EXHIBITION CENTRE, COMMUNITY PURPOSE, HEALTH
STUDIO, CARETAKERS RESIDENCE (KS DA0477/11)**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 7 November 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1011-231 (1 December 2010) & PSC1202-15 (1 February 2012)
Attachment 1: Development Plans
Attachment 2: PSC report and approved plans for DA0477/11 (PSC 1 February 2012)
Date Received: 29 August 2012 (revised plans date)
Owner Name: T & T Berengeli
Submitted by: Bruce Abbott
Scheme: Local Centre Zone
Heritage Listing: Not Listed
Existing Landuse: 'Garden Centre'
Use Class: 'Exhibition Centre', 'Community Purpose', 'Health Studio' & 'Caretakers Residence'
Use Permissibility: 'D', 'P', 'D' & use not listed.



EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee (PSC) as the State Administrative Tribunal (SAT) has requested Council to re-consider its decision under Section 31 of the State Administrative Tribunal Act 2004, through the SAT mediation process. The request to re-consider its decision has been made on the basis of permitting the applicant to submit additional information and revised plans for consideration by Council.

On 1 February 2012, Planning Services Committee considered an application for the partial change of use to Exhibition Centre, Community Purpose, Health Studio and Signage at No. 96 (Lot 36) Wray Avenue, Fremantle and approved the proposal subject to conditions. Conditions 3 and 4 of the approval state:

- 3. The hours of operation be limited to 7am to 9pm.*
- 4. This approval is valid for a 12 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No 4.*

The applicant lodged an application for review with the State Administrative Tribunal (SAT) specifically relating to Conditions 3 and 4. During the SAT mediation process the applicant submitted revised plans for the planning application which resulted in amendments to the land uses on site, the hours of operation and a reduction in car parking.

The revised proposal was required to be advertised in accordance with clause 9.4 of LPS4 with the City receiving one submission in support of the proposal subject to its review at a later date.

The revised proposal seeks planning approval for the change of use to Exhibition Centre, Community Purpose, Health Studio and Caretakers Residence. The revised proposal has resulted in the intensification of land uses on site, in the increase of hours of operation and a reduction in on site car parking.

Based on PSC's previous determination for conditional approval, the subject site's location within the Local Centre zone and the amendments to the hours of operation and land uses sought, under Section 31 (2) (a) of the State Administrative Tribunal Act 2004, on balance it is recommended that the SAT be advised that PSC reaffirm its previous decision of approval based on revised and additional conditions.

BACKGROUND

The subject site is zoned Local Centre under the provisions of the City of Fremantle's (the City) Local Planning Scheme No. 4 (LPS4) and has a density coding of R30. The site is located within Sub Area 4.3.4 as contained in Schedule 12 of LPS4. The site is not listed on the City's Heritage List nor located within a designated Heritage Area in accordance with LSP4.

The site is located on the northern side of Wray Avenue, Fremantle and is improved by an existing single storey commercial building and ancillary rear outbuildings. The site is approximately 1,130m². Vehicle access is provided to the site via a crossover to the south eastern corner of site. A bitumen area surrounds the existing building and an existing bus stop is located at the front of site on Wray Avenue.

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

- On 1 December 2010, Planning Services Committee considered an application for the change of use to Garden Centre and Signage at No. 96 (Lot 36) Wray Avenue, Fremantle (refer DA0482/10) and resolved:

'...That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Change of Use to Garden Centre and Signage at No. 96 Wray Avenue, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the change of use and signage as indicated on the approved plans, dated 20 September 2010. It does not relate to any other development on this lot.*
- 2. The sign hereby permitted shall not contain any flashing or moving light at any time.*
- 3. The proposed central crossover and vehicle access point, indicated on the plans dated 20 September 2010 is to be deleted from this application and does not form part of this planning approval.'*

- On 1 February 2012, Planning Services Committee considered an application for the partial change of use to Exhibition Centre, Community Purpose, Health Studio & Signage at No. 96 (Lot 36) Wray, Avenue, Fremantle (refer DA0477/11) and resolved:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the partial change of use to Exhibition Centre, Community Purpose, Health Studio & Signage at No. 96 Wray Avenue, Fremantle, subject to the following conditions:

- 1. This approval relates only to the change of use as indicated on the approved plans dated 29 September 2011. It does not relate to any other development on this lot.*
- 2. The sign hereby permitted shall not contain any flashing or moving light at any time.*

3. *The hours of operation be limited to 7am to 9pm.*
4. *This approval is valid for a 12 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No 4.*

DETAIL

The owner has requested the SAT to review PSC's decision (determined at 1 February 2012 PSC meeting) around imposing Conditions 3 and 4 (as detailed above) for DA0477/11 for the partial change of use to Exhibition Centre, Community Purpose, Health Studio, Caretakers Dwelling and Signage at the subject site. At the directions hearing held on the 14 March 2012, SAT ordered that the first on-site mediation hearing be held on 27 March 2012 at the subject site which was followed by a further 5 mediations held onsite on 8 May 2012, 31 May 2012, 3 July 2012, 14 August 2012 and 2 October 2012.

As a result of mediation the SAT invited Council to re-consider its decision and requested the applicant provide revised plans to reflect the exact nature of the development sought on site.

The next SAT mediation session has been set for the 5 December 2012 onsite and the revised plans put to be determined by PSC at its meeting scheduled for 7 November 2012. Revised plans pertaining to the partial change of use to Exhibition Centre, Community Purpose, Health Studio, Caretakers Residence and Signage, are proposed as follows:

Use	When	Hours of Operation	Max. No. of People	Type
<i>Health Studio</i>				
Health Studio	2-3 times per week (Monday – Sunday)	6am-8am	10	Yoga
<i>Exhibition Centre</i>				
Exhibition Centre	Monday - Sunday	10am-4pm	40/day	Exhibition space
Exhibition Centre	1-2 nights per week (weeknight/weekend)	6pm-10pm	40	Film nights / Exhibition openings
<i>Community Purpose</i>				
Community Purpose	2-3 nights per week	6pm-10pm	20	Cultural workshops
Community Purpose	2-3 nights per week	6pm-10pm	40	Film nights/community meetings
Community Purpose	Saturday & Sundays	10am-5pm	40	Weekend workshops

The revised plans propose the following major variations from the previous planning approval (DA0477/11):

- Reduction in car parking provided on site (previously approved 13 bays reduced to proposed 5);
- Reconfiguration to floor areas for previously approved uses on site:
 - Garden Centre (previously approved 236.5m² increased to proposed 318m²);
 - Health Studio (previously approved 236.5m² decreased to proposed 108m²);
 - Community Purpose & Exhibition Centre (utilising same space for each use - previously approved 153.5m² increased to proposed 273m²);
- Conversion of rear outbuilding to Caretakers Residence;
- Increase in the approved operating hours:
 - Health Studio: 6am-8am;
 - Community Purpose and Exhibition Centre: 6am-10pm

A summary of the proposed and approved use land areas is included in the table below.

Use	Approved (February 2012)	Proposed (SAT)
Garden Centre	236.5m ²	318m ²
Health Studio	236.5m ²	108m ²
Community Purpose & Exhibition Centre (same space utilised for both uses)	153.5m ²	273m ²

Refer to 'Attachment 1' for copy of revised development plans.

STATUTORY AND POLICY ASSESSMENT

The development has been assessed against the relevant provisions of LSP4 and the State Administrative Tribunal Act 2004.

Refer to the Planning Comment section of this report for further assessment and detailed discussion.

CONSULTATION

Community

The revised application was required to be advertised in accordance with clause 9.4 of LPS4. At the conclusion of the advertising period, being 24 September 2012, the City had received one (1) submission in support of the application subject to its review in 3 to 6 months time from the date of approval.

PLANNING COMMENT

Car Parking

Table 3 of LPS4 does not contain specific car parking requirements for 'Exhibition Centre', 'Community Purpose', 'Health Studio' or 'Caretakers Dwelling' land uses. The following requirements are recommended for Council to consider:

- 'Exhibition Centre' is to be assessed against the 'Showroom' requirements of LPS4's Table 3 as previously assessed in the February 2012 report to Council.
- 'Community Purpose' is to be assessed against the Tertiary School requirements of LPS4's Table 3 as previously assessed in the February 2012 report to Council.
- 'Health Studio' is to be assessed on the basis of 1 car parking bay per 20m² of GLA as previously assessed in the February 2012 report to Council.
- 'Caretakers Dwelling' has been assessed on the basis of it being incidental in nature and its purpose being the accommodation of one caretaker, it is recommended to Council that the 'Caretakers Dwelling' have a car parking requirement of one car parking bay.

Required	Provided	Discretion
Health Studio – 6 bays; Caretakers Dwelling – 1 bays; Garden Centre – 7 bays; Community Purpose – 4 bays; and Exhibition Centre – 6 bays. 1 delivery bay Total required – 25 bays.	5 car parking bays	20 car parking bays.

On balance, the intensification of land uses on the site and the associated car parking discretion is supported on the basis of Council's previous determination for approval and the objectives of the Local Centre zone for the following reasons:

- The land uses are staggered in their peak hours of operation and are thus not considered likely to result in an overcapacity use of the site;
- The staggered hours of operation moderate the impact of the car parking discretion.
- In addition to the provision of on street car parking and the subject site's access to public transport (bus stop provided in front of site) and the site's close proximity to the City Centre, the staggered hours of operation are considered to support the car parking discretion and not result in a significant detrimental impact upon the amenity of adjoining property owners or residential properties. On this basis the proposal is considered to comply with the Relaxation of Parking Requirements of clause 5.7.3 of LPS4.
- The intensity of use of the site is considered to be limited by the size of the building and the overall capacity of the site.
- The proposal will be regulated by the Environmental Health Noise Regulations, which protects local residents from potential negative impacts associated with noise.
- The proposed uses are considered appropriate within the Local Centre zone.
- The extension to the hours of operation are not considered significant with an additional hour to the previously approved opening and closing times.

The following conditions are recommended to help ensure that the proposal does not impact upon adjoining property owners and local residents by means of overcapacity use of the site and car parking:

- *The hours of operation be limited from 6am to 10pm.*
- *That the maximum patronage associated with the 'Health Studio' not exceed 10 people to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- *That the maximum patronage associated with both the 'Exhibition Centre' and 'Community Purpose' uses not exceed 40 people to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- *The use of the 'Caretakers Dwelling' is to be incidental to the predominant uses of the site (those being 'Garden Centre', 'Exhibition Centre', 'Community Purpose' and 'Health Studio') and its occupancy be limited to a maximum number of 2 occupants who have a caretaking and maintenance role associated with the operation of site to the satisfaction of the Chief Executive Officer, City of Fremantle.*

Bicycle Rack Provision

The deficiency in car parking is further considered to be supported by the provision of onsite bicycle facilities. The Table 3 Vehicle Parking Table requirement does not require the provision of bicycle racks for 'Showroom' (used to assess parking requirements of 'Exhibition Centre'), 'Health Studio', 'Caretakers Dwelling' or 'Garden Centre' uses. The use of the site as 'Community Purpose' as mentioned has been assessed against the vehicle parking requirements of 'Tertiary School' and requires the following bicycle rack provision:

- 1 bicycle rack for every 5 students.

It is considered that Council assess the overall site requirements for bicycle rack provision against this requirement, with the term students pertaining to patrons, at the proposal's maximum occupancy rate of 40 patrons. Such an assessment would require the proposal to have a minimum of 8 bicycle racks onsite. On this basis the following condition is recommended:

- *That the provision of a minimum of 8 bicycle racks be provided on site to the satisfaction of the Chief Executive Officer, City of Fremantle.*

Temporary Approval

Council previously determined at its meeting held on 1 February 2012 that the application be granted a temporary approval for a period of twelve months. The twelve month approval was prescribed by Condition 3 of the determination as follows:

“This approval is valid for a 12 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No. 4.”

The above condition is one of the two conditions that the applicant lodged an appeal to SAT against.

Further to Council's previous determination, during the advertising period the City received one submission which supported the proposal but requested that its operation be reviewed within a period of 3 to 6 months.

On balance, it is recommended that if Council does grant approval that such an approval once again be temporary to allow Council the opportunity to reconsider the proposed use of the site after its practical operation which would enable a clearer understanding of the impact upon adjoining properties and local residents.

On Balance, Council is invited to consider the following 3 timeframes for the approval of the application on a temporary basis:

Twelve Months

- Such a timeframe may be beneficial to adjoining properties and local residents as if any problems arise out of the associated development, these problems would not have to be endured for an extended period of time.

Twenty Four Months

- In contrast to the 12 month period a 24 month period may be more sufficient in allowing the proposal time to operate at its full potential which is less likely to be achieved within a 12 month time period.
- A 24 month timeframe would give the Council an extended timeframe to observe any shortcomings associated with the development. Such shortfalls, which may be of detriment to adjoining properties or residents, may not arise within the first 12 months of operation and if a subsequent long term approval is granted, these problems may be ongoing for the life of the development.

Eighteen Months

- An eighteen month time period may be a moderate alternative to the above options. This timeframe may allow sufficient time for the proposal to commence its full operation and provide adequate time for insight into any associated impacts upon adjoining properties or residents. Further, the timeframe would not subject adjoining property owners or residents to any immediate problems that may arise for such an extended period of time as 24 months.
- On balance, for the above reasons, it is recommended to PSC that the proposal be granted approval on a temporary basis for the a period of 18 months from the date of the decision letter as follows:
 - *This approval is valid for an 18 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No. 4.*

CONCLUSION

The revised plans that form part of the SAT reconsideration have been assessed on the basis of PSC's previous determination for conditional approval on a temporary basis and against the requirements of the City's LPS4. Whilst the revised proposal seeks the intensification of the use of the site, on balance, the proposal is supported as the staggered nature of the hours of operation associated with the land uses subject to the conditions recommended to limit the nature of particular uses are likely to address amenity issues.

The car parking discretion is supported on the basis that the proposal is considered to be consistent with the relaxation of parking requirements of clause 5.7.3 of LPS4. Further, subject to PSC's previous determination and the comment received at the stage of advertising and the given the unusual nature of the site and its diversity of uses, on balance, the application is recommended to be approved on a temporary basis for a period of 18 months.

Accordingly, on balance, the application is recommended for conditional approval.

OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

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

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the change of use to Exhibition Centre, Community Purpose, Health Studio, Caretakers Dwelling and Signage at No. 96 (Lot 36) Wray Avenue, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 29 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. The sign hereby permitted shall not contain any flashing or moving lights at any time.
3. All storm water discharge shall be contained and disposed of on-site.
4. The hours of operation be limited from 6am to 10pm.
5. That the maximum patronage associated with the 'Health Studio' not exceed 10 people at any one time to the satisfaction of the Chief Executive Officer, City of Fremantle.
6. That the maximum patronage associated with both the 'Exhibition Centre' and 'Community Purpose' uses not exceed 40 people at any one time to the satisfaction of the Chief Executive Officer, City of Fremantle.
7. The use of the 'Caretakers Dwelling' is to be incidental to the predominant uses of the site (those being 'Garden Centre', 'Exhibition Centre', 'Community Purpose' and 'Health Studio') and its occupancy be limited to a maximum number of 2 occupants who at least 1 of the 2 residents have a caretaking and maintenance role associated with the operation of the site to the satisfaction of the Chief Executive Officer, City of Fremantle.
8. Within 90 days of this approval a minimum of 8 bicycle racks shall be provided on site and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.
9. This approval is valid for an 18 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No. 4.

Cr R Pemberton MOVED an amendment to the Officer's Recommendation to change condition 5 to state the following:

- 5. That the maximum patronage associated with the 'Health Studio' not exceed 20 people at any one time to the satisfaction of the Chief Executive Officer, City of Fremantle.**

CARRIED: 4/3

For	Against
Cr Rachel Pemberton Cr Ingrid Waltham Cr Andrew Sullivan	Cr Robert Fittock Cr Bill Massie Cr David Hume

Cr A Sullivan used his casting vote FOR the recommendation resulting in it being CARRIED.

Cr A Sullivan MOVED an amendment to the Officer's Recommendation to change condition 9 to be the following:

- 9. This approval is valid for an 24 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No. 4.**

CARRIED: 4/2

For	Against
Cr Rachel Pemberton Cr Ingrid Waltham Cr Andrew Sullivan Cr Robert Fittock	Cr Bill Massie Cr David Hume

COMMITTEE RECOMMENDATION

MOVED: Cr A Sullivan

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

That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the change of use to Exhibition Centre, Community Purpose, Health Studio, Caretakers Dwelling and Signage at No. 96 (Lot 36) Wray Avenue, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 29 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. The sign hereby permitted shall not contain any flashing or moving lights at any time.**
- 3. All storm water discharge shall be contained and disposed of on-site.**
- 4. The hours of operation be limited from 6am to 10pm.**
- 5. That the maximum patronage associated with the 'Health Studio' not exceed 20 people at any one time to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 6. That the maximum patronage associated with both the 'Exhibition Centre' and 'Community Purpose' uses not exceed 40 people at any one time to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 7. The use of the 'Caretakers Dwelling' is to be incidental to the predominant uses of the site (those being 'Garden Centre', 'Exhibition Centre', 'Community Purpose' and 'Health Studio') and its occupancy be limited to a maximum number of 2 occupants who at least 1 of the 2 residents have a caretaking and maintenance role associated with the operation of the site to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 8. Within 90 days of this approval a minimum of 8 bicycle racks shall be provided on site and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 9. This approval is valid for an 24 month period from the date of the decision in accordance with clause 10.6.1 of the City of Fremantle Local Planning Scheme No. 4.**

CARRIED: 4/2

For	Against
Cr Rachel Pemberton Cr Ingrid Waltham Cr Andrew Sullivan Cr Robert Fittock	Cr Bill Massie Cr David Hume

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

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1211-177 WEST END WORKING GROUP - MEMBERSHIP NOMINATIONS AND CONSIDERATION OF BOUNDARY OPTIONS

DataWorks Reference:	039/072
Disclosure of Interest:	Nil
Meeting Date:	7 November 2012
Responsible Officer:	Director Planning and Development Services
Actioning Officer:	Coordinator of Heritage
Decision Making Level:	Council
Previous Item Number/s:	PSC1205-77, SGS1011-11, SGS1103-11 and C1111-3
Attachments:	Previous Minute item – PSC1205-77 Copies of nominations for membership of Working Group

EXECUTIVE SUMMARY

This report seeks Council's approval for the appointment of two community representatives to fill current vacancies on the Working Group's membership. The report also presents options for revised boundaries to the current West End Conservation Area and area for possible nomination for State heritage registration for Council's consideration, in response to a previous Council resolution dated 23rd May 2012.

BACKGROUND

On 23rd May 2012, Council considered a report outlining the work undertaken by the West End Working Group (WEWG) since its formation in 2011, and recommending a process for the appointment of two community representative members of the WEWG to fill vacancies which had arisen due to the resignation of previous members. After consideration of this item Council resolved as follows:

- 1. That nominations for community representative members of the West End Working Group be invited by means of public advertising, and at the end of the advertising period one nomination previously received in February 2012 and any further nominations received in response to advertising be reported to Council to determine the appointment of two community representative members.*
- 2. That the terms of reference be revised to include consideration of options for the revised boundaries of the current West End Conservation Area for further consideration by Council at the time of reporting of nomination for Committee membership.*

For further background information see copy of this previous item at Attachment 1.

COMMENT

Nominations for community representative members

Three nominations have been received for the two vacant community representative positions on the WEWG, including the one nomination received in response to the previous advertising process undertaken in January/February 2012. Nominations have been received from Ms Anne Brake, Mr John Dowson and Ms Kate House. Copies of the three nomination forms are attached (see Attachment 2).

The selection criteria stated in the Instrument of Appointment for the WEWG is that community representatives should have “interest, knowledge or experience in place activation and/or heritage of the West End of Fremantle”. All three nominees are considered by officers to meet the above criteria. Further details of each nominee’s relevant knowledge, experience and interest are set out in the attached nomination forms.

Options for revised boundaries of the West End Conservation Area

The second part of Council’s resolution of 23rd May 2012 requires preparation of information on options for revised boundaries to the current West End Conservation Area for Council’s consideration. Whilst the resolution refers to the West End Conservation Area, officers’ understanding of the intent of the resolution is that it is primarily to identify options for the area considered most appropriate for nomination for State heritage listing.

Officers believe that any assessment of options needs to begin with consideration of a number of fundamental points as follows:

- The designation of any conservation area, including the West End, needs to recognise that the significance of an historic area depends upon much more than the quality of the individual buildings within it. It is the quality and significance of the West End as an area which should be the prime consideration in identifying the extent of the conservation area. Hence individual buildings should be assessed in terms of their contribution to the significance of the townscape as a whole.
- The Statement of Heritage Significance of the townscape needs to be clearly explained. This should act as a useful step to ensure that future conservation policies address the heritage values of the townscape in its broadest sense, as well as the contribution made by individual buildings.
- The area proposed for designation should be clearly seen to embody the heritage values attributed to it. Any options for the area proposed for designation need to justify that designation and clearly explain how the significance of the area will not be devalued by the inclusion of areas lacking any special significance.
- There needs to be recognition that State listing of the West End will not occur unless there is broad public understanding and support for the proposal. Options for the area to be designated therefore need to be capable of being clearly set out in a manner which will be easily understood by the wide audience that will be involved in the registration consultation process.

Having regard to these considerations the two options described below have been identified. In considering these options there needs to be an understanding that the planning of Fremantle is complex, and the original town plan did not derive from the imposition of a single planning grid on the landscape. Instead the town plan can be described in terms of its irregularly shaped, interlocking areas that were determined firstly by the fact that the town is located on a peninsula and, secondly, by the constraints imposed by the need to adjust to the topography of the townsite. Recognising this is fundamental to understanding the urban design of Fremantle.

Option 1

This option comprises land bounded by Market Street/South Terrace to the east, Collie Street and Marine Terrace to the south, and the section of railway line between Marine Terrace and the station to the west and north.

This area is the precinct traditionally referred to as the West End. Early town plans show it occupying the narrowest part of the peninsula with High Street as its ordering device. High Street runs as an axis in an easterly direction from the Roundhouse on Arthur Head through the town, skimming the northern edge of Obelisk Hill (now Monument Hill) to terminate just beyond it, at the east end of the town site.

Side streets in the West End run between South Bay and North Bay (Swan River) and are arranged at right angles to the High Street. The widening of the peninsula is first accommodated by the introduction of the east / west streets in the block between Pakenham and Market Streets.

Market Street / South Terrace marks the line along which the town plan spread out from the confines of the peninsula. Market Street is set at right angles to High Street to align at one end with Ferry Point (the river port); at its other end it joins South Terrace where it runs against the limestone edge of Church Hill.

The original town plan clearly shows the West End having narrower streets, and smaller lots and blocks than the adjoining areas.

Option 2

This option includes all of the land within Option 1 as described above, but additionally takes in areas east of Market Street including Kings Square and the Town Hall. The eastern boundary would be formed by Queen Street, Newman Court and Paddy Troy Mall/Henderson Street.

The basis for consideration of this enlarged area compared to Option 1 is that Kings Square is part of the original town plan. The 1833 town plan shows it as the square around which a number of areas interlock. As such it was pivotal to giving order to the town plan and this is taken as an indication that Kings Square was, from the beginning, designated as a centre of Fremantle, although not necessarily the civic centre. This area east of Market Street/South Terrace also contains a number of buildings of individual heritage significance, however the boundaries are less clearly defined and the townscape less intact than in the West End area in Option 1 because the area has undergone several distinct periods of change where not only has earlier development been supplanted by the later changes but it has in some cases caused changes to the urban form.

At this stage, officers consider Option 1 probably represents the most appropriate area for nomination for 'whole area' State heritage listing, although this could be done in conjunction with the separate nomination of individual buildings of high significance in the area east of Market Street referred to in Option 2. However officers consider the merits of both options do warrant further detailed consideration through the WEWG with support and advice from the external heritage consultant and the City's Coordinator of Heritage. Therefore it is recommended that Council refer both options to the Working Group for further examination, with a view to the Group making a recommendation back to Council as part of its revised terms of reference determined by Council on 23rd May 2012.

CONCLUSION

To reinstate full membership of the WEWG and ensure appropriate community representation, the two currently vacant positions need to be filled and it is recommended that this be achieved by appointing two nominees from the three nominations received.

It is further recommended that the two options identified in this report be referred to the WEWG for more detailed examination with the purpose of identifying the area to be proposed for State heritage listing. Consideration of how this area might relate to a review of boundaries of the current West End Conservation Area could subsequently be undertaken as part of the process of preparing the Activity Centre Structure Plan for Fremantle city centre which is now under way and involves examination of issues relevant to distinct precincts within the overall city centre area.

OFFICER'S RECOMMENDATION

1. That Council appoint _____ and _____ as community representative members of the West End Working Group until the project brief is concluded or until the Ordinary Election held in October 2013 (whichever occurs first):
2. That Council request the West End Working Group to consider the following two options for the area to be nominated for inclusion in the State Heritage Register and to subsequently make a recommendation to Council on a preferred option.

Option 1 – land bounded by Market Street/South Terrace to the east, Collie Street and Marine Terrace to the south, and the section of the railway line between Marine Terrace and the railway station to the west and north; with properties of State heritage significance that are outside of this area but within the area covered by Option 2 below being separately nominated for individual State registration where they are considered to meet nomination criteria.

Option 2 – land bounded by Queen Street, Newman Court and Paddy Troy Mall/Henderson Street to the east, Collie Street and Marine Terrace to the south, and the section of the railway line between Marine Terrace and the railway station to the west and north.

In considering the above options, the Working Group is requested to have regard to the factors listed as dot points in the 'Comment' section of this report.

3. That further consideration be given to options for the boundaries of the West End Conservation Area as part of the process of preparing the Activity Centre Structure Plan for Fremantle city centre.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

- 2. That Council request the West End Working Group to consider the following two options for the area to be nominated for inclusion in the State Heritage Register and to subsequently make a recommendation to Council on a preferred option.**

Option 1 – land bounded by Market Street/South Terrace to the east, Collie Street and Marine Terrace to the south, and the section of the railway line between Marine Terrace and the railway station to the west and north; with properties of State heritage significance that are outside of this area but within the area covered by Option 2 below being separately nominated for individual State registration where they are considered to meet nomination criteria.

Option 2 – land bounded by Queen Street, Newman Court and Paddy Troy Mall/Henderson Street to the east, Collie Street and Marine Terrace to the south, and the section of the railway line between Marine Terrace and the railway station to the west and north.

In considering the above options, the Working Group is requested to have regard to the factors listed as dot points in the 'Comment' section of this report.

- 3. That further consideration be given to options for the boundaries of the West End Conservation Area as part of the process of preparing the Activity Centre Structure Plan for Fremantle city centre.**

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

- 1. That Council appoint Anne Brake and Kate House as community representative members of the West End Working Group until the project brief is concluded or until the Ordinary Election held in October 2013 (whichever occurs first):**

CARRIED:5/1

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Andrew Sullivan	Cr Bill Massie

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

PSC1211-174 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

That the information is noted.

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1211-175 INITIATION OF MODIFICATION TO LOCAL PLANNING POLICY 1.6 - PREPARING HERITAGE ASSESSMENTS (LPP1.6) - ADOPTION FOR PUBLIC ADVERTISING

DataWorks Reference:	117/035
Disclosure of Interest:	Nil
Meeting Date:	7 November 2012
Responsible Officer:	Manager Statutory Planning
Actioning Officer:	Strategic Planner
Decision Making Level:	Council
Previous Item Number/s:	None
Attachments:	1. Local Planning Policy 1.6 – Preparing Heritage Assessments - Adopted 25 February 2009

EXECUTIVE SUMMARY

This report seeks Council approval to advertise a draft modified *Local Planning Policy – Preparing Heritage Assessments (LPP1.6)*.

LPP1.6 was adopted 25 February 2009. The policy provides the framework for when a heritage assessment is required and outlines the format for heritage assessments.

The proposed modifications will overall update the wording of the policy and refine the heritage assessment format. Specifically the main changes to the policy are:

- Deleting the requirement for a Statement of Conservation;
- Increasing the applicability of a heritage assessment from two years to five years;
- Refining the Statement of Heritage Impact assessment criteria;
- Adding fences to minor development and renaming the clause;
- Including a new clause that gives senior staff discretion on when to require a heritage assessment.

It is recommended that the modified local planning policy be adopted for advertising for public comment in accordance with clause 2.4 of Local Planning Scheme No. 4 (LPS4).

BACKGROUND

Local Planning Policy 1.6 – Preparing Heritage Assessments was adopted 25 February 2009. The policy provides the framework for when a heritage assessment is required and outlines the format for heritage assessments.

Since adoption the policy has been well utilised and through its use a number of updates to refine when a heritage assessment is required and to improve the heritage assessment framework have been identified.

CONSULTATION

If Council resolves to amend LPP1.6 as recommended in this report, the amended local planning policy will be advertised for public comment for a period of not less than 28 days in accordance with the requirements set out in clause 2.4.1 of the City's Local Planning Scheme No. 4 (LPS4) and *Local Planning Policy No. 1.3 'Public Notification of Planning Approvals'*.

PLANNING COMMENT

The proposed modifications to *Local Planning Policy 1.6 – Preparing Heritage Assessments* (LPP1.6), will overall update the wording of the policy, refine the heritage assessment format, include an additional development that does not always require a heritage assessment, rename the 'minor development' clause, delete the requirement for a statement of conservation and introduce a new clause which allows for more discretion on when a heritage assessment is required. The changes proposed are discussed below:

Purpose of the policy

The purpose of the policy is not proposed to be changed, however the proposed modifications will refine the purpose to clearly state that the policy provides a format for heritage assessments and outlines when a heritage assessment is required.

Content of Heritage assessments

Statement of Heritage Significance

Heritage Values

Table 1, of the policy assesses the heritage values of the place. It is proposed the table be modified slightly so that it is more in line with the Burra Charter. The modifications include adding a title to the table (e.g. Table 1 – Heritage Values), updating the titles within the table and including spiritual value into the value assessment. The modifications are shown in the table below:

Current wording of LPP1.6	Proposed modifications to LPP1.6
Heritage values	Nature of significance
Aesthetic value	Aesthetic value
Historic value	Historic value
Scientific value	Scientific value
Social value	Social/spiritual value
Heritage Attributes	Degree of significance
Rarity	Rarity
Representativeness	Representativeness
Integrity	Integrity
Authenticity	Authenticity

Heritage Significance

Table 2, of the policy identifies the overall heritage significance of the place. Only minor amendments are proposed to this section including naming the table and modifying the notes under comment to clarify the purpose of the heritage significance assessment. The significance categories in the table (e.g. exceptional, considerable, some and limited or none) will remain the same.

Current Table 2 in LPP1.6:

Table 2

Significance			
Exceptional	Considerable	Some	Limited or none
Comments: <i>The consultant shall identify the overall significance of the place using the above categories, and identify zones of significance within the place itself, and within a local context.</i>			

Proposed modifications to Table 2:

Table 2 – Heritage Significance

Significance			
Exceptional	Considerable	Some	Limited or none
Comments: <i>The Heritage Significance assessment shall identify the overall significance of the place using the above categories, and identify zones of significance within the place itself, and within a local context.</i>			

Statement of Heritage Impact

The statement of heritage impact table 3 contains the criteria upon which the impact of the proposed development on the heritage significance of the place is assessed in the heritage assessment. Currently the table contains six criteria used to assess the compatibility of the proposed development with the existing building and streetscape and the degree of change and impact on various attributes the development will have. The proposed modifications do not alter the intent of these criteria, however the wording has been modified slightly to focus the assessment more on the impact of the proposed development and degree of permanent loss of significant fabric the development will have. A conclusion to give an overall summary of the heritage impact assessment is also proposed as part of the modifications.

Statement of Conservation

The existing policy requires a statement of conservation for level 1 (Level 1a listed buildings are also on the State Heritage Office of Western Australia's Register of Heritage Places and level 1b listed buildings are recommended for entry on the state list) and level 2 heritage listed properties. The modifications propose to delete the requirement for a statement of conservation from the content required for a heritage assessment.

The reason for this is twofold. Firstly a statement of conservation is required for state heritage listed properties and requiring a further statement of conservation duplicates this requirement. Secondly, the statement of conservation is not based on the proposed development and “*does not necessarily inform the determination of the proposal*”. Accordingly the statement is only a recommendation, has no statutory weight and is consequently, infrequently implemented. Therefore it is a better use of the City’s heritage resources to delete this requirement from the content of a heritage assessment and provide this information to applicants, in more detail, when requested.

Circumstances where a Heritage Assessment will be undertaken

This part of the policy outlines when a heritage assessment will be undertaken and specifies that a heritage assessment is valid for two years. The modifications to this part of the policy propose increasing the time period a heritage assessment is valid for from two years to five years, updating table 4 (When a Heritage Assessment is required) and including a clause into the policy which gives the Manager and Coordinator of Statutory Planning discretion on when to require a heritage assessment.

The current two year time period a heritage assessment is applicable for is considered too short. The heritage assessment criteria is clearly provided for in the policy and use of the policy has shown there is little variation to the heritage considerations of a property within two years. Accordingly it is considered a five year timeframe is more appropriate.

Table 4 outlines when a heritage assessment is required. Modifications to Table 4 are proposed for the purpose of consolidating the table and specifically include adding a title to the table, removing the statement of conservation requirement and updating the reference to ‘minor development’ to clause 2.3. The modified table is below:

Table 4 – When a Heritage Assessment is required

	State Register of Heritage Places or Heritage List or Category 1 on MHI	Heritage List (Category 2 and 3 on MHI)	Within or adjacent to West End Conservation Area	Where not on Heritage List
Heritage assessment	Required unless existing	Always required unless specified in clause 2.3	Always required unless specified in clause 2.3	Demolition of a primary structure only

Currently the clause in the policy called ‘minor development’ lists works that do not always require a heritage assessment where the property is a level 2 or 3 or within or adjacent to the West End Conservation Area (as per table 4 above). The intent of this clause is to exclude those types of development that would have a limited impact on a place’s heritage significance, from requiring a heritage assessment. The modifications propose deleting reference to ‘minor development’ and including fences to the list.

Proposed new clause 2.3 (formerly 'Minor development'):

2.3 For the purposes of this policy, the following development would not always require a heritage assessment as per Table 4:

- (i) Small scale new structures on the subject site which are not attached to the building (such as sheds or outbuildings) which are located out of the front setback area.*
- (ii) Ancillary lightweight structures added to buildings (such as timber patios, sails, carports, pergolas) which are located out of the front setback area.*
- (iii) Fixtures to buildings (such as antennae, aerials, air conditioning units, solar panels, signs), which do not face the street and do not involve any significant structural alteration to the building.*
- (iv) Non structural internal changes.*
- (v) Fences where they are in accordance with the City's Local Planning Policy 2.8 – Fences Policy.*

The modifications also proposed including a new clause into the policy. Currently the policy contains the clause:

3.2.1 Notwithstanding the above [Table 4], a heritage assessment may be carried out where, in the opinion of the Council, a proposal has the potential to significantly alter a place of heritage significance that is not listed on the Heritage List.

This clause gives Council discretion to require a heritage assessment where a place is not currently on the Heritage List. The new clause proposes to increase the scope of the existing clause and allow for each application to be assessed on its own merits. The Manager Statutory Planning and Coordinator Statutory Planning will have discretion to, on the advice of the Coordinator of Heritage, require, not require or require in a modified format a Heritage Assessment.

Proposed new clause 2.2:

2.2 Notwithstanding the requirements of Table 4 above, and at the discretion of the Manager Statutory Planning and Coordinator Statutory Planning and on the advice of the Coordinator of Heritage, a Heritage Assessment:

- (i) may not be required; or*
- (ii) can be provided in a modified format; or*
- (iii) may be required.*

Heritage Assessor

This part of the policy outlines who can undertake a heritage assessment or comment. No major changes are proposed to this part of the policy; only minor changes are proposed to this part of the policy, which are for the purpose of updating the job titles.

CONCLUSION

The proposed modifications will overall update the wording of the policy and refine the heritage assessment format. Specifically the main changes to the policy are:

- Deleting the requirement for a Statement of Conservation;
- Increasing the applicability of a heritage assessment from two years to five years;
- Refining the Statement of Heritage Impact assessment criteria;
- Adding fences to minor development and renaming the clause;
- Including a new clause that gives the Manager and Coordinator of Statutory Planning discretion on when to require a heritage assessment.

It is recommended that the amended draft local planning policy be adopted and advertised for public comment in accordance with clause 2.4 of LPS4.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That Council adopt the following draft amended *Local Planning Policy 1.6 – Preparing Heritage Assessments* for advertising in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 1.6

PREPARING HERITAGE ASSESSMENTS

ADOPTION DATE: 25 February 2009

AMENDED: ####/2012

AUTHORITY: LOCAL PLANNING SCHEME NO.4

STATUTORY BACKGROUND

Clause 10.2.1 of the Scheme prescribes the matters to which the Council is required to afford due regard in considering a proposal. Included amongst these matters are any potential impacts that a proposal may have on the heritage values of an existing place and its context including the streetscape and/or heritage area.

Clause 7.4 of the Scheme prescribes that the Council may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List.

In order to meet its obligations to assess various statutory planning proposals the Council will from time to time include specific expert advice on heritage matters as part of the planning assessment. In this policy, the term 'proposals' includes planning applications, Structure Plans, Detailed Area Plans and Town Planning Scheme amendment proposals.

PURPOSE

The purpose of this policy is to provide a format for heritage assessments and outline when a heritage assessment is required.

Any Heritage Assessment provided or obtained in accordance with this policy will be considered a public document for the purpose of the assessment of planning applications.

All terms and definitions related to heritage used in this policy are based on the terms used in "*The Burra Charter 1999 – the Australia ICOMOS Charter for Places of Cultural Significance*". Council adopted the principles of the Burra Charter as good practice for heritage listed places in June 2000.

POLICY

1. Content of Heritage Assessment

A Heritage Assessment shall consist of the following components:

1. Statement of Heritage Significance
2. Statement of Heritage Impact

1.1 Statement of Heritage Significance

A Statement of Heritage Significance should define the heritage values embodied in the place itself, its fabric, setting, use, and related places. Each place has its own combination of values, which together provide its heritage significance.

A Statement of Heritage Significance should be prepared through a process, of investigating the place and the records associated with it and include an assessment of the aesthetic, historic, scientific and social/spiritual values for past, present and future generations.

As a minimum requirement, the heritage assessor shall undertake the following process of collecting and analysing information in the preparation of the Statement of Heritage Significance:

- Research of historical documents (such as rates books, archives etc)
- An inspection of the place

Additional research may be required at the discretion City of Fremantle heritage staff.

REPORT FORMAT FOR STATEMENT OF HERITAGE SIGNIFICANCE:

Description of the Place

- i) Historical notes
- ii) Physical descriptions

Heritage Values

Table 1 – Heritage Values

Nature of significance	
Aesthetic value	
Historic value	
Scientific value	
Social/spiritual value	
Degree of significance	
Rarity	
Representativeness	
Integrity	
Authenticity	

Statement of Heritage Significance

Table 2 – Statement of Heritage Significance

Significance			
Exceptional	Considerable	Some	Limited or none
Comments: <i>The Heritage Significance assessment shall identify the overall significance of the place using the above categories, and identify zones of significance within the place itself, and within a local context.</i>			

1.2 Statement of Heritage Impact

The Statement of Heritage Impact examines the impact of the proposed development on the heritage significance of the place, and includes a discretionary value judgment concerning the impact of the proposal on the identified heritage values of the place.

REPORT FORMAT FOR STATEMENT OF HERITAGE IMPACT:

Statement of Heritage Impact

Table 3 - Statement of Heritage Impact

The level of positive and negative impact that the proposed development will have on the heritage significance of the place with regard to the following criteria:	
The extent of loss of significant fabric.	
The extent of conservation work to significant fabric.	
The permanent impact that the proposal is likely to have on the values that contribute to the heritage significance of the place.	
The impact an addition will have on a heritage building in terms of its use siting, bulk, form, scale, character, colour, texture and materials.	
The impact the proposal will have on the visual setting and the other relationships that contribute to the heritage significance of the place.	

The impact the proposal will have on the streetscape and townscape characteristics of the area in which it stands.	
The impact the proposal will have on important public views and spaces, vistas, landmarks and landscape features.	
Conclusion The degree of positive and negative impact on the place in terms of its heritage significance is:	

2. Circumstances where a Heritage Assessment will be undertaken

2.1 Unless previously obtained on another similar or relevant proposal for the same property within five calendar years of the date of application, the Council will undertake heritage assessment in accordance with Table 4 below.

Where a proposal falls within two columns under this table the higher level of assessment shall be undertaken.

Table 4 – When a Heritage Assessment is required

	State Register of Heritage Places or Heritage List or Category 1 on MHI	Heritage List (Category 2 and 3 on MHI)	Within or adjacent to West End Conservation Area	Where not on Heritage List
Heritage assessment	Required unless existing	Always required unless specified in clause 2.3	Always required unless specified in clause 2.3	Demolition of a primary structure only

2.2 Notwithstanding the requirements of Table 4 above, and at the discretion of the Manager Statutory Planning and Coordinator Statutory Planning and on the advice of the Coordinator of Heritage, a Heritage Assessment:

- (i) may not be required; or**
- (ii) can be provided in a modified format; or**
- (iii) may be required.**

2.3 For the purposes of this policy, the following development would not always require a heritage assessment as per Table 4:

- (i) Small scale *new* structures on the subject site which are not attached to the building (such as sheds or outbuildings) which are located out of the front setback area.
- (ii) Ancillary lightweight structures added to buildings (such as timber patios, sails, carports, pergolas) which are located out of the front setback area.
- (iii) Fixtures to buildings (such as antennae, aerials, air conditioning units, solar panels, signs), which do not face the street and do not involve any significant structural alteration to the building.
- (iv) Non structural internal changes.
- (v) Fences where they are in accordance with the *City's Local Planning Policy 2.8 – Fences Policy*.

3. Heritage Assessor

3.1 A Heritage Assessment may be undertaken:

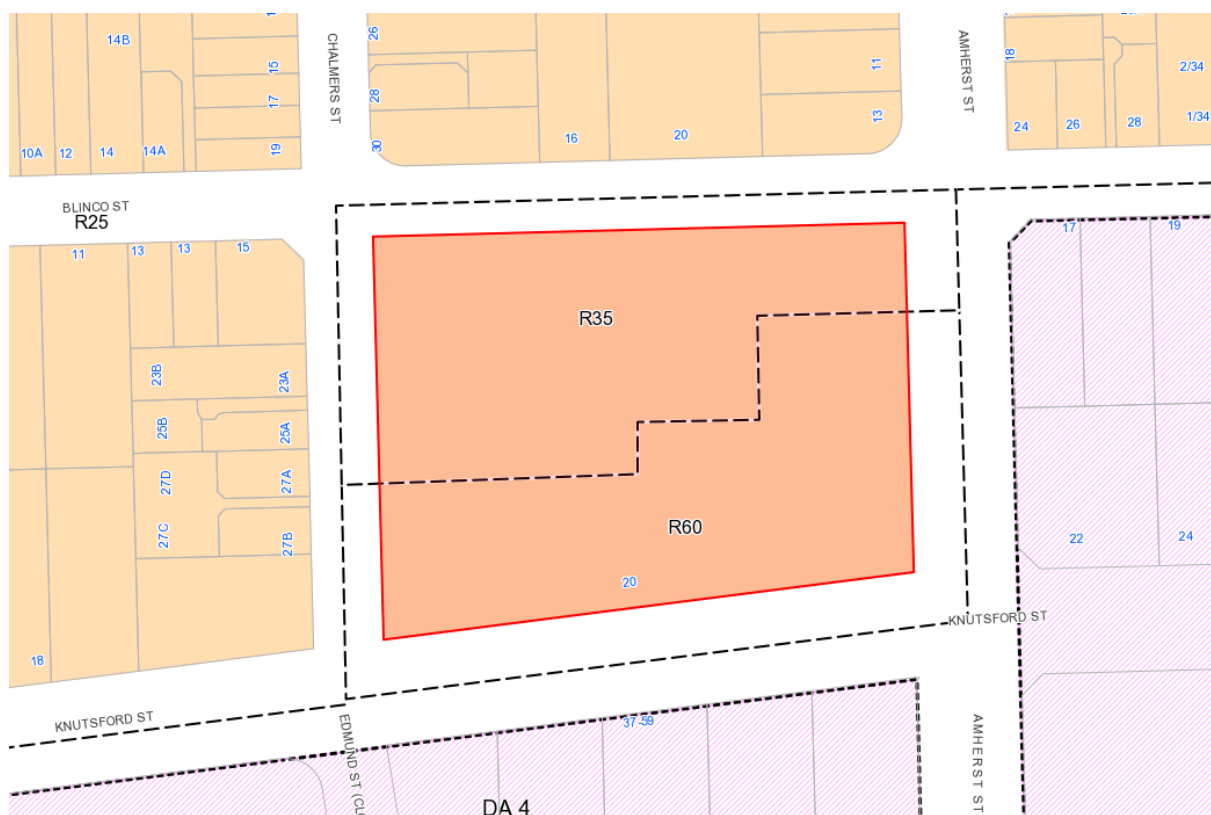
- (i) In house - A suitably qualified employee of the Council (i.e. Heritage Coordinator, Heritage Planner, Heritage Projects Officer or other City of Fremantle heritage staff); or
- (ii) Independent - A suitably qualified heritage consultant engaged by the City specifically to undertake the heritage assessment.

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

**PSC1211-176 PROPOSED SCHEME AMENDMENT NO. 56 - NEW SUB AREA 3 IN
LOCAL PLANNING AREA 2 FREMANTLE AND REQUIREMENTS - 20
(LOT 1354) KNUTSFORD STREET, FREMANTLE - INITIATION**

DataWorks Reference: 218/062
Disclosure of Interest: Nil
Meeting Date: 7 November 2012
Responsible Officer: Manager Statutory Planning
Actioning Officer: Strategic Planner
Decision Making Level: Council
Previous Item Number/s: None
Attachments: Engineering Plan – Showing Proposed Parking Spaces in the Area



EXECUTIVE SUMMARY

The purpose of this scheme amendment is to introduce a new sub area into the City's Local Planning Scheme No. 4 for the site known as No. 20 (Lot 1354) Knutsford Street, Fremantle. The proposed new sub area will permit a broader range of working from home uses in the area and provide an additional height provision to allow for concealed roof types.

The amendments are considered appropriate for the area as it is being designed and built concurrently. The broader range of uses will provide for vibrancy in the Residential zoned area and the additional height provision will allow for greater flexibility in the design of R60 development.

It is recommended Council resolve to initiate Scheme Amendment No. 56 to LPS4 for public advertising.

BACKGROUND

The site, bounded by Chalmers, Blinco, Amherst and Knutsford Street, is known as 20 (Lot 1354) Knutsford Street, Fremantle, and is 16472m². The site is zoned Residential with half of the site having a density coding of R35 and the other half of the site having a density coding R60 (See map above).

LandCorp have formed a partnership with a private consortium to develop 20 (Lot 1354) Knutsford Street, Fremantle. The consortium have a vision for the site, which includes various forms of accommodation, including single residential dwellings, townhouses and multiple dwellings, and a greater opportunity to establish home based businesses in the Residential area. The development is committed to reflecting the distinct local character and lifestyle of Fremantle, and integrating the design with the existing residential neighbourhood. The consortium has started work on implementing their vision for the area, which has included:

- Conditional subdivision approval issued, 11 July 2012, by WAPC for a 28-lot green title (freehold) subdivision of No. 20 (Lot 1354) Knutsford Street, Fremantle (refer WAPC145830);
- Planning approval for site works issued, 23 October 2012, by the City (refer DA0430/12); and
- A planning application for Grouped and Multiple Dwelling development on the north eastern portion of Lot 1354 (Stage 1) is currently under assessment with the City (refer DA0377/12).

Local Planning Scheme No. 4's (LPS4) current development requirements for the site are as per the Residential Design Codes with a specific height control for R60 development under Schedule 12 Local Planning Area 2.1. The height requirement for R60 development is 9m maximum external wall height and 12m maximum height to the top of the pitched roof.

Any proposed uses on the site are currently determined by Table 2 of LPS4.

PLANNING COMMENT

As the site is zoned Residential the commercial opportunities are limited to home office, home occupation and home business, which have strict definitions as per Schedule 1 of LPS4. The current height requirements also limit the full development potential of the site. Accordingly LandCorp and partners propose including a new sub area into Schedule 12 of the City's LPS4. The new sub area will include specific requirements for the area which will help enable small business operated by a resident of the dwelling and allow for increased height on R60 development.

Proposed Scheme Amendment

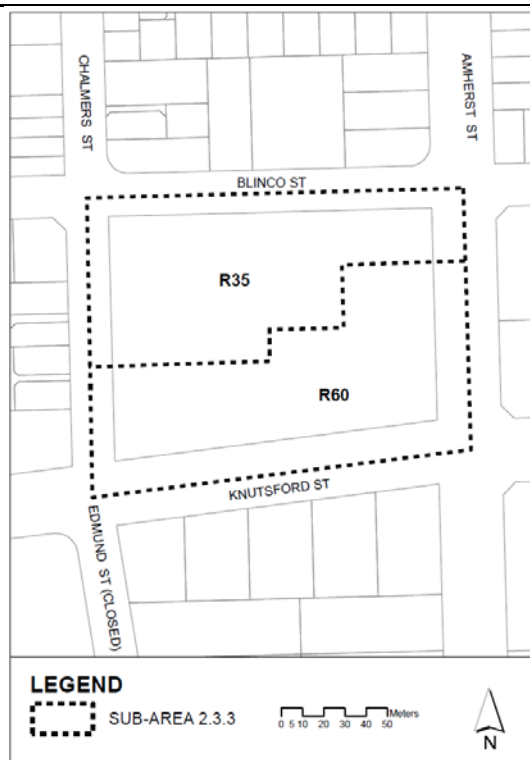
A. Delete the current wording applicable to the site from LPS4

LOCAL PLANNING AREA 2—FREMANTLE

2.1	HEIGHT REQUIREMENTS	
	Zone (Within LPA Only)	Maximum External Wall Height
	Neighbourhood Centre	5.5 m
	Mixed Use	7.5 m
	Residential	<p>All requirements as per Residential Design Codes and special application under clause 5.4 excepting that portion of Lot 1354 Knutsford Street as shown on the Scheme map as having a density coding of R60, where the following shall apply:</p> <ul style="list-style-type: none"> 9m maximum to the top of the external wall and 12m to the top of a pitched roof.

B. Introduce a new sub area into Schedule 12

2.3.3	Sub Area 3 – 20 (Lot 1354) Knutsford Street, Fremantle
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1. The building height requirements on the properties coded R60 shall be as per the Category C maximum building heights of Table 3 of the Residential Design Codes
2. Notwithstanding the requirements of Table 2 – Zoning, an Office use will be permitted in Residential developments where the use meets the following:
 - i. The gla of the Office use does not exceed 80m2;
 - ii. The Office use is operated by an occupier of the household; and
 - iii. The Office use does not employ more than three employees (not including any occupiers of the household);
3. The office use mentioned in clause 2 above and the uses home occupation, home office, home business and home store shall, notwithstanding the provisions of table 2 – Zoning and table 3 – Vehicle Parking, be considered “P” uses as per clause 4.3.3.

The new height and use requirements of the proposed scheme amendment are discussed below:

Height Requirements

The current specific height control for R60 development in Lot 1354 does not allow for three storey development with a flat (concealed) roof higher than 9m. This limits three storey development of this nature. The intent of the R60 density coding is to allow the opportunity for higher density development including multiple dwellings up to three storeys.

Accordingly it is proposed the current specific height requirements be deleted from LPS4 and reference to the Residential Design Codes 2010 (R-codes), Table 3 Category C (development on three levels) be inserted into the new proposed sub area. Category C has the same requirements that are currently in LPS4 (9m external wall height and 12m to of pitch roof height) with an additional requirement that caters for concealed roofs (see below).

Height measurement	Current requirements in LPS4	Category C requirements of the R-codes 2010
Top of external wall (roof above)	9m	9m
Top of external wall (concealed roof)	None	10m
Top of pitched roof	12m	12m

This amendment to the scheme will allow the consortium greater scope in design of the R60 developments, including potentially three storey development with a flat roof (concealed). Note that the current height limits still allow 3 storey's however the proposed new height limits will allow greater flexibility of design. The additional height requirement is considered minor and, as the area is being designed and built in unison, it is considered the area can adequately provide for three storey development on the R60 coded lots.

Home Uses

Additional use

The concept designs for the development include flexible spaces in some of the buildings which will provide for small scale, home-based business to establish within the site. However, home businesses are limited in the Residential zone through LPS4's definitions. Definitions restrict floor area and number of employees and cannot be varied.

The table below shows the home business uses applicable to the Residential zone, the permissibility of each and restrictions of the use through the definition.

Use	Permissibility (Table 2, LPS4)	Restrictions of the use through the definition
Home Office	P (Permitted)	<ul style="list-style-type: none"> • Use is to be carried out solely within a dwelling by a resident of the dwelling • Does not entail clients or customers travelling to and from the dwelling, • Does not involve any advertising signs on the premises
Home Store	D (Approval at Council's discretion)	<ul style="list-style-type: none"> • The net lettable area does not exceeding 100 square metres; • Attached to a dwelling; and • Operated by a person resident in the dwelling.
Home Occupation	D (Approval at Council's discretion)	<ul style="list-style-type: none"> • Does not employ any person not a member of the occupier's household; • Does not occupy an area greater than 20 square metres; • Does not display a sign exceeding 0.2 square metres; and • Does not involve the retail sale, display or hire of goods of any nature.
Home Business	A (Approval at Council's discretion and the application is required to be advertised)	<ul style="list-style-type: none"> • Does not employ more than 2 people not members of the occupier's household • Does not occupy an area greater than 50 square metres. • Does not involve the retail sale, display or hire of goods of any nature
Cottage Industry	A (Approval at Council's discretion and the application is required to be advertised)	<ul style="list-style-type: none"> • Does not employ any person other than a member of the occupier's household, • Is conducted in an out-building which is compatible with the principal uses to which land in the zone in which it is located may be put, • Does not occupy an area in excess of 50 square metres, and • Does not display a sign exceeding 0.2 square metres in area.

Some of the flexible spaces in the concept plans include larger home office space than those provided in the uses above and propose employing more than two people outside of the household. None of the current home business definitions in LPS4 would adequately provide for this. Therefore, as the definitions cannot be varied, it is proposed that an additional use of 'Office' is provided to the area, however restricted through the following provisions:

- i. The gla of the Office use does not exceed 80m2;
- ii. The Office use is operated by an occupier of the household; and
- iii. The Office use does not employ more than three employees (not including any occupiers of the household);

While the area is predominantly residential and not zoned commercial or mixed use, the purpose of this additional use is to provide for a diverse range of home based office/business uses that will increase the vibrancy of the area. A hub of small scale home uses would increase activity in the area during the day and reflect the surrounding neighbourhood's use activity on a scale appropriate to the Residential zone.

Permitted Uses

As the area is considered an opportunity to encourage a mix of home uses, the Scheme Amendment also proposes that the additional office use and home occupation, home office, home business and home store uses shall be considered "P" uses and the requirements of Table 3 – Vehicle Parking of LPS4 will not apply to these development types (only the office and home store use currently have vehicle parking requirements under table 3; there are no parking requirements for home occupation, home office, home business).

A "P" use is defined under clause 4.3.3 of LPS4 and means those home uses prescribed in this scheme amendment will be permitted and not require planning approval where the use *"complies with the relevant development standards and requirements of the scheme"*. As the requirements of table 3 – Vehicle Parking, are further suspended through the proposed scheme amendment the requirements of the scheme will mostly be the definitions of the use under Schedule 1. Permitting these uses without planning approval lowers barriers to the establishment of small scale home uses in the area, which in turn fosters and encourages these uses.

The increased potential for home businesses, coupled with the suspended vehicle parking requirements, raises the concern of adequate vehicle parking being provided in the area and surrounds. Home business uses do not usually require more car parking on that provided on site as they are predominantly undertaken by resident(s) of the dwelling, however the consortium have provided the following information to the City to address this issue (7 September 2012):

It is anticipated that the home based business activities would be run by the residents, or limited outside staff employed. Each dwelling will have two onsite car bays. Some residences will incorporate courtyards that can accommodate additional car parking on a temporary basis.

All vehicle access for residential parking will be provided from the laneways, not from the surrounding roads. Therefore, access to visitor car parking will only occur from the street network. Extensive on-street parking, based upon one car bay per two dwellings is being provided which would be sufficient to cater for visitors, not only for family friends, but also for those who might be making use of the business services being offered.

A total of thirty five (35) on-street parking bays are to be provided along the new internal access street, Amherst, Blinco and Chalmers Streets in selected locations. It is anticipated that that the southern side of Knutsford Street will also be developed with similar home based business opportunities and on-street parking in the future. These parking spaces are indicated on the attached engineering plan, presently with the City's Engineering department for approval [attachment 1]. It is unlikely that all residences with adaptable space will take advantage of the opportunity to establish a home based business, or office. The area of adaptable spaces will also vary. The type of businesses that establish will have a variety of clientele, some may travel to other locations and many are anticipated to operate via the internet.

As demonstrated above, the issue of additional vehicle parking in the area has been addressed through the provision of ample on-street parking (one bay per two dwellings) and the opportunity for additional onsite vehicle parking in some of the proposed residence's courtyards. As home uses do not usually require additional vehicle parking, it is considered the proposed development would adequately provide for any additional vehicle parking required by the proposed Scheme Amendment provisions.

CONCLUSION

This scheme amendment will introduce a new sub area into the LPS4 for 20 (Lot 1354) Knutsford Street, Fremantle. The new sub area will permit a broader range of home business/office uses in the area and provide an additional height provision for R60 development.

The amendments are considered appropriate for the area as it is being designed and built concurrently. The broader range of uses will provide for vibrancy in the Residential zoned area and the additional height provision will allow for greater flexibility in the design of R60 development.

It is therefore recommended that Council resolve to initiate Scheme Amendment No. 56 to LPS4 for public advertising.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr A Sullivan

That:

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

A. Delete the following wording from Schedule 12, Local Planning Area 2 – Fremantle, 2.1 Height requirements:

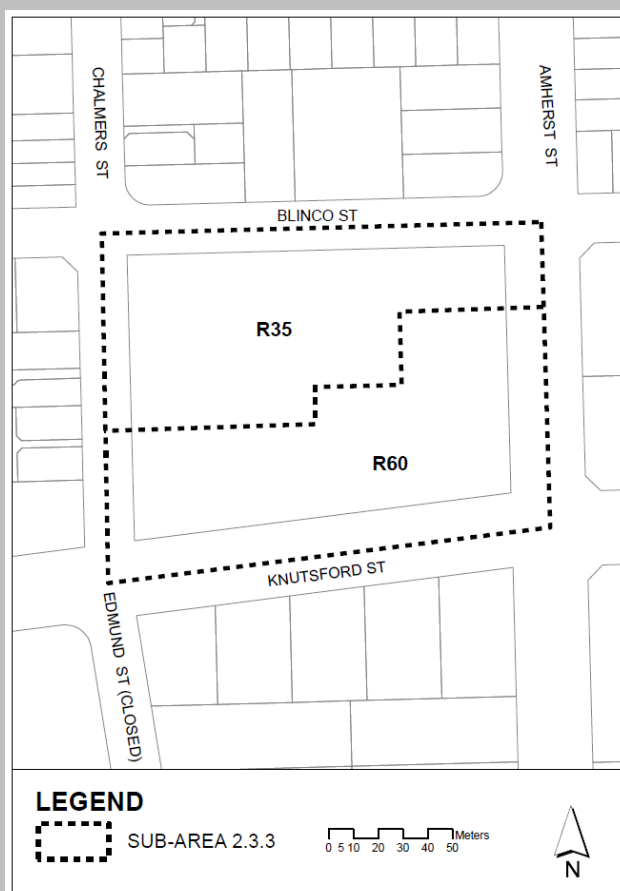
excepting that portion of Lot 1354 Knutsford Street as shown on the Scheme map as having a density coding of R60, where the following shall apply:

- 9m maximum to the top of the external wall and 12m to the top of a pitched roof.

B. Introduce Sub Area 3 – 20 (Lot 1354) Knutsford Street, Fremantle into Schedule 12 after Sub area 2 Queens Square (East)

2.3.3

Sub Area 3 – 20 (Lot 1354) Knutsford Street, Fremantle



- 1. The building height requirements on the properties coded R60 shall be as per the Category C maximum building heights of Table 3 of the Residential Design Codes**
- 2. Notwithstanding the requirements of Table 2 – Zoning,**

an Office use will be permitted in Residential developments where the use meets the following:

- i. The gla of the Office use does not exceed 80m2;**
- ii. The Office use is operated by an occupier of the household; and**
- iii. The Office use does not employ more than three employees (not including any occupiers of the household);**

3. The office use mentioned in clause 2 above and the uses home occupation, home office, home business and home store shall, notwithstanding the provisions of table 2 – Zoning and table 3 – Vehicle Parking, be considered “P” uses as per clause 4.3.3.

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

Upon receipt of the environmental assessment from the Environmental Protection Authority, the amendment be advertised for a period of not less than 42 days.

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr David Hume Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	

CONFIDENTIAL MATTERS

Nil.

CLOSURE OF MEETING

THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 9:08 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 limitations associated with the issue.

How consultative processes work at the City of Fremantle	
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.
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.

How consultative processes work at the City of Fremantle	
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, 7 November 2012, 6.00 pm

