



# AGENDA

## Planning Services Committee

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Wednesday, 21 November 2012, 6.00pm

**CITY OF FREMANTLE**  
**NOTICE OF A PLANNING SERVICES COMMITTEE MEETING**

Elected Members

A Planning Services Committee Meeting of the City of Fremantle will be held on Wednesday, 21 November 2012 in the Council Chamber, Town Hall Centre, 8 William Street, Fremantle (access via stairs, opposite Myer) commencing at 6.00 pm.

Philip St John  
**DIRECTOR PLANNING AND DEVELOPMENT SERVICES**

16 November 2012

# **PLANNING SERVICES COMMITTEE**

## **AGENDA**

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### **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

### **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."

### **ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**

### **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

### **PUBLIC QUESTION TIME**

### **DEPUTATIONS / PRESENTATIONS**

### **DISCLOSURES OF INTEREST BY MEMBERS**

### **LATE ITEMS NOTED**

### **CONFIRMATION OF MINUTES**

That the Minutes of the Planning Services Committee dated 7 November 2012 be confirmed as a true and accurate record.

### **TABLED DOCUMENTS**

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## **CLOSURE OF MEETING**

DEFERRED ITEMS (COMMITTEE DELEGATION)

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

## 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

### PSC1211-178 PAKENHAM STREET NO.43 (LOT 200), FREMANTLE PARTIAL CHANGE OF USE TO SERVICE INDUSTRY (BAKERY) (NMG DA0522/12)

<b>DataWorks Reference:</b>	059/002
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	21 November 2012
<b>Responsible Officer:</b>	Manager Statutory Planning
<b>Actioning Officer:</b>	Manager Statutory Planning
<b>Decision Making Level:</b>	Planning Services Committee
<b>Previous Item Number/s:</b>	PSC1106-105 (15 June 2011)
<b>Attachment 1:</b>	Development Plans
<b>Attachment 2:</b>	PSC1106-105 (15 June 2011) meeting minutes
<b>Date Received:</b>	6 November 2012
<b>Owner Name:</b>	Western Condor Pty Ltd
<b>Submitted by:</b>	Spaceagency
<b>Scheme:</b>	City Centre Zone
<b>Heritage Listing:</b>	Management Category Level 3
<b>Existing Landuse:</b>	Warehouse (currently being fitted out as per previous approval)
<b>Use Class:</b>	Service Industry (bakery)
<b>Use Permissibility:</b>	'A'



## EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee (PSC) as objections have been received that cannot be resolved through conditions of planning approval.

The applicant has requested to intensify the operation of the bakery component of the approved development and extend the hours of operation of the bakery compared to the June 2011 approval.

The City's Environmental Health Services have advised that the early morning activities of the bakery are unlikely to breach the requirements of the Environmental Protection (Noise) Regulations 1997 and in the unlikely event that noise complaints are received, investigated and found to be beyond the permitted levels, processes are in place to deal with any breaches.

On this basis it is recommended that the application be approved.

## BACKGROUND

The subject site is located on the western side of Pakenham Street, Fremantle. The site is comprised of a single storey heritage listed warehouse which is currently in the process of being fitted out in accordance with the restaurant/office approval granted in June 2011. The site is zoned City Centre under the City's Local Planning Scheme No. 4 (LPS4), and is located within the City Centre Local Planning Area and is approximately 556m<sup>2</sup>. The site is listed on the City's Heritage List and Municipal Heritage Inventory as a Management Category Level 3, and is further located within West End Conservation Area, which is a designated Heritage Area in accordance with Clause 7.2 of LPS4.

On 15 June 2011 PSC considered an application for additions and alternations to the existing warehouse and a change of use to restaurant (including an incidental bakery component) and office and resolved:

*"That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the additions and alterations to an existing Warehouse and change of use to a Restaurant and Office at No.43 (Lot 200) Pakenham Street, Fremantle, subject to the following condition(s):*

- 1. The development hereby permitted shall take place in accordance with development plans dated 18 April 2011. It does not relate to any other development on this lot.*
- 2. This approval is limited to a restaurant and office use only.*
- 3. The restaurant's hours of operation are limited between 9:00 am to 12:00 midnight six days of the week.*
- 4. The timber roof lantern is to remain in situ, with plans to be submitted prior to commencement detailing the architectural resolution of the first floor addition at its interface with the lantern to the satisfaction of the Chief Executive Officer, City of Fremantle.*

5. *The tongue and groove oregon ceiling shall be retained in situ to the satisfaction of the Chief Executive Officer, City of Fremantle.*
6. *Any new services such as but not limited to exhaust extraction, plumbing and drainage, air conditioning, fire services and waste disposal should be expressed as opposed to being concealed to the satisfaction of the Chief Executive Officer, City of Fremantle.*
7. *All storm water discharge shall be contained and disposed of on-site.*

#### **ADVICE**

*In relation to the bakery component of the development, the sale of bread to the public is considered to be incidental to the predominant approved use of restaurant."*

On 22 October 2012 Planning Approval was granted to amend the hours of operation stipulated in condition 3 above to:

*"The restaurant's hours of operation are limited between:*

- a) Sunday to Thursday 7.00am to 10.00pm; and*
- b) Friday to Saturday 7.00am to 12midnight."*

#### **DETAIL**

The applicant has requested to intensify the operation of the bakery component of the development and extend the hours of operation of the bakery compared to the June 2011 approval.

The site is 556m<sup>2</sup> and the proposed bakery takes up approximately 80m<sup>2</sup> of space in the south western corner (rear) of the of the ground floor. It is also proposed to reduce the number of wood fired ovens approved in June 2011 from 4 to 2.

The 2011 approved bakery component was smaller in scale and involved producing bread predominantly for the restaurant with minor retail sales. A bakery of this scale was considered to be incidental to the predominant restaurant use.

The current application proposes to wholesale bread to a number of other venues and expand operating hours as follows:

June 2011 approval	October 2012 approval	Currently proposed
9:00 am to 12:00 midnight six days of the week.	a) Sunday to Thursday 7.00am to 10.00pm; and b) Friday to Saturday 7.00am to 12midnight	a) Sunday to Thursday 4.00am to 10.00pm; and b) Friday to Saturday 4.00am to 12 midnight

## **CONSULTATION**

The application was required to be advertised in accordance with Clause 9.4 of LPS4, and the City's L.P.P1.3 *Public Notification of Planning Proposals*. Advertising commenced on 6 November 2012 and concludes on 20 November 2012. At the time of writing this report a total of 4 submissions (2 objections and 2 letters of support) were received. The letters of supports raised the following matters:

1. The bakers will enhance the area;
2. The bakers would bring locals together and revive the economy in an ailing city;

The objections raised the following issues:

1. Early hour noise
2. The industrial use is not consistent with the surrounding area;
3. Hours of operation should be form 7am – 5pm

Any submissions received after this report has been finalised will be forwarded to PSC members on Wednesday 21 November 2012.

Having regard however to the submissions received relating to the June 2011 application, it is not envisaged that significantly different issues will be raised through public submissions for this application. A summary of the submissions received as part of the June 2011 application are as follows:

Forty two (42) submissions in support of the proposal raised the following matters:

1. Venue considered a good outcome given the focus on quality rather than mass turnover;
2. Contribute to passive surveillance on Pakenham Street;
3. Appropriate location in the city centre;
4. West End lacks vitality, more development of this nature needed in the West End, need for more activity after Notre Dame University hours;
5. Catalyst for overdue restoration of the area;
6. Pakenham Street seen as dull due to the lack of development of this nature;
7. Preference for the adaptive reuse of the building as opposed to demolition;
8. Diversification of exiting restaurant market in locality;
9. Sympathetic with the streetscape;
10. Seen to discourage anti social behaviour;
11. Balance day/night activity and encourage student retention after university hours;
12. Adequate parking to facilitate such a venue;
13. Positive for the whole of city;
14. Bakery a great amenity for local residents;
15. Avoid complacency with notoriety of café strip.

Eighteen (18) submissions against the proposal raised the following matters:

1. Pakenham Street, having one of the higher residential concentrations in the West End is not suitable for development of this nature;
2. The proposal has the potential to impact on amenity and property values within the area;
3. Concerns regarding anti social behavior (Drug dealers, Vomiting, Smoking, Cigarette Butts, Urination);
4. The proposal may contribute to the detriment to the heritage significance of the building located on site;
5. Concerns regarding the exhaust fumes from bakery and kitchen;
6. Concerns regarding the waste management for the 170 patron restaurant, specifically noise associated with cleaning up, introduction of vermin population, noise from increased rubbish collection, unsightly;
7. Impact of operation on the functionality of the adjoining balconies and terraces;
8. Concerns associated with amplified music, and increased noise from patrons as a result;
9. Residential presence encouraged in the City thus the right to a peaceful high quality of life should be protected;
10. Additional traffic and parking issues;
11. Nuisance;
12. Concerns with early start time for bakery;
13. Future change of ownership to further unsuitable venues;
14. Number of patrons too high.

## **STATUTORY AND POLICY ASSESSMENT**

The proposal has been assessed against the requirements of the City of Fremantle Local Planning Scheme No. 4 (LPS4), and relevant planning policies. Discretions sought against LPS4 and policy requirements will be discussed in the planning comment section of this report.

## **PLANNING COMMENT**

### **Parking**

As the existing building does not have the capacity to provide car parking on site, the June 2011 approval incorporated a carparking shortfall of 39 car bays, 2 delivery bays and 3 bicycle racks. The parking requirement for a service industry is less than that required for a restaurant as demonstrated in the table below.

USE	LPS4 PARKING REQUIREMENT
Restaurant	1 per 5m <sup>2</sup> of dining area
Service Industry (bakery)	1 per 50m <sup>2</sup> gla*

\*gross leasable area

As the car parking requirement for a bakery is significantly less than that of a restaurant, the car parking discretion proposed as part of this application is less than that already approved in the June 2011 application.

On this basis the car parking discretion is supported (see attachment 2 for a more detailed discussion relating to the June 2011 parking discretion).

### **Use**

A service industry (bakery) is an “A” use in the City Centre zone which means that the use is not permitted unless council has exercised its discretion after advertising in accordance with clause 9.4 of LPS4.

In determining whether Council should exercise discretion in granting approval for the bakery, the proposal is required to be assessed against the objectives of the City Centre Zone.

The objectives of the City Centre zone are as follows:

*Development within the city centre zone shall –*

- (i) provide for a full range of shopping, office, administrative, social, recreation, entertainment, and community services, consistent with the region serving role of the centre and including residential uses, and*
- (ii) comply with the objectives of local planning area 1 of Schedule 12,*
- (iii) conserve places of heritage significance the subject of or affected by development.*

The objective of the zone specifically identifies the need for shopping social and entertainment uses within the city centre to contribute to its region serving role. The Scheme further serves to ensure that a proposal contributes to the diversity of uses within the City Centre. It is considered that the proposal will offer greater diversity to the existing entertainment venues on offer within the City Centre and is anticipated to make a significant contribution to the regional serving role of the City.

## **Amenity (noise)**

It is envisaged that any amenity related impacts on nearby residential uses will relate to noise associated with early start times of 4am. The applicant has provided the following details as to the staff and specific activities undertaken between 4am and 7am:

1. Making & mixing of the sourdough.
2. Shaping the bread into loaves
3. Lighting the wood fired ovens.
4. Baking the bread in the wood fired ovens
5. Two bakery staff members.
6. The bakery will be an ancillary activity to the normal running of the restaurant and it is envisaged that wholesale bread would only make up 10 –15 percent of the bakery sales.
7. The bakery would operate and comply to all health and noise regulations as per the Local authority requirements and relevant Australian Standards.
8. It is not intended that consignments of bread will be dispatched from the bakery prior to 7.00am.

The City's Environmental Health Services have advised that the 4am – 7am activities are unlikely to breach the requirements of the Environmental Protection (Noise) Regulations 1997 and in the unlikely event that noise complaints are received, investigated and found to be beyond the permitted levels, processes are in place to deal with any breaches.

In this instance due to the low levels of noise likely to be associated with the 4am -7am bakery activities, a condition of Planning Approval requiring an acoustic report is not considered necessary. Should Council however consider such a condition is necessary the following condition could be included:

*"Within 30 days of commencement of the bakery, the applicant shall submit a report that addresses the following matters to the satisfaction of the Chief Executive Officer – City of Fremantle:*

- a) Noise attenuation measures, including a qualified Noise Consultants report confirming compliance with the Environmental Protection (Noise) Regulations 1997, and*
- b) Internal and external design measures proposed to address sound attenuation both internally and externally and include vibration protection and attenuation.*

## **CONCLUSION**

Based on the comments above it is considered that the proposed bakery is unlikely to have a significant detrimental impact on the amenity of surrounding residential properties in terms of noise and can therefore be supported with a condition limiting the hours of operation.

## **OFFICER'S RECOMMENDATION**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for a partial change of use to Service Industry (bakery) at No.43 (Lot 200) Pakenham Street, Fremantle, subject to the following condition(s):**

- 1. The development hereby permitted shall take place in accordance with development plans dated 6 November 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. This approval is limited to service industry (bakery) only.**
- 3. Hours of operation of the bakery is limited to:**
  - a) Sunday to Thursday 4.00am to 10.00pm; and**
  - b) Friday to Saturday 4.00am to 12 midnight**
- 4. The timber roof lantern is to remain in situ, with plans to be submitted prior to commencement detailing the architectural resolution of the first floor addition at its interface with the lantern to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 5. The tongue and groove oregon ceiling shall be retained in situ to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 6. Any new services such as but not limited to exhaust extraction, plumbing and drainage, air conditioning, fire services and waste disposal should be expressed as opposed to being concealed to the satisfaction of the Chief Executive Officer, City of Fremantle.**

## **Advice Note**

- i. That the applicant be advised that no part of this approval should be interpreted as altering their statutory obligations under the Environmental Protection (Noise) Regulations 1997.**

**PSC1211-179 COLLICK STREET NO. 17A (LOT 2), HILTON – TWO STOREY  
GROUPED DWELLING (JS DA0454/12)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Planning Officer  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** Nil  
**Attachments:** Development Plans (amended plans dated 6 November 2012)  
**Date Received:** 26 September 2012  
**Owner Name:** Timothy Bolton and Kirsten Lopez  
**Submitted by:** Cedar Homes  
**Scheme:** Residential R20/R25  
**Heritage Listing:** No  
**Existing Landuse:** N/A (Vacant Site)  
**Use Class:** Grouped Dwelling  
**Use Permissibility:** 'D'



## EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee (PSC) for determination due to objections being received that cannot be addressed by the imposition of planning approval conditions.

The proposal is comprised of a two storey Grouped Dwelling, to be constructed on the rear survey strata lot at No. 17A Collick Street in Hilton. The applicant is pursuing an exercise in discretion in relation to Council's Local Planning Policy 3.7 (LPP3.7), specifically pertaining to building height.

Overall the proposal is considered to address the performance criteria set out within clause 2.2 of LPP3.7 and consequently, the application is recommended for approval.

## BACKGROUND

The subject site is zoned Residential with a split density code of R20/R25 under the provisions of the City of Fremantle's (the City's) Local Planning Scheme No. 4 (LPS4). The site is not individually listed on the City's Heritage List however, it is located within the Hilton designated Heritage Area in accordance with LPS4.

The site is approximately 356m<sup>2</sup> and is a rear survey strata lot on the western side of Collick Street in Hilton. The site is currently vacant and surrounded by single storey dwellings in the immediate vicinity.

It should be noted that the original plans submitted proposed an external wall height of 6.2 metres and a roof ridge height of 7.9 metres. As a result of the objections received the applicant submitted revised plans reducing the heights to the following dimensions:

- External Wall Height: 5.7 metres;
- Roof Ridge Height: 6.8 metres.

## STATUTORY AND POLICY ASSESSMENT

The proposed development has been assessed against the relevant provisions contained in LPS4, the R-Codes and Council Local Planning Policies. The proposed development includes the following discretion to design requirements:

- Building Height (Wall and Roof Ridge);

The following Council Policies are relevant to the application:

- *LPP 2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule;*  
and
- *LPP 3.7 – Hilton Garden Suburb Precinct.*

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

## **CONSULTATION**

### **Community**

The application was required to be advertised in accordance with Council policy *LPP 1.3 Public Notification of Planning Proposals*. At the conclusion of the advertising period, the City had received five submissions which raised the following concerns (summarised):

- Building height;
- Roof form and material;
- Visual privacy;
- Overshadowing;
- Loss of views;
- Decrease in property values;
- Setbacks; and
- Aesthetics.

The planning related matters raised above that do not meet the City's standards will be discussed in the 'Planning Comment' section of this report.

## **PLANNING COMMENT**

### **Discretionary Decision**

#### *Building Height (LPP3.7)*

	<i>Acceptable Development</i>	<i>Proposed</i>	<i>Discretion Sought</i>
External Wall Height	3.5 m	5.7 m	2.2 m
Roof Ridge Height	6.5 m	6.8 m	0.3 m

Clause 2.2 of LPP3.7 stipulates the maximum external wall height shall be 3.5 metres (equivalent to single storey and a loft) and the maximum roof ridge height shall be 6.5 metres. Furthermore, discretionary component of the corresponding clause states that:

*"Council may, at its discretion, allow a greater external wall height and/or greater roof ridge height where it is satisfied that the development meets one of the following criteria:*

- a) *The development is on a rear survey strata lot, battleaxe lot or the equivalent and has minimal presentation to the streetscape and the development complies with the Acceptable Development provisions of the Residential Design Codes regarding:
 
  - i. *Design Element 6.3.1 – Buildings setback from the boundary; and*
  - ii. *Design Element 6.4.1 – Open Space; and*
  - iii. *Design Element 6.9.1 – Design for Climate. or**
- b) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the front and side elevations of the development present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element exceeding the prescribed maximum building height located at the rear of the dwelling; or*

- c) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the proposed building height is consistent with the building height of development within the prevailing streetscape."*

The proposal meets criteria 'a' of discretionary requirements for the following reasons:

- The proposal is on a rear survey strata lot;
- The proposal has minimal presentation to the streetscape;
- The development complies with the design elements relating to:
  - i. Building setback requirements;
  - ii. Open space; and
  - iii. Design for climate (overshadowing).

Consequently, the discretionary decision sought pertaining to Building Height is supported.

### **Additional Comment**

#### LPP 2.2 Split Density Codes & Energy Efficiency & Sustainability Schedule

The applicant is seeking to obtain development approval for the higher split density coding (R25) for the proposed Grouped Dwelling. The applicant is seeking development approval through the criteria as set out in clause 3 of LPP 2.2 *Split Density Codes & Energy Efficiency & Sustainability Schedule*. Clause 3 LPP of 2.2 outlines that for development applications, applicants are required to demonstrate that the new proposed development will comply with all required elements set out in LPP 2.2.

As per the plans submitted, the applicant has successfully demonstrated that all the relevant criteria for LPP 2.2 have been met and furthermore a number of planning conditions have been imposed if planning approval is granted.

### **CONCLUSION**

The proposed development is considered to comply with LPP 3.7 - Hilton Garden Suburb Precinct, in regard to the discretionary decision sought relating to the building height requirements.

Furthermore, the proposal is consistent with the 'acceptable development' standards of the R-Codes and is compliant with the relevant provisions of Local Planning Scheme No. 4 and Local Planning Policy 2.2 which relates to Split Density Codes and Energy Efficiency and Sustainability Schedule.

Consequently, the application is presented to PSC with a recommendation for approval.

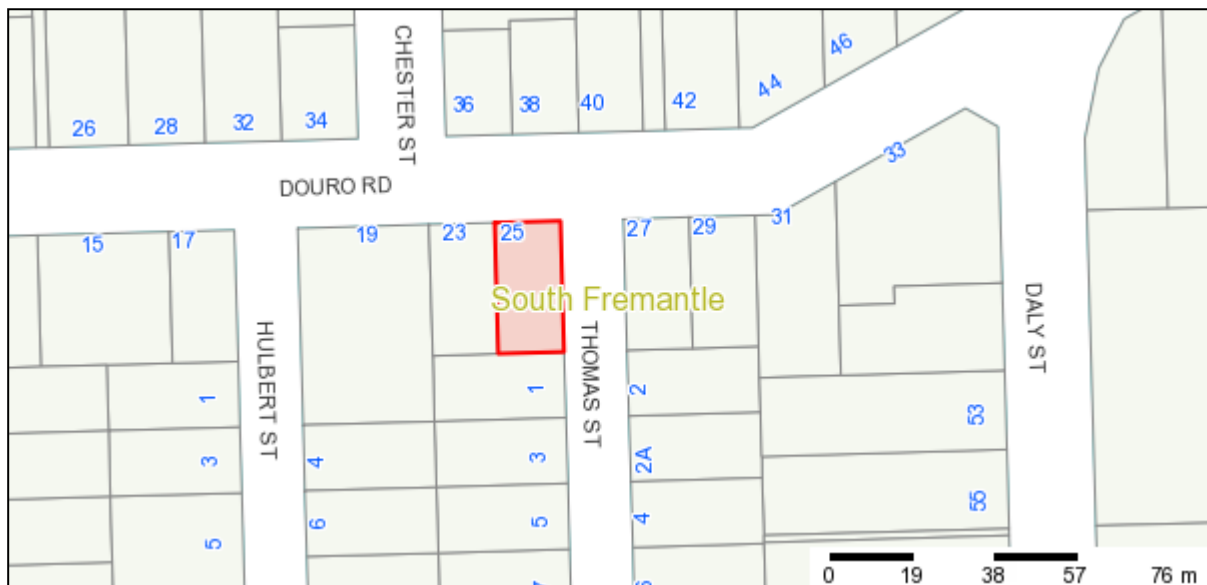
## **OFFICER'S RECOMMENDATION**

**That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the two storey Grouped Dwelling at No. 17A (Lot 2) Collick Street, Hilton, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 November 2012. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site.**
- 3. Prior to occupation, a gas boosted solar hot water system shall be installed and maintained thereafter, to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 4. Prior to occupation, ventilators in the roof void (above the insulation layer) shall be installed and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle. Ventilators shall be capable of being closed during winter conditions.**
- 5. The roof material of the dwelling shall not be of black or grey colour.**
- 6. All east and west windows of the dwelling shall be tinted or shaded.**
- 7. Prior to occupation, insulation (minimum R4 roof insulation and minimum R2.5 wall insulation) shall be installed and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 8. Prior to occupation, the installation of water-efficient fixtures, including 3A-5A rated taps, toilets and showerheads shall be installed and maintained thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 9. Prior to occupation installation of rainwater tanks that hold a total water capacity of 3000 litres shall be installed and maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 10. Prior to occupation, landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the Chief Executive Officer, City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle.**

**PSC1211-180 DOURO ROAD NO. 25 (LOT 95), SOUTH FREMANTLE –  
ALTERATIONS TO EXISTING COMMERCIAL BUILDING  
(RESTAURANT) – (AD DA0434/11)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012 (PSC)  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Acting Coordinator Statutory Planning  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC0811-309 (DA337/08) – 19 November 2008;  
PSC1009-163 (DA0197/10) – 22 September 2010;  
PSC1106-108 (DA0143/11) – 15 June 2011  
**Attachments:** Development Plans (as amended)  
**Date Received:** 26 June 2012 (amended plans)  
**Owner Name:** Lisa Ramakrishnan & Naimish Patel  
**Submitted by:** Tim Grey-Smith  
**Scheme:** Neighbourhood Centre Zone (R25)  
**Heritage Listing:** MHI – Management Category Level 3,  
South Fremantle Heritage Area  
**Existing Landuse:** Restaurant  
**Use Class:** Restaurant  
**Use Permissibility:** 'A'



## EXECUTIVE SUMMARY

The application is presented to the Planning Services Committee (PSC) due to the nature of the proposed variations sought and submissions which have been received which raise concerns that cannot be dealt with via the imposition of conditions.

The applicant is seeking Planning Approval for alterations to the existing commercial building ('Restaurant') at No. 25 (Lot 95) Douro Road, South Fremantle. Broadly speaking, the alterations pertain exclusively to modifications to the existing rear courtyard area of the 'Restaurant', otherwise known as 'The Crowded House' to facilitate use of that area for the purposes of dining.

The application is recommended for conditional approval.

## BACKGROUND

The site is zoned 'Neighbourhood Centre' 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 Hulbert Street to the west, Ocean Road to the south, Douro Road to the north and Thomas Street to the east. The site is listed on the City's Heritage List and the City's Municipal Heritage Inventory (MHI) as a Management Category Level 3, and is located within the South Fremantle Heritage Area which is a prescribed Heritage Area under Clause 7.2 of LPS4.

The subject site is 455m<sup>2</sup> and is located on the south-eastern side of the intersection of Douro Road and Thomas Street, South Fremantle. The site has a north-south orientation and is currently improved by a single storey commercial building and associated structures and is relatively flat in terms of topography. The site is currently approved for use as a 'Restaurant' and is otherwise known as 'The Crowded House'.

A review of the property file revealed the following relevant information:

- On 19 March 1986, conditional Planning Approval was granted for a Restaurant use at No. 25 (Lot 95) Douro Road, South Fremantle under the City's former Town Planning Scheme No. 2 (TPS2) (refer DA2/86);
- At its meeting held 19 November 2008, the PSC resolved to refuse an application seeking Planning Approval for the use of an outdoor covered area for dining purposes, change of hours of operation to an existing Restaurant use and replacement sign at No. 25 (Lot 96) Douro Road, South Fremantle (refer PSC0811-309 (DA337/08)), as it was deemed contrary to the objectives of the Neighbourhood Centre zone as prescribed by Clause 4.2.1(ii) of LPS4, for the following reasons:
  - "a) *the proposed outdoor covered dining area will adversely impact on the amenity of the adjoining and surrounding residential properties due to noise; and*
  - b) *the proposed extended trading hours of the restaurant activities, coupled with the proposed outdoor dining area, will exacerbate the potential adverse impact on the adjoining/surrounding residential properties."*

- At its meeting held 22 September 2010, the PSC resolved to grant conditional Planning Approval for proposed change in the hours of operation and capacity of the existing Restaurant use and a replacement sign at No. 25 (Lot 96) Douro Road, South Fremantle (refer PSC1009-163 (DA0197/10)); and
- At its meeting held 15 June 2011, the PSC resolved to grant conditional Planning Approval for proposed change to approved days and hours of operation for the existing Restaurant at No. 25 (Lot 96) Douro Road, South Fremantle (refer PSC1106-108 (DA0143/11)).

## **DETAIL**

On 8 September 2011, the City received an application seeking Planning Approval for alterations to the existing commercial building (restaurant) at No. 25 (Lot 95) Douro Road, South Fremantle (refer DA0434/11). Details of the proposal are as follows:

### Alterations:

The applicant is seeking Planning Approval for alterations to the existing commercial building (restaurant) which comprises of modifications to the rear courtyard area which is currently covered by a patio. The ultimate purpose of the modifications is to facilitate the use of the covered rear courtyard area as a dining area. The modifications to the covered rear courtyard area include the removal of *“existing lattice on all openings, installing glass brick on the Southern and Western walls, and installing glass louvers on the Eastern wall to allow ventilation.”* The applicant has stated in their covering letter that the purpose of these modifications is to *“ensure that there is no impact on the amenity of directly adjoining neighbours due to the sound of dining in this area.”*

Further, the applicant has outlined the following measures be put in place to limit the overall impact the use of the rear courtyard area for dining may have on adjoining properties, of which they have stated their willingness for these matters to be addressed via conditions of Planning Approval:

- *“Seating capacity of this space to be limited to 20 persons.*
- *That the area only be used for formal dining, and not as a function space, or karaoke.*
- *That the space only be used in ‘peak’ periods (ie when planning approval allows 60 seats in total and at all other times be closed).*
- *Live entertainment shall not be permitted in this area.*
- *Amplified music shall be limited to background noise only.”*

On 26 June 2012, the City received amended development plans from the applicant which included “plasterboard ceiling insulation with acoustic insulation” to the rear alfresco area.

The proposed development plans (as amended) are contained as ‘Attachment 1’ 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 proposal sought discretionary decisions to the prescribed standards contained within LPS4. At the conclusion of the advertising period, being 4 October 2011, the City had received nineteen (19) submissions pertaining to the proposal, raising the following relevant planning concerns:

- Car parking and traffic;
- Proximity to residential areas;
- Impact on amenity (noise).

In addition to the concerns raised above, the following concern was raised in the submissions; however they are not considered relevant planning considerations:

- Anti-social behaviour.

It is further noted one of the submissions received was in the form of a petition signed by 57 people whom 'strongly object' to this 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 and Council's Local Planning Policies. Variations to the prescribed standards sought are discussed in the 'Planning Comment' section of this report.

## **PLANNING COMMENT**

### **Local Planning Scheme No. 4 (LPS4)**

#### *Car Parking*

Under the provisions of Table 3 – Vehicle Parking of the City's LPS4, the parking requirement for a 'Restaurant' is as follows:

<b>Car Parking Bays</b>	<b>Delivery Bays</b>	<b>Bicycle Racks</b>
1: 5 seats; or 1: 5m <sup>2</sup> dining area, whichever is the greater	1: service/storage area	1: 30 seats or *1: 100 people accommodated
<b>Required</b>	<b>Provided (on-site)</b>	<b>Discretion</b>
13 bays (62m <sup>2</sup> / 5m <sup>2</sup> )	0	-13

Clause 5.7.3 of LPS4 outlines circumstances may waive or reduce the standard parking requirement specified in Table 3, and states:

*“Council may—*

- (a) Subject to the requirements of Schedule 12\*, waive or reduce the standard parking requirement specified in Table 3 subject to the applicant satisfactorily justifying a reduction due to one or more of the following—*
  - (i) the availability of car parking in the locality including street parking,*
  - (ii) the availability of public transport in the locality,*
  - (iii) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*
  - (iv) any car parking deficiency or surplus associated with the existing use of the land,*
  - (v) legal arrangements have been made in accordance with clause 5.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
  - (vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
  - (vi) the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*
  - (viii) any other relevant considerations.*

*Note: \*In some sub areas identified in Schedule 12 reduction of parking bays is not permitted. The requirements of Schedule 12 prevail over this clause.*

- (b) Council may require an applicant to submit a report completed by a suitably qualified person or persons justifying any of the points cited above.*

*Note: Provides greater flexibility to vary car-parking requirements based upon alternative transport opportunities.”*

In relation to the above criteria of Clause 5.7.3, it is noted that there is a significant provision of on-street parking available in the immediate vicinity and surrounding locality of the subject site (i). In terms of public transport (ii), the subject site has a bus stop within approximately 20 metres of its location, and is also located within 300 metres of Hampton Road, which supports high-frequency bus services as well.

It would be reasonable to expect that by the very nature of current approved ‘Restaurant’ use, and any liquor license that has been granted for that site, that patrons may plan their night ahead, whether that be car pooling, catching a taxi or alternative means of transport other than driving. In this regard, it is considered that this may reduced the overall impact of car parking shortfall associated with this change of use application.

Importantly, Condition No. 3 of the Planning Approval for DA0143/11 dated 14 July 2011 essentially restricted the maximum seating capacity of the approved 'Restaurant' use to 60 persons (customers) on-site at any given time. In this regard, given that the current application does not seek to increase the number of customers above the maximum 60 already approved, whilst the actual parking requirement has increased, by its very nature, Condition No. 3 of the Planning Approval for DA0143/11 negates any perceived car parking shortfall proposed by the current application as there is no increase to the number of customers proposed.

Accordingly, the proposal is considered to satisfy the requirements of Clause 5.7.3 of the City's LPS4.

## **Consultation**

### *Impact on Amenity (Noise)*

In its current form, if the application were to be approved by Council, alterations would need to be carried out in order for the development to comply with the prescribed environmental health regulations regarding noise. In this regard, it is considered that this can be addressed via a condition of the approval. It is recommended that the condition be worded so as to afford the applicant thirty (30) days from the commencement of the rear courtyard area being used for the purposes of dining to provide this information to the City.

This approach is recommended for the following reasons:

- It will provide a degree of flexibility to the applicant to begin using the rear courtyard area for the purposes of dining; and
- It will provide an opportunity to the Noise Consultant ultimately engaged by the applicant to prepare their report based on actual data (ie people using in the dining area) as opposed to predicting data (ie what the noise levels may actually be).

## **CONCLUSION**

Whilst a number of concerns have been conveyed in relation potential for issues arising as a result of the proposed development, it is important to note that there is an existing regulatory framework external to planning control to deal issues such as noise and anti-social behaviour.

The proposal is considered to be generally consistent with the planning requirements encompassed within the City's LPS4. It is considered that the proposal will act to strengthen the purpose of the Neighbourhood Centre zone in providing enhanced flexibility for an existing use which will in turn contribute to the vitality of the South Fremantle locality and the City as a whole. On this basis, it is considered that a refusal is not warranted in this circumstance.

Based on concerns related to noise, a condition of approval will be included to require that the applicant submit a report detailing noise attenuation measures, including a qualified Noise Consultants report confirming compliance with the *Environmental Protection (Noise) Regulations 1997*, as well as any design measures proposed to address sound attenuation both internally and externally. If these matters cannot be resolved within thirty (30) days from commencement of the rear courtyard area being used for the purposes of dining, the applicant would not be in compliance with their Planning Approval.

Accordingly, the proposal is recommended for approval subject to conditions.

### **OFFICER'S RECOMMENDATION**

**That the application be APPROVED under the Metropolitan Regional Scheme and Local Planning Scheme No. 4 for the alterations to existing commercial building (restaurant) at No. 25 (Lot 9) Douro Road, South Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 21 June 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. Within thirty (30) days of commencement of the rear courtyard area being used for the purposes of dining hereby approved, the applicant shall submit a report that addresses the following matters to the satisfaction of the Chief Executive Officer, City of Fremantle:**
  - a) Noise attenuation measures, including a qualified Noise Consultants report confirming compliance with the Environmental Protection (Noise) Regulations 1997, and**
  - b) Internal and external design measures proposed to address sound attenuation both internally and externally and include vibration protection and attenuation.**
- 3. The rear courtyard area hereby approved for the purposes of dining shall:**
  - a) be limited to a maximum number of 20 persons at any given time;**
  - b) only be used for formal dining, and not as a function space, or karaoke;**
  - c) only be used in 'peak' periods (site is restricted to 60 seats as defined by Condition No. 3 of the Planning Approval for DA0143/11 for the site dated 14 July 2011) and at all other times be closed;**
  - d) not be used for the purposes of live entertainment; and**
  - e) only have amplified music in the form of background music only.**
- 4. All storm water discharge shall be contained and disposed of on-site.**

**PSC1211-181 STIRLING HIGHWAY NO. 78 & 80, NORTH FREMANTLE (ROSE HOTEL) COMPLIANCE OF ISSUES**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Manager Statutory Planning  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC  
**Attachment 1:** 2005 approved plan showing "one way vehicle access"  
**Attachment 2:** Reciprocal parking easement  
**Attachment 3:** Aerial photo  
**Attachment 4:** Site photos  
**Owner Name:** Various  
**Scheme:** Development Area 15  
**Heritage Listing:** Scheme Listed (Level 2) & North Fremantle Heritage Area  
**Existing Landuse:** Mixed use development



## EXECUTIVE SUMMARY

The matter is presented to the Planning Services Committee due to the requirements of *LPP 1.5 – Planning Compliance* specifically relating to when compliance action is not recommended.

The approved plans for the site issued in August 2005 indicate the driveway access from Stirling Highway is “one way vehicle access”. Condition 20 of the August 2005 approval requires adjoining land owners to the north to enter into an agreement that permits reciprocal rights of access over their land and the subject site.

A complaint has been received relating to access to and from the site and claiming that condition 20 is invalid and therefore the whole approval is also invalid.

It is considered that condition 20 and the overall approval for the site is valid and that no further compliance action should be taken.

## BACKGROUND

The subject site is located on the eastern side of Stirling Highway, in the city block bounded by White Street and Alfred Road, North Fremantle. The site is within Development Area 15 as specified in LPS4. The site is included on the City’s Heritage List, pursuant to LPS4 Clause 7.2, as a management category level 2 place.

In August 2005 Council approved the following on the site:

- Construction of 9 x two-storey townhouses to rear of lot (eastern boundary).
- Construction of three storey mixed use development with undercroft car parking to the rear of the hotel building (comprising 3 commercial units and 14 two bedroom apartments).
- Demolition of existing drive through bottle shop.
- Reinstatement of verandah/balcony to north elevation of hotel.

Condition 20 of the August 2005 approval states:

*“The applicant shall enter into a legal agreement between all stakeholders and owners of all affected properties guaranteeing reciprocal rights of access and parking for the development proposal hereby approved. The agreement shall be submitted to the satisfaction of the Director Urban Management prior to issue of Building Licence.”*

As a result of the above condition a reciprocal access easements exists on the subject lot and the 3 adjoining northern properties (see attachment 2).

One of the approved plans indicates the driveway access from Stirling Highway of the site is “one way vehicle access” and an arrow indicating vehicular movement in a eastern direction (towards the rear). The planning intent of the approval is to enter the property from the Stirling Highway access, traverse the access in an easterly direction and exit across the access easement on the northern properties onto Alfred Road.

Several letters of complaint have been received from one complainant stating that:

1. Council is endorsing 2 way access from Stirling Highway which is dangerous and could cause an accident;
2. Condition 20 of the approval is not legal or enforceable as it requires agreement from a third party not subject to the application therefore the 2005 planning approval is also not legal.
3. The owners of the northern properties are permitted to use the Stirling Highway crossover and driveway for two way access.
4. Council is legally responsible for the unsafe movement of vehicles across the site by way of an illegal planning approval.

While points 1 and 3 are at cross purposes, the purpose of this report to clarify issues relating to vehicular access on site and whether compliance action should be taken.

In February 2012 City staff wrote to the owner of 80 Stirling Highway clarifying that the approved plans indicated one way vehicle access. The owner verbally advised that they was not aware of any vehicles using the crossover for two way access however signs would be constructed shortly to indicate one way vehicle access.

A site inspection was conducted that indicate that the owner has erected several signs indicating that safe access is towards the rear of the property via the northern access easements (see attachment 4).

## **STATUTORY AND POLICY ASSESSMENT**

The complaints have been assessed against the 2005 planning approval conditions. Issues relating to the validity and enforceability of the approval are discussed further in the planning comment section of this report.

LPP 1.5 Planning Compliance is also relevant to this matter. Clause 3.0 of the policy outlines circumstances where Council may take no further action and includes:

- 3.1 Where there is uncertainty of compliance;
- 3.2 The matter is trivial or insignificant; and
- 3.3 Other circumstances.

## **CONSULTATION**

No public advertising is required for this matter.

## **PLANNING COMMENT**

It is considered that condition 20 and the August 2005 planning approval for the site are both valid. It is common to include conditions of approval that relate to reciprocal access arrangements and unless a court determined otherwise, a planning approval remains valid.

Compliance staff have undertaken several site inspections and not observed vehicles using the Stirling Highway crossover for two way access. This is not to say that there are not instances where vehicles are not using the crossover for 2 way access however the City does not have any evidence that two way access is a frequent and ongoing issue. On this basis there is could be considered that there no compliance issue in this instance.

In the instance where considered that there is a compliance issue, while it cannot be argued that vehicles using the Stirling Highway crossover for two way access is either uncertain or trivial or insignificant as defined by section 3.0 of LPP 1.5, it could be argued that the development has existed for some time and amenity (i.e. character) is not likely to be significantly affected therefore satisfying clause 3.3 of the LPP 1.5.

The following aspects also need to be considered regarding the issue of two way access:

1. whether it is in the public interest of the proper and orderly development and use of land that the applicable law(s) should generally be complied with; or
2. the expense and inconvenience which would be involved in remedying the contravention of the law need to be considered.

Having regard to the owner taking satisfactory methods to indicate one way traffic on site, and that the City does not have evidence of a significant and ongoing breach of the planning approval, it is considered that no further compliance action should be taken.

## **OFFICER'S RECOMMENDATION**

**That Council take no further action regarding the use of the Stirling Highway crossover to 78- 80 Stirling Highway, North Fremantle.**

**PSC1211-182 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**

**That the information is noted.**

**REPORTS BY OFFICERS (COUNCIL DECISION)**

**PSC1211-183 PROPOSED PUBLIC ROAD NAMES - LOT 1354 (NO. 20)  
KNUTSFORD STREET, FREMANTLE - SUBDIVISION - KSW**

**DataWorks Reference:** 164/001  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Land Administrator  
**Decision Making Level:** Council  
**Previous Item Number/s:** Nil  
**Attachment 1:** City of Fremantle Reserved Road Name Register  
**Attachment 2:** Approval letter from the Whadjuk Working Party



**Figure 1 - IntraMap with Lot 1354 Knutsford Street, Fremantle.**

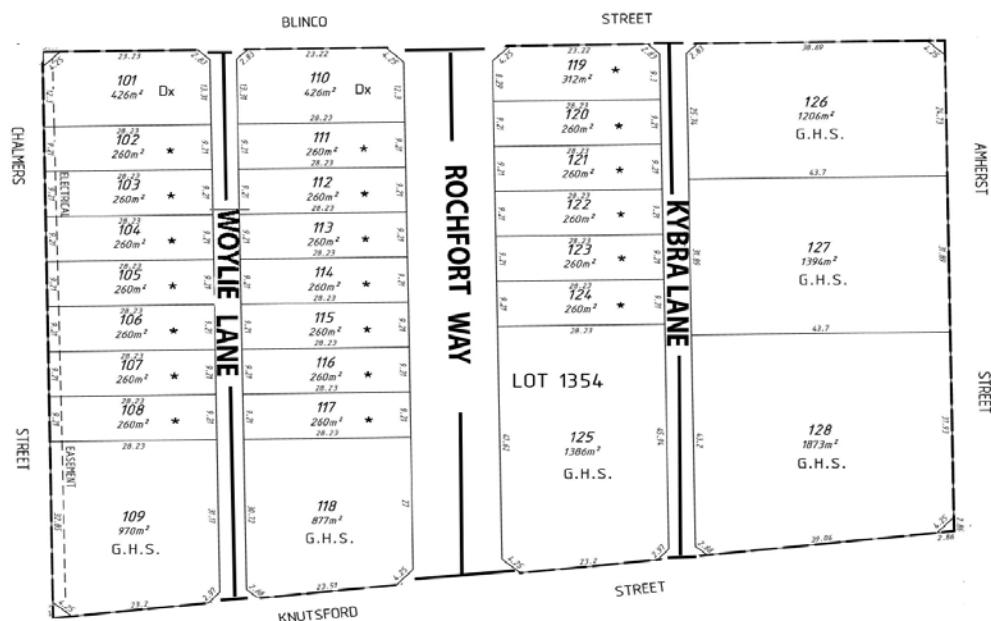


Figure 2 - McMullen Nolan mark up plan showing the location of the proposed road.

## EXECUTIVE SUMMARY

The City has received a road naming application from McMullen Nolan Group ("Applicant") in relation to the subdivision of Lot 1354 (No. 20) Knutsford Street, Fremantle ("Subdivision"). Lot 1354 Knutsford Street is bounded by Blinco Street, Amherst Street, Knutsford Street and Chalmers Street Fremantle as shown in Figure 1 with the location of the proposed public road names shown in Figure 2

The Applicant has selected three road names from the City of Fremantle Reserved Road Names Register ("Register") and one Aboriginal road name not included on the Register being "Woylie" pronounced "Woy-lee" (as detailed below).

- "Kybra Lane"
- "Rochfort Way"
- "Woylie Lane"
- "Comben Lane" - optional name

A brief detail of the name origins are summarised in the table below.

Proposed Road Name	Name Origin Summary
Kybra	Kybra - is the name of a Cargo Ship built in 1926 and regularly berthing at Fremantle Harbour. The ship was commissioned for use in WWII.
Rochfort	In honour of Frank Rochfort, of Queen Street, Fremantle who served in WWI at Gallipoli. He operated various stores around Fremantle until 1924 and later became the Commodore of Fremantle Yacht Club.
Woylie	Woylie pronounced <i>Woy-lee</i> is an Aboriginal word from the Whadjuk Nyoongar language to describe a Brush Tailed Bettong. The now critically endangered animal is classed as a marsupial and was a favourite food of the Nyoongar people.
Comben (optional name)	In honour of Charles Thomas Comben who lived in Fremantle and served in WWI as an original member of the 44 <sup>th</sup> Battalion. He served through the war until 4th July 1918 where he was killed in action.

The Geographic Names Committee (GNC) has confirmed that the names selected above are currently compliant with the general GNC Road Naming Guidelines.

The proposed name of "Woylie Lane" has received the approval from the South West Aboriginal Land and Sea Council (SWALSC), Whadjuk Working Party and named Applicants (WWP) at their bi-monthly meeting on 17 October 2012. The WWP are descendants from each of the nine (9) ancestors named in the registered Whadjuk People's Native Title Claim ("Whadjuk Claim") and are considered the appropriate body to approve the City's proposed Aboriginal road names.

The City presented four (4) additional proposed Aboriginal names at the WWP meeting for inclusion as future road names into the City's Road Names Register. Three (3) of the proposed names were approved for use by the WWP as listed below:

1. "Doolya " - meaning a fog, a mist - pronounced "*Dool-ya*"
2. "Cower" - the Purple Crown Lorikeet - pronounced "*Cow-er*"
3. "Karak" - the Red Tailed Black Cockatoo - pronounced "*Kar-ak*"

**It is therefore recommended that Council approve the three (3) public road names shown in Figure 2 and submitted by the Applicant in relation to the subdivision located at Lot 1354 (No. 20) Knutsford Street, Fremantle - including the three (3) additional proposed Aboriginal names for inclusion into the City's Register (subject to approval by the GNC).**

## **BACKGROUND**

The subdivision located at Lot 1354 Knutsford Street, Fremantle is the subject of a development agreement between the Knutsford Consortium and LandCorp, who will develop the land as a joint venture. The Subdivision is received by the Western Australian Planning Commission (WAPC) as application No. 145830 and the road naming is required in order for a Deposited Plan to be finalised at Landgate.

The Applicant has submitted three (3) proposed road names as shown in Figure 2 including the optional name of "Comben". The names were selected by the Applicant directly from the City's Register. Based upon advice from the City, the applicant made the following changes to earlier mark up plans; replacing the original choice of "Seddon Lane" with "Kybra Lane" and included the Aboriginal name of "Walyo Lane" with an optional name of "Comben Lane" - note that the WWP corrected the spelling and pronunciation of "Walyo" to "Woylie".

On 22 August 2012 - the City's Land Administrator attended the WWP bi-monthly meeting at the appointed time to present four selected names proposed for Aboriginal road naming. In the time available, only the road naming for 20 Knutsford Street, Fremantle was discussed. The proposed name of "Walyo Lane" was rejected by the WWP as incorrect in meaning and sound with the name "Woylie" pronounced "*Woy-lee*" to be the right word. Due to the lateness of the day, half of the elderly attendants had to leave and a resolution on the use of the name could not be made. The City requested attendance at the next WWP meeting on 17 October 2012 to re-present the name of "Woylie" together with other proposed Aboriginal names for inclusion into the City's Road Names Register - subject to all approval requirements.

On 17 October 2012 - the City's Land Administrator attended the WWP meeting and presented the proposed Aboriginal road name of "Woylie Lane" together with four (4) other names as listed below:

- "Middar" - meaning dance or celebrate
- "Doolya" - meaning a fog, a mist
- "Cower" - the Purple Crown Lorikeet
- "Karak" - the Red Tailed Black Cockatoo

The WWP approved the City's use of the proposed name "Woylie Lane" as described in figure 2 and in relation to the 20 Knutsford Street, Fremantle road naming. The other four (4) proposed road names listed above were discussed with changes to the spelling and usage (outlined in the comments section of this report). The name Middar was rejected by the WWP for use as a road name.

## **STATUTORY AND POLICY ASSESSMENT**

Landgate is responsible for road naming and is guided by the Geographic Names Committee (GNC). The GNC provide the guidelines in relation to the naming of roads, features, townsites and places in Western Australia. The following publications are referred to by the GNC when assessing road naming compliance;

- *The Geographic Names Committee (Western Australia) - Principles, Guidelines and Procedures* ("GNC Guidelines").
- *Australian/New Zealand Standard Rural and Urban Addressing (AS/NZS 4819:2011)*.

A copy of the GNC Guidelines is available upon request however the AS/NZS4819:2011 (containing updated road types information) is copy write protected and is available to view only.

The GNC has confirmed that the proposed road names of "Kybra Lane", "Rochfort Way", "Comben Lane" and "Woylie Lane" are currently compliant with general GNC Road Naming Guidelines.

## **COMMENT**

Selection of Aboriginal names for road/park naming

The selection of an Aboriginal name from the Whadjuk Nyoongar language requires the City's engagement with a local group of Traditional Owners (TO) representing the descendants of the nine (9) named persons of the "Whadjuk Peoples" Native Title Claim (Whadjuk Claim). The City of Fremantle's process to identify TO's for the "Community Conversation" held in August 2011 was prior to the registration of the Whadjuk Claim in October 2011 and therefore do not include representatives that descend from each of the ancestors named in the Whadjuk Claim.

Upon advise from the City's Aboriginal Engagement Officer, the SWALSC Whadjuk Working Party and named Applicants (WWP) should be consulted to increase engagement with Aboriginal people who are not currently engaging with the City including the TO conversation group and the Indigenous Action Group. Proposed Aboriginal road or park names will therefore be forwarded to the WWP for verification that the selected name/s, meaning and pronunciation is correct and finally that the name/s are approved for the proposed purpose.

Officers discussed eight (8) proposed Aboriginal road names including "Woylie" as shown in the table below. The GNC rejected three (3) of the names as they sounded too similar to existing road names within the Municipality of Fremantle.

Aboriginal name	Meaning	Rejected by GNC for sounding too similar to	Forwarded to WWP
Bidi	Tracks/paths most used	Biddles Lane	No
Yoort	White ashes	York Street	No
Walken	Rainbow	Walker Street	No
Woylie	Brush-tailed Bettong		Yes
Doolya	A fog, a mist	Daly Street not to use in South Fremantle	Yes
Middar	Dance, celebrate		Yes
Cower	Purple Crown Lorikeet		Yes
Karak	Red Tailed Black Cockatoo		Yes

At the WWP meeting on 17 October 2012 five Aboriginal words were submitted by the City for proposed current and future road naming within the Fremantle Municipality - the outcomes are listed below:

1. **"Woylie"**- The name "Woylie Lane" pronounced "*Woy-lee*" was approved for use as a road name to be applied to the subdivision at 20 Knutsford Street, Fremantle (subject to Council and Ministers approval).
2. **"Doolya"** - This name was approved for the City's road naming use, however there was discussion with regard to the spelling and WWP corrected the spelling to "Doolya" pronounced "*Dool-ya*".
3. **"Middar"**- The name "Middar" is special to the Nyoonar People and means to dance or celebrate. The word should not be used as a permanent road name; however the WWP suggested that the name could be used at the entrance way to an event like the Wardarnji Festival.
4. **"Cower"** - The name was approved for the City's road naming use, however the WWP agreed that the spelling should be "Cower" and not "Kawart". The "Cower" (Purple Crown Lorikeet) is part of the dreaming place of Cowaramup and while the bird does not originate from Fremantle it does follow the blossoms to Fremantle.
5. **"Karak"** - the Red Tailed Black Cockatoo is local to the Fremantle area and the spelling is correct, therefore the WWP has approved the use of the word for future road naming.

#### Historical Information - 20 Knutsford St, Fremantle proposed road names.

1. **Kybra** - is the name of a Cargo Ship built in 1926 regularly berthing at Fremantle Harbour and owned by Western Australian State Shipping. The "Kybra" was commissioned by the Royal Australian Navy on 21 June 1940 as an anti-submarine vessel stationed on the east coast (Known as *HMAS Kybra*) where she provided escort and radar-training support during the war years. In late 1945, the ship was refitted (which increased gross tonnage from 858 to 950) and resumed her Western Australian peacetime service in 1946. The "Kybra" was sold in 1958.

2. **Frank Rochfort**, lived in Queen Street Fremantle and served in the first Australian Imperial Force (AIF) at Gallipoli and returned to Fremantle after being wounded at Leane's Trench in August 1915. He became the recruiting officer for the Fremantle district during which time he married Janet Wardle. He was discharged from the army in February 1918 with the rank of Lieutenant. Mr Rochfort then operated various stores around Fremantle until 1924 when the family embarked on an around the world cruise. On arriving back Mr Rochfort became the Commodore of Fremantle Yacht Club and was a fishery inspector during the depression. The family later moved to Bunbury and in the 1930's moved to Palmyra. In November 1936 Frank Rochfort died of a stroke. His eldest son Max was killed in the opening month of World War II when the Merchant ship he was on was torpedoed just off England, possibly the first Australian to die in World War II due to enemy action.

3. **Woylie** - pronounced *Woy-lee* is an Aboriginal name from the *Whadjuk Nyoongar* language for the Brush-tailed Bettong. The traditional owners call the place around Fremantle *Walyalup* which means "place of the *Walyo* or *Woylie*". The *Woylie* inhabited the sparse vegetation, shrubs and bushes that grew inland of the beach and was a favourite food for the Nyoongar people of *Walyalup*. The spelling and interpretation of the word "Woylie" as the Brush-tailed Bettong is referenced by the Geographic Names Committee records from a book named "*A Nyoongar Word List from the South West of Western Australia*" by Peter Bindon and Ross Chadwick.

The Woylie (Brush-tailed Bettong or Kangaroo Rat) is a small mammal found in Western Australia and currently listed on the critically endangered species list. The small mammal's appearance has been described as a cross between a rat and a small wallaby. It is not, however a member of the rodent family but classed as a "Marsupial" or more specifically as a small "Macropod".

4. **Charles Thomas Comben** - was born at Yarraville Victoria and moved to Fremantle with his family at an early age. He attended the Beaconsfield State School and later took up work with the Fremantle Harbour Trust. Charles Comben served in World War I and was an original member of the 44<sup>th</sup> Battalion which formed at Claremont Showground. He served through the war until July 4<sup>th</sup> 1918 when he was killed during the successful Australian attack which liberated the French village of Hamel. He is buried at the Australian National Memorial in France at Villers-Brettonneux.

## **EXTERNAL SUBMISSIONS**

Neighbour Notification: Nil. The selection of names for roads is at local government discretion subject to the approval of the GNC. However approval is required from the appropriate Aboriginal people when using Aboriginal words or names for naming purposes.

Consultation is required by the GNC when naming ovals, pavilions, the naming or renaming of Parks and Reserves or the naming of Towns and Localities.

## **CONCLUSION**

The proposed road names for the unnamed public roads within the subdivision of Lot 1354 (No.20) Knutsford Street, Fremantle (as shown in figure 2) is:

- "Kybra Lane"
- "Rochfort Way"
- "Woylie Lane"
- "Comben Lane" (optional name)

The public road names are required for addressing purposes and to progress the Applicants Deposited Plan endorsement via Landgate.

The GNC has confirmed that the proposed road names are currently compliant with the general GNC Road Naming Guidelines. The WWP has provided the City with approval to use the name of "Woylie" taken from the Whadjuk Nyoongar language for the purpose of the road name as shown in figure 2. Further, the WWP has provided the City with approval to use the additional three (3) Aboriginal words (as listed below) for future road naming and inclusion on the City's Road Naming Register (subject to Council and Ministers approval);

- |             |                               |
|-------------|-------------------------------|
| • "Doolya " | pronounced " <i>Dool-ya</i> " |
| • "Cower"   | pronounced " <i>Cow-er</i> "  |
| • "Karak"   | pronounced " <i>Kar-ak</i> ". |

It is therefore recommended that Council consider the proposed road names of "Kybra Lane", "Rochfort Way" and "Woylie Lane" to be applied to the subdivision of Lot 1354 (No.20) Knutsford Street, Fremantle for approval.

Further, that Council recommend the approval of an additional three (3) Aboriginal names of "Doolya ", "Cower" and "Karak" for future road naming and inclusion into the City's road naming Register subject to the relevant approvals.

## OFFICER'S RECOMMENDATION

### That Council:

1. Advise the Geographic Names Committee that it supports the proposed public road names of; "Kybra Lane", "Rochfort Way" (selected from the City of Fremantle Reserved Road Names Register) and "Woylie Lane" (pronounced *Woy-lee*) to be applied to the subdivision of Lot 1354 (No. 20) Knutsford Street, Fremantle as shown in the Applicants base mark up plan (Figure 2).
2. Advise the Geographic Names Committee that its supports the proposed Aboriginal road names for inclusion into the City of Fremantle Reserved Road Names Register for future road naming as listed below:
  - a. "Doolya " - pronounced "*Dool-ya*"
  - b. "Cower" - pronounced "*Cow-er*"
  - c. "Karak" - pronounced "*Kar-ak*".
3. Attempt to locate a living family member where road names are approved in honour of a person/s of that family in order to notify them of the Council's decision to apply that name to a roadway.

**PSC1211-184 DEVELOPMENT ASSESSMENT PANELS - LOCAL GOVERNMENT  
REPRESENTATIVES: NOMINATION OF FIRST ALTERNATIVE  
MEMBER**

**DataWorks Reference:** 103/001  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Manager Statutory Planning  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC1104-84 (27 April 2011)  
**Attachment 1:** PSC1104-84 (27 April 2011) Council Minutes

**EXECUTIVE SUMMARY**

In April 2011 Council nominated Councillors Sullivan and Wilson as the City of Fremantle Development Assessment Panel (DAP) members with the Mayor and Councillor Massie being the alternative members.

The purpose of this report is to nominate a first alternative local government DAP member.

**BACKGROUND**

On 27 April 2011 Council resolved:

1. *That Council nominates Cr Andrew Sullivan and Cr Josh Wilson as the representatives of the City of Fremantle on the relevant Development Assessment Panel, and nominates Mayor, Brad Pettitt and Cr Bill Massie as the alternate Development Assessment Panel local government members*
2. *That the Minister for Planning be informed of the above nominations*

**STATUTORY AND POLICY ASSESSMENT**

The *Planning and Development (Development Assessment Panels) Regulations 2011* requires that local government nominate four local councillors for membership on the respective DAP, comprising of two permanent panellists and two alternate panellists.

**CONSULTATION**

No public consultation is required.

## **PLANNING COMMENT**

To date two development applications within the City of Fremantle have been determined by a DAP including 11 Queen Victoria Street (3 - 6 storey mixed use development) in May 2012 and 23 Harvest Street (redevelopment of existing nursing home) in October 2012.

When a nominated local government member is unable to attend a DAP meeting, rather than both alternative members being invited to attend the DAP, it may be more appropriate to nominate first and second alternative members and to send an invitation to the nominated first alternative member in the first instance.

It is recommended that either Mayor Pettitt or Councillor Massie be nominated as the first alternative DAP member.

## **OFFICER'S RECOMMENDATION**

- 1. That Council nominates ----- as the first alternative Development Assessment Panel local government member for the City of Fremantle on the relevant Development Assessment Panel.**

**PSC1211-185 LOCAL PLANNING POLICY 2.19 - CONTRIBUTIONS FOR PUBLIC  
ART AND/OR HERITAGE WORKS - FINAL ADOPTION**

**DataWorks Reference:** 117/055  
**Disclosure of Interest:** Nil  
**Meeting Date:** 21 November 2012  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Strategic Planner  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC1111-194 23 November 2011  
PSC1209-156 26 September 2012  
**Attachments:** 1. PSC1209-156 LPP 2.19 – Adoption for Public  
Advertising  
2. Schedule of Submissions

**EXECUTIVE SUMMARY**

The purpose of this report is to recommend to Council final adoption of Local Planning Policy 2.19 – Contributions for Public Art and/or Heritage Works. The purpose of this policy is to provide criteria upon which Council can require certain types of commercial and multiple residential development, in specified areas, to contribute an amount equal to the value of one percent of the development's total cost to the development of public art and/or heritage works. This policy has been developed at the recommendation of the Minister for Planning upon the Minister's recent refusal of Scheme amendment no. 47 – Public Art Contribution Areas.

The draft local planning policy was placed out for public comment for not less than 28 days in accordance the requirements of Local Planning Scheme No. 4 and Local Planning Policy 1.3, with one submission received with neutral comment. This submission has been noted and no modifications to the draft policy are recommended as a result of this submission; however, officers recommend that some minor adjustments are made to ensure the consistent and correct application of the policy.

It is therefore recommended that Council adopt the local planning policy in accordance with clause 2.4 of Local Planning Scheme No. 4, with minor modification.

## **BACKGROUND**

At its Ordinary Meeting of 26 September 2012, Council resolved to adopt draft Local Planning Policy 2.19 – Contributions for Public Art and/or Heritage Works for the purpose of advertising (please see the full report at Attachment 1).

The policy was prepared upon notification of the Minister for Planning's refusal of the City's proposed Scheme Amendment No. 47 – Public Art Contribution Areas on 11 July 2012, with the Minister subsequently recommending that the provisions of the amendment would more appropriately be dealt with in a Local Planning Policy. The policy incorporates the provisions of amendment no. 47 and provides a means of implementing a strategic imperative of the City's 2010-2015 Strategic Plan. Furthermore, the policy recognises the contribution of major development to the amenity of the surrounding public realm, including contributions to public art and/or heritage works, and provides an appropriate level of percent for public art and/or heritage work contributions without being too onerous on new development. The local planning policy has the potential to reinforce Fremantle's status as a unique place of cultural significance as well as generate funding to help the City provide leadership to sustain and grow arts and culture in the City.

For the full background of this policy please see the Initiation for Advertising report at Attachment 1.

## **STATUTORY AND POLICY ASSESSMENT**

The draft local planning policy has been prepared under the provisions of Part 2 – Local Planning Policy Framework of Local Planning Scheme No. 4 (LPS4).

## **CONSULTATION**

The draft local planning policy was advertised in accordance with clauses 2.4 of LPS4 and *Local Planning Policy 1.3 - Public Notification of Planning Proposals*. The draft local planning policy was subsequently advertised for comment from 9 October 2012 until 9 November 2012, with advertisements being placed in the Fremantle Gazette for two consecutive weeks. The City's precinct groups were also specifically notified and copies of the policy were made available for viewing at the Service and Information Counter at the Town Hall Centre and on the City's website.

During the consultation period, one submission was received from a State agency with no issues or objections raised (neutral comment). This submission has been noted and no modifications to the policy are recommended as a result of this submission. Please refer to the Schedule of Submissions at Attachment 2 of this report for the full transcript of this submission.

## **PLANNING COMMENT**

### **Recommended Minor Modifications**

On further review of the policy by officers during the advertising period, officers recommend that some minor adjustments are made to ensure the consistent and correct application of the policy. These include consistent use of the terms public art work and heritage work, and clear interpretation of both the application and contribution requirement of the policy.

#### Consistency in terms used

##### *Public Art Work(s)*

The title and the 'purpose' of the policy, as advertised, refers to 'public art work', therefore all references to 'art' or 'works' as associated with public art have amended to state 'public art work(s)' to maintain consistency throughout the policy and to clarify between works as associated with a heritage building or place and/or public art.

##### *Heritage Work(s)*

The policy applies to both public art work and "works associated with the conservation, restoration or interpretation of proximate public buildings, structures or places of cultural heritage significance" as stated at clause 5 of the policy. These works were referred to in the advertised policy as 'heritage work', 'heritage project' and 'heritage contribution'. For consistency within the policy, officers have amended all reference to works associated with a heritage building or place as 'heritage work(s)' and have clarified the definition of 'heritage work(s)' by placing the term 'heritage work(s)' after the above description of clause 5 of the policy. With regard to the above, the 'Purpose' of the policy has also been amended as follows clarify the application of the policy to both public art work and heritage work(s):

*The purpose of this Local Planning Policy is to provide criteria upon which Council can require certain types of commercial and multiple residential development, in specified areas, to contribute a percentage of the development's total project cost to the development of public art works and/or heritage works.*

#### Modification to Statutory Background

As advertised, the Statutory Background of the Policy states the following:

*The Council may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area so as to apply generally or for a particular class or classes of matters (Clause 2.2.1a).*

This refers to a specific clause, clause 2.2.1(a) under clause 2 – Local Planning Policy Framework of the Scheme. To maintain consistency the Statutory Background of with recently adopted local planning policy, and the consideration that clause 2 may be subject to amendment and that multiple provisions of clause 2 may apply to this policy, it the content of the Statutory Background is has been modified to state the following:

*This Local Planning Policy is prepared under the provisions of Part 2 of Local Planning Scheme No. 4 ('the Scheme').*

Minor modification to clauses 1, 2 and 3

Clause 1 and 2 of the draft Policy were advertised as follows:

1. *Development on land as depicted in Appendix 1 – Public Art Contribution Areas, of this policy and except as specified below in clause 2, is required to contribute a cash amount equal in value to one per cent of the estimated total project cost for the development of public art works.*
2. *Clause 1 applies to all development in the Public Art Contribution Areas (appendix 1) with the exception of:*
  - (a) *Single houses and grouped dwellings;*
  - (b) *Buildings used for any industrial use class in Table 2 of LPS4;*
  - (c) *Any development with a gross lettable area of less than 1000 sq m;*
  - (d) *Refurbishments and change of use of existing buildings larger than 1000 sq m gross lettable area not involving substantial structural alteration, and all refurbishments to buildings with a gross lettable area of less than 1000 sq m;*
  - (e) *Any other type of development with an estimated total cost of less than \$1,000,000.*

Clause 1 refers to the objective of the Policy, whereby clause 2 refers to the application of the policy (to what development the policy will apply), with each clause cross referencing the other. To maintain consistency with the format of recently adopted local planning policy (LPP 3.14 and LPP 3.7) and provide clarity to the as application and the objective of the policy, clause 1 and 2 have been inverted and modified as follows:

1. *This policy applies to all development on land as depicted in Appendix 1 - Contribution Areas with the exception of:*
  - (a) *Single houses and grouped dwellings;*
  - (b) *Buildings used for any industrial use class in Table 2 of the Scheme;*
  - (c) *Any development with a gross lettable area of less than 1000 sq m;*
  - (d) *Refurbishments and change of use of existing buildings larger than 1000 sq m gross lettable area not involving substantial structural alteration, and all refurbishments to buildings with a gross lettable area of less than 1000 sq m;*
  - (e) *Any other type of development with an estimated total cost of less than \$1,000,000.*
2. *Development on land as specified in clause 1 is required to contribute a monetary amount equal in value to one per cent of the estimated total development cost, as indicated on the Form of Application for Planning Approval, for the development of public art and/or heritage works to enhance the public realm.*

With regard to proposed modifications, all reference to clause 1 in the policy has been amended to state 'clause 2'. Furthermore, clause 2 as above has been modified to replace the term 'cash' contribution to 'monetary' contribution to allow payment of the contribution in other forms of transaction, and to specify that the estimated total development cost as referred to in the policy is the amount as indicated on the Form of Application for Planning Approval.

Clause 3 of the policy was advertised as follows:

3. *The public art contribution requirement shall be imposed on applicable development as a condition on the Planning Approval. The condition shall specify that the contribution must be made prior to the issuing of a Building Permit.*

Further to legal advice received by the City regarding the condition “that the contribution must be made prior to the issuing of a Building Permit”, the City has been advised to modify the condition whereby the contribution must be made prior to commencement of development, and not the issuing of a Building Permit, and this modification is as follows:

3. *The contribution requirement shall be imposed on applicable development as a condition on the Planning Approval. The condition shall specify that the contribution must be made prior to commencement.*

Modification to the title of Appendix 1 and the title and legend of the Appendix 1 maps

The maps setting out the areas of application of the policy with the City of Fremantle are located under the heading ‘Appendix 1 – Public Art Contribution Areas’, in addition to the individual maps also containing the title ‘Public Art Contribution Areas’. As discussed previously, the purpose of the policy is to facilitate a contribution to either public art work and/or heritage work. Officers therefore recommend the removal of ‘Public Art’ from the Appendix 1 heading and from the individual maps, to state ‘Contribution Area(s)’ only. This will ensure consistency with the purpose and application of the policy.

## **CONCLUSION**

Local Planning Policy 2.19 – Contributions for Public Art and/or Heritage Works has the potential to reinforce Fremantle’s status as a unique place of cultural significance as well as generate funding to help the City provide leadership to sustain and grow arts and culture in the City. The Policy is consistent with a strategic imperative and objective of the City’s 2010 - 2015 Strategic Plan, as well as the City’s 2012-2015 Public Art Plan and associated Policy.

The draft Local Planning Policy 2.19 – Contributions for Public Art and/or Heritage Works was advertised in accordance with part 2 of LPS4. One submission was received with neutral comment. This submission has been noted and no modifications to the draft policy are recommended as a result of public comment; however, officers have recommended a number of minor adjustments to the policy to ensure the consistent and correct application of the policy.

It is therefore recommended that Council adopt the local planning policy in accordance with clause 2.4 of LPS4, with minor modification.

## **OFFICER'S RECOMMENDATION**

**That Council:**

- 1. Note the submission received as detailed in the Officer's report and at Attachment 2;**
- 2. Adopt local planning policy Local Planning Policy 2.19 – Contributions for Public Art and/or Heritage Works, with minor modification, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4, as shown below:**

# **CITY OF FREMANTLE**

## **LOCAL PLANNING POLICY 2.19**

### **CONTRIBUTIONS FOR PUBLIC ART AND/OR HERITAGE WORKS**

**ADOPTION DATE: 28/11/2012**

**AUTHORITY: LOCAL PLANNING SCHEME NO.4**

## **STATUTORY BACKGROUND**

This Local Planning Policy is prepared under the provisions of Part 2 of Local Planning Scheme No. 4 ("the Scheme").

Clause 10.2 of the Scheme empowers the Council to consider a broad range of considerations and impose conditions relating to these in dealing with an application for planning approval.

## **PURPOSE**

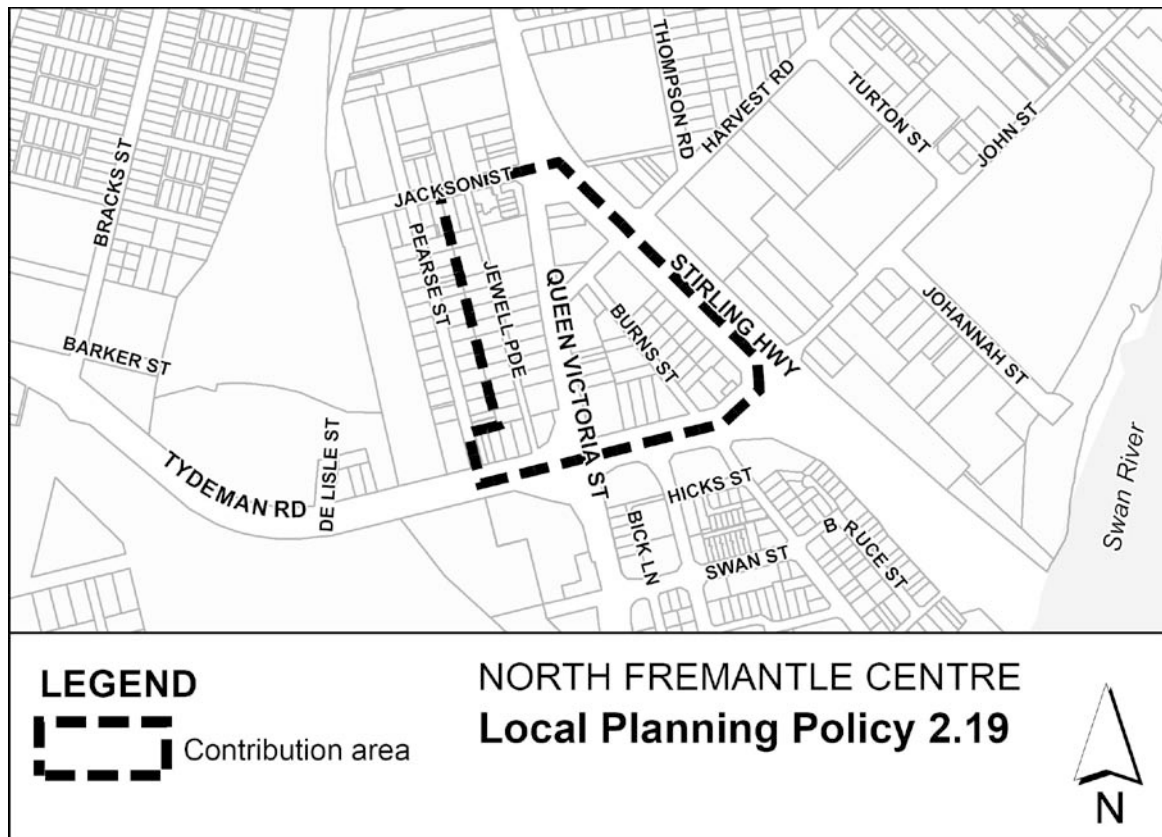
The purpose of this Local Planning Policy is to provide criteria upon which Council can require certain types of commercial and multiple residential development, in specified areas, to contribute a percentage of the development's total cost to the development of public art works and/or heritage works.

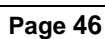
## **POLICY**

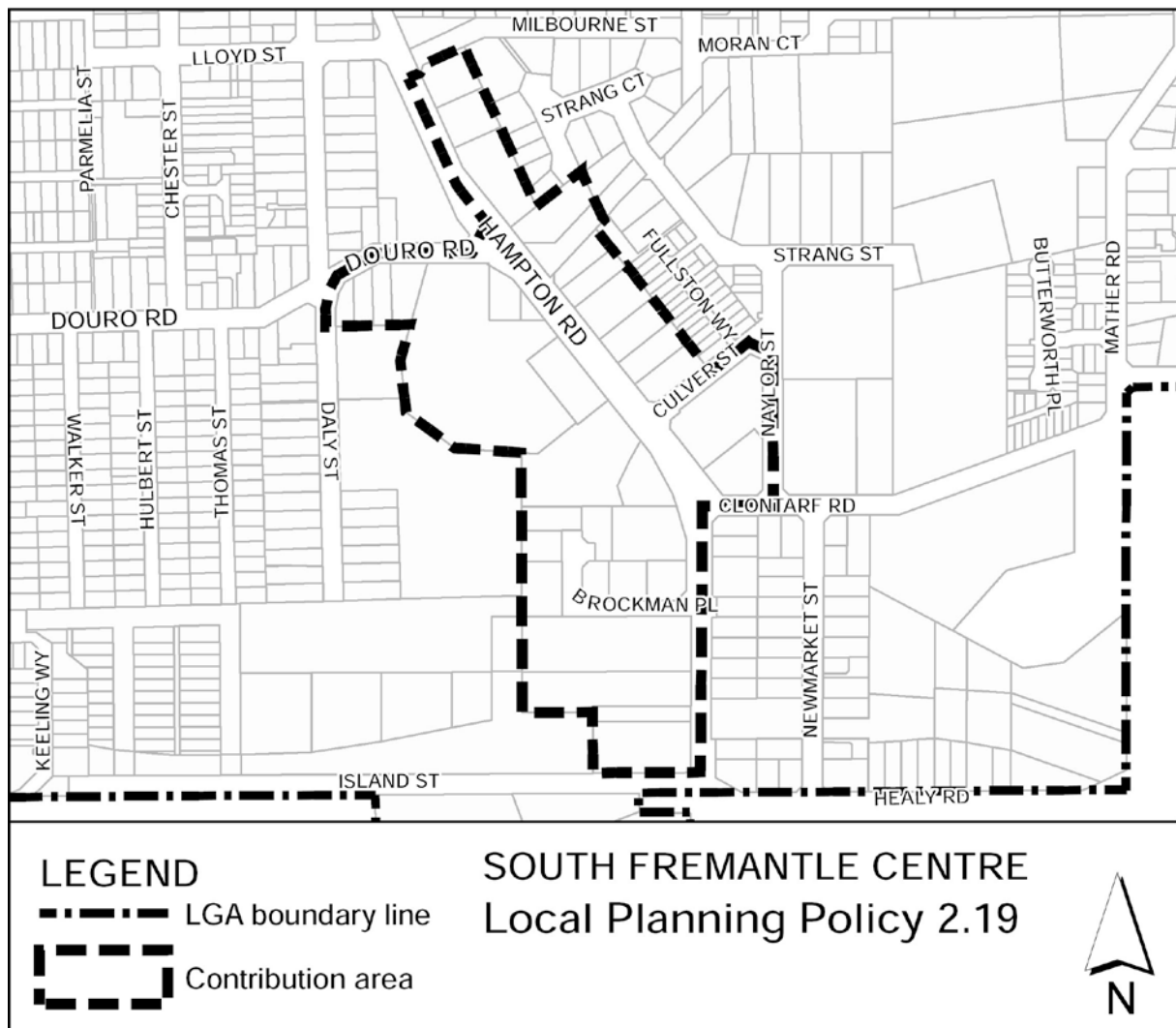
- 1. This policy applies to all development on land as depicted in Appendix 1 - Contribution Areas with the exception of:**
  - (a) Single houses and grouped dwellings;**
  - (b) Buildings used for any industrial use class in Table 2 of the Scheme;**
  - (c) Any development with a gross lettable area of less than 1000 sq m;**
  - (d) Refurbishments and change of use of existing buildings larger than 1000 sq m gross lettable area not involving substantial structural alteration, and all refurbishments to buildings with a gross lettable area of less than 1000 sq m;**
  - (e) Any other type of development with an estimated total cost of less than \$1,000,000.**

2. Development on land as specified in clause 1 is required to contribute a monetary amount equal in value to one per cent of the estimated total development cost, as indicated on the Form of Application for Planning Approval, for the development of public art works and/or heritage works to enhance the public realm.
3. The contribution requirement shall be imposed on applicable development as a condition on the Planning Approval. The condition shall specify that the contribution must be made prior to commencement.
4. A contribution made under clause 2 shall be paid into a special fund to be used by the City for the purpose of providing public art within the locality or area of the subject site. Individual funds contributed may be accrued for more comprehensive or detailed public art projects in the locality or area as outlined in a plan adopted by the Council. Funds contributed may be used to meet any costs reasonably associated with the production, installation and documentation/identification of a public art work.
5. Council, in consultation with the applicant, may decide to use part or all of a contribution required under clause 2 to meet the cost of works associated with the conservation, restoration or interpretation of proximate public buildings, structures or places of cultural heritage significance ('heritage works') instead of or in addition to the provision of public art in cases where it is satisfied that all of the following criteria are met:
  - (a) the heritage works 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 Scheme; and
  - (c) the building or place is located in close proximity to the site of the proposed development that generates the contribution; and
  - (d) the heritage 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.
6. The Council may waive the requirement for the public art/heritage work(s) contribution in cases where a development incorporates public art work(s) to the same value as specified in clause 2 and the public art work(s) is located in a position clearly visible to the general public, either on the site of the development or within a crown reserve adjoining or near to the development site, subject to being satisfied in relation to all of the following:
  - (a) The details of the proposed public art work shall be set out as part of the application for Planning Approval. Prior to determining the application, Council shall seek relevant professional advice with regard to the appropriateness and artistic merit of the proposed public art work.
  - (b) Where the public art/heritage work is to be located on private land, the public art work and/or heritage works shall be maintained by the owner(s) of the land to the satisfaction of the Council.
  - (c) Where the public art/heritage work is to be located within a crown reserve, the owner(s) of the subject development is required to enter into a legal agreement with the City undertaking to maintain the public art/heritage work to a standard specified by the City and, if required, to temporarily remove the public art work and to reinstate it (thereafter) should it be necessary to allow a public utility or service authority to carry out necessary/essential works.

## APPENDIX 1 - CONTRIBUTION AREAS

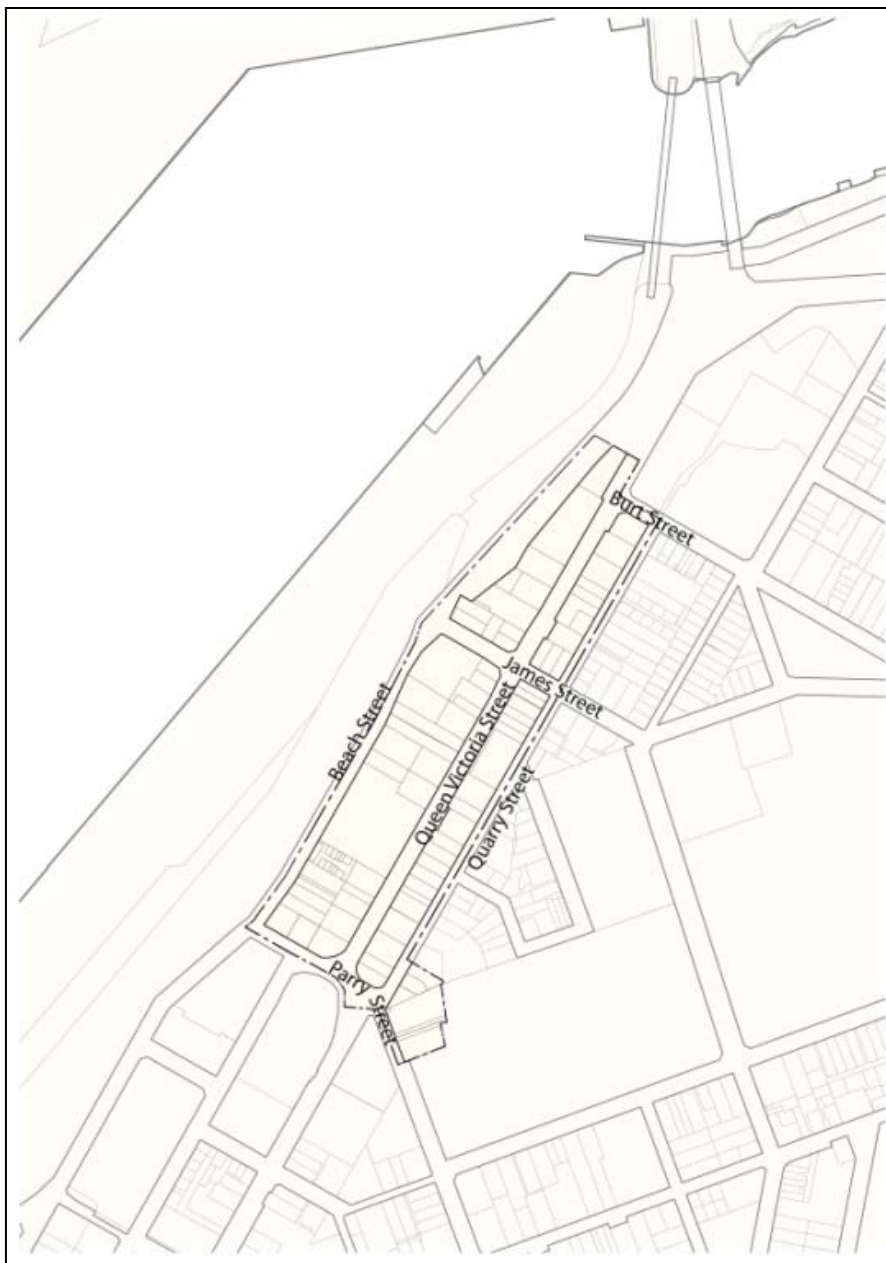






**PSC1211-186 LOCAL PLANNING POLICY - PRECINCT 3 - ADOPTION FOR FINAL APPROVAL**

**DataWorks Reference:** 117/010, 117/056  
**Disclosure of Interest:** Nil  
**Meeting Date:** Planning Services Committee 21 November 2012  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Urban Designer and Senior Planner  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC1209-154 Draft local planning policy – Precinct 3 – Adopt for public advertising  
**Attachment 1:** Schedule of submissions  
**Attachment 2:** Local planning policy D.G.F21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area



*Precinct 3 application area*

## **EXECUTIVE SUMMARY**

**On 26 September 2012 Council resolved to advertise draft local planning policy – Precinct 3, for public comment. Precinct 3 correlates to Sub area 1 of the Fremantle Local Planning Area under Local Planning Scheme No. 4. This Sub area was created upon the gazettal of Amendment 38 – East End to LPS4 in July 2011. The draft local planning policy provides specific land use and development provisions to apply to new development within the Precinct 3 boundary; complementing the LPS4 provision relating to Sub area 1.**

**Community consultation was undertaken in accordance with Local Planning Scheme No. 4 requirements and at the end of the consultation period, being 2 November 2012, two submissions had been received by the City of Fremantle.**

**No modifications to the draft policy are recommended as a result of public comment however Officers recommend that some minor adjustments are made to ensure the consistent and correct application of the policy.**

**It is recommended that Council adopt the draft local planning policy with minor modifications. Furthermore it is recommended that local planning policy DGF21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area (DGF21), be revoked as the planning matters dealt with by DGF21 are now adequately covered by LPS4, associated local planning policies (including Precinct 3 local planning policy) and the Residential Design Codes.**

## **BACKGROUND**

### Amendment 38 to Local Planning Scheme No. 4

Amendment 38 to LPS4 was gazetted on 1 July 2011. The Amendment created Sub area 1 of the Fremantle Local Planning Area (Fremantle LPA), referred to generally as the 'East End', and introduced specific land use and development requirements for the Sub area. The policy area for the proposed draft local planning policy correlates to the boundaries of Sub area 1 of the Fremantle LPA.

### Activity Centre Structure Plan

On 27 June 2012 Council considered a report that outlined a preliminary scoping and draft study area for the Fremantle Activity Centre Structure Plan. Of particular relevance is Part 2 of the Council resolution which supported the identification of the precinct boundaries within the study area as preliminary working precinct boundaries for the preparation of local planning policies for the Amendment 49 strategic sites and 'East End' precinct (Precinct 3). The intention is to prepare local planning policies for each of the precincts within the study area, with the future local planning policies generally following the format of the currently proposed draft local planning policy. The draft local planning policy for Precinct 5 was also advertised during October and is listed on this agenda with a recommendation for final adoption.

## **STATUTORY AND POLICY ASSESSMENT**

Part 2 of LPS4 allows the Council to adopt local planning policies in respect of any matter related to the planning and development of the Scheme area. The proposed policy was prepared and has been advertised under these provisions.

## **CONSULTATION**

Community consultation was undertaken in accordance with clause 2.4 of LPS4 from 2 October 2012 to 7 November 2012 – a period of 32 days. At the end of this consultation period, two submissions had been received. The issues raised by the submitters are detailed and addressed below, however full transcripts of the submissions are also provided in Attachment 1 – Schedule of Submissions.

	<b>Submission (summarised)</b>	<b>Officer comment</b>
1	- Supportive of the policy however hopes that <i>'any decisions on height are taken with great care'</i> .	Submission noted. No modifications to the policy are recommended.
2	<p>Fremantle Ports:</p> <ul style="list-style-type: none"> <li>- Recommends an assessment of any potential implications on the Buffer Policy, due to increased densities and associated population increases.</li> <li>- Submitter emphasises that the provisions of the Buffer Policy need to be applied.</li> <li>- Submitter suggests the City <i>'undertake an assessment of the impact of increased populations associated with the overall future development scenario on Societal Risk levels in order to ensure that individual high density developments will not be compromised at the time that development applications are submitted.'</i></li> </ul>	<p>Amendment 38 to LPS4 (gazetted 1 July 2011) increased the permitted residential densities for the Precinct from R60 to R-AC3. Fremantle Ports were consulted at various stages of the Amendment process and were broadly supportive of the redevelopment project. The draft Precinct 3 policy does not increase the residential density of the area from that gazetted as part of Amendment 38.</p> <p>The specific development requirements relating to development within proximity to the Fremantle Port, contained in LPS4 and local planning policy <i>LPP2.3 Fremantle Port Buffer Area Development Guidelines</i>, will continue to apply upon the adoption of the Precinct 3 policy.</p> <p>As noted by the submitter, development proposals of more than 50 dwellings are required to undertake a formal risk assessment under the existing provisions of LPP2.3. The onus is on the applicant to ensure that the design of the proposal meets the requirements of LPP2.3 as well as those design requirements of the Precinct 3 policy. The suggestion for the City to undertake an assessment of the impact of increased populations associated with the overall future development on Societal Risk levels is noted, however is not considered necessary for the scope of the Precinct 3</p>

		<p>policy.</p> <p>Overall the submission is noted, with no modifications to the policy recommended.</p>
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Overall no modifications to the Precinct 3 local planning policy are recommended in response to the issues raised by the submitters.

## **COMMENT**

Two discussion points are covered within this section:

1. Officer recommended minor modifications; and
2. Revoking of current local planning policy.

### **1. Officer recommended minor modifications**

*Refer to other local planning policies with an appendix to the Precinct 3 policy rather than listing the other local planning policies in the Precinct 3 policy text*

The advertised draft Precinct 3 local planning policy refers to other local planning policies that would likely be applicable to development within the precinct. As this list of policies may change over time with the adoption or revocation of local planning policies, it is recommended that these local planning policies instead be listed as an appendix to the Precinct 3 policy. The appendix could then be updated by City staff when any new relevant local planning policies are adopted without requiring a formal revision of the entire Precinct 3 policy.

*Modify the reference to the principles of good design and Design Advisory Committee*

Amendment 49 was adopted by Council on 24 March 2012 and is currently awaiting approval from the Minister for Planning, as mentioned previously. Amendment 49 proposes a new clause 11.8.6.3 for LPS4 that details the design quality principles that the Design Advisory Committee are to have due regard to in providing their advice to Council. The advertised Precinct 3 policy refers specifically to clause 11.8.6.3 in Part 1 – About this document, and Part 7 – Discretionary additional building height. Rather than referring specifically to this clause, it is recommended that the reference be more general in nature to accommodate for any future changes to the clause numbering of LPS4 and/or the location of the design principles within the planning framework.

The proposed changes to the references are shown as follows:

Part 1 – About this document - draft wording as advertised:
<i>‘Additionally and of particular importance are the design principles contained under clause 11.8.6.3 of the Local Planning Scheme – principles that will be used by the Design Advisory Committee to assist it in determining the design quality of development.’</i>
Part 1 – About this document – proposed wording:
<i>‘Additionally and of particular importance are the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development.’</i>
Part 7 – Discretionary additional building height – draft wording as advertised:
<i>‘The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of the Local Planning Scheme, and including, but not limited to ...’</i>
Part 7 – Discretionary additional building height – proposed wording:
<i>‘The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development, and including, but not limited to ...’</i>

### *Cropping, enlarging and relabelling of Figures in policy*

Some of the figures in the policy have been cropped and enlarged to be easier to read. The content and purpose of the figures remains unchanged from the advertised version of the Precinct 3 local planning policy.

### *Minor typographical corrections*

Officers have identified and corrected a few minor typographical and/or grammatical errors in the advertised Precinct 3 local planning policy. None of these corrections alter the intent of the policy provisions.

## **2. Revoking of current local planning policy**

### *D.G.F21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area*

The area for the Precinct 3 local planning policy is currently subject to the provisions of local planning policy DGF21, adopted in 1980 and last amended in March 2000. DGF21 covers land use and development requirements that, if the draft Precinct 3 local planning policy is adopted, will be duplicated and in some cases inconsistent with the Precinct 3 policy and LPS4. In the interests of orderly and proper planning, particularly to have a simplified and consistent planning framework, Officers recommend that Council revoke DGF21 upon the final adoption of the proposed draft Precinct 3 local planning policy.

The contents of DGF21 and equivalent LPS4 and/or policy provisions are summarised as follows:

<b>DGF21 content</b>	<b>Equivalent LPS4 and/or policy provision</b>
Objectives	LPS4 objectives of the Mixed Use and Residential zones. Objectives of proposed Precinct 3 LPP.
1. Policy Area and Scope – Areas A, B and C	Areas A and B within proposed Precinct 3 policy area. Area C is outside the proposed Precinct 3 policy area and is zoned a mix of Residential and Mixed Use.
2. Land use requirements	LPS4 land use and zoning table and specific land use requirements of Sub area 1 of Fremantle LPA (Areas A and B)
3. Built form requirements: Building height Plot ratio and site coverage Building setbacks Form and streetscape articulation	LPS4 development requirements for Fremantle LPA, including Sub area 1. R-Codes open space and setback requirements for residential development. Proposed Precinct 3 and Residential Streetscapes policies for additional design matters.
4. Additional requirements: Overshadowing, passive solar orientation and energy efficiency, pedestrian access, protection of views and vistas.	R-Codes for residential development overshadowing. LPS4, proposed Precinct 3 and current policy requirements for energy efficient design, pedestrian access and protection of views and vistas.
5. Car parking	LPS4, including specific requirements for Sub area 1 of Fremantle LPA, and R-Codes for residential development. Location of parking addressed in proposed Precinct 3 LPP and R-Codes.
6. Conservation of Places of Cultural Heritage Significance	LPS4 heritage list and heritage assessments prepared under LPP1.6 for proposals on heritage listed property.
7. Other matters	LPS4, R-Codes and local planning policies.

## **CONCLUSION**

The Precinct 3 local planning policy provides detailed design and development provisions to guide new development within Precinct 3. The policy seeks to ensure that new development contributes positively to the public domain, particularly in terms of creating a pedestrian orientated and vibrant environment. Importantly the policy also seeks to ensure that new development responds appropriately to its setting whilst allowing and encouraging innovation and creativity in the architectural design of the new development.

The policy was advertised for public comment in accordance with the Local Planning Scheme No. 4 and no modifications are recommended to be made to the policy due to the nature of the public submissions. However Officers recommend minor modifications to improve the overall clarity and functionality of the policy in the context of the broader planning framework.

Furthermore it is recommended that the current local planning policy *D.F.G21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area*, be revoked as the content of this policy is now adequately dealt with by the Local Planning Scheme, associated policies (including Precinct 3 policy) and the Residential Design Codes.

## **OFFICER'S RECOMMENDATION**

### **That Council:**

- 1. Note the submissions received and as addressed in the Officer report.**
- 2. Adopt Precinct 3 Local Planning Policy, with modifications, as shown below, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4:**

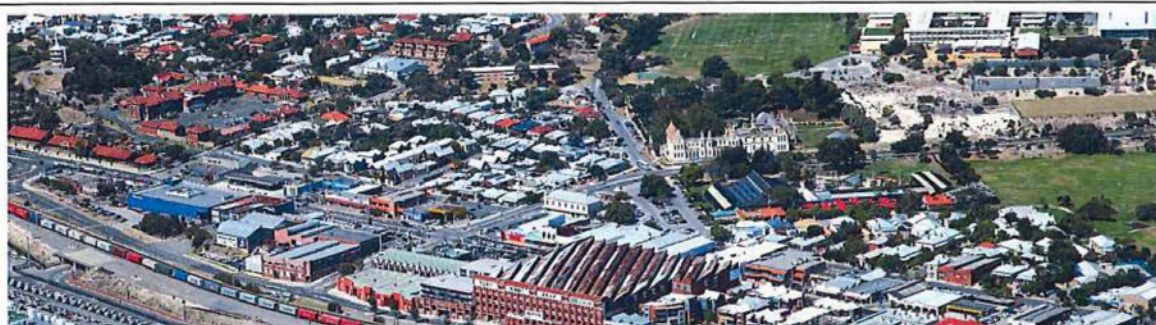


# CITY OF FREMANTLE

## LOCAL PLANNING POLICY

### PRECINCT 3

**ADOPTION DATE:** to be inserted  
**AUTHORITY:** LOCAL PLANNING SCHEME NO.4



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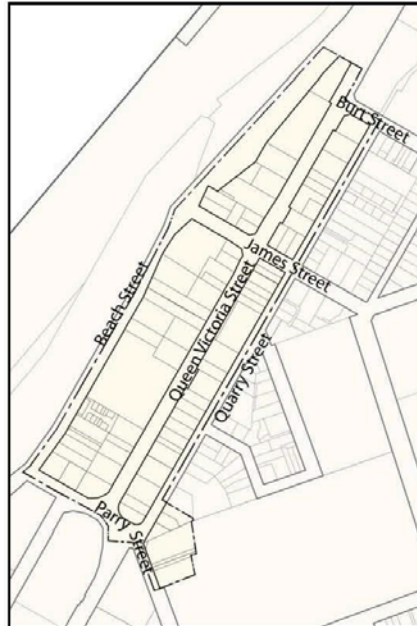
Precinct 3 Local Planning Policy

**1. ABOUT THIS DOCUMENT**

The purpose of this policy is to detail design provisions to complement the land use and development requirements prescribed in Local Planning Scheme No. 4 for Precinct 3. Precinct 3 is situated in the north eastern part of the broader Fremantle Centre area, as represented by Figure 1. Figure 2 defines the boundary of the precinct and the provisions of this policy apply to all proposed land use and development within that boundary.



*Figure 1  
Precinct 3 – location of precinct within  
broader Fremantle Centre context*

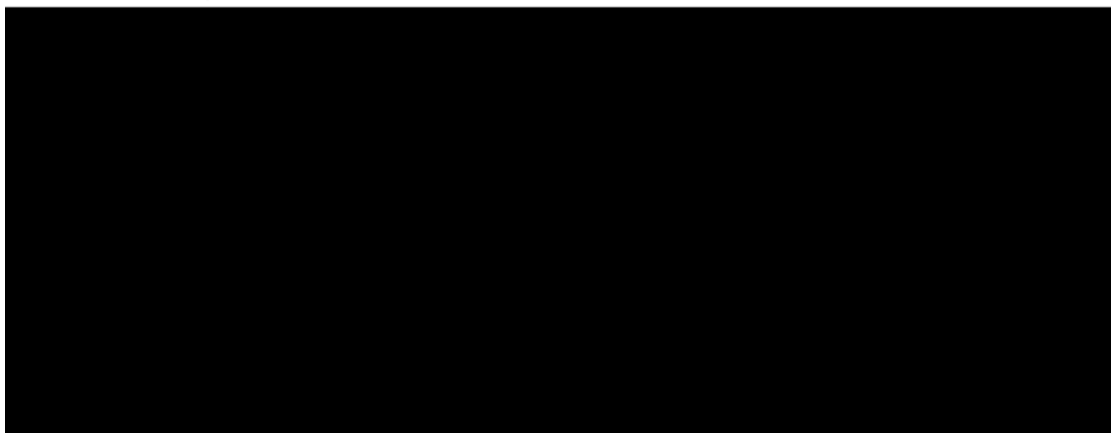


*Figure 2:  
Precinct 3 boundary*

The provisions of this policy are to be read and applied in conjunction with the relevant provisions of the Local Planning Scheme, Residential Design Codes and local planning policies. Specifically, Schedule 12 of Local Planning Scheme No. 4 details provisions relevant to Precinct 3, under clause 2.3.1 - Sub area 1 of Fremantle Local Planning Area.

Refer to the Local Planning Scheme for specific land use and development requirements relating to:

- Land use;



## Precinct 3 Local Planning Policy

Additionally and of particular importance are the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development.

The intent of this policy is to detail provisions that address principles of urban design as much as architectural design. Proposed development will be assessed on its contribution to the streetscape as well as its individual architectural merit. Good design goes beyond style and individual taste and this policy aims to assess buildings on their functionality and efficiency, as well as their aesthetics.

As the provisions of this policy are largely non-prescriptive, the City encourages applicants to utilise experts from a variety of fields to ensure that in-depth analysis and innovative solutions are developed in response to the design complexities intrinsic to the area. For these same reasons the City encourages early and ongoing engagement with the City's Design Advisory Committee.

It is also important to consider and to demonstrate how the standard of design quality will be maintained and delivered throughout all phases of the development.

## **2. PRECINCT VISION**

The precinct will be rejuvenated as a vibrant, attractive and sustainable high density residential neighbourhood within walkable distance of the Fremantle city centre. The predominantly residential precinct will be supported by a hub of local commercial and community services that complements but does not compete with the city centre's commercial focus.

The precinct:

- Will provide a distinctive and highly visible statement as the northern gateway to the city centre. New buildings will have contemporary and innovative architecture that is strongly influenced by their setting and embody a high standard of environmentally sustainable design. Heritage buildings, particularly in the south west quadrant of the precinct, will be retained, re-used and integrated with new infill development.
- Reinforces the significance of the proximity to the river, port and Cantonment Hill to the precinct's sense of place through key views, linkages and the character of new buildings.
- Will focus on Queen Victoria St as a distinctive boulevard entry to Fremantle and with a lively street space of active ground level frontages providing a mixture of service, sales and hospitality with high density residential accommodation above and behind.
- Will have convenient, safe and attractive pedestrian and cyclist links that connect to the city centre and its public transport node, and to nearby parks, waterfront public open spaces, education, recreation and community facilities.
- Aims to accommodate 2500 new residents over the next 20 years in a diverse range of housing opportunities for those who enjoy a city centre location with a neighbourhood feel.

Precinct 3 Local Planning Policy

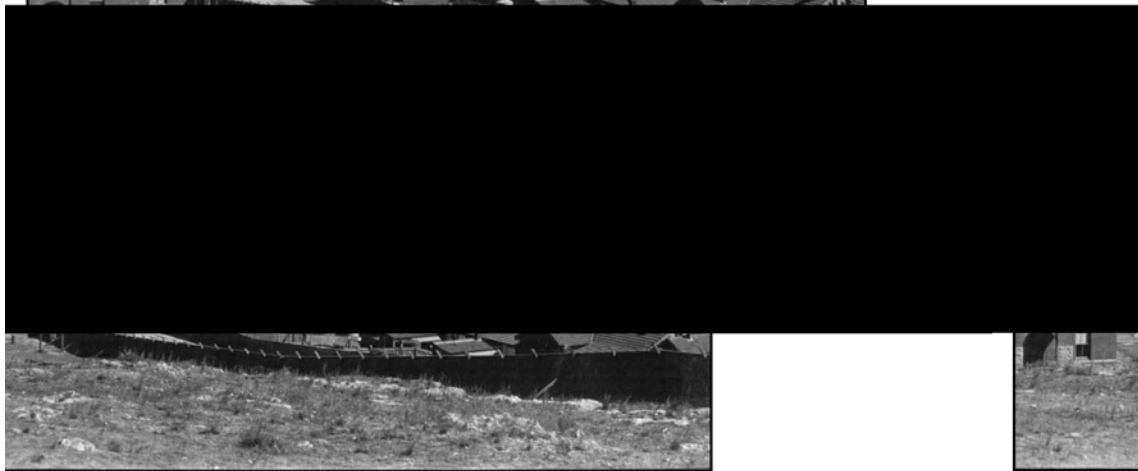
### 3. PRECINCT CHARACTER

#### *Historical overview*

The precinct was established as a residential area and has undergone several distinct periods of development to become a mixed use area broadly characterised by car showrooms and yards, commercial developments with some residential use.

#### **Period One 1830s-1880s:**

In the Early Victorian era the area was an entrance to Fremantle and contained a number of substantial freestanding houses in large gardens. This early character was influenced by the precinct edging the river.



*View of the precinct from Cantonment Hill circa 1939*

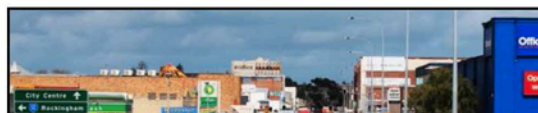
*View of the precinct from the river*

#### **Period Two 1890s-1950s:**

By the early 20th century, Period Two was the time of the most intense development in many ways the developments that took place during this period established distinctive characteristics. The reclamation of the river to provide land first for the railway and then for the harbour caused the precinct to be separated from the river and, more significantly, the development of the railway and harbour initiated changes to the western side of the precinct. These changes resulted in the western face of the precinct evolving to acquire a more robust industrial character consistent with its port-related purpose, characterised by the warehouses that edged Beach Street.

#### **Period Two**

In the historical context, activity and the city's development along the railway and perhaps more particularly of the precinct related purpose.



Precinct 3 Local Planning Policy

**Period Three 1960s-the present day:**

The final stage of major development coincided with the advent of containerisation. The resulting profound change to shipping and associated industries completely changed the earlier interdependence between the precinct and the harbour. Development within the precinct that dates from this period is described as low grade, non-contributory.

***Existing character***

The precinct contains three broadly distinguishable areas of differing character, as shown in Figure 3.

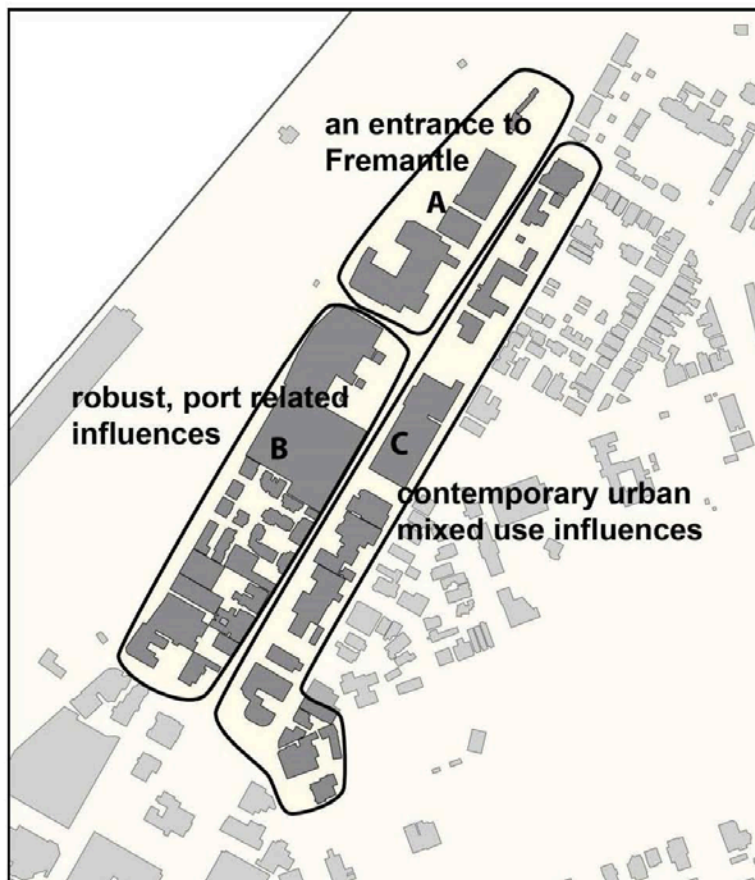
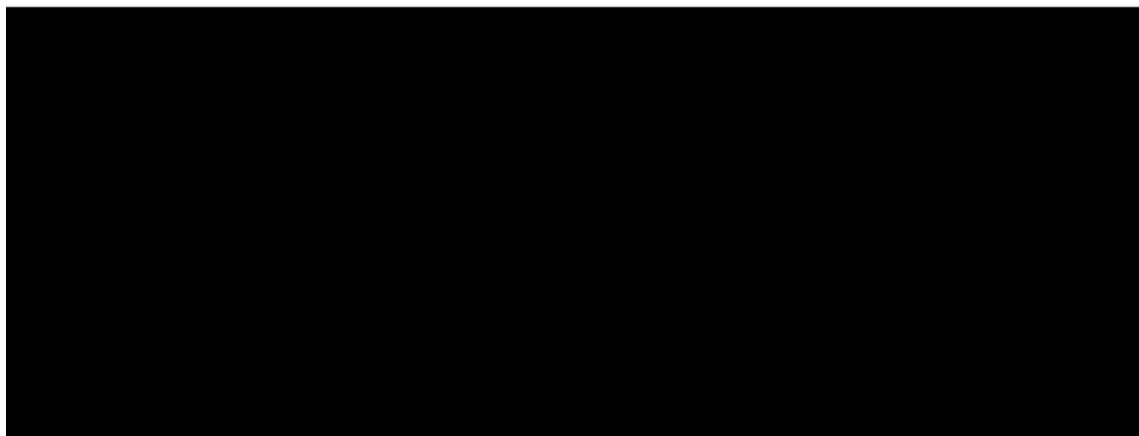


Figure 3: Character areas



### **Area A**

Area A exhibits no strong unifying character. Rather the area is comprised of buildings of a variety of architectural styles associated with Period Three. The buildings are generally of low architectural quality and thus make a limited contribution to producing a legible streetscape or a coherent area overall.



*Area A Queen Victoria Street and Beach Street intersection*

### **Area B**

Area B exhibits no strong unifying character. Rather the area is comprised of a mix of buildings of differing scales, massing and architectural styles and while the buildings are generally of medium to high quality, they do not combine to form strongly legible streetscapes or a coherent area overall. A unifying robust, industrial character does however derive generally from the buildings' port-related uses. This character is expressed most prominently in the former Dalgety's Woolstores building.



Precinct 3 Local Planning Policy



*Area B Beach Street frontage*

Collectively the buildings facing Beach Street made an impact that defined the urban edge where the city met the port.

**Area C**

Area C exhibits no strong unifying character. Rather the area is comprised of buildings of a variety of architectural styles associated with Periods Two and Three. The buildings from Period Three dominate the area and are generally of low architectural quality and make only a limited contribution to producing a legible streetscape or a coherent area overall.



*C Quarry Street*



*Area C Queen Victoria Street*

*Area*

change than Area B in terms of urban  
as a result, a distinct difference in  
qualities of each. The distinct difference  
though their contrasts.

Area C seems to have undergone a less pronounced  
grain, scale and character during Period Two and, as  
character has developed between the streetscape q  
in character between the two areas is expressed thr  
The Area C has:

- A lower scale
- A finer urban grain

#### **4. DESIRED CHARACTER**

The following section details the desired character for the three areas identified in Figure 3 above.

Applicants are required to submit a design statement that explains how the proposed development has appropriately responded to the desired character statements relevant to the development's location. The response to the desired character is particularly important regarding the proposed development's relationship to the streetscape or public space. Conversely, a more flexible approach may be taken to the development's response to the desired character to portions of the building that are mid block and are not directly adjoining the streetscape or public space.

##### **Area A – An entrance to Fremantle**

New development should convey an overall contemporary design and style with high quality finishes and construction built for longevity; reflecting a high density residential neighbourhood that values progressive environmental sustainability and a vibrant cultural and artistic community.

New development within this area should also be strongly influenced by the natural features of the area and its environs, such as the river, the escarpment and Cantonment Hill, to help to appropriately identify the area as an entrance to Fremantle.

New development in Beach Street should be built on the building line to accentuate the edge of the street and the former river shoreline: it should reinforce the distinct urban wall that is a characteristic of Beach Street fronting the port.

New development should respond to the massing of existing buildings along the west side of Precinct 3 and Precinct 5 to enhance the existing distinctive skyline of the city's harbour-side edge in ways that reinforce local distinctiveness to create an identifiable sense of place

##### **Area B –Robust, port-related influences**

New development will consist of new infill buildings and the reuse of existing buildings. New development should be sympathetic to the area's retained heritage buildings and places.

New development in Beach Street should be built on the building line to accentuate the edge of the street and the former river shoreline: it should reinforce the distinct urban wall that is a characteristic of Beach Street fronting the port.

New development should respond to the massing of existing buildings along the west side of Precincts 3 and 5 to enhance the existing distinctive skyline of the city's harbour-side edge in ways that reinforce local distinctiveness to create an identifiable sense of place

New development should respond positively to opportunities to create a distinct difference in character between areas B and C. New development in area B should generally reflect the

area's robust, industrial character which derives from the existing buildings' original port-related uses including:

- Functional and working purpose, rather than being over-refined or decorative
- Strong definition of light and shadow on highly articulated facades
- The predominant use of face brickwork.

#### **Area C – Contemporary urban mixed use influences**

In Area C opportunities exist to generate new compositions and points of interest for a transition to a new character that establishes a 'sense of place' appropriate for a major residential precinct within a modern port city. A wide range of architectural solutions is therefore possible.

The interdependence between areas B and C could be acknowledged through shared built characteristics. However new development should respond positively to opportunities to create a distinct difference in character between areas B and C. New development in area C should generally present:

- A lower scale and finer urban grain in reference to small lot sizes and frontage widths. Development on amalgamated lots should retain the finer grain of original sub-divisions.
- A fineness of detail appropriate to their urban setting away from the edge of the port.
- Facades where brick is less prominent than in Area B.
- Strong definition of light and shadow on highly articulated facades

## 5. PUBLIC REALM

Figure 4: Public Realm demonstrates the hierarchy of pedestrian access routes within the precinct – Primary Street, Secondary Street and Major Off-Street Routes. Policy provisions are detailed below that apply to new development located adjacent to the relevant pedestrian access route as shown in Figure 4.

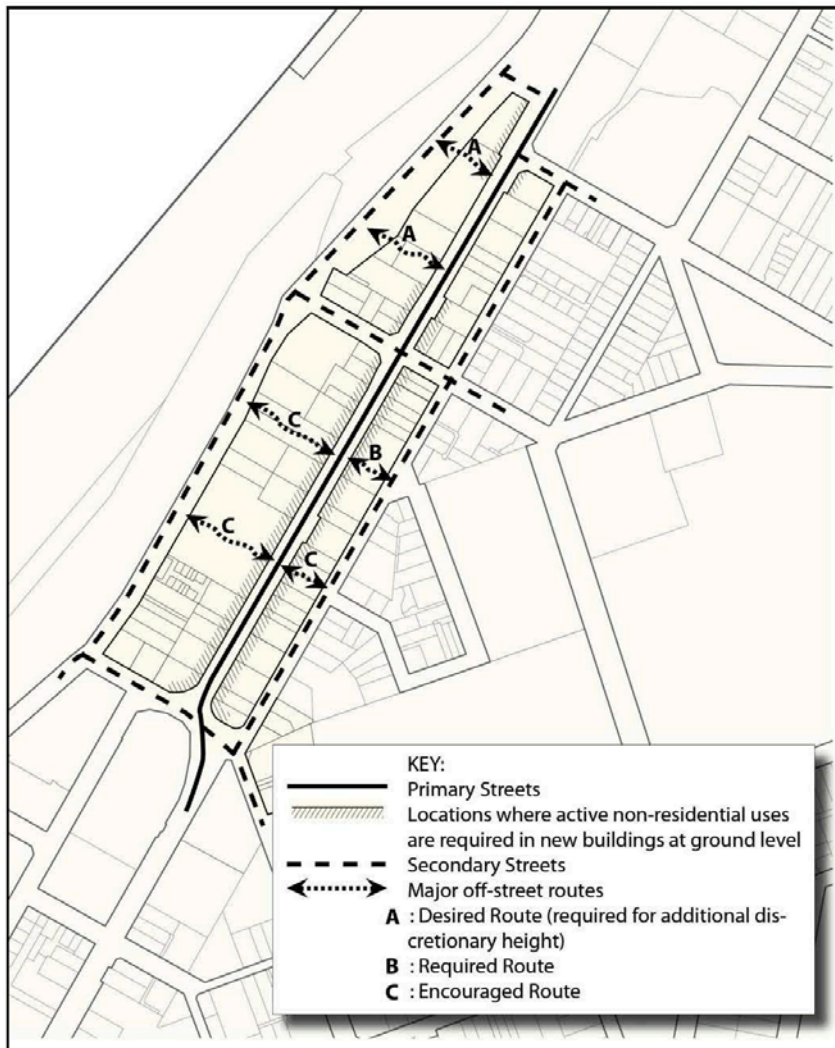


Figure 4: Public realm

Precinct 3 Local Planning Policy

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**5.1 Primary street – Queen Victoria St**

New development located on primary streets shall address the following provisions:

- 5.1.1 Lower levels of the development should be designed to reinforce the significance of the primary streets with an appropriate scale and high standard of details, materials and finishes and shall incorporate design measures to contribute to an interesting, safe and diverse public realm. The ground floor facade should provide variation and interest at a human scale along its length
- 5.1.2 No vehicle access, blank walls and/or service areas should be located on primary street frontages if alternative locations are available. If vehicle access is necessary from the primary street, vehicle entrance points and services areas are to be integrated into the overall building design and shall be designed to minimise their impact on the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible.
- 5.1.3 On-site vehicle parking is not permitted at ground level adjacent to a primary street.
- 5.1.4 Where non-residential uses are required at the ground level frontage to a primary street at the locations as shown in Figure 4 the development should:
- Be encouraged to incorporate a mix of active land uses at ground level that extend the hours of activity in the adjacent public domain beyond traditional retail hours.
  - Be predominantly glazed or open to the street at ground level and with major pedestrian entrances direct from and level with the street.
  - Accommodate multiple ground level commercial tenancies in long frontages which shall all obtain their main public pedestrian entry directly from and level with the primary street. Wide building frontages with a single use or tenancy should be limited.
  - Any area where the building is setback from the front lot boundary shall be designed and treated as part of the adjacent pedestrian domain.
  - Minimise side setbacks and other gaps in the street frontage to provide a frontage along the street that is as continuous as possible.
  - Provide weather protection along footpaths for pedestrians, either in the form of awnings or first floor balconies, and satisfy all of the following:
    - a) Shelter to be continuous along all primary street frontages;
    - b) The weather protection shall be integrated with the building design, appropriately scaled and designed to reinforce the importance of primary streets while still providing shelter and a sense of enclosure for pedestrians;
    - c) The weather protection shall be permanently fixed and shall be constructed of materials that provide sun and rain protection (i.e. a high degree of sun shading and water impenetrability);
    - d) The weather protection shall project a minimum horizontal distance of 2.4 metres over the adjacent footpath; and

- e) Awnings shall have a consistent clear height from footpath level of between 3m and 3.5m.

Council may, at its discretion, vary any of the above requirements where:

- i) The installation of weather protection would be incompatible with the heritage significance of the existing building; or
- ii) Necessary to ensure appropriate clearances from street infrastructure or trees; or
- iii) The installation of weather protection would present significant practical difficulties in terms of vehicle accessibility and there is no satisfactory alternative design solution available.

- 5.1.5 Where residential uses are located at the ground level frontage to a primary street the development should:
- Incorporate design measures in the façade to contribute to an interesting public realm; blank walls should be minimised to no more than 3m in width.
  - Locate private open space(s) and major openings to provide passive surveillance and interaction with the adjacent public realm.
  - Achieve a clear distinction between the private place and public space, primarily through a difference in floor level of up to 600mm from the street.
  - Accommodate multiple ground level pedestrian entries directly from the street.

## **5.2 Secondary streets**

New development located on secondary streets shall address the following provisions:

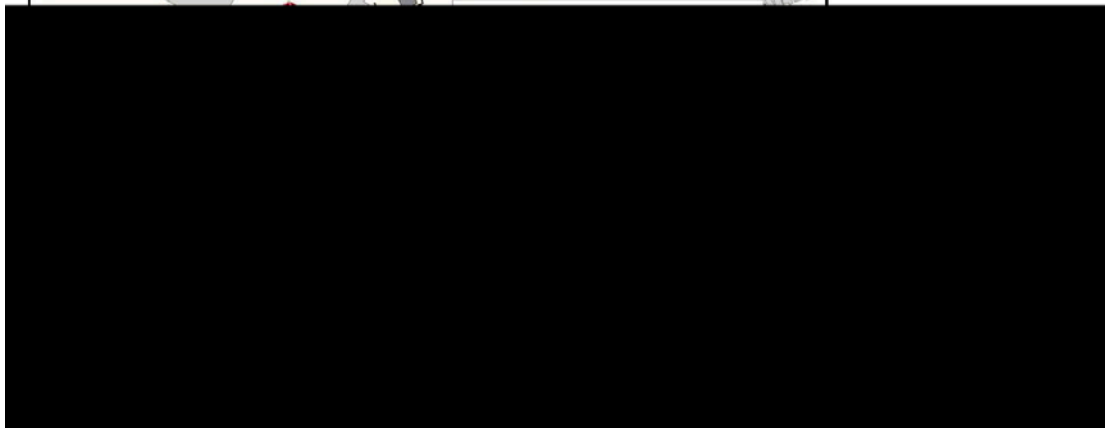
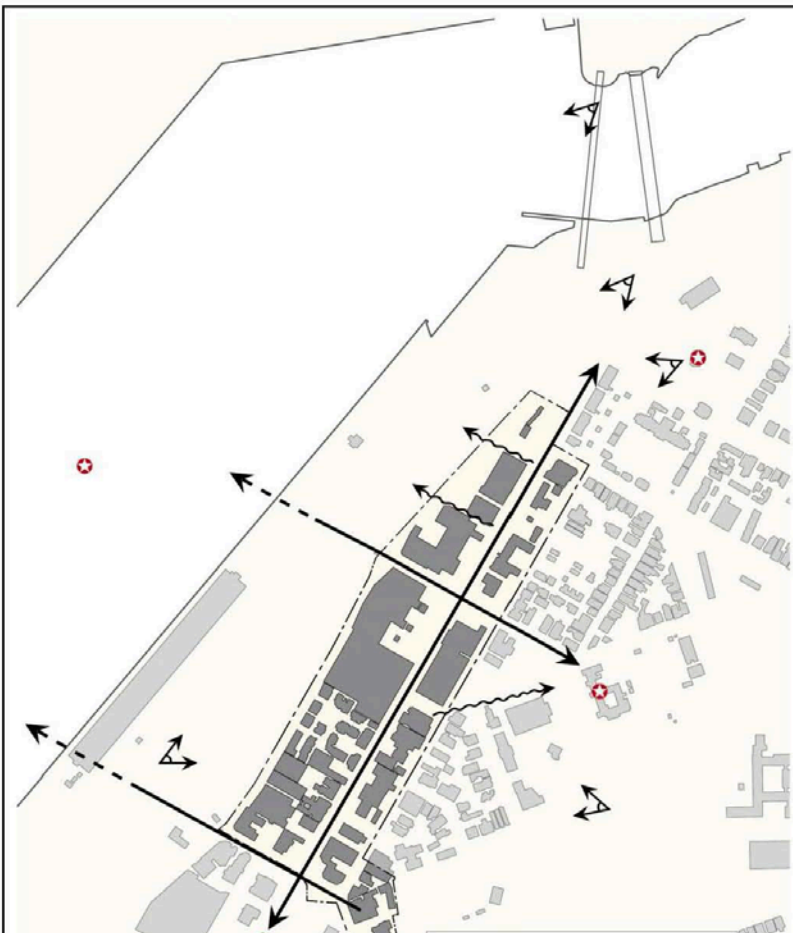
- 5.2.1 Ground level frontages to secondary streets may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm. Blank walls to secondary street frontages should be minimised to no more than 3m in width.
- 5.2.2 Retail and commercial floorspace shall provide major pedestrian entries directly from and level with from the street.
- 5.2.3 Vehicle entrance points and services areas are to be integrated into the overall building design and shall minimise detracting from the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible.
- 5.2.4 On-site vehicle parking at ground level adjacent to a secondary street should be screened and incorporate design measures to contribute to an interesting and safe public realm.
- 5.2.5 Where residential uses are located at ground level, the design should achieve a clear distinction between the private place and public space, whilst still allowing for passive surveillance and interaction with the street.

### **Major off-street pedestrian routes**

- 5.3.1 Provision of the major off-street routes that are accessible by the public at the general locations as shown in Figure 4 is strongly encouraged in new development. Provision of the route adjacent to Shuffrey St (shown as B in Figure 4) is required in any new development at that location. Refer to section 7 of this policy for specific requirements where the provision of off-street pedestrian links is a criteria for seeking discretionary additional building height (at locations A in Figure 4).
- 5.3.2 The exact course and location of these major off-street routes don't necessarily need to align between street blocks but connections between them should be clearly legible.
- 5.3.3 Major off-street routes are to be designed to be safe for users in accordance with Crime Prevention through Environmental Design (CPTED) principles.
- 5.3.4 Universal access is required for the whole length of the off-street routes from street to street.
- 5.3.5 Additional pedestrian connections shall be provided from the major off-street route to any on-site public or communal space.
- 5.3.6 Ground level frontages to major off-street routes may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm. Upper level balconies over the major off-street route are encouraged.

## 6. BUILT FORM AND LEGIBILITY

Figure 5: Views and landmarks displays the major views, major landmarks and desired views and glimpses within the precinct. In addition to responding to the desired character for the precinct, the overall objective of this element is to ensure that the built form of new development provides comfortable enclosure to streets and other public spaces, reinforces important views, and provides activation and safety in public spaces through the relationship between the building and the adjacent public space. Unless specific discretionary criteria are stated in the provisions below, Council may, at its discretion, vary any of the provisions where it is satisfied the development contributes to the overall objective of this element.



Precinct 3 Local Planning Policy

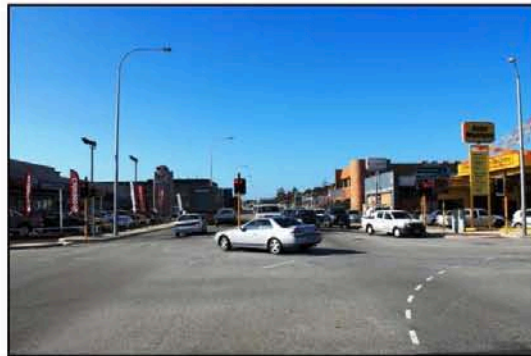
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*Precinct view from Cantonment Hill*



*View from Queen Victoria Street / James Street intersection to Port*



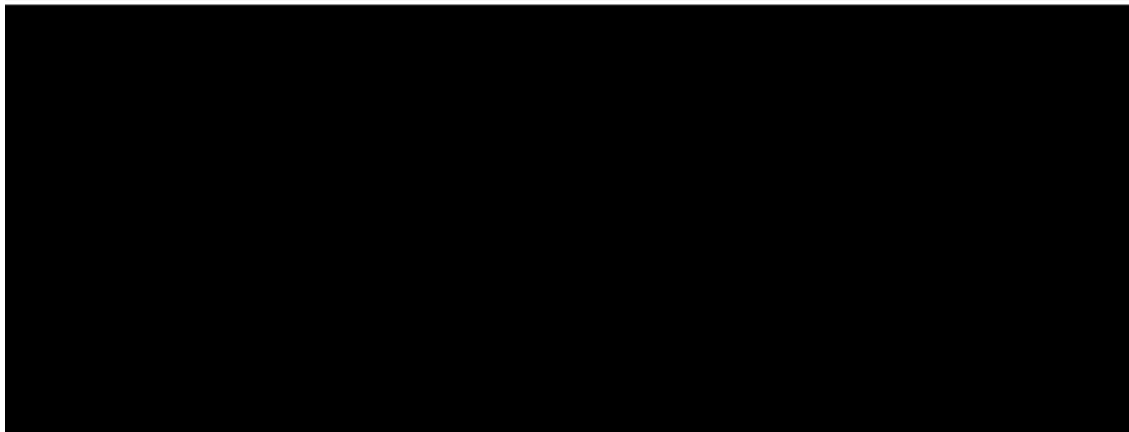
*View from Queen Victoria Street / James Street intersection northwards*



*View from Queen Victoria Street / James Street intersection to Arts Centre*



*View from Queen Victoria Street / James Street intersection to Princess May Park*



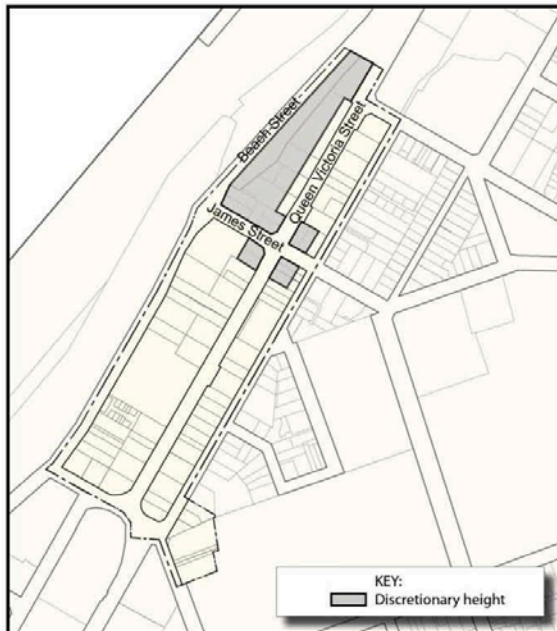
Precinct 3 Local Planning Policy

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- 6.2 Views and glimpses of Fremantle landmarks, particularly to the port and of port infrastructure, the Arts Centre and the former Army Barracks, are encouraged wherever possible at ground level along secondary streets and via off-street pedestrian links and other openings between buildings, and from upper levels of new buildings (refer Figure 5).
- 6.3 Passive surveillance of streets and other public spaces is to be provided by frequent upper floor windows, terraces and balconies overlooking the public space.
- 6.4 As redevelopment of the precinct is likely to be carried out over a number of years, consideration should be given to the appropriate treatment of all walls and parapets that will be visible or remain semi-permanently exposed.
- 6.5 Redevelopment of full street blocks and other large sites should ensure integration into their surroundings and maintain consistency of the precinct's development pattern and street level linkages. The horizontal expanse of long facades should address the desired character for its location through articulation and fenestration, architectural detailing and treatment of rooflines.
- 6.6 Consider the impact of new development in long views from approach routes by vehicle and rail, from Cantonment Hill, Victoria Quay and Fremantle Harbour, particularly with regard to the arrangement and bulk of taller buildings and to the design of roofs and screening of rooftop service elements. New development shall contribute positively to these views.

## 7. DISCRETIONARY ADDITIONAL BUILDING HEIGHT

Under the Local Planning Scheme provisions of Schedule 12 - Sub area 1 of Local Planning Area 2, additional building height to a maximum of 4 metres may be approved on select sites (refer Figure 6) at the Council's discretion subject to the development satisfying a number of criteria. This section of the policy provides additional guidance and requirements regarding what the development should provide in order for the Council to be satisfied that the discretionary criteria have been met.



*Figure 6: Sites where discretionary additional building height may be permitted*

The following documents are an indication of the type of supportive material that would be expected to be submitted as part of an application where discretionary additional building height is sought:

- Full streetscape studies at pedestrian level showing the impact of the additional height on the public realm and neighbouring sites or buildings;
- Site and precinct plans showing the impact of the additional height on existing view corridors and view sheds;
- Reports from independent consultant assessing the development's environmental performance; and
- If the development is to be staged, the applicant must demonstrate how each stage will make its own positive contribution to the precinct and the street.

The applicant must demonstrate how the proposed design standards will be maintained through all stages of the development to completion. A process to ensure this is achieved

Precinct 3 Local Planning Policy

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The applicant must demonstrate how the proposed development satisfies the following criteria.

**7.1 Policy provisions to be satisfied to the very highest standards**

Discretionary additional building height will only be considered where all of the relevant provisions elsewhere in this policy have been satisfied to the very highest standards.

**7.2 Distinctive architecture and exceptional design quality**

The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development, and including, but not limited to:

- a) The overall development achieving an exceptionally high standard in terms of appearance;
- b) The development demonstrating a selection of high quality building materials, sustainable building measures and building longevity;
- c) The design addressing the relationship of taller components to lower levels (podium);
- d) The impact of the development on distant views;
- e) The additional height does not adversely impact on the ability of neighbouring sites and buildings to maximise their passive sustainable design potential;
- f) The visual permeability of the development with the streetscape;
- g) The roofscape aspect of the design; and
- h) All functional and servicing aspects of the development are exceptionally well resolved.

In particular, the architectural response of the development to the desired character of its setting (refer to section 4) and the way the development will contribute to (and raise the) architectural standard of development within the precinct will be of primary consideration for the Council.

**7.3 Best practice environmentally sustainable design**

The development shall demonstrate best practice in environmentally sustainable design (ESD).

- 7.3.1 Best practice in ESD shall be demonstrated by achieving a minimum Green Star rating of 5 Stars (Australian excellence) using the Green Building Council Australia's current rating tools where an appropriate Green Star rating tool exists.
- 7.3.2 Where a current Green Star rating tool is not available for the proposed type of development, an alternative method of demonstrating Australian excellence

Precinct 3 Local Planning Policy

in ESD may be used, at the discretion of Council, which addresses the following elements:

- a) Energy – encourage and recognise designs that substantially reduce the greenhouse gas emissions associated with the operational energy consumption; and
- b) Water – encourage reduction of potable water use through efficient design of building systems, rainwater collection and water re-use; and
- c) Indoor Environment Quality – encourage and recognise designs that ensure thermal comfort of occupants, maximise daylight while minimising heat glare, reduce noise pollution and require maintenance and cleaning of air handling systems; and
- d) Waste – encourage and recognise designs and construction methods that reduce the amount of natural resources used, reuse whatever materials can be re-used and recycle wherever possible.

Assessment of best practice in ESD for developments considering the above criteria can be demonstrated by applying the benchmarking standards incorporated within the Green Star Rating Tool and Technical Manual as applicable to a 5 Star Green Star rating relative to the appropriate building type. Where an appropriate Green Star rating tool does not currently exist, Green Star Office shall be used for commercial projects and Green Star Multi Unit Residential shall be used for mixed use projects for this purpose.

- 7.3.3 In addition to the above requirements it must also be demonstrated that an Accredited Green Star Professional has been appointed to the project design team.

**7.4 High quality landscaped and publically accessible pedestrian environment**

- 7.4.1 The off-street pedestrian links shown in Figure 4 must be provided, and in addition to the requirements in Section 5 must be:
  - A minimum width of 5 metres
  - Open to public access to be determined by and be to the satisfaction of the City and set as a condition of planning approval.
  - To a high standard of landscape design incorporating planting, public seating and public art.
  - Safely designed to Crime Prevention through Environmental Design (CPTED) standards to be confirmed by a report by an accredited CPTED consultant.
- 7.4.2 The area of required street setback in Queen Victoria St and James St are to be transferred at no cost to the Council.
- 7.4.3 Address the provision of a high standard of on-site open space for residents and/or workers, including roof top landscape areas.

Precinct 3 Local Planning Policy

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**APPENDIX 1**

Of the City's other local planning policies, the following policies in particular will likely be applicable to new development within the precinct:

- LPP1.6 Preparing Heritage Assessments;
- LPP2.3 Fremantle Port Buffer Area Development Guidelines;
- LPP2.13 Sustainable Buildings Design Requirements; and
- LPP2.19 Contributions to Public Arts and/or Heritage Areas.

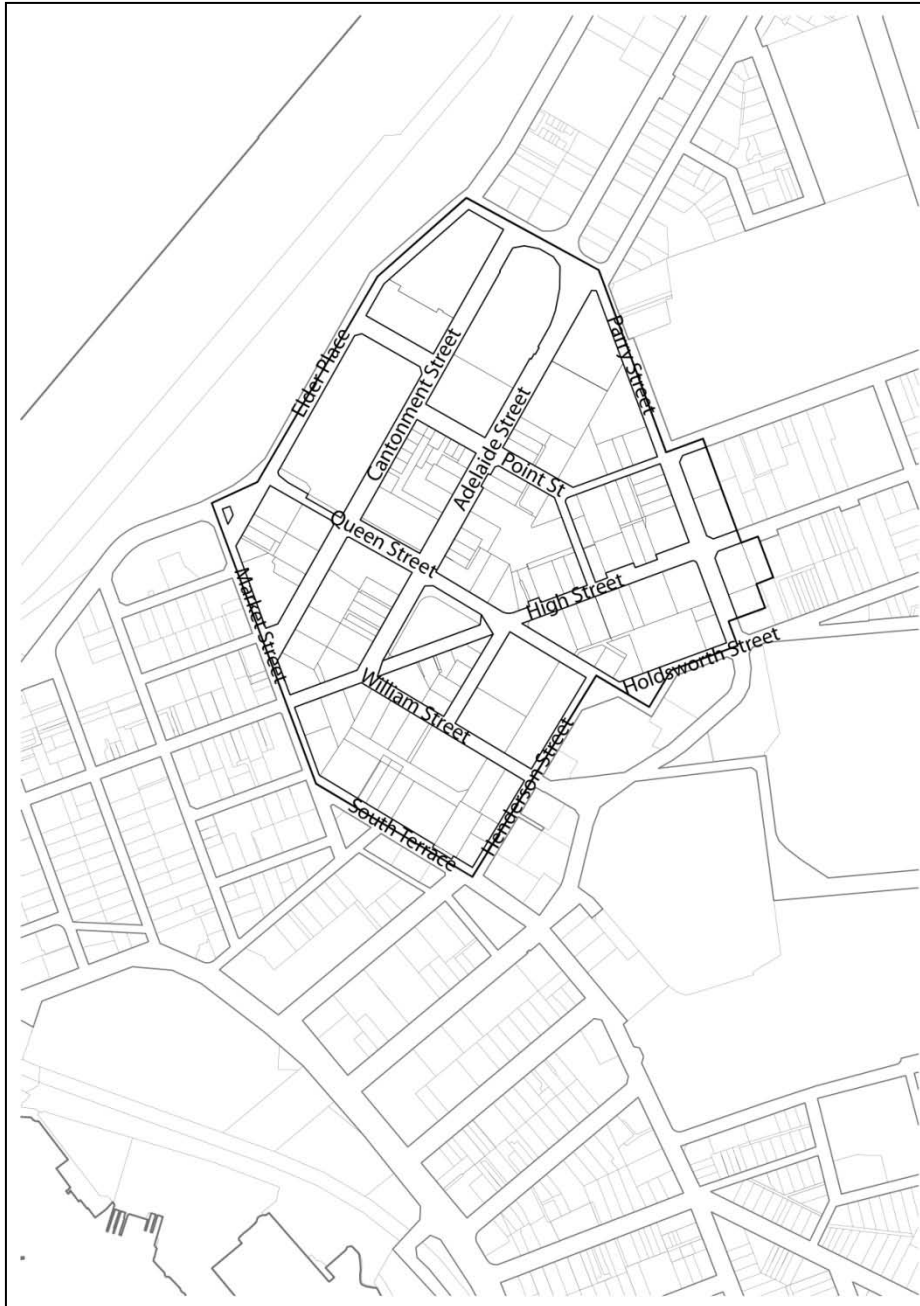
Precinct 3 Local Planning Policy replaces local planning policy D.G.F21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area, which was revoked at Council's Ordinary Meeting on 28 November 2012.

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3. **Revoke the local planning policy, D.G.F21 Quarry Street, Queen Victoria Street, James Street and Beach Street Local Area, and publish formal notice of the revocation as per clause 2.5.1 of Local Planning Scheme No. 4.**

**PSC1211-187 LOCAL PLANNING POLICY - PRECINCT 5 - ADOPTION FOR FINAL APPROVAL**

**DataWorks Reference:** 117/010, 117/054  
**Disclosure of Interest:** Nil  
**Meeting Date:** Planning Services Committee 21 November 2012  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Urban Designer and Senior Planner  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC1209-144 Draft local planning policy – Precinct 5 Central – Adopt for public advertising  
**Attachment 1:** Schedule of submissions  
**Attachment 2:** Current local planning policies:  
*DGF1 High, Parry, Holdsworth and Queen Streets Local Area*  
*DGF11 Fremantle Gas and Coke Company site – 2-12 Cantonment Street & 6-10 Elder Place – Fremantle*  
*DGF17 Northern Woolstores – 38 Cantonment Street, Fremantle*  
*DGF20 Princess May Park – 1 Parry & 92 Adelaide Streets, Fremantle*  
*DGF23 King's Square – Bounded by Adelaide, Newman, Queen and William Streets, Fremantle*  
*DGF25 Henderson Street Market Stalls*  
*DE5 Queen Street Development Policy*



*Precinct 5 application area*

## EXECUTIVE SUMMARY

On 26 September 2012 Council resolved to advertise draft local planning policy – Precinct 5 Central, for public comment. The draft local planning policy provides specific land use and development provisions to apply to new development within the Precinct 5 boundary. Within Precinct 5 are the 12 strategic sites subject to the recently adopted Amendment 49 to Local Planning Scheme No. (LPS4). The design provisions of the policy are to complement the Amendment 49 Scheme requirements and, in particular, the policy will elaborate on the discretionary criteria to the additional building height available on 5 of the strategic sites.

**Community consultation was undertaken in accordance with Local Planning Scheme No. 4 requirements and at the end of the consultation period, being 2 November 2012, four submissions had been received by the City of Fremantle.**

**No modifications to the draft policy are recommended as a result of public comment however Officers recommend that some minor adjustments are made to ensure the consistent and correct application of the policy.**

**It is recommended that Council adopt the draft local planning policy with minor modifications. Furthermore it is recommended that seven current local planning policies that apply within the Precinct 5 area be revoked as the planning matters dealt with by these policies are now adequately covered by LPS4, associated local planning policies (including Precinct 5 local planning policy) and the Residential Design Codes. However, as Amendment 49 to LPS4 is yet to be approved by the Minister for Planning, it is recommended that the publication of a notice in a local newspaper to advise of the final adoption of the policy and the revocation of the existing policies be deferred until after the gazettal of Amendment 49.**

## **BACKGROUND**

### Amendment 49 to Local Planning Scheme No. 4

Amendment 49 was adopted by Council on 24 March 2012 and is currently awaiting Ministerial approval. Amendment 49 proposes land use and development standards to 12 strategic sites within the central area of Fremantle and all of these sites are within the area covered by the draft Precinct 5 local planning policy.

Of particular relevance is that under Amendment 49, 5 of the 12 strategic sites are eligible for discretionary additional building height subject to the development meeting specific criteria. However the ability for Council to approval any development with discretionary additional building height is subject to the adoption of a local planning policy that elaborates on the discretionary criteria contained under the Amendment. The proposed Precinct 5 local planning policy contains a specific section dealing with the discretionary additional building height criteria of Amendment 49 and is therefore intended to satisfy this requirement.

### Activity Centre Structure Plan

On 27 June 2012 Council considered a report that outlined a preliminary scoping and draft study area for the Fremantle Activity Centre Structure Plan. Of particular relevance is Part 2 of the Council resolution which supported the identification of the precinct boundaries within the study area as preliminary working precinct boundaries for the preparation of local planning policies for the Amendment 49 strategic sites and 'East End' precinct (Precinct 3). The intention is to prepare local planning policies for each of the Precincts within the study area, with the future local planning policies generally following the format of the currently proposed draft local planning policy. The draft local planning policy for Precinct 3 was also advertised during October and is listed on this agenda with a recommendation for final adoption.

## **STATUTORY AND POLICY ASSESSMENT**

Part 2 of LPS4 allows the Council to adopt local planning policies in respect of any matter related to the planning and development of the Scheme area. The proposed policy was prepared and has been advertised under these provisions.

## **CONSULTATION**

Community consultation was undertaken in accordance with clause 2.4 of LPS4 from 2 October 2012 to 7 November 2012 – a period of 32 days. At the end of this consultation period, four submissions had been received. The issues raised by the submitters are detailed and addressed below, however full transcripts of the submissions are also provided in Attachment 1 – Schedule of Submissions.

	<b>Submission (summarised)</b>	<b>Officer comment</b>
1	<ul style="list-style-type: none"> <li>- Supportive of policy however hopes that <i>'any decisions on height are taken with great care'</i>.</li> <li>- Concerned that housing redevelopment should include soundproofing.</li> </ul>	<p>On 24 October 2012, Council resolved to advertise draft local planning policy, <i>LPP2.18 New residential developments in the City Centre zone – Noise from an existing source</i>. Draft LPP2.18 specifies noise attenuation requirements/design measures that will apply to all new residential development within the City Centre zone to ensure that such development is appropriately built and designed to cater for the generally increased noise levels associated with the City Centre. Furthermore, the policy proposes to require developers of residential development within the City Centre zone to appropriately notify future purchasers of residential property of the property's close proximity to potential noise generating uses.</p> <p>Submission noted. No modifications to the policy are recommended.</p>
2	<p>Fremantle Ports:</p> <ul style="list-style-type: none"> <li>- Emphasised that the built form requirements as specified in the City's Fremantle Port Buffer Development Guidelines should continue to apply within precinct 5.</li> </ul>	<p>The specific development requirements relating to development within proximity to the Fremantle Port, contained in LPS4 and local planning policy <i>LPP2.3 Fremantle Port Buffer Area Development Guidelines</i>, will continue to apply upon the adoption of the Precinct 5 policy.</p> <p>The submission is noted, with no modifications to the policy recommended.</p>
3	Supportive of policy, increased density and reinvigoration of city in general.	The submission is noted, with no modifications to the policy recommended.
4	<ul style="list-style-type: none"> <li>- Disagrees that Area C exhibits no strong unifying character. Submitter states that <i>'with the exception of the Church and heritage buildings, they</i></li> </ul>	<p>The submitter's views on the existing character of Area C are noted.</p> <p>The Desired Character statements for Area</p>

<p><i>are all without exception cheap, functional, drab and mediocre.</i></p> <p>- Submitter considers one of the 'Desired Character' statements of the policy for Area C to be <i>'restrictive and narrow minded.'</i> Submitter considers that this area presents opportunity for <i>'amazing architecture ... truly artistic, jaw dropping buildings.'</i> The submitter urges Council to <i>'rise to the challenge instead of reverting to safe, more of the same type of vision.'</i> The submitter contends that the desired character for Area C has not been addressed properly and doesn't promote significant change.</p>	<p>C are intended to balance the opportunity for new, bold and innovative architecture with the desire for new development to incorporate some sense of Fremantle's identity. The wording of Desired Character section of the policy is considered to portray this balanced approach.</p> <p>Overall the submission is noted, with no modifications to the policy recommended.</p>
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Overall no modifications to the Precinct 5 local planning policy are recommended in response to the issues raised by the submitters.

## **COMMENT**

Three discussion points are covered within this section:

1. Officer recommended minor modifications;
2. Defer formal adoption of Precinct 5 local planning policy until the gazettal of Amendment 49; and
3. Revoking of current local planning policies.

### **1. Officer recommended minor modifications**

*Change the policy title from 'Precinct 5 – Central' to 'Precinct 5'*

It is recommended that the title of the policy be modified from "Precinct 5 – Central" to "Precinct 5". The naming would then be consistent with the naming of the Precinct 3 local planning policy.

*Refer to other local planning policies with an appendix to the Precinct 5 policy rather than listing the other local planning policies in the Precinct 5 policy text*

The advertised draft Precinct 5 local planning policy refers to other local planning policies that would likely be applicable to development within the precinct. As this list of policies may change over time with the adoption or revocation of local planning policies, it is recommended that these local planning policies instead be listed as an appendix to the Precinct 5 policy. The appendix could then be updated by City staff when any new relevant local planning policies are adopted without requiring a formal revision of the entire Precinct 5 policy.

*Modify the reference to the principles of good design and Design Advisory Committee*

Amendment 49 was adopted by Council on 24 March 2012 and is currently awaiting approval from the Minister for Planning, as mentioned previously. Amendment 49 proposes a new clause 11.8.6.3 for LPS4 that details the design quality principles that the Design Advisory Committee are to have due regard to in providing their advice to Council. The advertised Precinct 5 policy refers specifically to clause 11.8.6.3 in Part 1 – About this document, and Part 7 – Discretionary additional building height. Rather than refer specifically to this clause, it is recommended that the reference be more general in nature to accommodate for any future changes to the clause numbering of LPS4 and/or the location of the design principles within the planning framework.

The proposed changes to the references are shown as follows:

Part 1 – About this document - draft wording as advertised:
<i>'Additionally and of particular importance are the design principles contained under clause 11.8.6.3 of the Local Planning Scheme – principles that will be used by the Design Advisory Committee to assist it in determining the design quality of development.'</i>
Part 1 – About this document – proposed wording:
<i>'Additionally and of particular importance are the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development.'</i>
Part 7 – Discretionary additional building height – draft wording as advertised:
<i>'The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of the Local Planning Scheme, and including, but not limited to ...'</i>
Part 7 – Discretionary additional building height – proposed wording:
<i>'The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development, and including, but not limited to ...'</i>

*Public access to major off-street routes*

As advertised, clause 5.3.1 of the Precinct 5 policy states *'Provision of the major off-street routes at the general locations as shown in Figure 4 is strongly encouraged in new development.'* The wording does not explicitly state that these routes should be public accessible and therefore it is recommended that the clause be modified to state:

*'Provision of the major off-street routes **that are accessible by the public** at the general locations as shown in Figure 4 is strongly encouraged in new development.'*  
(changes shown in bold)

This wording is consistent with the equivalent clause in the Precinct 3 local planning policy.

*Cropping, enlarging and relabelling of Figures in policy*

Some of the figures in the policy have been cropped and enlarged to be easier to read. The content of the figures remains unchanged from the advertised version of the Precinct 5 local planning policy.

*Minor typographical corrections*

Officers have identified and corrected a few minor typographical and/or grammatical errors in the advertised Precinct 5 local planning policy. None of these corrections alter the intent of the policy provisions.

**2. Defer formal adoption of Precinct 5 – Central local planning policy until gazettal of Amendment 49**

Amendment 49 is yet to be approved by the Minister for Planning, as mentioned above. As the Precinct 5 local planning policy refers specifically to development standards and sites under Amendment 49, it would be appropriate to delay the formal adoption of the policy until the Minister has granted approval for Amendment 49. A local planning policy doesn't come into effect until the publication of notice of Council's adoption of the policy in a local newspaper, and part 3 of the Officer recommendation suggests that the formal notice of publication of the adoption of the policy be delayed until Amendment 49 is approved.

**3. Revoking of current local planning policies**

There are various local planning policies currently in effect within the Precinct 5 policy area (these policies are attached in their entirety to this report). These policies cover land use and development requirements that, if the draft Precinct 5 policy is adopted, will be duplicated and in some cases inconsistent with the Precinct 5 policy and LPS4. In the interests of orderly and proper planning, particularly to have a simplified and consistent planning framework, Officers recommend that Council revoke the following local planning policies upon the final adoption of the proposed draft Precinct 5 local planning policy and following gazettal of Amendment 49 to LPS4.

The contents of the current local planning policies, their adoption date, and equivalent LPS4 and/or policy provisions are summarised separately as follows:

DE5 Queen Street Development Policy – last amended May 2002	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objectives, land use permissibility, licensed premises, urban design and built form, residential development, car parking, heritage conservation.	LPS4 contains objectives for the City Centre zone, land use permissibility, building height and car parking standards and heritage conservation requirements. The R-Codes deal with residential development (R-AC3). The proposed Precinct 5 policy provides detailed urban design and built form requirements.

DGF1 High, Parry, Holdsworth and Queen Streets Local Area – last amended 19/04/1982	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objective, land use permissibility, building height, plot ratio and site coverage, built form, open space treatments, vehicle circulation and encouragement to reorganise lot boundaries.	LPS4 contains objectives for the City Centre zone, land use permissibility, building height and setback requirements. The proposed Precinct 5 policy provides detailed urban design and built form requirements to treat open spaces.

DGF11 Fremantle Gas and Coke Company site – 2-12 Cantonment Street & 6-10 Elder Place – Fremantle – last amended 20/02/1984	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objective, site description, urban design and built form, vehicle access and parking, public accessway, building height, plot ratio, architectural style.	LPS4 contains objectives for the City Centre zone, building height and setback requirements, access and parking. The proposed Precinct 5 policy provides detailed urban design, built form and architectural design provisions and nominates preferred off-street pedestrian access routes.

DGF17 Northern Woolstores – 38 Cantonment Street, Fremantle – last amended 21/06/1993	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objective, retention of existing woolstores, requirement for a development plan, building height, urban design and built form, preferred uses, parking, recycling of materials, above ground pedestrian link between Coles shopping centre and 1927 Woolstores would be considered.	LPS4 contains objectives for the City Centre zone, building height and setback requirements, access and parking. The heritage listing of the woolstores and requirements of LPS4 ensure that future development will be compatible with the heritage significance of the buildings. The proposed Precinct 5 policy (Area B) provides specific urban design, built form and architectural design provisions for these sites, as well as nominating preferred off-street pedestrian access routes.

DGF20 Princess May Park – 1 Parry & 92 Adelaide Streets, Fremantle – last amended 18/09/1990	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objective, reconstruction of St Joseph's convent buildings, development provisions for adjacent properties, park infrastructure, lighting and uses for park.	Development provisions for the adjacent properties are covered by LPS4, policy and/or R-Codes. There is a Conservation Plan for Princess May Park, adopted in 2002 and prepared by Griffiths Architects to guide development within the Park. The use of the Park is controlled by the City.

DGF23 King's Square – Bounded by Adelaide, Newman, Queen and William Streets, Fremantle – last amended 21/05/1990	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Objective, vehicle movements, activities and preferred locations, capital works, suggested stall trading.	This policy is no longer used by the relevant departments within the City as it has been superseded by other management documents. Most of the capital works detailed in the policy have been implemented since adoption of the policy. Future works within the Square will be guided by the recently adopted King's Square Urban Design Strategy.

DGF25 Henderson Street Market Stalls – last amended 22/12/1997	
Content:	Equivalent LPS4, policy and/or R-Codes provision:
Management and licensing policy for the use of stalls in Henderson Street Market.	This policy has been superseded by other management documents (Trading in Public Places local law) and is no longer used by the relevant departments within the City.

It is noted that part of the Precinct 5 policy area also falls within the West End Conservation Area as delineated in local planning policy DGF14 Fremantle West End Conservation Area Policy (DGF14). The boundaries for the West End Conservation Area are currently under consideration by the City's West End Working Group and therefore it is not recommended that DGF14 be amended at this stage, even though there will be an overlap of the policies should the Precinct 5 policy be adopted.

## **CONCLUSION**

The Precinct 5 local planning policy provides detailed design and development provisions to guide new development within Precinct 5. The policy seeks to ensure that new development contributes positively to the public domain, particularly in terms of creating a pedestrian orientated and vibrant environment. Importantly the policy also seeks to ensure that new development responds appropriately to its setting whilst allowing and encouraging innovation and creativity in the architectural design of the new development.

The policy was advertised for public comment in accordance with the Local Planning Scheme No. 4 and no modifications are recommended to be made to the policy due to the nature of the public submissions. However, Officers recommend minor modifications to improve the overall clarity and functionality of the policy in the context of the broader planning framework. The modified local planning policy is recommended for final adoption, however the final publication of notice of the policy is recommended to be deferred until after the gazettal of Amendment 49 to LPS4.

Furthermore it is recommended that seven current local planning policies that apply within the Precinct 5 area be revoked as the planning matters dealt with by these policies are now adequately covered by the Local Planning Scheme, associated policies (including Precinct 5 policy) and the Residential Design Codes. The formal revocation of these policies will also be deferred until after the gazettal of Amendment 49 to LPS4.

## **OFFICER'S RECOMMENDATION**

**That Council:**

- 1. Note the submissions received as detailed in Attachment 1 and as addressed in the Officer report.**
- 2. Adopt Local Planning Policy – Precinct 5 Central, with modifications, as shown below, in accordance with clause 2.4.2(b) of the City of Fremantle Local Planning Scheme No. 4:**

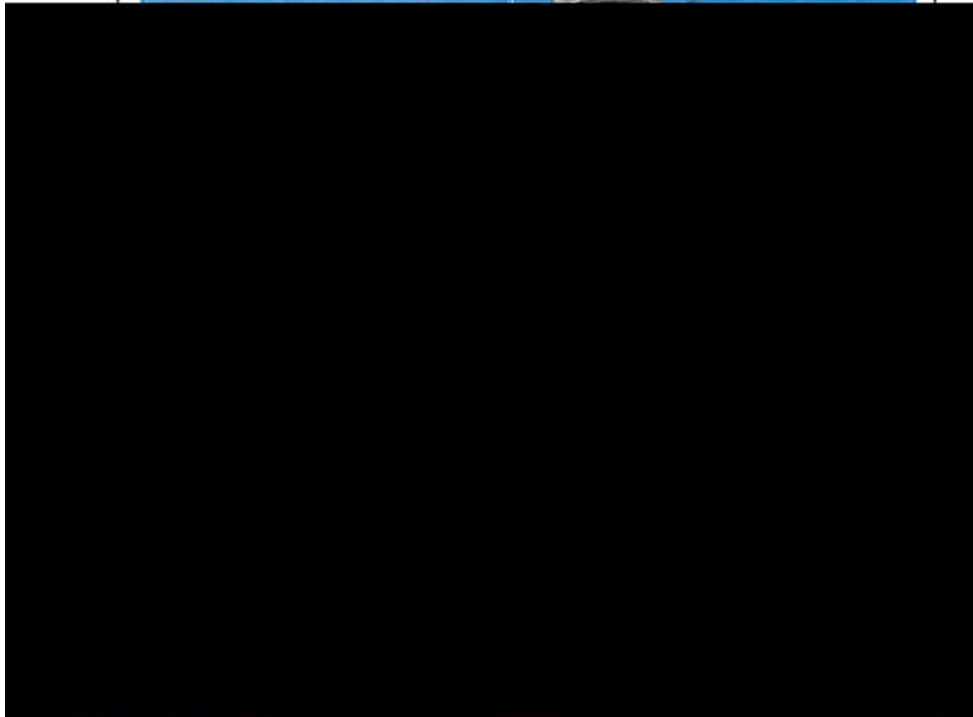


# CITY OF FREMANTLE

## LOCAL PLANNING POLICY

### PRECINCT 5

**ADOPTION DATE:** to be inserted  
**AUTHORITY:** LOCAL PLANNING SCHEME NO. 4



**CONTENTS**

Precinct 5 Local Planning Policy

## 1. ABOUT THIS DOCUMENT

The purpose of this policy is to detail design provisions to complement the land use and development requirements prescribed in the Local Planning Scheme No. 4 for Precinct 5. Precinct 5 is situated in the inner part of the broader Fremantle Centre area, as represented by Figure 1. Figure 2 defines the boundary of the precinct and the provisions of this policy apply to all proposed land use and development within that boundary.



*Figure 1:  
Precinct 5 – location of precinct within  
broader Fremantle Centre context*

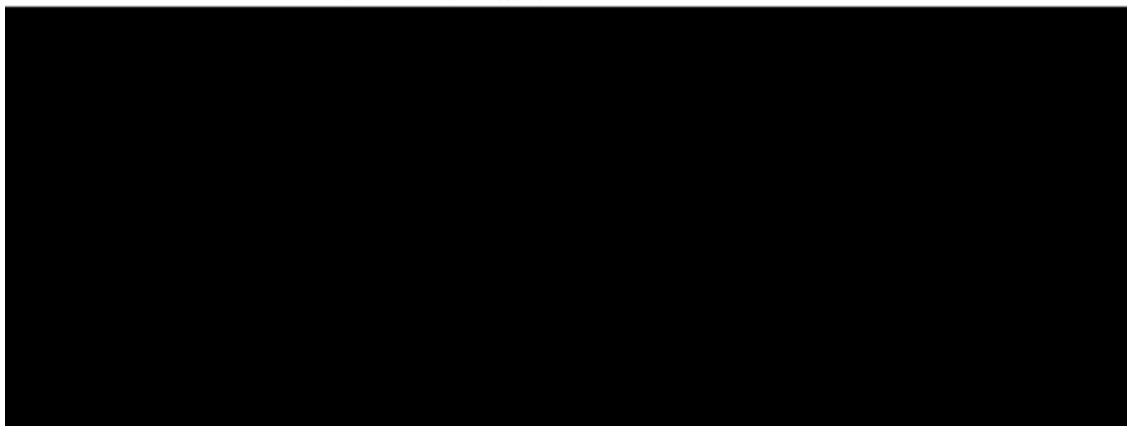


*Figure 2:  
Precinct 5 boundary*

The provisions of this policy are to be read and applied in conjunction with the relevant provisions of the Local Planning Scheme, Residential Design Codes and local planning policies.

Refer to the Local Planning Scheme for specific land use and development requirements relating to:

- Land use;
- Permitted building height and the setting back of buildings;
- Additional discretionary building height;



## Precinct 5 Local Planning Policy

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Additionally and of particular importance are the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development.

The intent of this policy is to detail provisions that address principles of urban design as much as architectural design. Proposed development will be assessed on its contribution to the streetscape as well as its individual architectural merit. Good design goes beyond style and individual taste and this policy aims to assess buildings on their functionality and efficiency, as well as their aesthetics.

As the provisions of this policy are largely non-prescriptive, the City encourages applicants to utilise experts from a variety of fields to ensure that in-depth analysis and innovative solutions are developed in response to the design complexities intrinsic to the area. For these same reasons the City encourages early and ongoing engagement with the City's Design Advisory Committee.

It is also important to consider and to demonstrate how the standard of design quality will be maintained and delivered throughout all phases of the development.

## **2. PRECINCT VISION**

The precinct is the centre of the city's civic, retail, commercial and residential life which is clearly recognised through the intensity of activity and scale of development.

The precinct:

- Aims to attract new residents and high value business activity that would want to be associated with a neighbourhood of contemporary identity while still being part of the broader Fremantle sense of place and lifestyle.
- Incorporates Kings Square that is clearly recognised as the city's civic centre and a central commercial hub of a revitalised Fremantle.
- Combines key retail anchors and shopping streets together with a diverse mix of uses that generate activity throughout the week and into the evening.
- Has new buildings of contemporary and innovative architecture that provide a distinctive yet sympathetic balance to the precinct's retained and conserved heritage buildings and places.
- Has new buildings that reflect the community's commitment to progressive environmental sustainability and incorporate a high quality of design and materials that is appropriate for this central city location.
- Has a built form that provides a good balance between providing activated and comfortable public spaces with the provision of sufficient new floorspace to accommodate increased numbers of workers and residents at a density to support a sustainable future for the city.
- Accommodates the city's highest density of residents and businesses, with easy access to public transport via a network of convenient, safe and attractive pedestrian routes and spaces.

### 3. PRECINCT CHARACTER

The precinct contains three broadly distinguishable areas of differing character, as shown in Figure 3. The overlapping zones between the three areas represent zones of transition between the characteristics of the three areas.

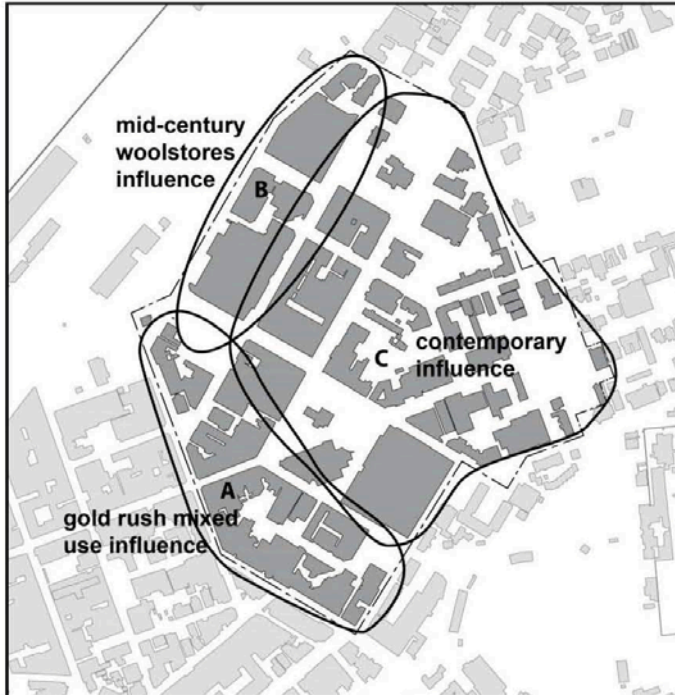
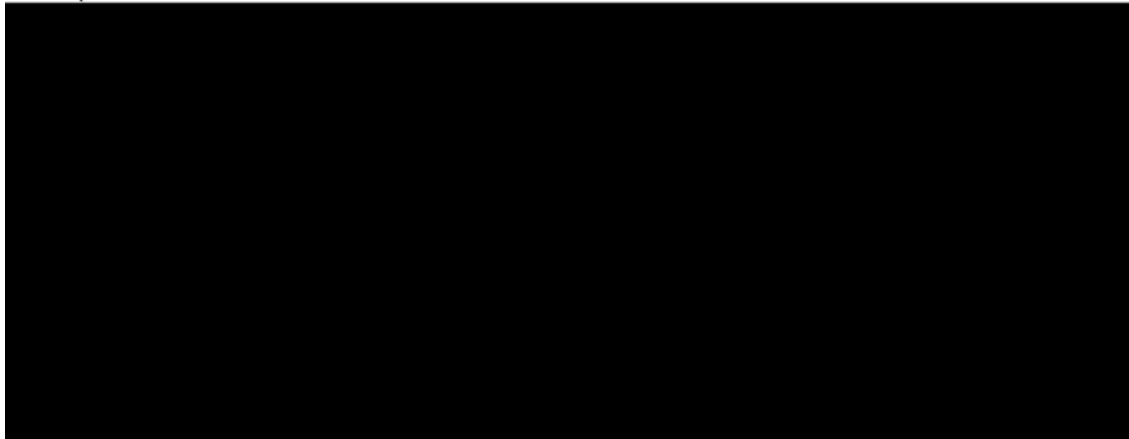


Figure 3: Character areas

The following sections provide an overview of the existing and historic character of these three areas.

#### Area A - Gold rush mixed use influence

Area A comprises of largely intact former mixed-use buildings with shops at ground floor with commercial or residential uses above constructed around the turn of the nineteenth century. Generally, the impact made by the buildings in Area A is greater than its parts and collectively they form a significant streetscape, which contributes to the significance of the sub-precinct.



## Precinct 5 Local Planning Policy

All buildings are constructed at the rear edge of the footpath with zero front setback and will also usually have zero setbacks on their side boundaries.



ades of the buildings are almost invariably classical in style and display a detail appropriate to their urban setting. The main facades of these building are trical or designed as an asymmetrical composition containing symmetrical in it. The façades are either completely rendered with walls rendered to give ce of ashlar stonework and detailing or, more commonly, are composed of ailing and unpainted tuck-pointed brick walls. The corrugated iron roofs are : concealed behind a parapet which, depending on the design of the facade imes contained a pediment.

g classical influence is evident in the composition consisting of a base, middle ons. The middle sections are modulated either simply by regularly placed n walls, or more strongly, by vertical elements such as piers or pilasters. The he middle section is balanced by the horizontal projections such as cornices rses of the top.

of the facades were underpinned to a degree by the geometry of the Palladian / ly 19<sup>th</sup> century system of proportioning, which determined both the widths and indow and the horizontal and vertical distances between windows.

ades of these buildings were usually of brickwork construction. Commonly the vere of load-bearing brickwork supported at about first floor level by steel

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The designs o  
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The main faci  
upper floors v

Precinct 5 Local Planning Policy

The walls of the minor facades were, almost without exception, of load bearing face brick construction. Typically the window openings were about a metre wide containing timber framed double hung sash windows.

Ground floor shops have a ceiling height of around 4 metres. Original shopfronts provide views into the building to give interest to passers-by and make the building's function and retail offer apparent. Original shopfronts consist of an area of fixed glazing and a front door.

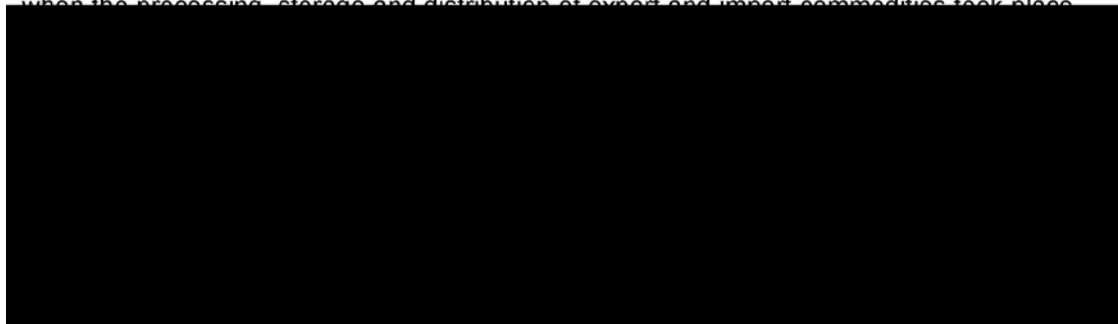
The shopfronts fill an area from around 300-600mm above footpath level to at least the soffit of the awning. Shopfronts continuing up past the verandahs to form highlight windows are characteristic. Typically the mullions and transomes of shop front are thin sections to maximise the amount of clear glazing. Areas above transomes are glazed.

All have verandahs or canopies that span the full depth of the footpath and are consistent in height.

**Area B - Mid century woolstores influence**

Area B consists of former woolstores buildings constructed from the 1930s to the 1950s.

Fremantle was established as the port town for Perth and this purpose underpinned its distinct character and heritage. The woolstores buildings were constructed during a period when the processing, storage and distribution of export and import commodities took place



modities took place  
their utilitarian  
ter that differentiated

when the processing, storage and distribution of export and import commodities took place within the near vicinity of the harbour. The architectural expression of this purpose, particularly their massiveness, contributed to an urban character that differentiated Fremantle from other places in the metropolitan area.



Precinct 5 Local Planning Policy

character of this area. It is also recognised that the buildings were designed to fulfill a singular purpose without consideration of other aspects considered to be attributes of good urban design

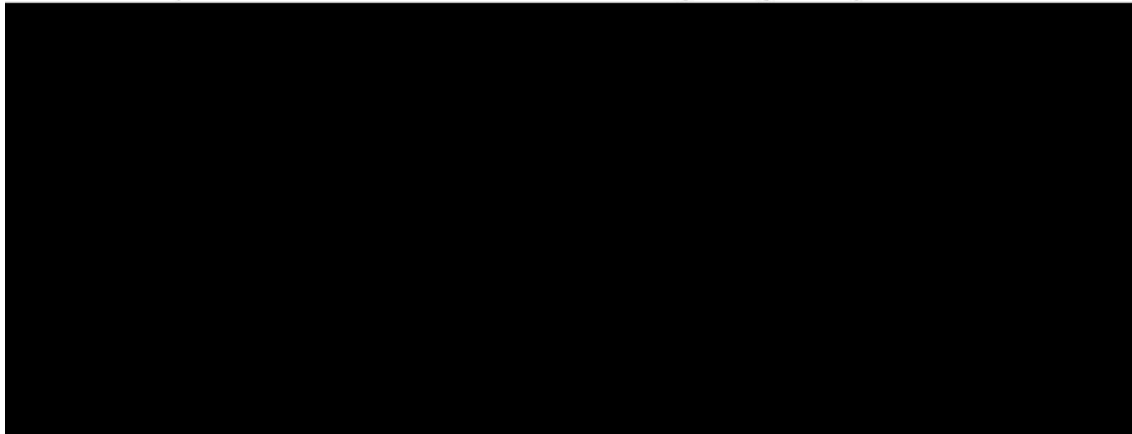
Classically influenced and utilitarian in design, rectangular in plan, single minded and bold in character. Were or gave the appearance of, load bearing red brick construction with quasi-structural expression in the façade. Rendered lintels and sills contrasted with brick walling. Large windows. Saw tooth trussed roof with glazed skylights above upper level wool classing area. Trusses oriented to achieve south lighting. Ground floors accommodated large loading bays.

Great depth to the façade with horizontal spandrels recessed behind plane of emphatic vertical brick piers terminating at the parapet. Some abutted the rear edge of the footpaths that lined the streets, others set back to accommodate roofed loading bays and platforms. The footpaths were not covered.

**Area C – Contemporary influence**



Area C exhibits no strong unifying character, except for the large mid 20<sup>th</sup> century developments such as the Myers Building and the Westgate Mall complex. Rather the area is comprised of buildings of a variety of architectural styles associated with different construction periods and different land uses. The buildings are generally of low architectural





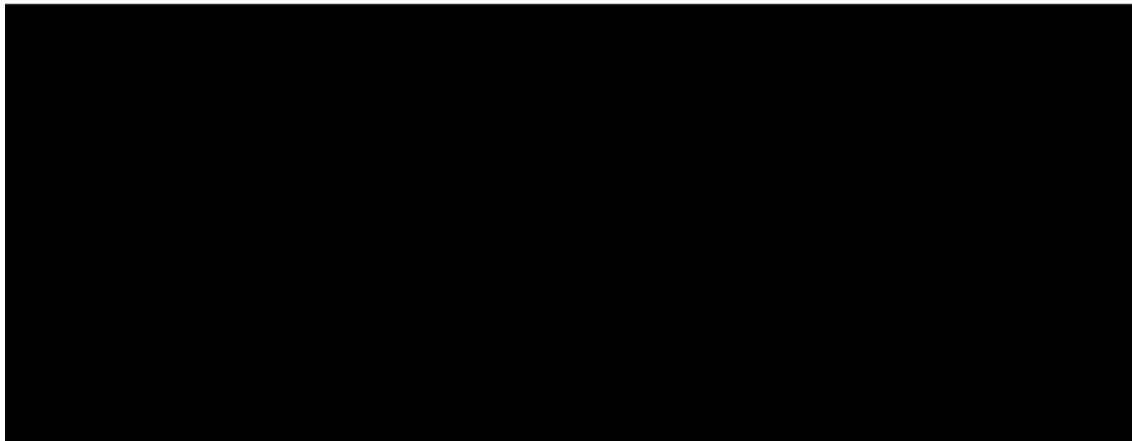
Notwithstanding the lack of unifying character, there are a number of buildings and public spaces of cultural heritage significance within the precinct that contribute to the social and civic fabric of the area and city overall. Notable examples are Kings and Queens Squares, Princess May Reserve, the Basilica and Presbytery of St Patrick, Victoria Hall, and the terrace of late 19<sup>th</sup> century houses in Point Street.

#### **4. DESIRED CHARACTER**

The following section details the desired character for the three areas identified in Figure 3 above.

Applicants are required to submit a design statement that explains how the proposed development has appropriately responded to the desired character statements relevant to the development's location. The response to the desired character is particularly important regarding the proposed development's relationship to the streetscape or public space. Conversely, a more flexible approach may be taken to the development's response to the desired character to portions of the building that are mid block and are not directly adjoining the streetscape or public space.

New development located within the transition (overlapping) zones will need to demonstrate how it addresses the transition in character between areas.



Precinct 5 Local Planning Policy

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**Area B – mid century woolstores influence**

New development within this area should reflect the massing, streetscape scale and proportioning of the remnant 1927 and 1950s Elders Woolstores building, however may embody contemporary detailing, materials and finishes associated with the new uses of these large street blocks. The massing and scaling of new development should reinstate the distinct urban wall along Elder Place fronting the port that was previously provided by the historic wool storage buildings.

**Area C – Contemporary influence**

There is the opportunity to transform this area with a new character resulting from contemporary architecture that promotes the identity, function and culture of a modern port city. This character would reflect and celebrate:

- Progressive environmental sustainability
- A vibrant cultural and artistic community that values the importance of social life in public spaces
- A functional and working purpose, rather than being over-refined or decorative, and incorporating the use of robust and utilitarian materials with natural finishes
- The coastal setting and strong definition of light and shadow on highly articulated facades.

New development in this area may draw on elements of adjoining character areas as appropriate although allowing for a greater level of character change.

New development presenting to Kings Square should contribute to re-establishing the historic civic urban character of Kings Square as well as contributing to a vibrant, coherent urban space defined and enclosed by buildings and landscape. In particular, new development of the 'city triangle' in Kings Square should have a clear civic identity and be of the highest quality and demonstrate a high standard of sustainable building design.

The character of new development along the primary streets (see Figure 4) should be more consistent to reinforce the significance of those streets, while new development on secondary streets can be more varied.

## 5. PUBLIC REALM

Figure 4: Public Realm demonstrates the hierarchy of pedestrian access routes within the precinct – Primary Street, Secondary Street and Major Off-Street Routes. Policy provisions are detailed below that apply to new development located adjacent to the relevant pedestrian access route as shown in Figure 4.



KEY:  
Primary Streets

Precinct 5 Local Planning Policy

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discretionary criteria are stated in the provisions below, Council may, at its discretion, vary any of the provisions where it is satisfied the development meets the overall objective of this element.

## **5.1 Primary streets**

New development located on primary streets shall address the following provisions:

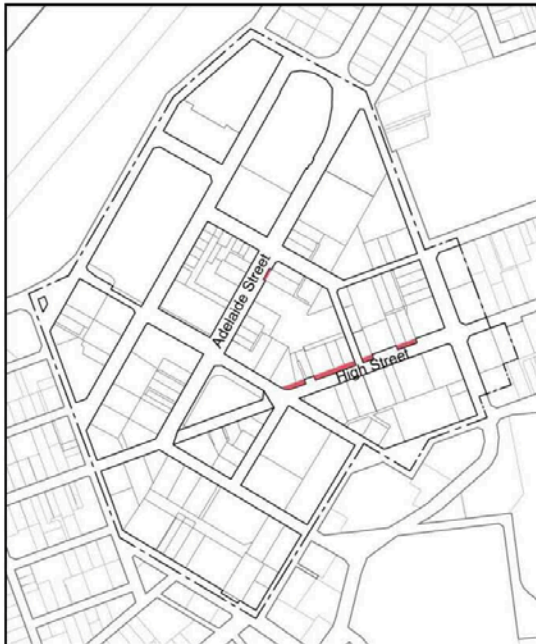
- 5.1.1 Lower levels of the development should be designed to reinforce the significance of the primary streets with an appropriate scale and high standard of details, materials and finishes.
- 5.1.2 Development is encouraged to incorporate a mix of active land uses at ground level that extend the hours of activity in the adjacent public domain beyond traditional retail hours.
- 5.1.3 Residential uses and on-site vehicle parking are not permitted at ground level adjacent to primary streets.
- 5.1.4 Multiple ground level tenancies shall be provided and shall obtain their main public pedestrian entry directly from and level with the primary street. Wide building frontages with a single use or tenancy should be limited.
- 5.1.5 Ground floor frontages are to be predominantly glazed or open to the street and shall incorporate design measures to contribute to an interesting, safe and diverse public realm.
- 5.1.6 No vehicle access, blank walls and/or service areas should be located on primary street frontages if alternative locations are available. If vehicle access is necessary from the primary street, vehicle entrance points and services areas are to be integrated in to the overall building design and shall minimise detracting from the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible.
- 5.1.7 Weather protection along footpaths for pedestrians shall be provided, either in the form of awnings or first floor balconies, and satisfy all of the following:
  - a) Shelter to be continuous along all primary street frontages;
  - b) The weather protection shall be integrated with the building design, appropriately scaled and designed to reinforce the importance of primary streets while still providing shelter and a sense of enclosure for pedestrians;
  - c) The weather protection shall be permanently fixed and shall be constructed of materials that provide sun and rain protection (i.e. a high degree of sun shading and water impenetrability);
  - d) The weather protection shall project a minimum horizontal distance of 2.4 metres over the adjacent footpath; and
  - e) Awnings shall have a consistent clear height from footpath level of between 3m and 3.5m.

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Council may, at its discretion, vary any of the above requirements where:

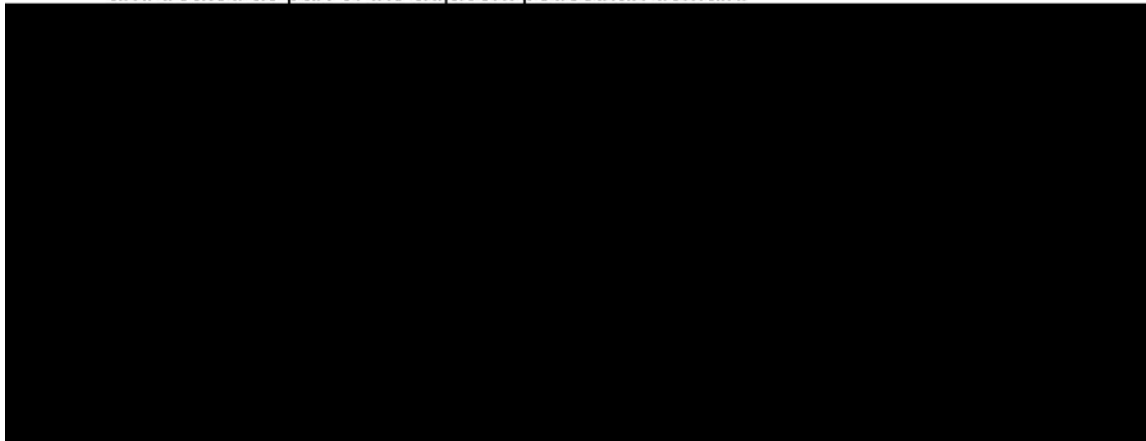
- i) The installation of weather protection would be incompatible with the heritage significance of the existing building; or
- ii) Necessary to ensure appropriate clearances from street infrastructure or trees; or
- iii) The installation of weather protection would present significant practical difficulties in terms of vehicle accessibility and there is no satisfactory alternative design solution available.

5.1.8 Footpath widths are to be maximised along primary streets. In addition to the setbacks required in Queen Street between Cantonment Street and Elder Place that are identified in the Local Planning Scheme, new development in High Street and Adelaide Street shall be setback to correlate with the widened road reserve on adjoining lots, as shown in Figure 5.



*Figure 5: Required street setback areas (shown in red)*

5.1.9 Any area where the building is setback from the front lot boundary shall be designed and treated as part of the adjacent pedestrian domain.



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Precinct 5 Local Planning Policy

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- 5.2.1 Ground level frontages to secondary streets may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm.
- 5.2.2 Retail and commercial floorspace shall provide major pedestrian entries directly from and level with from the street.
- 5.2.3 Weather protection along footpaths of secondary streets adjoining retail/commercial/entertainment uses shall be provided, either in the form of awnings or first floor balconies, and satisfy all of the following:
- a) The weather protection shall be integrated with the building design;
  - b) The weather protection shall be permanently fixed and shall be constructed of materials that provide sun and rain protection (i.e. a high degree of sun shading and water impenetrability);
  - c) The weather protection shall project a minimum horizontal distance of 2 metres over the adjacent footpath; and
  - d) Awnings shall have a consistent clear height above footpath level of 2.75m.

Council may, at its discretion, vary any of the above requirements where:

- i) The installation of weather protection would be incompatible with the heritage significance of the existing building; or
  - ii) Necessary to ensure appropriate clearances from street infrastructure or trees; or
  - iii) The installation of weather protection would present significant practical difficulties in terms of vehicle accessibility and there is no satisfactory alternative design solution available.
- 5.2.4 Vehicle entrance points and services areas are to be integrated in to the overall building design and shall minimise detract from the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible. On-site vehicle parking is not permitted at ground level adjacent to secondary streets.
- 5.2.5 Where residential uses are located at ground level, the design should achieve a clear distinction between the private place and public space, whilst still allowing for passive surveillance and interaction with the street.

**Major off-street pedestrian routes**

- 5.3.1 Provision of the major off-street routes that are accessible by the public at the general locations as shown in Figure 4 is strongly encouraged in new development.
- 5.3.2 The exact course and location of these major off-street routes don't necessarily need to align between street blocks but connections between them should be clearly legible.

Precinct 5 Local Planning Policy

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- 5.3.3 Major off-street routes are to be designed to be safe for users in accordance with Crime Prevention through Environmental Design (CPTED) principles.
- 5.3.4 Universal access is required for the whole length of the off-street routes from street to street.
- 5.3.5 Additional pedestrian connections shall be provided from the major off-street route to any on-site public or communal space.
- 5.3.6 Ground level frontages to major off-street routes may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm. Upper level balconies over the major off-street route are encouraged.
- 5.3.7 Weather protection, in the form of awnings or first floor balconies, is to be provided over the footpaths of major off-street routes where adjoining any retail/commercial/entertainment uses and shall provide a minimum clear height above footpath level of 2.75m. Elsewhere along the major off-street route, there can be a mix of covered space and open to the sky.
- 5.3.8 Refer to section 7 of this policy for specific requirements where the provision of off-street pedestrian links is a criteria for seeking discretionary additional building height.

## 6. BUILT FORM & LEGIBILITY

Figure 6: Views and landmarks displays the major views, major landmarks and desired views and glimpses within the precinct. In addition to responding to the desired character for the precinct, the overall objective of this element is to ensure that the built form of new development provides comfortable enclosure to streets and other public spaces, reinforces important views, and provides activation and safety in public spaces through the relationship between the building and the adjacent public space. Unless specific discretionary criteria are stated in the provisions below, Council may, at its discretion, vary any of the provisions where it is satisfied the development contributes to the overall objective of this element.



Figure 6: Views and landmarks

Precinct 5 Local Planning Policy



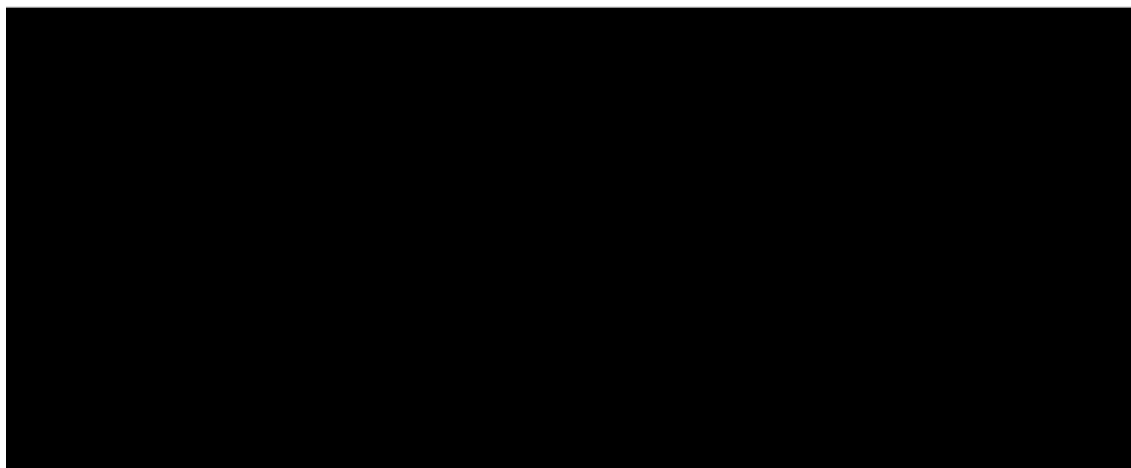
*High Street looking west*



*Queen Street looking west*

Development shall address the following provisions:

- 6.1 The significance of primary streets should be reinforced with continuous developed edges of consistent scale and massing that creates a strong sense of urban enclosure as well as framing and reinforcing views to major Fremantle landmarks that provide legibility and contribute to the city's image (refer Figure 6).
- 6.2 Re-establish the historic urban character of Kings Square that was embodied in its three distinct (High St, church triangle, city triangle) but interdependent parts. New development of the city triangle may be to the full extent, particularly to the edges and corners, as long as there are openings and an Urban Room within and through the building(s) for public access and activities as appropriate.
- 6.3 Views and glimpses of Fremantle landmarks, particularly to the port and of port infrastructure, are encouraged wherever possible at ground level along secondary streets and off-street pedestrian links and other openings between buildings, and from upper levels of new buildings (refer Figure 6).
- 6.4 Incorporate sensitive transitions between lower scale existing heritage buildings and taller new structures where they are directly adjoining.
- 6.5 Passive surveillance of streets and other public spaces is to be provided by frequent upper floor windows, terraces and balconies overlooking the public space.



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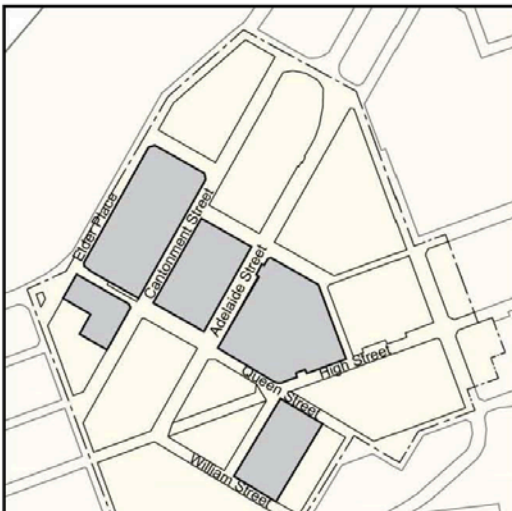


*Long view across the city from Monument Hill*

- 6.8 Consider the impact of new development in long views from city approach streets, the railway, Monument Hill, Victoria Quay and Fremantle Harbour, particularly with regard to the arrangement and bulk of taller buildings and to the design of roofs and screening of rooftop service elements. New development shall contribute positively to these views.

## 7. DISCRETIONARY ADDITIONAL BUILDING HEIGHT

Under the Local Planning Scheme provisions of Schedule 12 - Sub area 1.3.2 of Local Planning Area 1, additional building height may be approved on select sites (refer Figure 7) at the Council's discretion subject to the development satisfying a number of criteria. This section of the policy provides additional guidance and requirements regarding what the development should provide in order for the Council to be satisfied that the discretionary criteria have been met.



## Precinct 5 Local Planning Policy

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The following documents are an indication of the type of supportive material that would be expected to be submitted as part of an application where discretionary additional building height is sought:

- Full streetscape studies at pedestrian level showing the impact of the additional height on the public realm and neighbouring sites or buildings;
- Site and precinct plans showing the impact of the additional height on existing view corridors and view sheds;
- Reports from independent consultants assessing the development's environmental performance and micro climatic impact in terms of shadow and wind; and
- If the development is to be staged, the applicant must demonstrate how each stage will make its own positive contribution to the precinct and the street.

The applicant must demonstrate how the proposed design standards will be maintained through all stages of the development to completion. A process to ensure this is achieved may be incorporated into planning conditions and/or a legally binding agreement with the Council.

The applicant must demonstrate how the proposed development satisfies the following criteria.

### 7.1 Policy provisions to be satisfied to the very highest standards

Discretionary additional building height will only be considered where all of the relevant provisions elsewhere in this policy have been satisfied to the very highest standards.

### 7.2 Distinctive architecture and exceptional design quality

The development is to be of distinctive architecture befitting its location and exceptional design quality meeting at the highest possible standard the design principles contained in the Local Planning Scheme and/or local planning policy that assist in determining the design quality of development, and including, but not limited to:

- a) The overall development achieving an exceptionally high standard in terms of appearance;
- b) The development demonstrating a selection of high quality building materials, sustainable building measures and building longevity;
- c) The design addressing the relationship of taller components to lower levels (podium);
- d) The impact of the development on distant views;
- e) The additional height does not adversely impact on the ability of neighbouring sites and buildings to maximise their passive sustainable design potential;
- f) The visual permeability of the development with the streetscape;
- g) The roofscape aspect of the design; and
- h) All functional and servicing aspects of the development are exceptionally well resolved.

Precinct 5 Local Planning Policy

In particular, the architectural response of the development to the desired character of its setting (refer to section 4) and the way the development will contribute to (and raise the) architectural standard of development within the precinct will be of primary consideration for the Council.

**7.3 Best practice environmentally sustainable design**

The development shall demonstrate Australian excellence standards in environmentally sustainable design (ESD).

7.3.1 Australian excellence in ESD shall be demonstrated by achieving a minimum Green Star rating of 5 Stars using the Green Building Council Australia's current rating tools where an appropriate Green Star rating tool exists.

7.3.2 Where a current Green Star rating tool is not available for the proposed type of development, an alternative method of demonstrating Australian excellence in ESD may be used, at the discretion of Council, which addresses the following elements:

- a) Energy – encourage and recognise designs that minimise the greenhouse gas emissions associated with the operational energy consumption; and
- b) Water – encourage reduction of potable water use through efficient design of building systems, rainwater collection and water re-use; and
- c) Indoor Environment Quality – encourage and recognise designs that ensure thermal comfort of occupants, maximise daylight while minimising heat glare, reduce noise pollution and require maintenance and cleaning of air handling systems; and
- d) Waste – encourage and recognise designs that reduce the amount of natural resources used, reuse whatever materials can be re-used and recycle wherever possible.

Assessment of Australian excellence in ESD for developments considering the above criteria can be demonstrated by applying the benchmarking standards incorporated within the Green Star Rating Tool and Technical Manual as applicable to a 5 Star Green Star rating relative to the appropriate building type. Where an appropriate Green Star rating tool does not currently exist, Green Star Office shall be used for commercial projects and Green Star Multi Unit Residential shall be used for mixed use projects for this purpose.

7.3.3 In addition to the above requirements it must also be demonstrated that an Accredited Green Star Professional has been appointed to the project design team.

**7.4 Impact on the amenity of surrounding public realm**

The applicant shall illustrate that the additional building height does not detrimentally increase the amount of shade or wind in surrounding public spaces beyond what

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Precinct 5 Local Planning Policy

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could be expected from development that was constructed to the permitted building heights.

**7.5 High quality landscaped and publically accessible pedestrian environment**

7.5.1 The off-street pedestrian links shown in figure 4 must be provided, and in addition to the requirements in Section 5 must be:

- A minimum width of 5 metres
- Accessible to the public at all times (i.e. 24 hours / 7 days a week)
- To a high standard of landscape design incorporating planting, public seating and public art.
- Safely designed to Crime Prevention through Environmental Design (CPTED) standards to be confirmed by a report by an accredited CPTED consultant.

7.5.2 The area of required street setback in Queen St, High St and Adelaide St are to be transferred at no cost to the Council.

7.5.3 Address the provision of a high standard of on-site open space for residents and/or workers, including roof top landscape areas.

**7.6 Affordable housing**

Where affordable housing is provided it shall be fully integrated into the development and not be externally identifiable as a separate component of the development.

A condition will be included on the planning approval to ensure the on-going provision of the approved affordable housing component.

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Precinct 5 Local Planning Policy

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**APPENDIX 1**

Of the City's other local planning policies, the following policies in particular will likely be applicable to new development within the precinct:

- LPP1.6 Preparing Heritage Assessments;
- LPP2.3 Fremantle Port Buffer Area Development Guidelines;
- LPP2.13 Sustainable Buildings Design Requirements; and
- LPP2.19 Contributions to Public Arts and/or Heritage Works.

Precinct 5 Local Planning Policy replaces the following local planning policies, which were revoked at Council's Ordinary Meeting on 28 November 2012:

- DE5 Queen Street Development Policy;
- DGF1 High, Parry, Holdsworth and Queen Streets Local Area;
- DGF11 Fremantle Gas and Coke Company site – 2-12 Cantonment Street & 6-10 Elder Place – Fremantle;
- DGF17 Northern Woolstores – 38 Cantonment Street, Fremantle;
- DGF20 Princess May Park – 1 Parry & 92 Adelaide Streets, Fremantle;
- DGF23 King's Square – Bounded by Adelaide, Newman, Queen and William Streets, Fremantle; and
- DGF25 Henderson Street Market Stalls.

- 3. Defer the publication of notice of the Local Planning Policy – Precinct 5 Central until after the gazettal of Amendment 49 to Local Planning Scheme No. 4.**
- 4. Revoke the following local planning policies and, following gazettal of Amendment 49 to Local Planning Scheme No. 4, publish formal notice of the revocation as per clause 2.5.1 of Local Planning Scheme No. 4:**
  - **DGF1 High, Parry, Holdsworth and Queen Streets Local Area;**
  - **DGF11 Fremantle Gas and Coke Company site – 2-12 Cantonment Street & 6-10 Elder Place – Fremantle;**
  - **DGF17 Northern Woolstores – 38 Cantonment Street, Fremantle;**
  - **DGF20 Princess May Park – 1 Parry & 92 Adelaide Streets, Fremantle;**
  - **DGF23 King’s Square – Bounded by Adelaide, Newman, Queen and William Streets, Fremantle;**
  - **DGF25 Henderson Street Market Stalls; and**
  - **DE5 Queen Street Development Policy.**

## **CONFIDENTIAL MATTERS**

Nil.

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

<b>How consultative processes work at the City of Fremantle</b>	
	limitations associated with the issue.
<b>Decisions made for the overall good of Fremantle</b>	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.
<b>Diversity of view on most issues</b>	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.
<b>City officers must be impartial</b>	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.
<b>City officers must follow policy and procedures</b>	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.

<b>How consultative processes work at the City of Fremantle</b>	
<b>Community engagement processes have cut-off dates that will be adhered to.</b>	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.
<b>Citizens need to check for any changes to decision making arrangements made</b>	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.
<b>Citizens are entitled to know how their input has been assessed</b>	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.
<b>Reasons for decisions must be transparent</b>	15. Decision-makers must provide the reasons for their decisions.
<b>Decisions posted on the City's website</b>	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.

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**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.

