



# MINUTES

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## Ordinary Meeting of Council

Wednesday, 24 April 2013, 6.00pm

**CITY OF FREMANTLE**  
**NOTICE OF AN ORDINARY MEETING OF COUNCIL**

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday, 24 April 2013** in the Council Chamber, Town Hall Centre, 8 William Street, Fremantle (access via stairs, next to the playground in King Square) commencing at 6.00 pm.

Graeme Mackenzie  
**CHIEF EXECUTIVE OFFICER**

24 April 2013

# **ORDINARY MEETING OF COUNCIL**

## **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**

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

### **APPLICATIONS FOR LEAVE OF ABSENCE**

### **PETITIONS / DEPUTATIONS / PRESENTATIONS**

### **CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting of Council dated Wednesday 27<sup>th</sup> March 2013 be confirmed as a true and accurate record.

### **ANNOUNCEMENTS BY THE MAYOR**

### **QUESTIONS OR PERSONAL EXPLANATIONS BY MEMBERS**

## **TABLED DOCUMENTS**

### Additional Documents -

- *SGS 1304-7 Amendment - City of Fremantle Draft Local Bicycle Plan 2013-2017 submitted by Cr Sam Wainwright*
- *SGS 1304-7 Amendment - City of Fremantle Draft Local Bicycle Plan 2013-2017 submitted by Cr Rachel Pemberton*
- *C1304-06 Amendment - Esplanade Youth Plaza Submitted by Cr Dave Coggin*
- *C1304-06 Amendment - Espanade Youth Plaza Submitted by Cr Andrew Sulivan*

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**CLOSURE OF MEETING**

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## **ORDINARY MEETING OF COUNCIL**

Minutes of the Ordinary Meeting of Council  
held in the Council Chambers, Fremantle City Council  
on **24 April 2013** at 6.00 pm.

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

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

### **NYOONGAR ACKNOWLEDGEMENT STATEMENT**

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

### **IN ATTENDANCE**

Brad Pettitt	Mayor
Cr Doug Thompson	North Ward
Cr Rachel Pemberton	City Ward
Cr Dave Coggin	East Ward
Cr Ingrid Waltham	East Ward
Cr Sam Wainwright	Hilton Ward
Cr Bill Massie	Hilton Ward
Cr Jon Strachan	South Ward
Cr Andrew Sullivan	South Ward
Cr David Hume	Beaconsfield Ward
Cr Josh Wilson	Deputy Mayor / Beaconsfield Ward
Mr Graeme Mackenzie	Chief Executive Officer
Mr Glen Dougall	Director Corporate Services
Ms Marisa Spaziani	Director Community Development
Mr Peter Pikor	Director Technical Services
Ms Linda Omar	Minute Secretary

*There were approximately 180 members of the public and 2 member/s of the press in attendance.*

### **APOLOGIES**

Cr Robert Fittock	North Ward
Cr Tim Grey-Smith	City Ward



Nil

## **LEAVE OF ABSENCE**

Nil

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

### **Summary of Question by Kel Smith**

Spoke in relation to item SGS1210-10 - asked to obtain answers (yes or no) from the Mayor, Brad Pettitt, and the Chief Executive Officer, Graeme Mackenzie to the questions regarding the major changes proposed by the City to the "Approved" Esplanade Reserve Master Plan of 22 April 2009.

1. Does the city feel it fair and reasonable for all the Community to be given their say on these major changes to the green lungs of Fremantle by way of community consultation and not merely one workshop for skateboarders producing a design that does not take into account the other 99% of the park users who value the passive recreation available on the mound and surrounding green spaces?
2. Will the final design Plans be advertised in the media for public comment and submissions and a notice board placed in the council foyer and on the Esplanade Reserve for 40 days as per City of Fremantle Policies to keep the whole Community Informed?
3. When will these final Design Drawings be available for public comment?

*These questions were answered by the Director of Community Development at the meeting when the questions were asked. For the record, the Director's response is as follows:*

### **Answers**

*"The Director of Community Development advised there has been 4 widely advertised meetings, face to face, inviting all the residents from the City of Fremantle and surrounds to attend those meetings and workshops and advised many people did attend. The draft plans will also be available for the residents from Fremantle and surrounding areas for public comment. The Director of Community Development advised there were over 200 surveys received to the City of Fremantle in relation to the item.*

*The Contractors Convic will now take all the feedback conducted from the surveys and the workshops and will come back to Council with a final draft for Council comment and approval. No dates have been set however it will be shortly after Easter. The final draft will then be available for public comment for a period and the plans will available in a number of spaces, including the Esplanade and the City of Fremantle's website."*

*Further information in response to the questions is provided as follows:*

*The council will consider the options provided by Convic at the ordinary council meeting to be held on 24 April 2013, following which further detailed design work will be required.*

*Once that has been undertaken, council will again consider the design and if a Development Application is required, consultation will occur as required under the City's Planning Scheme.*

**Summary of Response from Chief Executive Officer, Graeme Mackenzie in relation to item SGS 1210 -10 - Questions 4-6.**

***Question 4 (The Mound) - Proposed demolition of the Mound which was saved by public submissions and Full Council Resolution at that time.***

- a) Did the Skate Plaza Workshops on the 18th and 19th January allow the public participants to be hoodwinked by Council, Council Staff, the Mayor, and Councillors present, into believing their specified statement that the mound would be safe and must stay in its present location as it was a highly sensitive issue with park users. Then, allow Skate Park Models to be produced knowing full well that the mound was not safe and would be demolished in other plans not shown at the workshop?

**Answer**

*The council resolution of October 2012, did exclude the mound from the area generally available for a youth plaza, but the following month in November 2012 the Council passed a further resolution as follows:*

- 1. Recognises the community value and practical amenity of the Esplanade mound and supports its retention through the Youth Activity & Skate Plaza design process; and*
- 2. Requests that an additional conceptual design is prepared for the Youth Activity & Skate Plaza that utilises and integrates the mound within the design.*

*Clearly the council intent in this resolution was to seek a design option that incorporates the mound. The November resolution was passed unanimously by council.*

- b) Was this misleading information allowed to happen knowing full well, that the Fremantle Councils original brief to Convic (in which Councillor Sullivan was heavily involved hence his walkout of the October 2012 Council Meeting which saved the mound) recommended removal of the mound and that a Skate Plaza Design Plan should be produced showing its intended demolition?

**Answer**

*The reason Councillor Sullivan left the meeting in October is for Councillor Sullivan to recall, not for anyone else to guess.*

***Question 5 (Skate Plaza Area Options 1 and 2) - The Proposed new Skate Park/Plaza Option 2 is now 10 times the area agreed by the public approved Master Plan.***

- a) Will the original Skate Park on the Master Plan be offered as a third option to the public?

**Answer**

*The public did not approve the Master Plan – the council did. The area for a skate park shown on the earlier master plan does not meet the vision of the council in providing a world class youth plaza.*

- b) Is the Council aware that Design Proposals Option 1 and Option 2 allowing a permanent structure of a minimum of 500 tonnes of grey concrete in approximately 3400 square metres of the green lungs of Fremantle may contravene its own policies and the Burra Charter regarding Permanent Structures on the Reserve?

**Answer**

*There is no contravention of the Burra Charter or conflict with the use of the Reserve.*

- c) Does Council conveniently consider that this mass concrete jungle up to 1.5 metres in depth in places is a temporary or permanent structure?

**Answer**

*It is expected to be a structure that will provide facilities for the community for many years to come.*

**Question 6 - Historic Norfolk Pines**

- a) Is the Council aware that these proposed Convic Design Plans Option 1 and Option 2 in Particular, showing 500 tonne of concrete mass over 3,400 square metres will be detrimental to the health of Historic Norfolk Pines?
- b) Is the City ignoring its own policy regarding the health of these historic Norfolk Pines given that their own Arbor culturists Reports state that the shallow root feeder system is only 30 millimeters below the surface and within 30 metre radius of the trunk of the pines and is critical to their survival.
- c) Is the City aware that the Design Plans Option 2 show a 80 metre long concrete slab close up to the trunk of the 7 pines in a line from near the Children's Playground to the pumping station and installation of this slab will starve the feeder system of water, stress the Pines to the point they will probably die, or they will become so unstable on the South side, the prevailing winds of winter could topple them?

**Answer**

*The concepts being considered take account of, and adhere to, the Australian Standard for Protecting Trees on Development Sites (AS:4970-2009)*

- d) Does the city have details of the metered power of the Sky Wheel over the past 20 months?

**Answer**

*The total cost for electricity from the power box for 2012 is \$30,355. It should be noted that whilst the majority of the cost can reliably be attribute to the wheel, this is a shared*

*power source and therefore this does not represent cost for the sky wheel only.  
Separate power costs for the wheel only are not known.*

## **PUBLIC QUESTION TIME**

**The following members of the public spoke in favour of the Officer's Recommendation for item C1304-06 Esplanade Youth Plaza:**

Mr Ben Barrett  
Mr Cameron Scott  
Ms Lisa Clark  
Mr Peter Hayes  
Mr Kim Leahy  
Mr Matthew Hughes  
Mr Lucy Stewart  
Mr Ben Bowring  
Mr Jamie Dodds  
Mr Clive Anda  
Ms Kerry Whittaker  
Mr Gerard McCarthy  
Mr Cameron Farmer  
Mr Joel MacGregor  
Mr Adrian Forretta  
Mr Griffin Longley  
Mr Jean Paul Horre'  
Mr Yvette Clayton  
Mr Jeb Sun  
Mr Ben Zenanovich  
Mr Jayden Thomas  
Mr Josh Perin  
Mr Lewis Reed  
Ms Sally Reed  
Mr Kyle Lyons  
Ms Sharna Garbin  
Mr Mack Thompson  
Mr Rowan White  
Mr Raoul Ponsin  
Mr Ben Randell  
Mr Jakob Sciaresa  
Mr Rin Hutcheson  
Mr Kristy Sadler  
Mr Tim Kucera  
Mr Robbie Partington  
Ms Danielle Eliesson  
Mr Henry Jackson

**The following members of the public spoke against the Officer's Recommendation for item C1304-06 Esplanade Youth Plaza:**

Mr Frank Arocella  
Ms Mary Rose Baker

Mr John Dowson

**The following members of the public spoke against the Officer's Recommendation for item PSC1304-47 Marine Terrace No 88 (Lot 3) Fremantle Retrospective Planning Applications for Unauthorised Works and Approval for Changes to Previous Approval (SS DA624/12):**

Ms Denise Winton  
Mr Kerry Parsons

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

Cr J Strachan declared an impartial interest in item number SGS1304-6 Notice of Motion by Mayor, Brad Pettitt - South Fremantle Tip Site Uses by Freofarm and as a solar farm. Cr J Strachan advised the Council that his partner is part of the Committee of Freofarm.

#### **APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

#### **PETITIONS / DEPUTATIONS / PRESENTATIONS**

Cr Sam Wainwright advised to Council he attended the Metropolitan Access & Parking Departments (TravelSmart division) *Bike to Work Lunch* at Fremantle Hospital. It was well attended and positive feedback was obtained by Lynette Murphy - Travelsmart Coordinator.

Cr Bill Massie advised to Council that he attended the RSL Cockburn Anzac Service with 23 Regional Schools in attendance also.

#### **CONFIRMATION OF MINUTES**

**MOVED: Mayor, Brad Pettitt**

**That the Minutes of the Ordinary Meeting of Council dated Wednesday 27 March 2013 be confirmed as a true and accurate record.**

**SECONDED: Cr B Massie**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Ingrid Waltham Cr Josh Wilson Cr Rachel Pemberton Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

#### **ANNOUNCEMENTS BY THE MAYOR**

Nil

#### **QUESTIONS OR PERSONAL EXPLANATIONS BY ELECTED MEMBERS**

Nil

#### **TABLED DOCUMENTS**

Additional Documents -

- *SGS 1304-7 Amendment - City of Fremantle Draft Local Bicycle Plan 2013-2017 submitted by Cr Sam Wainwright*
- *SGS 1304-7 Amendment - City of Fremantle Draft Local Bicycle Plan 2013-2017 submitted by Cr Rachel Pemberton*
- *C1304-06 Amendment - Esplanade Youth Plaza Submitted by Cr Dave Coggin*
- *C1304-06 Amendment - Espanade Youth Plaza Submitted by Cr Andrew Sulivan*

Minutes - Special Meeting of Council , Wednesday 3 April 2013

**LATE ITEMS NOTED**

Nil

**At 6.56 pm Mayor, Brad Pettitt brought forward item C1304-6 Esplanade Youth Plaza for discussion.**

**C1304-06 ESPLANADE YOUTH PLAZA**

**DataWorks Reference:** 023/032;148/015  
**Disclosure of Interest:** Nil  
**Meeting Date:** 24 April 2013  
**Previous Item:** Youth Activity and Skate Plaza Location – Esplanade Park  
**Responsible Officer:** Marisa Spaziani, Director Community Development  
**Actioning Officer:** Mike Pforr, Coordinator Community Development  
**Decision Making Authority:** Council  
**Agenda Attachments:** **Attachment 1 – Draft Concept Plans**  
**Attachment 2 – Concept Report**  
**Attachment 3 – Concept Feedback Report (to be tabled at the meeting)**

**EXECUTIVE SUMMARY**

**Two draft design concepts have been produced for the proposed Esplanade Youth Plaza, after extensive community engagement.**

**A decision on the preferred concept option is required for the project to proceed to final design and then construction stage.**

**An application to Lotterywest for a \$600,000 grant has been approved.**

**BACKGROUND**

At the council meeting of 24 October 2012 in relation to the site for the youth plaza council resolved:

*The general area 2, extended west to the treeline including the area in front of the skywheel, excluding the “mound”, and extended to the trees located on the south-west border to integrate Dismantle in the area in which the design for the youth plaza can be designed with the 2009 adopted masterplan amended to include this location.*

At the council meeting of 28 November 2012 council resolved:

That council:

- 1. Recognises the community value and practical amenity of the Esplanade mound and supports its retention through the Youth Activity & Skate Plaza design process; and*
- 2. Requests that an additional conceptual design is prepared for the Youth Activity & Skate Plaza that utilises and integrates the mound within the design.*



Convic Skate Parks were engaged for the design and construction of the facility. Over 280 people participated through workshop attendance or feedback online to inform the development of the design for the youth plaza.

The feedback generated in the engagement report has guided the development of two draft concept plans, inclusive and exclusive of the mound, for the esplanade reserve (pages 22 – 27 Attachment 2). The draft concept plans have been publicly viewed at a second round of community engagement in March 2013. The comment period was open for three weeks.

Feedback has been requested on the draft concepts proposed and whether Option 1 – retaining the mound, or Option 2 – reconfiguring the mound, is more favourable. City officers have also been consulted for recommendations on both options.

Once a final concept is decided the design finalisation to a budget of \$1.2M can commence to achieve the creation of a space that is accessible by the broader youth and community user groups, integrates well with the park and is considerate of the strong skating culture that already exists in Fremantle.

## **COMMENT**

The two draft design concepts (Attachment 1) respond to the project brief to create a multipurpose recreation community and youth space. The community has been engaged from the beginning of this project and the feedback generated has guided the draft concepts presented.

Option 1 works well with the space and retains the mound. The area south of the tree line creates a denser centre of activity in this model. It provides good connectivity to the natural foot traffic that travels from Collie Street towards the pedestrian crossing. The skate area however has a different flow. The mini ramp does not integrate as well into the rest of the skate area. The green space retained in this option is the mound, therefore the useable function of the green space is diminished.

Option 2 utilises the green space of the existing mound location and frees up the green area towards the centre of the park and reconfigures the mound to the east. The whole design is moved to the east and creates better linkages to the top of Essex Street and the carpark. For future planning this also creates likely connections through the existing carpark, should it be developed further in the future.

The resulting skate area moves the mini ramp to the centre of the overall reserve, allowing for better skating flow through more areas of the plaza. The central spine (Woolstores replica) in this version becomes longer, connecting from the carpark to the southern pedestrian crossing. The community feedback (92 responses) on the draft designs, favour option 2, with 8 people not supportive of the youth plaza at all.

The skating areas have been designed to cater from beginners to competition level use. SBA had extensive input to the design process to ensure that it meets the highest competition standards as a street skate and plaza facility.

The skating areas have been designed to cater from beginners to competition level use. The preliminary concepts are costed at \$1.9M and a reduction in some of the features would be necessary to stay within budget.

Additional features include the integration of Dismantle to the site, a parkour area, basketball area, ping pong, BBQ's, seating, landscaping, lighting and focal pieces of art. These are features inclusive of other users and uses that will be important to a multi functional community use plaza.

The Lotterywest application for a grant of \$600,000 has been approved to be paid in arrears. The grant is for a multipurpose outdoor community recreation facility.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The concepts are to a value of \$1.9M. Council has budgeted \$600,000 and the City has been successful with a Lotterywest grant for \$600,000. The budget for the project is now \$1.2M less project costs prior to construction of \$73,700. The final design will therefore need to be reduced in size and features.

### **Legal**

A trading agreement is in place for two years more with Operation Skywheel. The Skywheel contract will need to be renegotiated or terminated to proceed.

### **Operational**

A annual maintenance budget still needs to be determined.

### **Organisational**

The location of the youth plaza will affect the detailed designs of the adopted master plan of 2009. The plan is awaiting this decision before further progress continues.

## **CONCLUSION**

A new youth plaza of this scope will create recreational and social opportunities for young people, families and visitors in Fremantle. For the skateboarding community this facility has the capacity to become the feature park on the WA calendar for skating and BMX events and competitions.

Each draft concept design has its advantages and disadvantages. A concept design needs to be selected so that the contractors Convic can complete a final design for costing to the available budget.

## **STRATEGIC AND POLICY IMPLICATIONS**

City of Fremantle Strategic Plan 2010 – 2015

Character: Greater engagement with youth and more youth activities and facilities

City of Fremantle Youth Plan 2012 – 2015

Strategy 2 Provide spaces in the City of Fremantle that are welcoming and friendly for young people.

Action 2.8 Explore opportunities to improve the Esplanade as a youth friendly space.

## **COMMUNITY ENGAGEMENT**

Community engagement on the skate features began in the October 2012 school holidays. 74 respondents to the survey provided a preliminary findings. These were provided to Convic as background information.

Engagement on the design features began in January 2013. Over 280 people responded through the online survey (214) or by attending one of two workshops (70). This information is collated in the concept report (pages 22 – 27 Attachment 2).

The draft concepts provided by Convic have been publicly available for comment over March and April 2013 for three weeks. 92 people have provided feedback by survey (34) or by attending workshops (58).

Those preferring Option 1: 39

Those preferring Option 2: 45

Neither option 8

A summary of the feedback gathered from this comment period is collated in the Concept Feedback Report (Attachment 3) to be tabled at the meeting.

## **Voting and other special requirements**

Simple Majority

## **OFFICER'S RECOMMENDATION / COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

- 1. The City accept the Lotterywest grant for the design and construction of the Youth Plaza and the 2013/14 budget reflect this income and expenditure.**
- 2. Convic be informed that Option 1/2 is the preferred concept for the youth plaza, to proceed to final design to the budget of \$1.2 million dollars.**
- 3. The 2009 adopted Esplanade reserve master plan be amended to include the youth plaza location.**

**SECONDED: Cr I Waltham**

**Cr D Coggin MOVED an amendment to the Officer's Recommendation to include the following wording:**

**MOVED: Cr Dave Coggin**

- 1. The City accept the Lotterywest grant for the design and construction of the Youth Plaza and the 2013/14 budget reflect this income and expenditure.**

- 2. Convic be informed that Option 2 is the preferred concept for the Youth Plaza, to proceed to final design to include Stage 1 works to be accommodated within the budget of \$1.2 million dollars.**
- 3. The final design to be developed in liaison with the Chief Executive Officer's Working Group established for this purpose and the agreed design and Stage 1 works to be approved by the Chief Executive Officer including the following principles:**
  - a) increase the extent of separation between the plaza and the existing mature Norfolk Island Pines;**
  - b) core elements in Stage 1 to include active recreation components of the youth plaza;**
  - c) review options for alternative vehicle access points or a dual use path for service vehicles (as envisaged in the advertised version of the Esplanade Masterplan), so long as it does not compromise design intent of Youth Plaza; and**
  - d) that consideration is made to more efficiently integrating Dismantle, recognizing that it is a temporary structure that can be moved and may not be there permanently.**
- 4. The chief Executive Officer's Working Group to also examine options for creating new permeable green spaces (not necessarily grass but vegetated) within the Fremantle CBD to offset loss of green space on Esplanade.**
- 5. The 2009 Esplanade Reserve Master Plan be modified to include the Youth Plaza location;**
- 6. The 2009 Esplanade Reserve Master Plan be reviewed to consider the following:**
  - a) the extension of the Central Spine feature of the Youth Plaza as a continuous promenade to connect Essex Street to the Fishing Boat Harbour via the old pump station complex;**
  - b) options for the creation of undulating sculpted grass play features in the vicinity of the Esplanade Reserve;**
  - c) further consideration of options to provide access to the park for service vehicles;**
  - d) options for locating Ferris Wheels and other semi-permanent amusement features;**
  - e) review of the status of the reserve to ensure it remains consistent with the Conservation Plan.**
- 7. The following be referred to the City Centre Structure Plan process for consideration:**
  - a) options for the further redevelopment of car park #11 to include land uses that assist in providing an activated frontage to the proposed promenade and the park generally;**
  - b) options for the extension of Norfolk Street to the Fishing Boat Harbour and options for the redevelopment of the land and buildings south east of the Esplanade Reserve, including the site and function of the Italian**

- Club, through to the current level crossing into the Fishing Boat Harbour;
  - c) options for significant car parking in the area south east of the Esplanade Reserve;
  - d) consideration of future rail reserve needs in relation to increased freight movements and plans for light and/or heavy passenger rail
  - e) an action plan for dealing with the long term consequences of climate change including the impact on current vegetation types and the rising ground water table;
8. In developing the final design the CEO shall have regard to the need to isolate works to be included within the Stage 1 budget and to identify future stages of works and/or alternative sources of funding in the 2013/14 and forward budgets; and
9. The CEO shall have regard to the items to be reviewed in the Esplanade Reserve Masterplan identified in Recommendation 3,6 and 7 and shall be authorised to modify the landscape to ensure the Final Design is both efficient and well integrated, including but not limited to the location of mound to be reconstructed, extent and location of non-core elements of the Youth Plaza such as the barbecues, extent of non-mature trees to be retained, location and configuration of Dismantle facilities, extent and location of the service access road, extent and type of landscaping within the skate plaza area and minor adjustments to the location of the design elements.

**SECONDED: Cr Josh Wilson**

**Cr A Sullivan MOVED** an amendment to Cr D Coggin's amendment as highlighted below in italics:

**MOVED: Cr Andrew Sullivan**

1. The City accept the Lotterywest grant for the design and construction of the Youth Plaza and the 2013/14 budget reflect this income and expenditure.
2. Convic be informed that the *general configuration of the skateable areas presented in Option 2* is the preferred concept for the Youth Plaza, to proceed to final design *and placement* to include Stage 1 works to be accommodated within the budget of \$1.2 million dollars.
3. The final design *and placement* to be developed in liaison with the Chief Executive Officer's Working Group established for this purpose and the agreed design and Stage 1 works to be approved by the Chief Executive Officer including the following principles:
  - a) increase the extent of separation between the plaza and the existing mature Norfolk Island Pines *and ensure the opportunity for interpretation of the second South Bay railway alignment is not compromised*;
  - b) core elements in Stage 1 to include active recreation components of the youth plaza;

- c) review options for alternative vehicle access points or a dual use path for service vehicles (as envisaged in the advertised version of the Esplanade Masterplan), so long as it does not compromise design intent of Youth Plaza; and
  - d) that consideration is made to more efficiently integrating Dismantle, recognizing that it is a temporary structure that can be moved and may not be there permanently.
4. The chief Executive Officer's Working Group to also examine options for creating new permeable green spaces (not necessarily grass but vegetated) within the Fremantle CBD to offset loss of green space on Esplanade.
  5. The 2009 Esplanade Reserve Master Plan be modified to include the Youth Plaza location;
  6. The 2009 Esplanade Reserve Master Plan be reviewed to consider the following:
    - a) the extension of the Central Spine feature of the Youth Plaza as a continuous promenade to connect Essex Street to the Fishing Boat Harbour via the old pump station complex;
    - b) options for the creation of undulating sculpted grass play features in the vicinity of the Esplanade Reserve;
    - c) further consideration of options to provide access to the park for service vehicles;
    - d) options for locating Ferris Wheels and other semi-permanent amusement features;
    - e) review of the status of the reserve to ensure it remains consistent with the Conservation Plan.
    - f) *resolution of the inherent conflict between the "preferred temporary stage location and retention of the "grass mound"*
  7. The following be referred to the City Centre Structure Plan process for consideration:
    - a) options for the further redevelopment of car park #11 to include land uses that assist in providing an activated frontage to the proposed promenade and the park generally;
    - b) options for the extension of Norfolk Street to the Fishing Boat Harbour and options for the redevelopment of the land and buildings south east of the Esplanade Reserve, including the site and function of the Italian Club, through to the current level crossing into the Fishing Boat Harbour;
    - c) options for significant car parking in the area south east of the Esplanade Reserve;
    - d) consideration of future rail reserve needs in relation to increased freight movements and plans for light and/or heavy passenger rail
    - e) an action plan for dealing with the long term consequences of climate change including the impact on current vegetation types and the rising ground water table;
  8. In developing the final design the CEO shall have regard to the need to isolate works to be included within the Stage 1 budget and to identify future stages of

**works and/or alternative sources of funding in the 2013/14 and forward budgets; and**

9. The CEO shall have regard to the items to be reviewed in the Esplanade Reserve Masterplan identified in Recommendation 3,6 and 7 and shall be authorised to modify the landscape to ensure the Final Design is both efficient and well integrated, including but not limited to the location of mound to be reconstructed, extent and location of non-core elements of the Youth Plaza such as the barbecues, extent of non-mature trees to be retained, location and configuration of Dismantle facilities, extent and location of the service access road, extent and type of landscaping within the skate plaza area and minor adjustments to the location of the design elements.

**SECONDED: Cr Dave Coggin**

**CARRIED: 10/1**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	Cr Bill Massie

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

The Fremantle Council acknowledges there is community concern around levels of soft recreation spaces in the Fremantle CBD. However the loss of grass caused by building the Youth Plaza is partly offset by the new grass at Bathers Beach, Captains Lane and Cantonment Hill. In addition there is existing grassed recreational green space in the CBD including Princess May Park, Fremantle Park, Queens Square and Monument Hill. The Fremantle Council is also acutely aware that to meet the City of Fremantle's water allocations we may need to replace about 30% of the grass in the City with other forms of landscaping/urban design/recreational use. The Council will explore in detail the opportunity for more active and passive recreation space with the CBD and quality permeable surfaces

The Fremantle Council acknowledges that this is Stage 1 of broader project of improving amenity at the Southern end of Esplanade Park. Youth Plaza design Option 2 is a significant project that is over available budget, therefore more direction is required to ensure that final design is functional, attractive and well-integrated with existing park design and uses.

The active recreational and commercial uses on the Esplanade, such as the extended children's playground, carriage café, skywheel and Dismantle have been very

successful, adding to the amenity and popularity of the Esplanade Reserve and it is envisaged that the Youth Plaza will have an equally positive effect on the public realm.

**MOVED: Mayor, Brad Pettitt**

That Point 2. of the amended recommendation be considered separately:

**2. Convic be informed that the general configuration of the skateable areas presented in Option 2 is the preferred concept for the Youth Plaza, to proceed to final design and placement to include Stage 1 works to be accommodated within the budget of \$1.2 million dollars.**

**SECONDED: Cr I Waltham**

**CARRIED: 8/3**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	Cr Bill Massie Cr Jon Strachan Cr David Hume



**Mayor, Brad Pettitt put the amended Recommendation as follows:**

**MOVED: Mayor, Brad Pettitt**

- 1. The City accept the Lotterywest grant for the design and construction of the Youth Plaza and the 2013/14 budget reflect this income and expenditure.**
- 2. Convic be informed that the general configuration of the skateable areas presented in Option 2 is the preferred concept for the Youth Plaza, to proceed to final design and placement to include Stage 1 works to be accommodated within the budget of \$1.2 million dollars.**
- 3. The final design and placement to be developed in liaison with the Chief Executive Officer's Working Group established for this purpose and the agreed design and Stage 1 works to be approved by the Chief Executive Officer including the following principles:**
  - e) increase the extent of separation between the plaza and the existing mature Norfolk Island Pines and ensure the opportunity for interpretation of the second South Bay railway alignment is not compromised;**
  - f) core elements in Stage 1 to include active recreation components of the youth plaza;**
  - g) review options for alternative vehicle access points or a dual use path for service vehicles (as envisaged in the advertised version of the Esplanade Masterplan), so long as it does not compromise design intent of Youth Plaza; and**
  - h) that consideration is made to more efficiently integrating Dismantle, recognizing that it is a temporary structure that can be moved and may not be there permanently.**
- 4. The chief Executive Officer's Working Group to also examine options for creating new permeable green spaces (not necessarily grass but vegetated) within the Fremantle CBD to offset loss of green space on Esplanade.**
- 5. The 2009 Esplanade Reserve Master Plan be modified to include the Youth Plaza location;**
- 6. The 2009 Esplanade Reserve Master Plan be reviewed to consider the following:**
  - g) the extension of the Central Spine feature of the Youth Plaza as a continuous promenade to connect Essex Street to the Fishing Boat Harbour via the old pump station complex;**
  - h) options for the creation of undulating sculpted grass play features in the vicinity of the Esplanade Reserve;**
  - i) further consideration of options to provide access to the park for service vehicles;**
  - j) options for locating Ferris Wheels and other semi-permanent amusement features;**
  - k) review of the status of the reserve to ensure it remains consistent with the Conservation Plan.**
  - l) resolution of the inherent conflict between the "preferred temporary stage location and retention of the "grass mound"**

7. The following be referred to the City Centre Structure Plan process for consideration:

- f) options for the further redevelopment of car park #11 to include land uses that assist in providing an activated frontage to the proposed promenade and the park generally;
- g) options for the extension of Norfolk Street to the Fishing Boat Harbour and options for the redevelopment of the land and buildings south east of the Esplanade Reserve, including the site and function of the Italian Club, through to the current level crossing into the Fishing Boat Harbour;
- h) options for significant car parking in the area south east of the Esplanade Reserve;
- i) consideration of future rail reserve needs in relation to increased freight movements and plans for light and/or heavy passenger rail
- j) an action plan for dealing with the long term consequences of climate change including the impact on current vegetation types and the rising ground water table;

8. In developing the final design the CEO shall have regard to the need to isolate works to be included within the Stage 1 budget and to identify future stages of works and/or alternative sources of funding in the 2013/14 and forward budgets; and

9. The CEO shall have regard to the items to be reviewed in the Esplanade Reserve Masterplan identified in Recommendation 3,6 and 7 and shall be authorised to modify the landscape to ensure the Final Design is both efficient and well integrated, including but not limited to the location of mound to be reconstructed, extent and location of non-core elements of the Youth Plaza such as the barbecues, extent of non-mature trees to be retained, location and configuration of Dismantle facilities, extent and location of the service access road, extent and type of landscaping within the skate plaza area and minor adjustments to the location of the design elements.

**SECONDED: Cr I Waltham**

**CARRIED: 10/1**

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson Cr Jon Strachan Cr David Hume	Cr Bill Massie

**COMMITTEE REPORTS**

**PLANNING SERVICES COMMITTEE 3 APRIL 2013**

**PSC1304-47 MARINE TERRACE NO 88 (LOT 3) FREMANTLE - RETROSPECTIVE PLANNING APPLICATION FOR UNAUTHORISED WORKS AND APPROVAL FOR CHANGES TO PREVIOUS APPROVAL (SS DA624/12)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 3 April 2013  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Coordinator Planning Mediation  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC1002-17 (3 March 2010)  
**Attachment 1:** Planning submission - applicant  
**Attachment 2:** Copy of submissions  
**Attachment 3:** Applicants response to submissions  
**Attachment 4:** City's schedule of identified changes – March 2013  
**Attachment 5:** Relevant Site photographs  
**Date Received:** 4 January 2013  
**Owner Name:** Abigail Santos  
**Submitted by:** Urbanism  
**Zoning:** MRS: Urban  
LPS4: Mixed Use  
**Heritage Listing:** Nil  
**Existing Landuse:** Office/Short Stay Dwelling/Multiple Dwellings (Under construction)  
**Use Class:** Office, Tourist Accommodation and Multiple Dwellings  
**Use Permissibility:** Office (P) Tourist Accommodation (A) Multiple Dwellings (A)



## **EXECUTIVE SUMMARY**

The application for retrospective planning approval is submitted to the Planning Services Committee as the planning application involves retrospective approval for works that have been undertaken, which were the subject of a Written Direction Notice (the Notice).

Planning approval was granted in 2010 for a three storey mixed use development at No. 88 Marine Terrace (DA52/08). The owner obtained planning approval and commenced the construction of the development.

Following a complaint the City inspected the site and ascertained that works had been carried out contrary to the planning approval. A \$500 Planning Infringement and a Notice were issued to the owner in accordance with Local planning policy LPP 1.5 – Planning Compliance (LPP1.5). The Notice required certain parts of the development to be modified to accord with the 2010 planning approval or to seek retrospective planning approval.

On the 24 December 2012, a retrospective planning application was submitted for works that had been carried out without a planning approval and for proposed changes to the development.

Two submissions were received during the consultation period, which expressed concerns in relation to the changes, in particular, the matter of privacy.

There have been some building works undertaken which, if had been submitted prior to the works being undertaken, would have met the performance criteria of the R-codes and as such, these changes are supported. There have been changes to the window type (from fixed obscure glazing to 1.65m to obscure glazed awning windows) which are not supported. Further, there is privacy screening that is proposed which is considered not to meet the condition of planning approval and these need to be modified prior to occupation. The change to the ground level street facade is not supported and changes are required.

It is recommended conditional approval be granted for some of the works with the Chief Executive Officer being authorised to undertake legal action for non-compliance with the Notice.

## **BACKGROUND**

The planning application for this site was originally lodged on the 24 January 2008. The application underwent various changes, intensive community consultation processes (including a City facilitated mediation session with the owner and various neighbours attending). The application was also the subject of the SAT Review process. The planning application was subsequently granted conditional planning under Section 31 of the SAT Act at the 3 March 2010 meeting of the PSC as shown below:

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

1. *That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Mixed Use Development (Office, Tourist Accommodation and Multiple Dwellings) at No. 88 (Lot 3) Marine Terrace, South Fremantle, subject to the following condition(s):*
  - a) *The development hereby permitted shall take place in accordance with the approved plans dated 21 December 2009, and revised building/roof plan dated 22 February 2010 incorporating the conditions listed in this approval.*
  - b) *All storm water discharge shall be contained and disposed of on-site.*
  - c) *Prior to occupation, 80% solid surface area/obscured balustrading to a minimum height of 1.8m above floor level shall be provided to the northern, eastern and southern elevations of the proposed balconies in accordance with Clause 6.8.1 of the Residential Design Codes.*

A building licence was issued on the 20 December 2010 which allowed construction works to commence on the site. The development is getting close to practical completion.

On the 25 May 2012, the City investigated a complaint concerning the alleged unauthorised works being carried out on the site. The owner was advised of these concerns and on the 21 September 2012, the City received "as constructed drawing". These drawings were reviewed and the owner was advised of the various departures from the planning approval plans. Some of the works were consistent with the Building Licence, however, the owner had not sought to obtain planning approval for those changes prior to commencing works on the site.

On the 21 November 2012, a \$500 Planning Infringement Notice was issued and subsequently paid by the owner on the 13 February 2013.

On the 18 December 2012, the City issued a Notice to the owner of the site which required the following:

- 1) *Pursuant to section 214(3) of the Act the City directs the Parsons Group to modify the building to accord with the approved planning approval plans and conditions of approval as set out below:*
  - a) *Modify the recessed front ground floor office elevation to reflect the approved plans;*
  - b) *Modify the portion of the building on the second floor, between the Bedroom 1 WIR and the study, and the modified laundry, to accord with the approved plans;*
  - c) *Modify the kitchen wall to accord with the approved plans;*

*within four (4) months of the date of service of this Direction Notice upon you.*

**OR**

- 2) *Pursuant to Clause 8.4.1 of the Scheme you could make a retrospective application for the items listed in 1) of this Direction notice. This however will require the matter*

*to be resolved within four months and will include retrospective approval, changes as required or modification of the items should the retrospective approval be refused.*

The four month time period in relation to the Notice expires on the 18 April 2013.

The City received on the 24 December 2012 an application for retrospective Planning Approval for:

- The unauthorised changes to the building; and
- Approval to undertake changes to the approved plans or vary the conditions of approval.

On the 14 January 2013, additional information was received in relation to the screening material proposed to be used on the balconies.

## **DETAIL**

The existing development under construction on the site consists of:

- an office, service areas and under croft parking area on the ground level;
- two short stay dwellings on the first floor level; and
- a single dwelling on the second floor level.

In response to the Notice, the applicant has submitted a detailed planning report that identifies the various changes to the approved planning approval plans, responds to the unauthorised changes and details proposed changes (refer to Attachment 1).

## **STATUTORY AND POLICY ASSESSMENT**

The application is subject to the provisions of the LPS4, the Residential Design Codes and *Local Planning Policy DGF29 – Suffolk Street to South Street Local Area*. The discretions being sought are set out in the Planning Comment section.

## **CONSULTATION**

The abutting property owners were advising in writing and provided a two week submission period on the planning application. The advertising period closed on the 30 January 2013. At the end of the submission period, there had been two submissions. The submission are attached to this report - refer to Attachment 2.

A copy of the submissions were forwarded to the applicant as set out in *Local Planning Policy LPP1.3 – Public notification of Planning Proposals*. A response to the submissions was received on the 15 February 2013 – refer to Attachment 3.

## **PLANNING COMMENT**

The site is still a construction site and occupation of the development has not yet occurred. Inspections of the site have revealed that some works have been undertaken, which do not accord with the planning approval. These areas of non-compliance will be discussed in the following section.

Following on from the site inspections, a table was compiled by the City in 2012 which identified the various unauthorised changes or where works had yet to be completed in accordance with the approved plans or conditions of approval. The list identified each change, an explanation of the issue relating to that change and a response to those changes. The list was provided to the applicant, who then provided a very detailed response to the changes (refer to Attachment 1). Attachment 4 contains an update on the list of identified changes and the City's proposed response to those changes based on a recent inspection.

There are some areas of the development that have not been completed in accordance with the approved plans or conditions of approval and as such, some of these areas do not become a compliance issues until occupation of the building occurs. The owner still has time me to ensure that the development is modified to accord with the relevant approvals.

#### **Comment on Item Numbers – Attachment 4**

##### Item Nos G1 and WE4-G – (existing change to design of building - ground floor elevation – office)

The planning approval plans showed that the ground floor level (south side) facing Marine Terrace would have a raised terrace, which would be accessible for the office through sliding doors. This part of the building has been modified so that it is now used as a service area, containing such items as fire hydrant, meter boxes and other plant equipment.

The following is an extract from the City's report presented to the August 2008 PSC meeting on the proposed facade treatment to Marine Terrace. The report assessed the development against the provisions of *Local Planning Policy DGF29 – Suffolk Street to South Street Local Area*:

##### *D.G.F29: Suffolk to South Streets Local Area*

...

*Development should contribute to the traditional streetscape and amenity including:*

- *orientation of openings, awnings, verandahs and balconies to street frontages;*
- *consistency in wall heights, roof pitches, building materials and colours;*
- *minimisation of overshadowing and overlooking of adjacent residential developments; and*
- *passive solar orientation and energy efficient building design principles.*

*The proposed development has major openings and balconies along the street frontage and .....*"

The front elevation has been adversely impacted by the provision of a service enclosure/space and the loss of the major opening/terrace to Marine Terrace to help activate the street. It is proposed to provide a powder coated louvered aluminium screen (approximately 2.4m high) to screen the service area. Two doors are proposed to provide access to the service space, although these are not permitted to open out onto the street. It has been argued in the submission that there are other spaces that provide activation of the street.

In discussions with the owner, it is proposed to re-align the Marine Terrace footpath to marry up with an adjoining footpath. This will create some space in front of the building where they are proposing to landscape this area, to help soften the building and reduce the impact of the service area.

The change to the elevation is a move away from the design that was originally approved. It is considered that the aluminium louvered screen option is not appropriate option. Therefore, this part of the application should not be approved as part of this application.

The non-acceptance of this option that has been presented, is likely to result in the applicant not being able to satisfy the Notice that has been issued. Therefore, the City, at the expiry of the time set out in the Notice, will undertake legal action in accordance with the provisions of LPP1.5

Separately, another alternative option should be canvassed to:

- Reduce the impact of the service area on the streetscape, and
- To provide surveillance of the street from the office.

This could include inserting a window within the recessed space as well as other design treatments to screen the services within this section of the building. This aspect would need to be the subject of a further application for planning approval.

Item No F2 and NE4 – F (existing change to window design - first floor - northern elevation)

The original planning approval plans showed that the northern windows to this space, which was an extension of the kitchen area, would be provided with fixed obscure glazing to 1.65m above floor level, to address the privacy provisions of the R-Codes. The internal floor layout has now been changed and the space would now be classified as a passageway, and therefore, based on the definitions within the R-codes, becomes a non-habitable space. Consequently, the privacy provisions of the R-Codes would not be applicable to these windows.

The approved windows were changed also during construction to awning windows, which could then allow a restricted downward view into the adjoining property. The adjoining property owner has provided photographs in his submission to highlight this concern (refer to Attachment 2). The applicant has responded to this issue by advising that they will restrict the opening of the window to 50mm to address the privacy issue, but would still allow ventilation into this space.

Having regard to the above, the City is recommending that the modified window design be accepted with the maximum opening for the window to be 50mm.

If the PSC is of the opinion that the departure from the design of these passageway windows should not be permitted, then a modification to the proposed condition A 4a) and 5 is required.

Item No F3 and EE4 – F and NE3 – F (existing screening to rear balcony of Unit 1 (short stay) - first floor)



The rear balcony of Unit 1 was to be provided with solid balustrading and privacy screens to a height of 1.8m above floor level. Privacy screening has been constructed to a height of 1.8m. It consists of solid balustrading and a metal panel with perforations. The City is of the opinion that the screening material that has been installed does not meet condition c) of the planning approval (refer to background section for condition c)) and should be modified to achieve a minimum of 80% solidness to achieve privacy. Therefore, the existing screening and the other areas where this type of material is proposed to be used, should be provided with an alternative treatment that achieves the intent of the condition and the areas with the existing screening is to be modified prior to the occupation of the development in order to satisfy condition c) of approval.

Item No F7 and SE4 – F (existing change to window design – southern side – first floor level)

There has been some minor modification to the floor layout of this area. Whilst there is no new planning issue, the window to the bedroom is similar to the window identified in Item No. F2 above. That is, the window has been changed from a fixed obscure glazed window to a height of 1.65m above floor level to an awning window.

When the window is open, it is possible to view into the rear courtyard of the adjoining residential property. Therefore, it is considered that the window should also be a fixed glazed window to a minimum height of 1.6m above the floor level, prior to occupation.

Item No S2 and NE2 – S (change to design of building – northern side – second floor level)

Under the assessment criteria of the Codes, the required setback of two sections of walls that are separated by a minimum distance of 4.0m between the two sections of wall can be calculated separately of each other. The approved space between these two sections of wall has been reduced from 4.0m to 2.67m.

The two sections of wall were approved a setback of 2.2m. By reducing the space between these sections of walls to 2.67m, the walls are required to be setback 3.1m from the boundary. The options open are to either

- a) *Grant retrospective approval under the Performance Criteria of DE 6.3.1 of the Codes*

The adjoining building to the north of the development site is a heritage listed building and is single storey in height whereas this change has occurred at the third floor level. The minor change would not significantly impact the adjoining property to the north from overshadowing, direct sun or ventilation to the adjoining building, as compared to the previous approval. Privacy is not an issue from this level and it is considered that there is sufficient articulation within the building not to create a significant adverse impact due to the reduced distance (1.33m) between the two sections of wall. As such, it is considered that the variation meets the performance criteria of DE 6.3.1 and the unauthorised change could be supported.

- b) *Require the building to be modified to accord with the approved plans.*

This option would involve the issuing a Written Direction Notice requiring the building to be modified to accord with the approved plans. This option would be used if it was considered that the variation could or should not be supported. Such a process would be open to the SAT review process. SAT would assess whether the Notice should be enforced having regard to various criteria it is likely to consider when making a decision on this matter. SAT is likely to consider such matters as:

- a) *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;*
- b) *The impact of the contravention of the law on the affected locality and environment. This includes a consideration of whether the breach complained of is purely technical in nature which is unnoticeable other than to a person well versed in the relevant law;*
- c) *The expense and inconvenience which would be involved in remedying the contravention of the law; and*
- d) *The extent of amenity impact the contravention may have on adjoining properties and the locality.*

It is considered unlikely that the general public would identify an issue with the two sections of wall being closer together than 4.0m. Further, it is considered minimal what benefit would be achieved to the adjoining property if the third level was modified to create the 4.0m setback distance between the two sections of building.

On balance, it is considered that as the unauthorised works would meet the performance criteria of DE 6.3.1, no further action be taken in relation to this aspect of the development.

Item No S3 and NE1 (change to design of building – northern elevation – second floor level)

The eastern end of the northern side of the third level has been modified. The change has resulted in a small area of building floor space (1 sq m x 1 sq m), being re-shaped so that it is now 0.5 in depth and 2m in length.

Similar to the comments made in the preceding section, the changes are not readily identifiable and are not likely to have significant adverse impact on the adjoining northern property, and as such, the variation is supported.

Item No S6 and SE1 – S (change to design of building – southern elevation – second floor level)

The length of this wall has increased in length by approximately 0.5m and 0.4sq m in area. The increase in length is sufficient to require a greater setback. The length of wall was approved at a setback of 1.2m, whereas a setback of 1.7m was required. The additional length would require a 1.9m setback.

The variation was supported on the basis that this section of the building is located against the property at No. 90 Marine Terrace, which is a two storey commercial building that incorporates a boundary wall. The increase in length is considered to be a minor variation and will not impact on the adjoining commercial building, this variation is supported.

Item No NE2 – S – (change in window design – northern elevation – second floor level)

The comments for this are similar to those on Item No. F2. This involves a window change for a fixed obscured glazed window to an awning window with obscure glazing. In this instance, the window is to a study.

On balance, it is considered that the awning windows should be fixed obscure glazed windows to protect the amenity of the adjoining property owner. This window needs to be modified prior to occupation.

Item No EE2 – S (screening details for rear balcony – eastern elevation - second floor level – single dwelling)

During the consultation process, it was agreed by the applicant to provide screening to a height of 1.8m rather than the 1.65m under the R-codes. Condition c) of Planning Approval states the following:

*Prior to occupation, 80% solid surface area/obscured balustrading to a minimum height of 1.8m above floor level shall be provided to the northern, eastern and southern elevations of the proposed balconies in accordance with Clause 6.8.1 of the Residential Design Codes.*

The screening has yet to be provided and the applicant has until occupation of the building to ensure that the condition is met.

The applicant has provided a photograph of screening that they are proposing, as well as suggesting horizontal louvers as an option, although no horizontal louver design has been submitted.

The mediation process, undertaken as part of the 2008 approval process, resulted in the plans being supported on the basis that the height of the screens would be 1.8m in height, as well as the screens being designed to provide privacy. The notes on the plans indicate that the privacy screen parts of the balcony were to be “fixed obscure privacy screens”. No detail was provided, although the condition requires the privacy matter to be addressed. There is some landscaping on the adjoining site that will provide a level of screening, although there are gaps that allow viewing from the balcony into the rear of the site at this stage.

If Council is satisfied with the condition, then it can require the applicant to submit more detail in relation to the screening. The existing screening at the next level down does not provide protection of privacy to the adjoin property owners. The screens need to be less open in the material to be used.

It is recommended that the applicant be required to provide more detail for approval by the CEO, demonstrating that the screening material to be used, satisfies the requirement of condition c). Should Council determine that the use of vertical screening is an option, then the decision should be tailored to allow for consideration of horizontal louvers in this instance.

## **COMMENTS ON SUBMISSIONS**

The following comments are made in relation to the submissions;

### **Changes to window types**

Concern has been expressed that the change to awning windows does not provide privacy nor support the consultation process that occurred when the application was initially considered by Council. It has been recommended that the awning windows not be accepted that the windows be modified to have fixed obscure glazing as originally proposed.

### **Balcony heights and screening**

The original planning approval showed solid balustrading on the rear balconies to approximately 0.9m in height with fixed obscure screening up to 1.8m in height. The works that have been undertaken have increased the height of the solid balustrading between 1.39m and 1.8m in height, with screening to be provided on top of the solid balustrading to take it up to 1.8m in height.

The recent inspection of the building has revealed that the screening has not been installed on all balconies. Where the screening has been provided, the City is not satisfied with the material used, and is seeking to require compliance with the intent of the R-codes and the planning approval in the use of screening material to provide privacy to the adjoining residential properties.

### **Overlooking of the front yard of No. 86 Marine Terrace**

The concern is that the front yard can be overlooked at the front of the property. The privacy provisions of the R-codes are specific that front courtyards are not subject to the privacy provisions as they are considered to be part of the public realm.

### **Change from planter to balcony – southern side, second floor level**

The proposal originally showed a planter area on the southern side of the building at the second floor level. The space was originally to be used as a planter with a glass screen wall height of 1.8m. Details in the applicants submission indicates that a planter will be provided against the 1.8m high screen wall (predominately solid with a metal screening panel on top) to the southern side of this area. Such a change in use, having regard to the height of the privacy screening, does not introduce any new planning issues and as such is considered acceptable.

## **CONCLUSION**

The owner has undertaken works which has resulted in some departures from the approved plans. Some of the changes do not create new planning issues nor do they adversely impact on the adjoining property owners. There are other areas of the development where the PSC is required to make a discretionary decision as outlined above.

There are still other parts of the development that still need to be addressed, such as the construction of approved privacy screens, however, these do not become a planning compliance matter unless the building is occupied and these screens have not been provided in accordance with approved plans. The site will be continued to be monitored to ensure that the development is completed in accordance with the approved plans and conditions of approval.

In terms of the Notice that has been issued, the owner is required to have satisfied the terms of that Notice by the 18 April 2013. Should the owner not comply with the Notice, then the City is required to immediately take this matter to Court for non-compliance with the Notice, based on the provisions of LPP1.5. Council has the discretion to determine whether or not to enforce the Notice, defer action on the Notice or amend the Notice to provide the owner more time to comply with the Notice. The City is supporting parts 1) b) and c) of the Notice, but not 1)a). Consequently, the City will undertake legal action after the 18 April 2013 if the owner has not modified the recessed front ground floor office elevation to reflect the approved plans, as set out in the Notice.

In relation to the other matters, the development has not been occupied, therefore, the owner has time to rectify any areas or undertake works that are consistent with this approval. If occupation of the building occurs and the development is not in accordance with the relevant approval, the City can proceed to undertaken further legal action.

## **OFFICER'S RECOMMENDATION**

- A That the application for retrospective planning approval be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the changes to the development under construction at No. 88 (Lot 3), Marine Terrace, Fremantle, as detailed on plans dated 24 December 2012, subject to the following condition(s):
1. This approval relates only to the development as indicated on the approved plans, dated 24 December 2012, with the exception of the unauthorised modifications to the recessed front ground floor office, which is excluded from this approval.
  2. The 1.8m high privacy screening to all balconies as shown on the approved plans are to have openings not wider than 5cm and with a maximum of 20% perforated surface area to a minimum height of 1.80 metres above the floor level, details of which is required to be submitted for approval by the Chief Executive Officer.
  3. The existing awning windows are not permitted to remain and are required to be replaced with fixed obscure glazing to 1.6m in height above floor level to the following rooms/spaces in the following locations:
    - a) The existing windows that face into the northern light well at the first floor level, with the exception of the windows to the passageway;
    - b) the existing second floor level study window facing into the northern light;
    - c) The existing window to bedroom 4 of Unit 3 at the first floor level; and
    - d) The existing window to Guest bedroom 2 of unit 3 on the second floor level.
  4. The windows to the passageway referred to in condition 3b) above are to openable to a maximum depth of 50mm.
  5. The privacy screening and window modifications required by conditions 2 and 3 above are required to be completed and maintained to the satisfaction of the Chief Executive Officer prior to occupation of any part of the development.
- B The applicant be advised that the existing and proposed 1.8m high balcony privacy screening that incorporates perforated metal panels do not meet the requirements of condition 2 of this approval as they incorporate a surface area that is more than 20% permeable.
- C That at the expiry of the four month time period set out in the Written Direction notice issued on the 18 December 2012 (18 April 2013), if the recessed front ground floor office portion of the building has not been modified to accord with the original planning approval (DA52/08), the Chief Executive is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance.
- D In the event that the privacy screening and window modifications as outlined in this approval are not completed prior to occupation, the Chief Executive Officer is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance.

**Cr J Wilson MOVED an amendment to the Officer's Recommendation to amend the wording of condition 2:**

2. Details of the solid 1.8m high privacy screening to all balconies as shown on the approved plans is required to be submitted for approval by the Chief Executive Officer.

**CARRIED: 7/0**

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

**Cr I Waltham MOVED an amendment to the Officer's Recommendation to delete condition 4 and amend condition 3) a) to delete the words 'with the exception of the windows to the passageway;' so the condition reads as follows:**

- 3)a) The existing windows that face into the northern light well at the first floor level;

**CARRIED: 7/0**

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

**Cr R Fittock MOVED an amendment to the Officer's Recommendation to amend advice note B to delete the words 'as they incorporate a surface area that is more than 20% permeable.', so the advice note reads as follows:**

- B. The applicant be advised that the existing and proposed 1.8m high balcony privacy screening that incorporates perforated metal panels do not meet the requirements of condition 2 of this approval.

**CARRIED: 7/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Rachel Pemberton	

Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Andrew Sullivan	
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**Cr A Sullivan MOVED an amendment to part C of the Officer's Recommendation to add the wording shown in italics:**

- C. That at the expiry of the four month time period set out in the Written Direction notice issued on the 18 December 2012 (18 April 2013), if the recessed front ground floor office portion of the building has not been modified to accord with the original planning approval (DA52/08), the Chief Executive is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance, *after 18 May 2013.*

**CARRIED: 7/0**

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



**COMMITTEE RECOMMENDATION:**

**MOVED: Cr A Sullivan**

- A** That the application for retrospective planning approval be **APPROVED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the changes to the development under construction at No. 88 (Lot 3), Marine Terrace, Fremantle, as detailed on plans dated 24 December 2012, subject to the following condition(s):
1. This approval relates only to the development as indicated on the approved plans, dated 24 December 2012, with the exception of the unauthorised modifications to the recessed front ground floor office, which is excluded from this approval.
  2. *Details of the solid 1.8m high privacy screening to all balconies as shown on the approved plans is required to be submitted for approval by the Chief Executive Officer.*
  3. The existing awning windows are not permitted to remain and are required to be replaced with fixed obscure glazing to 1.6m in height above floor level to the following rooms/spaces in the following locations:
    - a) *The existing windows that face into the northern light well at the first floor level;*
    - b) the existing second floor level study window facing into the northern light;
    - c) The existing window to bedroom 4 of Unit 3 at the first floor level; and
    - d) The existing window to Guest bedroom 2 of unit 3 on the second floor level.
  4. The privacy screening and window modifications required by conditions 2 and 3 above are required to be completed and maintained to the satisfaction of the Chief Executive Officer prior to occupation of any part of the development.
- B.** *The applicant be advised that the existing and proposed 1.8m high balcony privacy screening that incorporates perforated metal panels do not meet the requirements of condition 2 of this approval.*
- C.** That at the expiry of the four month time period set out in the Written Direction notice issued on the 18 December 2012 (18 April 2013), if the recessed front ground floor office portion of the building has not been modified to accord with the original planning approval (DA52/08), the Chief Executive is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance, *after 18 May 2013.*
- D** In the event that the privacy screening and window modifications as outlined in this approval are not completed prior to occupation, the Chief Executive Officer is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance.

**CARRIED: 7/0**

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

**Cr J Wilson requested the item be referred to the Ordinary Meeting of Council.  
Seconded by Cr A Sullivan.**

### **COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

**A That the application for retrospective planning approval be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the changes to the development under construction at No. 88 (Lot 3), Marine Terrace, Fremantle, as detailed on plans dated 24 December 2012, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 24 December 2012, with the exception of the unauthorised modifications to the recessed front ground floor office, which is excluded from this approval.**
- 2. *Details of the solid 1.8m high privacy screening to all balconies as shown on the approved plans is required to be submitted for approval by the Chief Executive Officer.***
- 3. The existing awning windows are not permitted to remain and are required to be replaced with fixed obscure glazing to 1.6m in height above floor level to the following rooms/spaces in the following locations:**
  - a) *The existing windows that face into the northern light well at the first floor level;***
  - b) *the existing second floor level study window facing into the northern light;***
  - c) *The existing window to bedroom 4 of Unit 3 at the first floor level; and***
  - d) *The existing window to Guest bedroom 2 of unit 3 on the second floor level.***
- 4. The privacy screening and window modifications required by conditions 2 and 3 above are required to be completed and maintained to the satisfaction of the Chief Executive Officer prior to occupation of any part of the development.**

- B.** *The applicant be advised that the existing and proposed 1.8m high balcony privacy screening that incorporates perforated metal panels do not meet the requirements of condition 2 of this approval.*
- C.** That at the expiry of the four month time period set out in the Written Direction notice issued on the 18 December 2012 (18 April 2013), if the recessed front ground floor office portion of the building has not been modified to accord with the original planning approval (DA52/08), the Chief Executive is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance, *after 18 May 2013.*
- D** In the event that the privacy screening and window modifications as outlined in this approval are not completed prior to occupation, the Chief Executive Officer is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance.

**SECONDED: Cr I Waltham**

**Cr A Sullivan MOVED to:**

- a) accept parts A, B and D of the Committee Recommendation; and  
b) defer part C. back to the next appropriate Planning Services Committee meeting.

as follows:

- A** That the application for retrospective planning approval be **APPROVED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the changes to the development under construction at No. 88 (Lot 3), Marine Terrace, Fremantle, as detailed on plans dated 24 December 2012, subject to the following condition(s):
1. This approval relates only to the development as indicated on the approved plans, dated 24 December 2012, with the exception of the unauthorised modifications to the recessed front ground floor office, which is excluded from this approval.
  2. *Details of the solid 1.8m high privacy screening to all balconies as shown on the approved plans is required to be submitted for approval by the Chief Executive Officer.*
  3. The existing awning windows are not permitted to remain and are required to be replaced with fixed obscure glazing to 1.6m in height above floor level to the following rooms/spaces in the following locations:
    - a) *The existing windows that face into the northern light well at the first floor level;*
    - b) the existing second floor level study window facing into the northern light;
    - c) The existing window to bedroom 4 of Unit 3 at the first floor level; and
    - d) The existing window to Guest bedroom 2 of unit 3 on the second floor level.

**4. The privacy screening and window modifications required by conditions 2 and 3 above are required to be completed and maintained to the satisfaction of the Chief Executive Officer prior to occupation of any part of the development.**

**B. *The applicant be advised that the existing and proposed 1.8m high balcony privacy screening that incorporates perforated metal panels do not meet the requirements of condition 2 of this approval.***

**D In the event that the privacy screening and window modifications as outlined in this approval are not completed prior to occupation, the Chief Executive Officer is authorised to undertake legal action as set out in Local Planning Policy 1.5 – Planning Compliance.**

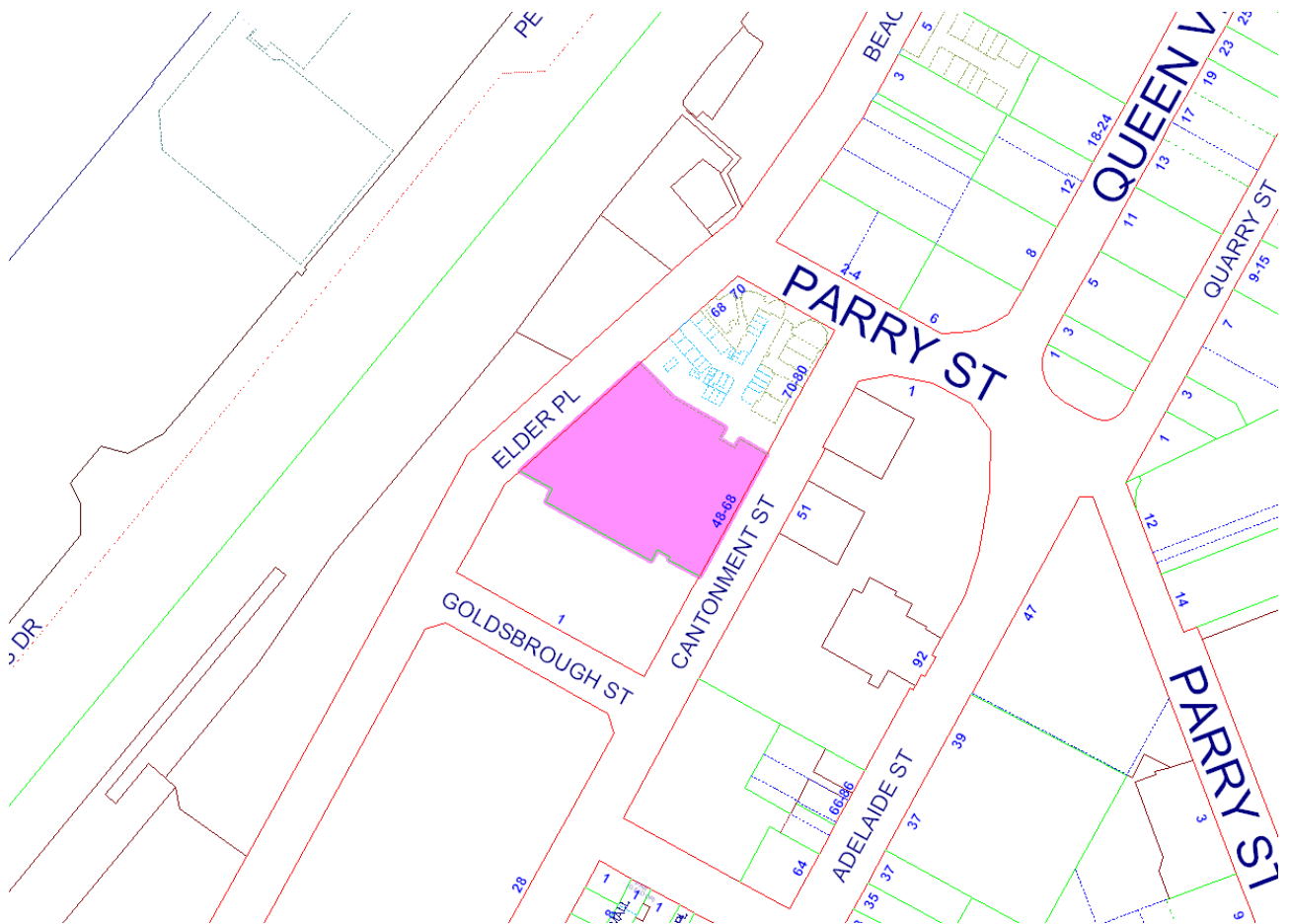
**SECONDED: Cr D Hume**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**PSC1304-49 SAT MATTER - CANTONMENT STREET NO 48-68 (LOT 201 AND STRATA LOT 40 ON LOT 202) REMOVAL OF TIMBER FLOORING FROM HERITAGE LISTED SITE**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Coordinator Planning Mediation  
**Date of Meeting:** 3 April 2013  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC 1203-29 (7 March 2012)  
**Attachment 1:** Copy of Written Direction Notice  
**Attachment 2:** 7 March 2012 PSC Report  
**Owner Name:** MMAGS  
**Submitted by:** N/A  
**Scheme:** City Centre  
**Heritage Listing:** Heritage List – Local Planning Scheme No. 4  
 MHI Management Category 2  
**Existing Landuse:** Vacant Building



## **EXECUTIVE SUMMARY**

The matter is referred to the Planning Services Committee (PSC) as Section 26 of the State Administrative Tribunal Act 2004 (the Act), permits Council, with the agreement of both the appellant and the respondent, to re-consider its previous decision to serve a Written Direction Notice (the Notice) requiring the removed timber flooring and joists to be re-instated at the Woolstores building. This matter is still within the mediation process of the SAT process.

The City commenced action against the owners of the site due to the unauthorised removal of timber flooring and joists within the building by:

- Issuing a Written Direction Notice (the Notice) under Section 214 of the Planning and Development Act (the P&D Act); and
- Instituting legal action under Section 218 of the P&D Act.

The owners requested the State Administrative Tribunal (SAT) to Review the Notice that was issued to re-instate the timber flooring and joists that were removed. The legal action was commenced, but has been placed on hold while the Notice is resolved through the SAT process.

As a consequence of the SAT mediation process, a draft Deed has been prepared and submitted to Council for consideration under Section 26 of the SAT Act. The draft Deed seeks:

- To vary the content of the Notice by allowing the owners to store and maintain the returned timber under specific conditions until it is needed in any re-development proposal for the site in lieu of re-instating only the useable timber flooring and joists/beams; and
- The withdrawal of the legal proceedings and for each party to bear their own costs.

The matters of the Notice and legal action are two completely different actions.

A copy of the Notice is attached to the Report (Attachment 1)

The City is concerned that there is still potentially a significant amount of timber that has not been returned and should be returned to the building. Therefore, on this basis, it is recommended that the SAT be advised that the Deed is not supported.

## **BACKGROUND**

During December 2011, the City received a complaint that timber had been removed from the 1950s Woolstores building and re-located to another site. The City inspected the site in December 2011 and established:

- That it was visible that there was fresh cuts to the end of certain in-situ timber joists at the first floor level;
- The flooring to the first floor level appeared to have been removed; and
- There was some flooring and other timbers that were in piles on the ground floor level; and
- Existing timber beams with fresh saw cuts were stacked on the ground floor level.

The City, through its solicitors, wrote to the owners of the site on the 5 January 2012 requesting an explanation of the works undertaken. An interim response was received on the 11 January 2012 advising that a further response would be provided in the week commencing the 16 January 2012. The City's solicitors wrote again on the 31 January 2012 seeking a final response to its letter, which it received on the 1 February 2012.

The response received by the City on the 1 February 2012 confirmed that a section of floor joists and timber boards had been cut from the 1950s building. Further, the City was advised that a portion of the timber removed was found to be rotten and was piled onsite. The removal of this rotten timber was raised as an issue by the owner, as it was considered that this material had the potential to be a hazard, which the owners would then seek guidance from the City on.

It was also confirmed in that letter that the:

- (i) sound beams had been stacked and stored onsite; and
- (ii) sound floorboards were removed from the site and placed into storage, but would be returned to the site in the week commencing the 6 February 2012.

The solicitors representing the owners also advised that no further timbers had been cut nor would they be cut without the client making application the appropriate planning application to the Fremantle City Council.

The City received a letter dated the 16 February 2012 confirming the return of timber flooring that had been stored offsite. An inspection of the site occurred on the 23 February 2012.

At its 7 March 2012 meeting, the Planning Services Committee resolved as follows:

*That Council, having regard to the unauthorised removal of timber flooring and joists from No. 48-68 Cantonment Street, which is a building that is on the Heritage List of Local Planning Scheme No. 4, authorises the Chief Executive Officer to commence the following actions against the owners of the site:*

- 1) *Take legal action against the owners for a breach of Clause 8.1 of Local Planning Scheme No. 4; and*
- 2) *A Written Direction Notice be issued requiring the owners to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the Chief Executive Officer.*

The City commenced legal action and issued the Notice.

The owners requested the SAT to review the decision of the Local Authority in relation to the Notice. The matter was the subject of the SAT mediation process and at an onsite mediation hearing was held on the 24 August 2012. The SAT on-site mediation session was attended by the owner's representatives, solicitors representing the owners and the City, Cr Sullivan, City staff and the SAT mediator. Through the mediation process, the parties agreed to develop a draft Deed of Agreement for consideration by Council on the matter of the returned timbers and the legal action. The Deed was developed over a period of time.

In relation to the legal action, this has been held in abeyance by the court depending upon the outcome of the re-consideration of the Notice by Council.

## **STATUTORY AND POLICY ASSESSMENT**

The matter is the subject of a review under the State Administrative Tribunal Act 2004. At this point, the matter is in mediation and consequently, the matter is dealt with on a “without prejudice” basis.

Section 26 of the Act states the following:

### *26. Restriction on powers of decision-maker after review commenced*

*After the commencement of a proceeding for the review of a decision the decision-maker cannot —*

- (a) vary the decision; or*
  - (b) set aside the decision and substitute its new decision,*
- unless —*
- (c) that is permitted by the enabling Act;*
  - (d) the parties to the proceeding consent; or*
  - (e) the decision-maker is invited under section 31 to reconsider the decision.*

## **DETAILS**

In response to the Notice to the applicant advising that the removed timbers were to be returned and re-instated, a request for a Review of the Notice was submitted to the SAT. The matter is still subject to the SAT mediation process. As a consequence of this process, the applicant has submitted:

- A draft Minute of Consent that seeks to amend part b) of the Section 214 Notice to permit the requirements of the draft Deed to apply, rather than the re-instatement of the returned timbers;
- A draft Deed that seeks to permit the owners to record, protect and store the returned timbers onsite, in accordance with specific requirements as set out in the Deed; and
- Withdrawal of the Section 218 prosecution.

The draft Deed includes a requirement that the owner is to prepare a Preservation Report on the timbers for the approval by the CEO within 14 days of the signing of the Deed, and then to prepare regular reports on the condition of the returned timbers and to ensure that the timbers are stored and looked after until they are used in any development proposal for the site.

Removal of timber can only occur in an emergency or with the approval of the CEO and remain in force until such time as the timbers are required to be used within the building.

On the basis that the returned timber was:

- stored in a safe way,
- inspected on a regular basis; and
- available for re-use in any development proposal for the site;



it was proposed by the applicant that the:

- Deed of Agreement satisfied the intent of the Notice, in that the timber that had been removed, was stored in a safe place on the site; and
- That withdrawal of the legal action occur with both parties being responsible for their own costs

## **PLANNING COMMENT**

The following comments are made concerning the two actions that have been undertaken in relation to the alleged breach of LPS4:

### **Written Direction Notice – re-instatement of removed timbers**

The Notice sought to require the applicant to return all the timbers that had been removed from the site and to reinstate them. It was put that some:

- of the timbers had rotted and were no longer suitable for use,
- could not be returned and no explanation was given; and
- could be returned, which were now stored on the site.

It was also put forward at the on-site meeting that a re-development of the site would result in timbers having to be removed to allow for the provision of lifts, ducting etc. Therefore, it was proposed that it would be more appropriate to store the timbers on-site and for there to be regular inspections and a maintenance program developed to ensure that the returned timbers were protected until such time as they could be used in any development proposal for the site. The draft Deed seeks to put this regime in place.

The content of the draft Deed has been developed with the assistance the City's Heritage Architect and a timber industry representative on the best way to store and maintain the timber. This includes dealing with such matters as the method for removal of the nails within the timber, termites, moisture and ultraviolet light.

The proposed response to the Notice is not in accordance with the Notice and as such is referred to Council for consideration.

### Estimated removed/returned timber flooring and joists/beams

The 7 March 2012 report estimated that 7 bays of timber joists had been removed. If the flooring and joists had been removed over the area where the timber had been removed, the area could be up to approximately 13 bays. The following is a summary of the estimates provided by the applicant and the City in relation to the timber flooring and the timber joists at the first floor level.

<b>Flooring</b>	<b>City</b>	<b>Applicant</b>
<b>First Floor – number of bays</b>	<b>7 bays to 13 Bays</b>	<b>10 Bays</b>
Estimated timber floor area cut away	137 sq m to 255 sq m	60 sq m
Estimated timber flooring area returned in good condition	21 sq m	30 sq m

Estimated on-site timber flooring in poor condition	30 sq m	30 sq m
*Estimated total area of returned timber flooring on-site	51 sq m	60 sq m
* Percentage of returned timber flooring on-site	20% to 37%	100%

\* "Returned timber" means the returned timber that had been stored off-site and the timber in poor condition on the development site

The City's assessment for 13 bays has been based on plans received during 2007 (DA199/05) and that there have been no planning approvals issued for the removal of any timber flooring or joists. The 7 bays has been used based on the timber cuts to the extant timber joists.

<b>Timber joists (Approximately 4.0m lengths)</b>	<b>City</b>	<b>Applicant</b>
<b>First Floor – Number of bays</b>	<b>13 Bays</b>	<b>Approx 9 bays</b>
Estimated timber joist cut away	104	76
Estimated timber joists on site	83	76
Percentage of timber joists on the site	96%	100%

The City was also aware that timber joists had been removed from the third floor level of the site following a complaint from a member of the public, but could not determine the extent of any removal. A company representative, when questioned over this matter, confirmed that 15 timber joists beams (approximately 8-9m in length) had been removed from the third floor level.

Options open to Council include:

a) Require compliance with the existing Notice

If the draft Deed is not accepted on this aspect, the Notice will require the owner to:

- i) return all the removed timber;
- ii) establish a method of re-instating the timbers, due to the length of the beams being shortened when they were cut into shorter sections; and
- iii) undertake the work to re-instate the timbers.

If the owner finds this option unacceptable, they could seek to have the matter moved from the SAT Mediation process to a Final Hearing on the content of the Notice. SAT would ultimately determine the final form of the Notice.

The outcome from the Final Hearing process could lead to the content of the Notice remaining unchanged or similar to the content of the draft Deed.

b) Acceptance of the Deed

If Council accepts the mediated outcome as presented, the existing Notice would be varied by the draft Consent Orders, the Deed would become effective from the Date of signing and the applicant would then need to satisfy the content of the Deed. Failure to comply allows the City to commence action against the owner for the breach of the Deed.

## Conclusion

The Woolstores building has not been protected from the weather due to a lack of regular maintenance. The weather, especially the rain, has impacted on the condition of the timbers within this section of the building. The owners, in recent times, have undertaken works to assist in weather protecting the building as a consequence of action taken by the City under the Local Government Act.

Any proposal to develop the site would require a thorough inspection of the existing timber beams and flooring to determine whether they would be acceptable for re-use in any adaption of the building. It is unknown at this stage, how much of the in-situ timber beams and flooring could be used in a proposal to re-use the existing building.

The City is of the view that the amount of timber removed/returned is very small based on the information above. It is considered that all the removed timber should be returned to the site and then the details of storing and maintaining the timber could then be considered.

Therefore, it is recommended that the option a) be adopted.

## **Legal Action – Section 218 Prosecution**

The City commenced legal action in the Fremantle Local Courts over the alleged breach of LPS4 through section 218 of the P&D Act. This action has been placed on hold as a consequence of the request for Review of the Notice by SAT.

The draft Deed seeks to draw in together the proposed amendment to the Notice and withdrawal of the Section 218 prosecution on the basis of the Deed proposed by the owners. Council could:

### a) Agree to the Deed – withdrawal of the proceedings

If Council agrees to the draft Deed in its current form, then the legal proceedings for breaching LPS4 will then cease. Further, the owner would then need to meet the obligations of the Deed once signed, to maintain the existing timber flooring/joists that have been returned to-date.

### b) Agree to Deed subject to removal of the section of the draft Deed concerning the City's withdrawal from the Section 218 prosecution action

Council could agree to the draft Deed subject to the removal of the section "agreeing to withdrawal from the legal proceedings". The owner would then determine what course of action they would wish to take, which could include:

- i) accepting the draft Deed with the change and defending the Section 218 prosecution in the Local Courts;
- ii) accepting the draft Deed with the change and not contesting the Section 218 prosecution in the Local Courts; or
- iii) withdrawing from the SAT process, re-instating the removed timber and contesting/not contesting the Section 218 prosecution action.

c) Not agree to draft Deed

If the draft Deed was not supported, then the next course of action would then be determined through the SAT process in relation to the Notice. Once that matter is resolved, then the City could take the prosecution matter further.

**CONCLUSION**

The Notice was issued to obtain the return of all removed timber. Based on the estimates, there appears to be still a significant amount of timber that has not been returned. Council needs to determine whether it wishes to continue to seek the return of all the removed timber.

The action undertaken under Section 218 on the P & D Act was instigated on the basis of a Council resolution that related to the unauthorised removal of the timber from within a building on the City's heritage list. From the evidence and discussions with the City's solicitors, there is a strong likelihood that a prosecution could be achieved.

Based on the discussion above, the officers recommend that the PSC:

- not agree to the draft Deed at this stage;
- seeks the return of all removed timber; and
- authorise the continuation of the legal proceedings under Section 218 of the Planning and Development Act for the unauthorised removal of timber from a heritage listed building, as soon as practical.

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**Cr A Sullivan MOVED Part A of the Officer's Recommendation**

**A That Council, having regard to Section 26(a) and (b) of the State Administrative Tribunal Act 2004, advise the State Administrative Tribunal that it does not agree to the draft Deed, as the City is of the view that there is still a significant amount of timber that has yet to be returned and the Council is not yet satisfied that sufficient explanation for this has been provided, and;**

**CARRIED: 6/1**

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

**Cr A Sullivan MOVED Part B of the Officer's Recommendation**

**B That Council authorises the Chief Executive Office to continue with the legal proceedings under Section 218 of the Planning and Development Act for the unauthorised works as soon as practical.**

**CARRIED: 5/2**

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

**Cr A Sullivan requested the item be referred to the Ordinary Meeting of Council.  
Seconded by Cr R Fittock.**

**COUNCIL DECISION**

**MOVED: Cr A Sullivan**

**Cr Andrew Sullivan MOVED to defer the item to the next appropriate meeting of the Planning Services Committee.**

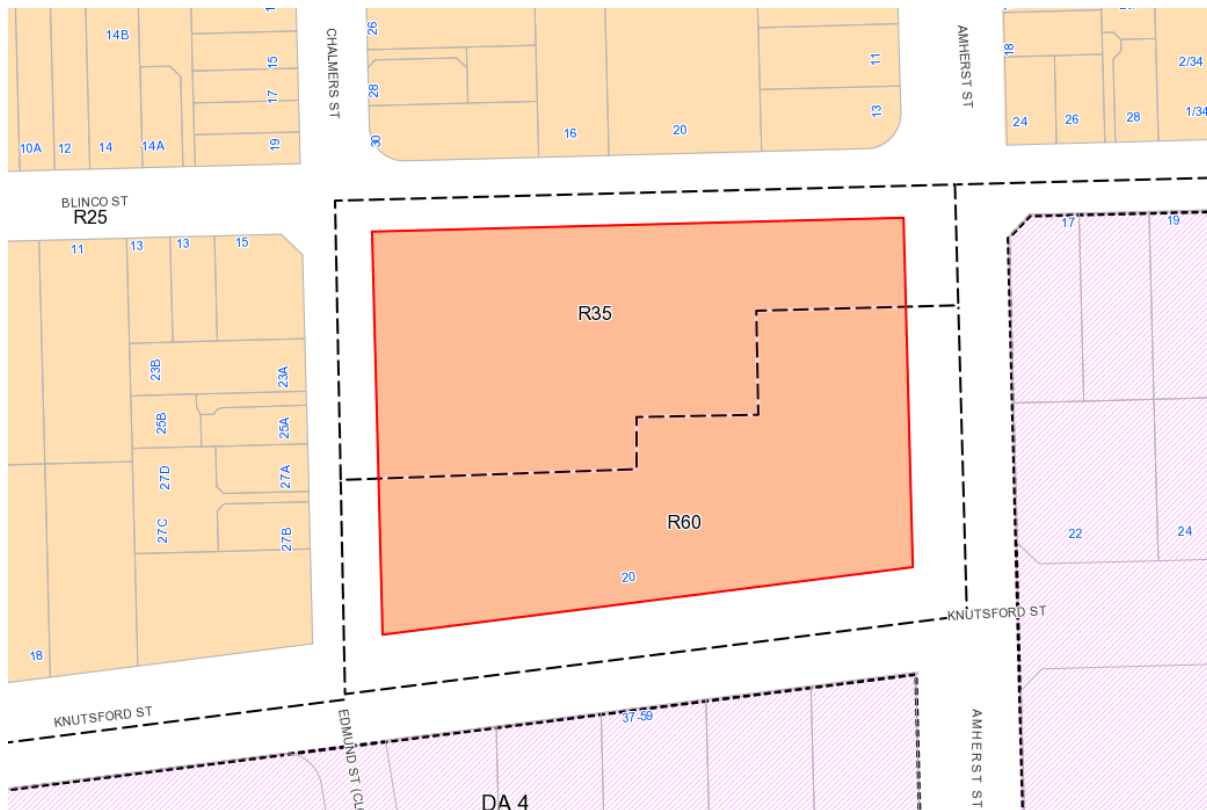
**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**PSC1304-51 PROPOSED SCHEME AMENDMENT NO. 56 - NEW SCHEDULE 12  
SUB AREA FOR 20 (LOT 1354) KNUTSFORD STREET, FREMANTLE  
- FINAL ADOPTION**

**DataWorks Reference:** 218/062  
**Disclosure of Interest:** Nil  
**Meeting Date:** 3 April 2013  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC1211-176 - 28 November 2012  
**Attachments:** Schedule of Submissions



**EXECUTIVE SUMMARY**

The purpose of this report is to recommend to Council final adoption of Amendment No. 56 to the City’s Local Planning Scheme No. 4 (LPS4) , relating to No. 20 (Lot 1354) Knutsford Street, Fremantle.

The scheme amendment introduces a new sub area into LPS4 Schedule 12, Local Planning Area 2 – Fremantle, for the site known as No. 20 (Lot 1354) Knutsford Street, Fremantle. The proposed new sub area will permit a broader range of working from home uses and a modified maximum building height provision to allow for concealed roof types.

**The amendment was placed out for public comment and three submissions were received. One submission raised concerns over traffic in the area and two stated no objection.**

**Since initiation of the amendment another of the City's Scheme amendments (Scheme Amendment No. 51) has been gazetted (7 December 2012). This Scheme amendment introduced sub area 3 into Schedule 12 of LPS4 for Local Planning Area 2 – Fremantle. Accordingly this Scheme amendment will be renumbered to sub area 4 under Local Planning Area 2 – Fremantle.**

**Therefore, it is recommended that Council resolves to adopt the amendment to the City's LPS4 with the above minor modification to the sub-area numbering.**

## **BACKGROUND**

At its ordinary meeting of Council, 28 November 2012, Council adopted Scheme Amendment No. 56, new Schedule 12 sub area & requirements for 20 (Lot 1354) Knutsford Street, for public comment.

For further background information please see the initiation report on Scheme Amendment No. 56 in the ordinary meeting of Council minutes 28 November 2012 (PSC1211-176).

## **CONSULTATION**

Following referral from the Environmental Protection Authority, advertising of the scheme amendment was undertaken in accordance with regulation 25(2) of the Town Planning Regulations 1967. The proposed scheme amendment was advertised for comment from 29 January 2013 to 15 March 2013, with advertisements being placed in the Fremantle Gazette for two consecutive weeks and West Australian newspaper for one week.

Owners and occupiers within a 100 metre radius of 20 Knutsford Street were notified along with the City's precinct groups, utility companies, and key agencies. Copies of the amendment and policy documents were made available for viewing at the Service and Information counter at the Town Hall Centre and on the City's website.

Three submissions were received (refer to Attachment 1 – schedule of submissions for further information). Two submissions raised no objection to the scheme amendment. One submission raised concerns and further questions over future traffic management in the area. This submission has been forwarded to the City's Technical Services Department to address the submitter's questions as they relate to general traffic management issues rather than the content of the scheme amendment.

## **PLANNING COMMENT**

The amendment will introduce a new sub area into Schedule 12 of LPS4 specific to 20 (Lot 1354) Knutsford Street, Fremantle. The sub area will permit a broader range of working from home uses and a modified maximum building height provision to allow for concealed roof types on R60 density development on the subject site.

The two components (height and additional uses) of the amendment are detailed below.



### **Additional height requirements**

The current specific height control in LPS4 for R60 development on Lot 1354 (20 Knutsford Street, Fremantle) allows for 3 storey development, however does not allow for three storey development with a flat (concealed) roof higher than 9m. Accordingly it is proposed that the current specific height requirements be deleted from LPS4 and replaced by the height controls in the Residential Design Codes 2010 (R-codes), Table 3 Category C (development on three levels).

Category C has the same requirements as currently provided in LPS4 (9m external wall height and 12m to of pitch roof height) with an additional requirement that caters for concealed roofs (see below). This amendment to the scheme will allow for greater scope in design of the R60 developments, including potentially three storey development with a flat roof (concealed).

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

### **Home uses**

#### Additional use

20 Knutsford Street, Fremantle, is zoned Residential. Land uses in the Residential zone are restricted to the type of uses where a member of the household works from home (e.g. home – office, store, business or occupation). These uses are further restricted by the land use definition in LPS4 which cannot be varied. For example, the definition of the uses home business and home occupation restrict the floor size of each use to 50 and 20 square metres, respectively. The definitions further restrict the number of employees allowed to be employed from outside the household, signage and use type.

This scheme amendment proposes allowing for larger work from home uses within development at 20 Knutsford Street. To do this, as land use definitions in LPS4 cannot be varied, the amendment proposes an additional use of 'Office' be provided for the area and the use restricted through the following provisions:

- i. The gross lettable area of the Office use does not exceed 80m<sup>2</sup>;
- ii. The Office use is operated by an occupier of the household; and
- iii. The Office use does not employ more than three employees (not including any occupiers of the household);

The additional Office use within the Scheme amendment area is intended to provide for a diverse range of home based office/business uses on an appropriate scale for the Residential zone. The additional use reflects the surrounding neighbourhood's uses and activity and will increase the vibrancy and activity of the area during the day.

#### Permitted Uses

As this 'standalone' site is considered an opportunity to encourage a mix of home uses, the Scheme amendment also proposes that the additional office use and home

occupation, home office, home business and home store uses shall be considered “P” (permitted and not require planning approval) uses and the requirements of Table 3 – Vehicle Parking of LPS4 will not apply to these development types (only the office and home store use currently have vehicle parking requirements under table 3; there are no parking requirements for home occupation, home office, home business). Permitting these uses without planning approval lowers barriers to the establishment of small scale home uses, which in turn fosters and encourages the start up of these business types in the area.

The increased potential for home businesses, coupled with the suspended vehicle parking requirements, raises the concern of whether adequate vehicle parking will be provided in the area and surrounds. In general, home business uses do not require more car parking than what is provided on site as they are predominantly undertaken by resident(s) of the dwelling. Furthermore, it is anticipated that not all dwellings will take up a home business/office use. Nonetheless, the consortium developing the area have provided on-street parking at one bay per two dwellings and have designed several residences with the opportunity to provide an additional onsite vehicle car bay in the development’s courtyard. These design initiatives are considered to provide the area with adequate additional vehicle parking to service the demand created through home business/office uses.

### **Minor Modification**

The original Scheme amendment proposed numbering the new sub area for 20 (Lot 1354) Knutsford Street in Local Planning Area 2 – Fremantle, as sub area 3. However, since initiation of the amendment another of the City’s Scheme amendments (Scheme Amendment No. 51) has been gazetted (7 December 2012). This Scheme amendment introduced sub area 3 into LPS4’s Schedule 12 Local Planning Area 2 – Fremantle. Accordingly this Scheme amendment requires minor modification of the numbering to sub area 4 under Local Planning Area 2 – Fremantle.

### **CONCLUSION**

The scheme amendment introduces into LPS4 a new sub area into Schedule 12, Local Planning Area 2 – Fremantle, for No. 20 (Lot 1354) Knutsford Street, Fremantle. The proposed new sub area will permit a broader range of working from home uses in the area and provide an additional height provision to allow for concealed roof types.

Three submissions were received on the amendment. Two submissions were generally supportive and one submission raised concerns over traffic in the area.

A minor modification of the amendment is required to renumber the proposed sub area to 4 instead of 3 under Local Planning Area 2 – Fremantle. This is due to another of the City’s Scheme amendment’s being gazetted and using the sub area 3 for Local Planning Area 2 – Fremantle, between the time of initiation and final adoption of this Scheme amendment.

Accordingly, it is recommended Council resolve to adopt Scheme Amendment No. 56 to LPS4 with the minor modification to the sub-area numbering described above.

**COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**MOVED: Cr A Sullivan**

**That Council:**

- a. Note the submissions received as detailed in the Officer's report and attachment 1;
- b. Resolve, pursuant to Section 75 of the Planning and Development Act 2005 and Regulation 17(2)(a) of the Town Planning Regulations 1967, to adopt the following amendment to the City of Fremantle Local Planning Scheme No. 4 with minor modification:

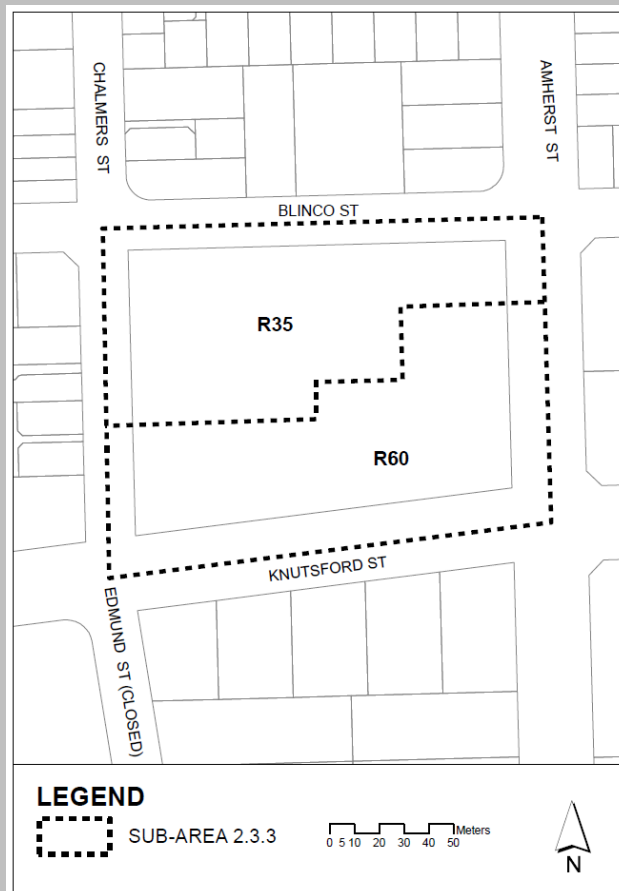
**A. Delete the following wording from Schedule 12, Local Planning Area 2 – Fremantle, 2.1 Height requirements:**

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

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

**B. Introduce Sub Area 4 – 20 (Lot 1354) Knutsford Street, Fremantle into Schedule 12 after Local Planning Area 2 - Sub Area 3**

**2.3.4 Sub Area 4 – 20 (Lot 1354) Knutsford Street, Fremantle**



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

**2. Notwithstanding the requirements of Table 2 – Zoning, an Office use will be permitted in Residential developments where the use meets the following:**

**i. The gla of the Office use does not exceed 80m<sup>2</sup>;**

**ii. The Office use is operated by an occupier of the household; and**

**iii. The Office use does not employ more than three employees (not including any occupiers of the household);**

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

as per clause 4.3.3.

3. Authorise the Mayor and Chief Executive Officer to execute the relevant documentation and affix the common seal of the City of Fremantle on the documentation.
4. Request the Minister for Planning to grant final consent to Scheme Amendment No. 56 as referred to in (2) above.

**MOVED: Cr A Sullivan**

**SECONDED: Cr I Waltham**

**CARRIED: 11/0**

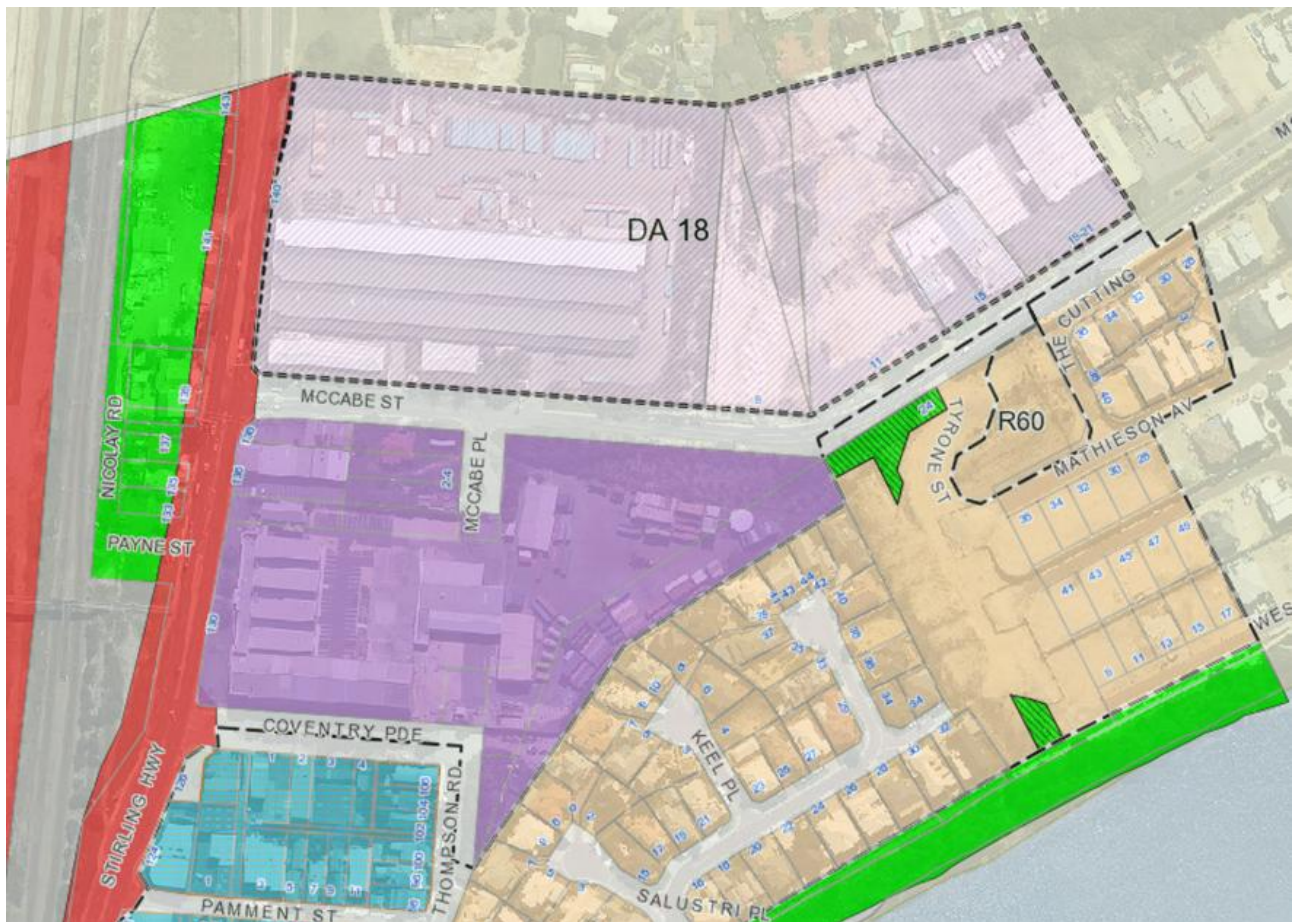
For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

PLANNING SERVICES COMMITTEE 17 APRIL 2013

Cr A Sullivan MOVED en bloc recommendations numbered PSC1304-58 and PSC1304-59

**PSC1304-58 CONSIDERATION OF REQUEST TO MODIFY LOCAL PLANNING POLICY 3.11 MCCABE STREET AREA, NORTH FREMANTLE HEIGHT OF NEW BUILDINGS**

**DataWorks Reference:** 117/034  
**Disclosure of Interest:** Nil  
**Meeting Date:** 17 April 2013  
**Responsible Officer:** Manager Planning Projects  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** PSC0807-195: 23 July 2008  
PSC0904-72: 22 April 2009  
**Attachments:**  
1. Applicant's Request to amend LPP3.11  
2. 140 Stirling Highway Structure Plan  
3. 9-11 McCabe Street Structure Plan



## EXECUTIVE SUMMARY

The City has been requested by Greg Rowe and Associates along with Mackay Urbandesign and Oldfield Knott Architects acting on behalf of H.L.M Holdings, the owner of the former Matilda Bay Brewery Site – 130 Stirling Highway, North Fremantle, to consider amending the City’s Local Planning Policy 3.11 – McCabe Street Area, North Fremantle. The request proposes increasing the building height permissible under the policy in relation to part of the site of 130 Stirling Highway, North Fremantle.

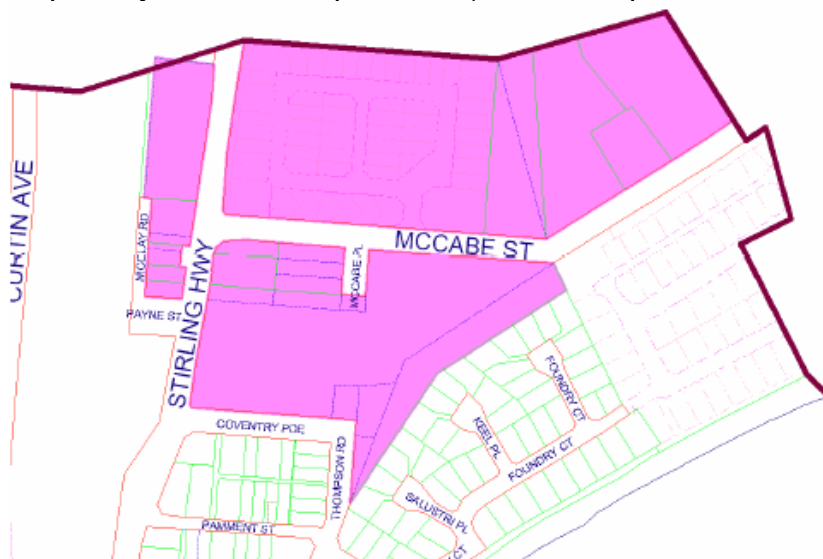
The purpose of this report is to inform Council of the request, but also to recommend that rather than determining the request as submitted, in the first instance all landowners in the policy area should be contacted to establish their interest in participating in a coordinated planning review of the policy as a whole. Officers consider this would be a more appropriate approach to assessing the planning and urban design basis for any potential increase in the height requirements prescribed in the policy, rather than amending the policy on an ad hoc basis.

It is recommended that Council note the request received and support the alternative approach outlined in this report.

## BACKGROUND

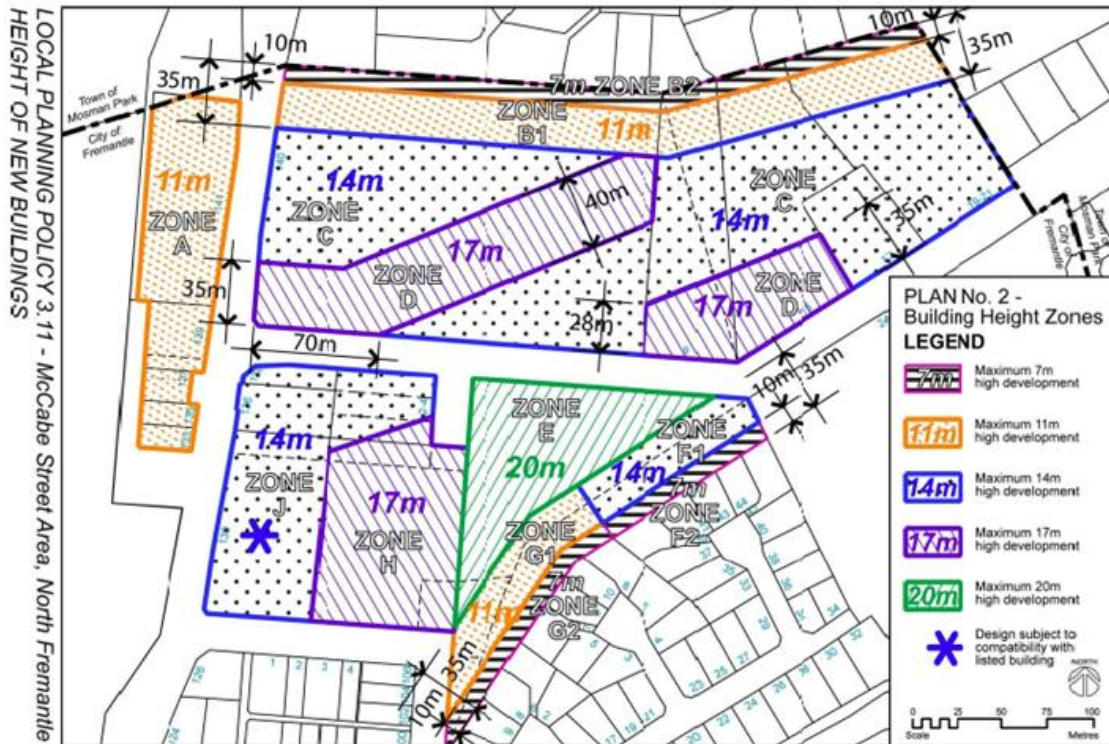
### Local Planning Policy 3.11, McCabe Street Area – Height of New Buildings

In November 2007 Council commissioned a height study to identify potential maximum heights of new buildings on land in the area adjacent to McCabe Street, North Fremantle as defined by the shaded area on the map below. This area included a number of significant potential redevelopment sites such as the former One Steel site at 140 Stirling Highway, 9-11 McCabe Street and the Matilda Bay Brewery site (Refer to 23 July 2008 Council minutes PSC0807-195). Using this study the Local Planning Policy 3.11 – McCabe Street Area – Height of New Buildings (LPP3.11), was drafted. LPP3.11 was adopted by Council in April 2009 (Refer 22 April 2009 Council minutes PSC0904-72).



The heights prescribed by the policy, for the area, are as depicted map below:





### Background to the area

The LPP3.11 area is made up of four main property groupings that are zoned under the City of Fremantle's Local Planning Scheme No. 4 (LPS4). Note 133-141 Stirling highway, North Fremantle, (zone A) is a Parks and Recreation reserve under the Metropolitan Region Scheme (MRS) and not zoned under LPS4. Each of the property groupings is at a different stage of planning. Accordingly, the background for each group is individually discussed below:

#### 140 Stirling Highway

140 Stirling Highway, North Fremantle is the former 'One Steel' storage and distribution premises. The lot is 3.1ha and zoned Development Zone (Development area 18). An approved structure plan is applicable to the site (Refer to attachment 2). The structure plan provides indicative density, plot ratio and height requirements for future development of the property. The City has not received a development application to progress the structure plan further.

#### 9-11 McCabe Street

9-11 McCabe Street, North Fremantle consists of three lots (Lot 315, 326 and 18, McCabe Street, North Fremantle). The area is zoned Development Zone (Development area 18) and is subject to a structure plan that was approved by the State Administrative Tribunal 3 March 2009 (Refer to attachment 3). The structure plan provides indicative building envelopes and AHD height limits.

Various planning approvals and survey strata and subdivision applications have been approved over the site in recent years. The three most recent and applicable planning applications are as follows:



- The City granted planning approval for a 51 apartment Multiple Dwelling development that consists of two basements and six storeys, on the south western portion of the three lots 315, 326 and 18 that comprise 9 McCabe Street, North Fremantle, on 25 October 2012, (DA0417/12). The City has not yet received a Building Permit application for this development.
- WAPC approved a subdivision application that proposes the three lots to be subdivided into four lots along the boundaries of the originally approved multiple dwelling application (refer to DA0087/10 and VA0009/11) on 27 November 2012 (WAPC146664).
- The City granted temporary planning approval for a viewing tower associated with the residential development approved on-site at 9 McCabe Street, North Fremantle, on 27 November 2012.

#### 15 and 19 and 21 McCabe Street

15 (Lot 16) and 19 and 21 (Lot 19) McCabe Street, North Fremantle both have separate owners. Each lot consists of established industrial/commercial type buildings and associated offices. There is no structure plan for either property. There are no recent development applications applied for or approved over the Lots.

#### McCabe – Coventry Street, North Fremantle area

This area includes No. 130 (Lot 5, 12, 218, 219, 220, 221, 314 & 253), No. 136 (Lot 100) and No. 138 (Lot 8) Stirling Highway and No. 2-4 (Lot 9, 10 & 11) McCabe Street, North Fremantle. The area is zoned Industrial under the City's LPS4. However a proposed amendment (No. 12) to the City's LPS4 to rezone the area from Industrial to Development Zone (Development Area 18) is currently before the Minister for Planning for final determination.

130 Stirling Highway, North Fremantle is on the City's Heritage List and a level 1B on the City's Municipal Heritage Inventory. 136 and 138 Stirling Highway and 2-4 McCabe Street, North Fremantle are not on the City's Heritage List.

#### **Metropolitan Region Scheme Amendment – Road Reservation**

The WAPC is currently proposing an amendment to the Metropolitan Region Scheme (MRS Amendment 1210/41 – Rationalisation of Stirling Highway Reservation), which affects some lots in the area, predominantly 140 Stirling Highway and 138 McCabe Street, North Fremantle. The purpose of the amendment is to ensure adequate space is allocated for a consistent and safer highway design into the future including widening of Stirling Highway in the North Fremantle area.

#### **PLANNING COMMENT**

The City has been requested by Greg Rowe and Associates along with Mackay Urbandesign and Oldfield Knott Architects (the applicant) acting on behalf of H.L.M Holdings, the owner of the former Matilda Bay Brewery Site – 130 Stirling Highway, North Fremantle, to consider amending the City's Local Planning Policy 3.11 – McCabe Street Area, North Fremantle. The request proposes increasing the height requirements under the policy for part of the site of 130 Stirling Highway to a maximum height of 40m from natural ground level and not exceeding 55m AHD in height, compared to the current policy provision allowing a maximum height of 17m from natural ground level on the part of the site in question.

The applicant has provided justification for the proposed increased height and accompanying 3D models to help illustrate the proposal (see attachment 1 for the applicant's request). The request is based on the differing topography and lower levels of 130 Stirling Highway, North Fremantle comparative to other properties in the area, and the limited impact on access to views development of the site would have due to its lower topography and location.

Clause 2.4 of LPS4 sets out the procedure to be followed if Council resolves to amend a local planning policy. The procedure requires advertising of the proposed amendment, consideration of any submissions and then a final decision by Council to either adopt the amendment to the policy (with or without further modifications) or to not proceed with the amendment. The current request to amend LPP3.11 would need to follow this procedure if Council was minded to initially support the proposed amendment as submitted.

However, officers consider this request to amend the maximum permitted building height for one part of one property subject to a policy that applies to several other significant landholdings represents a somewhat ad hoc approach to the review of the height provisions in the policy. There is also a reasonable likelihood that if advertised in its current form, the proposed amendment to the policy would attract submissions from owners of other properties subject to the policy requesting that the maximum height prescribed in the policy for their property also be increased.

Furthermore, LPP3.11 in its current form was adopted in April 2009, prior to the adoption of key strategic documents such as the WAPC's *Directions 2031 and Beyond* and the City's *Strategic Plan 2010-15*. It could be considered therefore that the strategic policy context into which this more detailed local area planning policy fits has changed, particularly with regard to issues of urban intensification and renewal, sustainable building design and housing diversity.

Consequently officers see merit in a more comprehensive approach to any review of height and design controls applying to development in the McCabe Street LPP3.11 area. The area comprises a small number of relatively large landholdings which are appropriately zoned and offer the potential for significant redevelopment. Appropriate new development could potentially deliver greater density in a location highly accessible to the coast, river, amenities and public transport. It may also be a more appropriate urban design approach to express maximum height requirements as AHD levels, instead of maximum heights from natural ground level as in the current policy, given the undulating topography through the area and the benefits of encouraging coordinated design and scale of future development in the area.

Accordingly, officers recommend that instead of amending the policy as requested, the City should initiate a process to engage all the landowners in the area in undertaking a coordinated review of LPP3.11 as a whole. The first step would be for the City to contact all landowners in the area and establish whether they are willing to participate in, and potentially co-fund, a broader review of LPP3.11. The responses to this approach would then be reported back to Council in order to determine appropriate further action. It is recommended that the current request to partially amend the policy should be held in abeyance pending the response to this approach to all landowners in the LPP3.11 area.

## CONCLUSION

The City has been requested to consider amending the City's Local Planning Policy 3.11 – McCabe Street Area, North Fremantle to increase the height requirements under the policy in relation to part of the site of 130 Stirling Highway, North Fremantle.

For the reasons outlined in the Planning Comment section of this report, it is recommended that rather than proceeding to deal with the policy amendment request as submitted, in the first instance all landowners in the area should be contacted by the City and offered the opportunity to participate in a more comprehensive and coordinated planning review of the policy.

It is recommended that Council note the request received and support the alternative approach outlined in this report.

## COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION

**MOVED: Cr A Sullivan**

- 1. That the request to increase the height requirements under Local Planning Policy 3.11, McCabe Street Area – Height of New Buildings in relation to part of the site of No. 130 Stirling Highway, North Fremantle, submitted on behalf of H.L.M. Holdings, be noted.**
- 2. That Council instructs officers to contact all landowners in the area subject to Local Planning Policy 3.11, McCabe Street Area – Height of New Buildings to establish whether they are willing to participate in a coordinated approach to reviewing this policy, and that the request to amend the policy referred to in (1) above be held in abeyance pending the receipt of responses from landowners.**

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	



**PSC1304-59 NOTICE OF MOTION - MAYOR BRAD PETTITT - 'PARKLETS' POLICY**

**DataWorks Reference:** 117/051  
**Disclosure of Interest:** Nil  
**Meeting Date:** 24 April 2013  
**Previous Item:** Nil  
**Responsible Officer:** Nil  
**Actioning Officer:** Manager Planning Projects  
**Decision Making Authority:** Council  
**Agenda Attachments:** Nil

**ELECTED MEMBER SUMMARY**

The 'Parklet' originated from a model in San Francisco in which road or parking space is re-imagined as small parks or seating/alfresco areas, sometimes for outdoor dining, but also sometimes as a mini park or to park bikes. Under the San Francisco parklet program ('Pavements to Parks'), businesses are provided with a permit to install a parklet. This is normally on a temporary basis. An example of a parklet is illustrated below:



It is proposed that businesses in Fremantle CBD should be able to apply for approval to turn up to two parking bays directly in front of their business into a temporary or semi-permanent parklet, to be used for any of the following:

- Alfresco dining
- Bicycle parking
- Public green space and seating

Parklets should be designed as temporary or semi-permanent structures, and be permitted to remain in place for an initial temporary period of up to two years, with possible renewals. Applicants will be responsible for funding all aspects of a parklet's design, installation and maintenance.

Parklets should demonstrate:

1. An improvement in public space: parklets should be public places that are accessible to people at all times, improving the street experience by (for example) providing seating and plantings or bike parking, or improving street safety.
2. That they are in the right location: parklet locations should be in existing parking bays in appropriate and safe locations, not on major intersections or in busy streets.
3. That the parklet is temporary and can be removed without damaging the existing road, curb or other public infrastructure

It is proposed that officers should be requested to prepare a draft policy on the installation of parklets, based on the above principles, for further consideration by Council.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **NOTICE OF MOTION**

1. That Council requests officers to prepare a draft policy on the location and installation of parklets for further consideration and adoption by Council. The policy should be based on the following principles:
  - Streets which function as primary public transport routes or other key linkages between major activity nodes (for example Market Street/South Terrace) are not suitable locations for parklets.
  - In all other streets in the CBD, parklets will be permitted subject to their location and design providing a demonstrable improvement in the quality of public space and maintaining or improving public safety in the street.
  - A parklet must be constructed in a manner that does not interfere with the functioning of infrastructure such as underground services and drainage, and makes it capable of easy removal at a later date without causing damage to existing public infrastructure including the kerb and road surface.
  - All costs associated with the construction, maintenance and removal of a parklet must be borne by its proponent, and proponents must lodge a bond with the City to cover the cost of any removal/reinstatement works which the City may have to carry out due to default on the part of the proponent.
  - Applicants for parklets must hold appropriate current public indemnity insurance.
  - No fee will be charged by the City for installation of a parklet if it is to be available for unrestricted public use; however a normal outdoor eating area licence fee will apply if a parklet is to be used exclusively for alfresco dining by customers of the business responsible for the parklet.
  - No public consultation will be undertaken by the City on proposed parklet installations, except in cases where a parklet extends across any part of the frontage of an adjoining property, in which case the owner and occupier of the

ground floor part of the property will be invited to comment prior to the City determining the application for approval of the parklet.

- Approval processes will allow for an initial installation period of 2 years, with a clear indication that the City retains absolute discretion in determining whether to approve any subsequent renewal application.

2. That officers be requested to investigate the legal issues and approval requirements associated with shade structures that might be proposed as part of a parklet design, and include information addressing these issues in the draft policy referred in Part 1 of this motion.

## **OFFICER COMMENT**

Parklets for alfresco dining or other street activities in widened sections of footpaths can provide additional interest, activation and surveillance on city centre streets. They might generally be regarded as acceptable where:

- The existing footpath is too narrow to accommodate vibrant street activities as well as pedestrian movements.
- The existing kerbside lane is used for general street parking as opposed to requirements for public transport, taxis and service vehicles, and designated parking for people with disabilities, which should take priority over parklets.
- Public street infrastructure and safety requirements are satisfied.

The significance and function of a street within the overall street hierarchy of Fremantle city centre should be a consideration in determining whether a temporary parklet is appropriate in any particular location. In 'primary' streets that function as key pedestrian spaces and as routes linking transport nodes and major activity nodes it might be considered that any widening of footpaths should be of a permanent construction in accordance with Council's relevant streetscape specifications in order to reinforce the significance and image of these streets.

Preparation of a policy in accordance with the principles proposed in this Notice of Motion will involve consideration of a range of other issues including relevant provisions of existing State or local laws; particular legal and approval requirements relating to shade structures that might be proposed as part of a parklet design; the amount of insurance and/or bond requirements; and details of relevant safety and access standards.

## COMMITTEE RECOMMENDATION/COUNCIL DECISION

**MOVED: Cr A Sullivan**

**That Council requests officers to prepare a draft policy on the location and installation of parklets for further consideration and adoption by Council. The policy should be based on the following principles:**

- **Streets which function as primary public transport routes or other key linkages between major activity nodes (for example Market Street/South Terrace) are not suitable locations for parklets.**
- **In all other streets, parklets will be permitted subject to their location and design providing a demonstrable improvement in the quality of public space and maintaining or improving public safety in the street.**
- **A parklet must be constructed in a manner that does not interfere with the functioning of infrastructure such as underground services and drainage, and makes it capable of easy removal at a later date without causing damage to existing public infrastructure including the kerb and road surface.**
- **All costs associated with the construction, maintenance and removal of a parklet must be borne by its proponent, and proponents must lodge a bond with the City to cover the cost of any removal/reinstatement works which the City may have to carry out due to default on the part of the proponent.**
- **Applicants for parklets must hold appropriate current public indemnity insurance.**
- **There will be no fee associated with applying for construction of a parklet.**
- **Any parklet must be available for public use regardless of whether or not they are customers of the business responsible for the parklet**
- **Normal outdoor eating area licences will apply where applicable**
- **Following public notification to adjoining businesses and residents that a parklet proposal is to be considered by council/committee, it will be determined based on criteria relating to the following matters;**
  - **Amenity**
  - **Contribution to Urban Design**
  - **Diversity of use within the precinct**
  - **Specific localised detrimental effect on parking**
- **Approval processes will allow for an initial installation period of 2 years, with a clear indication that the City retains absolute discretion in determining whether to approve any subsequent renewal application.**
- **Criteria for approval for parklets will include;**
  - **The existing footpath is too narrow to accommodate vibrant street activities as well as pedestrian movements.**
  - **The existing kerbside lane is used for general street parking as opposed to requirements for public transport, taxis and service vehicles, and designated parking for people with disabilities, which should take priority over parklets.**



- Public street infrastructure and safety requirements are satisfied.
  - A parklet will only be permitted on a street with a maximum speed limit of 40kph or lower
  - Any loss of parking is not significantly detrimental to the parking requirement of the immediate area
  - There will be a presumption against covered structures being erected as part of parklets
2. That officers be requested to investigate the legal issues and approval requirements associated with shade structures that might be proposed as part of a parklet design, and include information addressing these issues in the draft policy referred in Part 1 of this motion.

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

## STRATEGIC AND GENERAL SERVICES COMMITTEE 10 APRIL 2013

### SGS1304-6 NOTICE OF MOTION BY MAYOR BRAD PETTITT - SOUTH FREMANTLE TIP SITE USES BY FREOFARM AND AS A SOLAR FARM

<b>DataWorks Reference:</b>	097/004
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	24 April 2013
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Nil
<b>Actioning Officer:</b>	Glen Dougall, Director Corporate Services
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Nil

### ELECTED MEMBER SUMMARY

The South Fremantle Tip Site is highly unlikely to be remediated or redevelopment over the next decade and as a result may continue to be a predominantly underutilised wasteland. The above proposals allow the site to be used in a positive manner from a community and sustainability perspective without jeopardising long-term planning and uses for the site.

### VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

### NOTICE OF MOTION

1. Council advise FreoFarm that it supports the principle of a lease for 5 years with an option for a further 5 years over the nominated portion of the South Fremantle Tip Site, and encourages FreoFarm to submit a revised proposal document including the following information:
  - Confirmation that any development including temporary buildings, sea containers, garden beds and other structures will be of lightweight construction, capable of easy removal, and can be shown not to disturb contaminants, if any, on the site.
  - Indicative plans and specifications of services and infrastructure to be provided as part of the FreoFarm proposal.
  - Confirmation that FreoFarm will meet the cost of installation of services and infrastructure related to the proposal, unless agreed by the Council at a later date
  - A commitment by FreoFarm to remove and cover the cost of removal of all temporary buildings, sea containers, garden beds and other structures upon lease expiration or termination, unless agreed by the Council at a later date
  - A commitment by FreoFarm to engage suitably qualified and experienced persons and, if necessary, an auditor to identify the extent of investigations and

- remedial work required to demonstrate the proposed site is suitable for the intended use, and to meet the cost of their appointment.
2. Upon receipt of a revised proposal as outlined in 1 above, the City will use its best endeavours to arrange a tripartite meeting with the DEC, the City of Fremantle and FreoFarm to discuss the proposal further, with particular regard to addressing the following matters:
    - Compliance with the DEC's Contaminated Sites Management Series of guidelines.
    - FreoFarm's capacity to take measures to manage public health risks which may arise from the use of the site, including those related to any contamination beneath the site as well as that present in the adjacent land.
    - Consultation with the community and ensure the health and safety of workers and surrounding residents prior to and during any potential site works.
    - Compatibility of the proposed land use with existing uses including horse, pedestrian and cyclist use of adjoining land, and potential future uses of the remainder of the landfill site.
  3. That officers undertake liaison with the DEC in relation to the possibility of development of a large-scale Solar Farm on a portion of the remainder of the site, and that, should this be possible, a further report be brought back to the Council with a view to calling for expressions of interest for the development of such a facility.

### **OFFICER COMMENT**

The former South Fremantle Landfill site has been classified by the Department of Environment and Conservation (DEC) as "Contaminated – Remediation required" under the Contaminated Sites Act. The presence of landfill waste and the land classification by the DEC places restrictions on the use of the land and confers ongoing site management, monitoring and remediation responsibilities on the City of Fremantle.

Since 2010, the City has engaged the services of a Contaminated Sites Auditor and WALGA approved environmental consultant to perform a comprehensive landfill gas survey and health risk assessment. A Detailed Site Review has been submitted to the DEC. A Site Management Plan is being developed to identify a 3 year schedule of site management, monitoring works and reporting. This will identify the City's short term responsibilities and annual financial obligations as the landowner of a known contaminated site.

Following a 3 year schedule of on-site and off-site gas, groundwater and soil monitoring and ongoing management of risks, it is envisaged the City of Fremantle will be in a position to seek Contaminated Sites Auditor and DEC approval to undertake final remediation works. Subject to financial capacity, remediation works could be integrated with redevelopment or re-use of the site for low risk or passive land uses in the longer term, but realistically this is likely to be a process that would be staged over a number of

years. As this process reaches a conclusion the Contaminated Sites Auditor and DEC can approve the reclassification of the former South Fremantle Landfill site.

The DEC has an expectation that the City of Fremantle will continue to manage, monitor and progress towards remediation of the former South Fremantle Landfill Site. Interim land uses proposed on portions of the former South Fremantle Landfill site as the City of Fremantle progresses towards remediation may or may not be acceptable to the DEC based on risks to public health and the environment.

**Cr D Thompson MOVED an amendment to the Officer's Recommendation to include the following wording:**

- 1. Council acknowledge FreoFarm Inc's proposal dated 18 September 2012 and support the principle of a lease for 5 years with an option for a further 5 years, *at no cost to Council* over the nominated portion of the South Fremantle Tip Site and invites FreoFarm Inc to submit a revised proposal document including the following information:**

**CARRIED: 5/1**

<b>For</b>	<b>Against</b>
Cr Jon Strachan Cr Tim Grey-Smith Cr David Hume Cr Dave Coggin Cr Doug Thompson	Cr Sam Wainwright

## **COMMITTEE RECOMMENDATION**

**MOVED: Cr J Strachan**

- 1. Council acknowledge FreoFarm Inc's proposal dated 18 September 2012 and support the principle of a lease for 5 years with an option for a further 5 years over the nominated portion of the South Fremantle Tip Site and invites FreoFarm Inc to submit a revised proposal document including the following information:**

- a) Confirmation that any development including temporary buildings, sea containers, garden beds and other structures will be of lightweight construction, capable of easy removal, and can be shown not to disturb contaminants, if any, on the site;**
- b) Indicative plans and specifications of services and infrastructure to be provided as part of the FreoFarm Inc. proposal;**
- c) Confirmation that FreoFarm Inc. will meet the cost of installation and maintenance of services and infrastructure related to the proposal, unless agreed by the Council at a later date;**
- d) A commitment by FreoFarm Inc. to remove and cover the cost of removal of all temporary buildings, sea containers, garden beds and other**

- structures upon lease expiration or termination, unless agreed by the Council at a later date;
- e) A commitment by FreoFarm to engage suitably qualified and experienced persons and, if necessary, an auditor to identify the extent of investigations and remedial work required to demonstrate the proposed site is suitable for the intended use, and to meet the cost of their appointment; and
  - f) Confirmation that the development will respect the existing pedestrian, cycling and bridal paths in and adjacent to the area;
  - g) A proposed vegetation plan which identifies which of the existing vegetation it is proposed to remove and that which is to be maintained; and,
2. Upon receipt of a revised proposal as outlined in 1 above, the City will use its best endeavours to arrange a tripartite meeting with the DEC, the City of Fremantle and FreoFarm Inc to discuss the proposal further, with particular regard to addressing the following matters:
- a) Compliance with the DEC's Contaminated Sites Management Series of guidelines;
  - b) FreoFarm's capacity to take measures to manage public health risks which may arise from the use of the site, including those related to any contamination beneath the site as well as that present in the adjacent land;
  - c) Consultation with the community and ensure the health and safety of workers and surrounding residents prior to and during any potential site works;
  - d) Compatibility of the proposed development with existing uses including horse, pedestrian and cyclist use of pathways through the area and on adjoining land, and potential future uses of and access to the remainder of the landfill site;
  - e) Consultation with the Office of Heritage and people with an interest in horse activities in the area to ensure adequate measures are taken to protect the horse heritage in the area; and,
  - f) Assessment of the need to manage public access to the facility and to provide suitable improvements where required to ensure access is well managed and does not unreasonably inconvenience or negatively impact existing residential and light industrial activities including those located in Daly St and Thomas St.
3. That officers undertake liaison with the DEC in relation to the possibility of development of a large-scale Solar Farm on a portion of the remainder of the site, and that, should this be possible, a further report be brought back to the Council with a view to calling for expressions of interest for the development of such a facility.



**CARRIED: 6/0**

For	Against
Cr Jon Strachan Cr Tim Grey-Smith Cr David Hume Cr Sam Wainwright Cr Dave Coggin Cr Doug Thompson	

**NOTE:**

Cr Doug Thompson requested whether Part 3 of the resolution could be separated as a separate Notice of Motion for the Council meeting.

**COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

- 1. Council acknowledge FreoFarm Inc's proposal dated 18 September 2012 and support the principle of a lease for 5 years with an option for a further 5 years over the nominated portion of the South Fremantle Tip Site and invites FreoFarm Inc to submit a revised proposal document including the following information:**
  - a) Confirmation that any development including temporary buildings, sea containers, garden beds and other structures will be of lightweight construction, capable of easy removal, and can be shown not to disturb contaminants, if any, on the site;**
  - b) Indicative plans and specifications of services and infrastructure to be provided as part of the FreoFarm Inc. proposal;**
  - c) Confirmation that FreoFarm Inc. will meet the cost of installation and maintenance of services and infrastructure related to the proposal, unless agreed by the Council at a later date;**
  - d) A commitment by FreoFarm Inc. to remove and cover the cost of removal of all temporary buildings, sea containers, garden beds and other structures upon lease expiration or termination, unless agreed by the Council at a later date;**
  - e) A commitment by FreoFarm to engage suitably qualified and experienced persons and, if necessary, an auditor to identify the extent of investigations and remedial work required to demonstrate the proposed site is suitable for the intended use, and to meet the cost of their appointment; and**
  - f) Confirmation that the development will respect the existing pedestrian, cycling and bridal paths in and adjacent to the area;**

**g) A proposed vegetation plan which identifies which of the existing vegetation it is proposed to remove and that which is to be maintained; and,**

**SECONDED: Cr J Strachan**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**MOVED: Mayor, Brad Pettitt**

**2. Upon receipt of a revised proposal as outlined in 1 above, the City will use its best endeavours to arrange a tripartite meeting with the DEC, the City of Fremantle and FreoFarm Inc to discuss the proposal further, with particular regard to addressing the following matters:**

- a) Compliance with the DEC's Contaminated Sites Management Series of guidelines;**
- b) FreoFarm's capacity to take measures to manage public health risks which may arise from the use of the site, including those related to any contamination beneath the site as well as that present in the adjacent land;**
- c) Consultation with the community and ensure the health and safety of workers and surrounding residents prior to and during any potential site works;**
- d) Compatibility of the proposed development with existing uses including horse, pedestrian and cyclist use of pathways through the area and on adjoining land, and potential future uses of and access to the remainder of the landfill site;**
- e) Consultation with the Office of Heritage and people with an interest in horse activities in the area to ensure adequate measures are taken to protect the horse heritage in the area; and,**
- f) Assessment of the need to manage public access to the facility and to provide suitable improvements where required to ensure access is well managed and does not unreasonably inconvenience or negatively impact**



**existing residential and light industrial activities including those located in Daly St and Thomas St.**

**SECONDED: Cr J Strachan**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**MOVED: Mayor, Brad Pettitt**

**3. That officers undertake liaison with the DEC in relation to the possibility of development of a large-scale Solar Farm on a portion of the remainder of the site, and that, should this be possible, a further report be brought back to the Council with a view to calling for expressions of interest for the development of such a facility.**

**SECONDED: Cr J Strachan**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

## **SGS1304-2      FREMANTLE TOWN HALL AND VICTORIA HALL USAGE OPTIMISATION**

**DataWorks Reference:** 046/007  
**Disclosure of Interest:** Nil  
**Meeting Date:** 10 April 2013  
**Previous Item:** Nil  
**Responsible Officer:** Wendy OShaughnessy, Acting Manager Economic Development and Marketing  
**Actioning Officer:** Marie La Frenais, Coordinator Event Management  
**Decision Making Authority:** Council  
**Agenda Attachments:** Fremantle Town Hall and Victoria Hall- Improved Access and Usage report by One Degree Advisory Pty Ltd  
Statement of Work

### **EXECUTIVE SUMMARY**

The recent announcement of the departure of Deckchair Theatre from Victoria Hall provided the opportunity to consider options for the long term use of the property as well as the future use of Fremantle Town Hall and how the two can operate harmoniously.

At the Council meeting on the 19 December 2012, it was unanimously voted that the City commission a report into the longer term use of the Victoria Hall, taking into consideration the current and anticipated emphasis in the future use of the Fremantle Town Hall.

This report was commissioned to One Degree Advisory Pty Ltd based on the statement of work provided by the former Manger Economic Development and Marketing.

#### ***Scope of works introduction:***

The City of Fremantle has a nationally recognised reputation as a centre of arts and cultural activity. The City has an outstanding built environment, active commercial and professional galleries, the State's Maritime Museum, the Fremantle Arts Centre, festivals which feature across the annual calendar and a large number of artists of all disciplines living and working within its boundaries.

The arts and entertainment sector is big business in Fremantle. The sector is a major drawcard for national and international visitors as well as Perth residents who flock to the City each week.

The City of Fremantle owns a number of assets that service the community and which play a large role in the arts and entertainment business. Two of these are historic buildings; the Fremantle Town Hall and Victoria Hall.

In order to maximise the use and number of users of both venues, the City engaged a suitably skilled and experienced advisor to report on the longer term potential of each venue, how each might compliment with the other and the

**management arrangements that will maximise the use of each; by assessing each venue for their potential, in consultation with internal and external stakeholders.**

**The purpose of this item is to accept the report with recommendations requested from senior management group and from council.**

## **BACKGROUND**

The City's Strategic Plan 2010-2015 includes a number of commitments to the community of Fremantle. Those related to the scope of works include:

- work to provide a liveable city with a range of housing, work and recreation opportunities
- provide for population and economic growth by planning and promoting development and renewal in designated precincts within the city;
- sustain and promote strategic initiatives that will grow our diverse arts culture
- protect and enhance our significant built and social heritage

### Victoria Hall

For over ten years Deckchair Theatre and its resident company with the venue being used for rehearsals and theatre performances. From time to time the lessee sub-leased the venue for one-off events.

During the period of the Deckchair Theatre residency, the Hall was substantially upgraded. Improved front of house facilities, a new bar and outdoor area, the installation of purpose designed backstage and technical equipment, office facilities for company management and performers off stage areas. Limited acoustic attenuation was also installed in the main auditorium. This work was paid for by public funds and the hall is now a valuable public asset.

Details of additional recommend physical upgrades for Victoria Hall are contained within the Grieve Gillett Opportunity Report December 2010.

Victoria Hall was re-leased by the City of Fremantle to Deckchair Theatre on 1 July 2011. The company has since closed operations and the City has made recommendations to Councillors that the venue be made available for short term, casual hire until an operations and usage review can be completed.

### Fremantle Town Hall

In this strategic context, the City has undertaken an Urban Design Strategy for Kings Square, the centre of the City. The Town Hall is the centre piece of this strategy and Victoria Hall is just outside the geographical boundaries of this proposed development site.

The Urban Design Strategy encompasses City owned buildings, parkland, privately owned commercial property and St John's Church.

Fremantle Town Hall is also available for short term and casual hire. It is a much larger venue with capacity for significantly greater audiences. The Grieve Gillett Report notes

that the Town Hall does have major deficits in occupation, health and safety requirements.

The report indicates that other vital development could significantly enhance usage of the Town Hall in a way that improves access by patrons, provides an engaging and welcoming entry to visitors.

As a result, the City wishes to explore options that will maximise usage of both venues as well as access to the Fremantle community and the wider metropolitan area. Activities may include:

- Community events
- School presentations
- Formal City events
- Arts activities – performance, exhibitions, rehearsals and workshops
- Film, digital and photographic showings
- Conferences
- Meetings, dinners and functions
- Product launches
- Markets and trade shows

## COMMENT

The report from One Degree Advisory Pty Ltd was received on 18 March 2013 with fifteen recommendations:

**RECOMMENDATION ONE:** That technical facilities listed in this report are purchased and installed within the recommended time frames. These items should be featured in the hirers' information brochure that each venue provides.

**RECOMMENDATION TWO:** That building upgrades and remedial works are actioned within our recommended time frames. It is further recommended that these upgrades are added to venue drawings, for easy identification by venue hirers.

**RECOMMENDATION THREE:** That the equipment and building improvements designated as 'long-term' be actioned at the same time as the Kings Square development. This includes the immediate preparation of a design brief for the proposed corridor to inform its interaction with the Kings Square development.

**RECOMMENDATION FOUR:** That a full review of staffing structures in the Economic Development and Community Development sections of the City's operations be commissioned to examine opportunities for efficiencies and service delivery improvements. In addition, this review will seek to identify simplified internal processes.

**RECOMMENDATION FIVE:** That the basic hiring documentation of each venue be reviewed. The aim would be to align the venues where possible, simplify the hiring process for users and reflect the different nature of each venue. Clear, concise documentation would help clarify the roles and appropriate responses for City staff.

**RECOMMENDATION SIX:** That the City employ a full time Facilities Manager prior to the installation of the recommended technical equipment. The Manager would oversee installation and supervise the day-to-day technical operation of each venue. The Manager would be the key link between the venues and other areas of City activity.

**RECOMMENDATION SEVEN:** That a hiring fee benchmarking study be commissioned. This would assess the hiring cost of venues against current fees charged by the City. This study will furnish the City with a hiring structure and rationale to assist community access to the venues while maximising income and usage of these assets. Rental rates for community (lower fees) and commercial (higher fees) usage should be identified along with the two tiered hirer structure in recommendation thirteen.

**RECOMMENDATION EIGHT:** That Fremantle Festival staff move their office into the rear rooms at Victoria Hall. The staff roles should be expanded to include the responsibility of enlivening this building with events. New staff resources may be required. Programming of activities should be undertaken in full consultation with the existing activities at the Fremantle Arts Centre. It is further recommended that Festival staff are given an incentive to maximise income from these events and return some of this income to the Festival to add value to its activities.

**RECOMMENDATION NINE:** That the City seek advice on a cost effective manner of delivering front of house management to ensure audience safety and controlled management.

**RECOMMENDATION TEN:** That the Fremantle Town Hall 1st and 2nd floors are opened up for ongoing and immediate use by community groups as offices and meeting places. Installation of electronic locks will aid this process. Other community usage will be extended with the construction of mezzanine above the stage dock door area – creating both a meeting room and much needed storage space.

**RECOMMENDATION ELEVEN:** That a building code audit of each building be carried out by a suitably qualified practitioner. This will inform work which should be carried out at the same time as the recommended upgrades are completed.

**RECOMMENDATION TWELVE:** That the City commissions a Marketing Plan that references the City's Strategic Plan and this report. Its purpose is to provide a blueprint for promoting each venue, highlighting its versatility, community access, heritage values and technical facilities.

**RECOMMENDATION THIRTEEN:** That the City introduces a two - tier hirer structure so that regular hirers (potentially the Fremantle Symphony, Fremantle Festival, Seniors' Tea Dances) are given the opportunity to secure dates in advance. External hirers may also be able to take advantage of support from the programming fund (see below). The second tier users will be occasional users.

**RECOMMENDATION FOURTEEN:** The City currently waives hiring fees to some community hirers. It is recommended that the value of any fees waived should be recorded in the hiring confirmation as the value of the City's contribution. The City may wish to seek a daily access fee (possibly \$100) as a contribution towards operations costs from these users.

**RECOMMENDATION FIFTEEN:** That an annual programming fund be established to increase community activity in both venues. Totalling \$150,000pa, the fund will seed new activity, build new audiences and offer new access and engagement, similar to the current programmed events at the Fremantle Arts Centre. It will require a defined purpose and targeted objectives to measure its success. The programming fund should also include the value of the rent forgone from community users who chose to access the current venue support program and that value be transferred into the income for the relevant venue. This will enable them to recognise the value of the City's support.

In addition to this, the consultant has prepared a detailed budget (under appendix eight) that breaks down the essential, short, medium and long-term capital work costs associated with the recommendations.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Pending Council's recommendations, a 2013 to 2015 budget allocation for proposed works as well as an annual programming fund and any additional required resources.

### **Legal**

Nil

### **Operational**

The event management team within the economic development and marketing business unit along with the community development unit a possible restructure to accommodate recommendation six.

### **Organisational**

Implications regarding the proposed works integration with the Urban Design Strategy for Kings Square.

## **CONCLUSION**

The departure of Deckchair Theatre from Victoria Hall and an increased focus on improving the Fremantle Town Hall as a significant performance space provides the opportunity to consider and to resolve a longer term strategy that will, in a complementary and coordinated way, maximise the future use, and users, of the spaces in each venue.

The purpose of this item is to accept the report with recommendations requested from senior management group and from council.

## **STRATEGIC AND POLICY IMPLICATIONS**

Character

Sustain and Grow arts and culture and preserve the importance of our social capital, built heritage and history.

A City that attracts diverse original arts and artists, culture and events

- Increase in number of arts providers in Fremantle
- Provide residency and artists programs to attract artists
- Increase communal space for artists to work in and support arts organisations

## COMMUNITY ENGAGEMENT

Conducted in preparation of the final report.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

## COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION

**MOVED: Cr J Strachan**

1. Receive the Fremantle Town Hall and Victoria Hall - Improved Access and Usage report by One Degree Advisory Pty Ltd.
2. An investigation by a City appointed working group into the feasibility of the fifteen recommendations reporting back to council on any findings.

**SECONDED: Cr D Hume**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	





**Cr J Strachan MOVED en bloc recommendations numbered SGS1304-3.**

**SGS1304-3 SHITBOX RALLY - REQUEST FOR CARPARK 11**

<b>DataWorks Reference:</b>	042/005
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	10 April 2013
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Wendy OShaughnessy, Acting Manager Economic Development and Marketing
<b>Actioning Officer:</b>	Marie La Frenais, Coordinator Event Management
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Nil

**EXECUTIVE SUMMARY**

**'Shitbox Rally' is proposing to book Car Park 11 (Marine Terrace, adjacent to the Italian Club) for the finale of their race on 10 and 11 May 2013 for use from 3.00 pm on the 10 May until 8.30 am on 11 May 2013. They are requesting a 100% subsidy for the use of the car park to the value of \$4 057.**

**BACKGROUND**

The 'Shitbox Rally' is the largest fundraising event for the Cancer Council nationally. The organisers state that promotions for the event reached an audience of over 11.4 million people across television, radio, online and print in 2012. The event organisers promotions focuses on the rally route from Adelaide to Fremantle via Uluru. The event promoter has a new partnership with the Esplanade Hotel Fremantle where guests are staying for the weekend of the event, in turn having a positive economic impact to local businesses. The request for Car Park 11 is due to the close proximity with the Esplanade Hotel.

**COMMENT**

The benefits to Fremantle from hosting the Shitbox Rally are:

- An estimated attendance in excess of 1,000 of event participants.
- The opportunity for a number of Fremantle businesses to participate in the event.

Recent research has shown that the average per person spend by visitors to events of this type is \$38. While there is an initial loss of revenue from hire fees and parking income from Car Park 11, this is outweighed by the economic benefit to local businesses if the 'Shitbox Rally' can be attracted to Fremantle as an annual event.

**RISK AND OTHER IMPLICATIONS**

## **Financial**

While there is an initial loss of revenue from hire fees and parking income from Car Park 11, this is outweighed by the economic benefit to local businesses if the 'Shitbox Rally' can be attracted to Fremantle as an annual event.

## **Legal**

Nil

## **Operational**

'Shitbox Rally' will provide the City with a safety / risk management plan, traffic management plan, the events security company agent licence and the event's public liability insurance.

## **Organisational**

Various business units will need to undertake monitoring and facilitation activities prior to, during and following the event.

## **CONCLUSION**

The organiser agrees to use the City's name and logo to the extent practicable / reasonable in on the following material produced or used by the organiser for the purpose of marketing, advertising or publicising the event (which shall be at the organiser's own expense):

- press and radio advertisements;
- media releases;
- public address announcements;
- promotional material;
- publicity material;
- signage at the festival/event; and
- the organiser's website.

## **STRATEGIC AND POLICY IMPLICATIONS**

The 'Shitbox Rally' aligns with the City's Strategic Imperative for sustaining and growing arts and culture while preserving the importance of our social capital. The event will contribute to the outcome of a City that attracts diverse original artists and events.

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

**COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**MOVED: Cr J Strachan**

**That the fee for the Shitbox Rally use of Car Park 11 (next to the Esplanade Reserve) be waived, a total of \$4 057 on the condition that the organisers enter into a management agreement with the City for the event.**

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

## SGS1304-4 WILLIAM STREET CONTRA FLOW CYCLE LANES

<b>DataWorks Reference:</b>	165/008
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	10 April 2013
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Peter Pikor, Director Technical Services
<b>Actioning Officer:</b>	Phillip Adams, Manager Infrastructure Services
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Drawing Number 015-1111-DE1 (under separate cover)

### EXECUTIVE SUMMARY

The current capital works bike plan program includes provision to improve the City's bicycle network with a contra flow cycle lane on the one way section of William Street between the High Street Mall and the Paddy Troy Mall. A Grant funding contribution has been received from the Department of Transport and the contra flow cycle lane has been approved as a trial by Main Roads WA .

The installation of the contra flow cycle lane in this one way section of William Street will require converting the existing parallel parking on both sides of the street to angle parking on the east side. Whilst these changes will result in the loss of a number of car parking spaces on the street there are nearby car parking facilities that can be utilised. A community consultation process has been undertaken on this proposal and as there are no significant issues associated with this treatment it is recommended for Council's approval.

### BACKGROUND

With the continuing expansion of the Bicycle Network in the City of Fremantle, Technical Services Officers have examined the potential options for a formalised bicycle lane from Henderson Street to the Town Hall and Kings Square along the adjacent one way section of William Street. William Street is one way traffic flow from Adelaide Street to Paddy Troy Mall and then from this location is two way traffic flow to Parry Street.

Together with Main Roads WA and Bike West, City Officers developed a conceptual plan for the introduction of cycle lanes for this section of William Street between the High Street Mall and Parry Street with part being contra flow. The intent is to introduce the contra flow treatment as a trial due to the unusual nature of this concept in that it does not provide a defined protected contra flow space on the street. With input from all parties this has resulted in an agreed and approved design that satisfies Australian design standards and achieves a satisfactory level of service for the cycling community. The design results in the existing parallel parking bays in this section of William Street to be converted to angle parking on the east side but results in the loss of 9 car parking bays, 1 loading zone and 1 motorcycle bay. The changes to the parking layout are predominantly of revised pavement markings.

The design plan also requires the minor realignment of the existing raised plateau that links Newman Court to Fremantle Mall. At the southern section of William Street near the

Spicers Car Park the existing pedestrian crossing traffic island will be removed and replaced with a pedestrian zebra crossing to cater for crossing movements. The overall proposed treatment is shown on attachment 1.

## **COMMENT**

This innovative project achieves requests to design a suitable link for cyclists to the centre of the Central Business District. During the construction the disruption to the local business community is minimised due to the minimal amount of road construction required.

This project is adjacent to the Kings Square Redevelopment. Whilst the Kings Square adopted Urban Design Strategy does include future consideration on streetscape designs for William Street and Newman Court together with the proposed redevelopment of Queensgate and the Spicer Site, the program of these works suggest that the trial treatment will be in use for a reasonable period of time. The outcomes of the contra flow cycle lane trial will also provide the opportunity for this type of treatment to be considered for other one way streets within this City and also the metropolitan area.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

A grant of \$36,500 has been received from the Department of Transport for this project. The total revised Budget allocation is \$106,000 with additional funds being sourced at the mid year budget review due to increased costs associated with special green pavement marking for the contra flow cycle lane . The ongoing monitoring of the trial will be from the operating budget.

### **Legal**

Pavement marking and signage for this project has received MRWA approval. MRWA are the custodians of all regulatory pavement marking and signage in Western Australia.

### **Operational**

While providing a significant link for cyclists there will be a loss of a number of on street parking spaces. However there are nearby parking facilities that can be utilised.

### **Organisational**

Nil.

## **CONCLUSION**

The addition of this cycling facility to the bicycle network represents the proactive approach of the Council and community to increase the level of service for sustainable transport options within the City.

The trial implementation of the treatment in William Street will provide information on its effectiveness as a contra flow cycle lane that can be used for other similar situations.

## STRATEGIC AND POLICY IMPLICATIONS

This project complements the Strategic Plan to increase the amount of sustainable transport and increasing the cycle network.

## COMMUNITY ENGAGEMENT

Community consultation letters seeking feedback on the proposal was sent out to the businesses within the scope of works in early January 2013. Further consultation, including installation of onsite signage, newspaper notices and postings on the City's web site has been undertaken. To date there has been 1 written response and 4 emails in support of the project. There have been 2 telephone inquiries concerned about the loss of parking.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

## COMMITTEE AND OFFICER'S RECOMMENDATION

**MOVED: Cr J Strachan**

**That Council approves the proposed on street cycle lane treatment in William Street including a contra flow cycle lane in the one way traffic section between the High Street Mall and Paddy Troy Mall as shown on drawing number 015-1111-DE1 on Attachment 1.**

**CARRIED: 5/1**

<b>For</b>	<b>Against</b>
Cr Jon Strachan Cr Tim Grey-Smith Cr Sam Wainwright Cr Dave Coggin Cr Doug Thompson	Cr David Hume

## COUNCIL DECISION

**MOVED: Cr J Strachan**

**That Council approves the proposed on street cycle lane treatment in William Street including a contra flow cycle lane in the one way traffic section between the High Street Mall and Paddy Troy Mall as shown on drawing number 015-1111-DE1 on Attachment 1.**

**SECONDED: Cr D Coggin**

**Cr D Hume MOVED to defer the item to the next appropriate Strategic and General Services Committee meeting.**

**MOVED: Cr D Hume**

That the item be deferred to the next appropriate Strategic and General Services Committee meeting.

**SECONDED: Cr J Wilson**

LOST: 1/10

<b>For</b>	<b>Against</b>
Cr David Hume	Mayor, Brad Pettitt Cr Jon Strachan Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson

**MOVED: Cr J Strachan**

**That Council approves the proposed on street cycle lane treatment in William Street including a contra flow cycle lane in the one way traffic section between the High Street Mall and Paddy Troy Mall as shown on drawing number 015-1111-DE1 on Attachment 1.**

**SECONDED: Cr D Coggin**

**CARRIED: 8/3**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Dave Coggin Cr Doug Thompson	Cr David Hume Cr Bill Massie Cr Andrew Sullivan





**Cr J Strachan MOVED en bloc recommendations numbered SGS1304-5.**

**SGS1304-5 SWAN RIVER FORESHORE DINGHY MANAGEMENT COMMUNITY CONSULTATION**

**DataWorks Reference:** 146/026 and 146/015  
**Disclosure of Interest:** Nil  
**Meeting Date:** 10 April 2013  
**Previous Item:** SGS1101-3  
**Responsible Officer:** Peter Pikor, Director Technical Services  
**Actioning Officer:** Lionel Nicholson, Manager City Works  
**Decision Making Authority:** Council  
**Agenda Attachments:** Policy - Swan River Trust Policy SRT/D26 Dinghy Management along the Swan and Canning River Park Shoreline.  
Report – Dinghy Management Plan Community Outcomes

**EXECUTIVE SUMMARY**

**A report was presented to the Council Meeting in January 2011 regarding the Swan River Trust's policy on dinghy management on the Swan River foreshore and it was resolved for the City to undertake a public consultation process with the community to develop preferred dinghy management options for further consideration. The proposed options included a bollard and chain dinghy storage facility, a pedestrian access water craft launching ramp, or no dinghy storage.**

**The results of this community engagement process found that the majority of respondents, which were mooring owners, preferred the bollard and chain dinghy storage facility option. The preferred option would include installing a bollard and chain dinghy storage facility that is equitable for the community, enforceable by the City and in line with the Swan River Trust (SRT) and Department of Indigenous Affairs (DIA) guidelines. The proposed storage facility consists of buried bollards with chains, and has the capacity of storing approximately 25 dinghies located around Prawn Bay. This storage option would require further refinement prior to implementation to suit the needs of the community utilising the reserve and dinghies as well as further consultation with the Swan River Trust and Department of Indigenous Affairs.**

**BACKGROUND**

Although there is no established right for private citizens to store dinghies on public shoreline reserves in the Swan Canning Riverpark, it has been tolerated in the past for accessing the mooring of larger boats. The growth in boat ownership has increased and highlighted the need for greater control and protection of the shoreline ecology.

The informal approach to date, has resulted in damage to shoreline vegetation and increased risk of riverbank erosion, restricted public access and use of the shoreline, created public safety risk and duty of care issues, difficulties in carrying out routine

shoreline maintenance operations or restoration works and detrimental impacts on the general amenity of the shoreline.

At the Council meeting in January 2011 it was resolved to initiate a consultation process with the community to develop preferred options for further consideration.

The SRT has adopted a policy for dinghy management along the Swan Canning Riverpark shoreline. This policy identifies the foreshore land managers as the responsible agency to manage approved dinghy management systems. The policy outlines that the all foreshore land managers must have an approved dinghy management system along their foreshore.

The objectives of the policy are to;

- prevent alienation of public open space and foreshore reserve areas,
- mitigate environmental impacts on the Riverpark,
- improve the integrity of environmentally sensitive areas of river shoreline,
- maintain and improve public safety and access to the river shoreline,
- provide support for local government to implement local responses consistent with a river-wide approach and,
- support the establishment of orderly management systems in appropriate locations.

Dinghy storage in the Swan Canning Riverpark may be considered in circumstances where;

- there are limited opportunities to provide alternate systems such as dinghy launching facilities,
- they are in an approved storage system managed by foreshore land managers,
- they are identified in a manner consistent with the Navigable Waters Regulations Part VA,
- they do not cause environmental damage,
- they are not the predominant use on the shoreline and
- they do not limit access between the river reserve and public open space

This regulation allows simple enforcement within the SRT Development and Control Area by allowing authorities to remove illegally placed dinghies. With the recent gazetting of additional supporting enforcement regulations, dinghies that are left on the foreshore more than 8 hours and that are not part of an approved dinghy management system will be subject to removal and a fine of up to \$5000 by the SRT.

## **COMMENT**

It is clear the results of the community engagement process found the majority of respondents were in favour of the bollard and chain dinghy storage option. The proposed bollard and chain system was supported by 50% of the respondents. Any storage option would require further refinement prior to implementation to suit the needs of the community utilising the reserve and dinghies, as the respondents identified a large range of requirements to take into consideration. Additionally any management system would be subject to SRT's approval.

As a result of this regulation, the City of Melville Council chose to ban all dinghies along the foreshore, phasing out dinghies over an 18 month period. The City of Melville designated areas for dinghy storage prior to the total ban as of 1 July 2014. The City of Canning has policies in place that ban dinghies from the foreshore. To date the only council along the Swan River with an approved dinghy storage system is the Town of Peppermint Grove; this system only accommodates a small amount of dinghies. In recent months the Leeuwin boat launching facility located across the river from Prawn Bay in East Fremantle was improved to accommodate more boat launching activities and parking.

In addition, any landscape treatment would need to consider the cultural significance of the area to local Nyoongars. Prawn Bay Reserve 36420 contains one registered Aboriginal Site the Swan River (Site ID 3536). As part of the project to develop a coherent approach to development along the river, there has been significant discussion with traditional Nyoongar Elders to produce a plan for development works to be approved under the Section 18 of the Aboriginal Heritage Act. Consultation on 13 and 14 October 2010 with the designated Traditional Owners of the Swan River (as part of a wider review of consultation requirements under Section 18 of the Aboriginal Heritage Act) indicated that they preferred that no dinghies be stored on the foreshore.

It is estimated that the required costs for the implementation of the bollard and chain dinghy storage system would be approximately \$25,000. However, further funding will be required for the planning, Section 18 followed by the construction, operation, administration, and enforcement of the safe and equal storage system. While development of a storage system has begun as part of the current reporting process, further community engagement is required to suit the needs of the community, SRT and the DIA.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

It is estimated that the required costs for the installation of the bollard and chain dinghy storage system would be approximately \$25,000. It is proposed that funding will be listed for inclusion in the 2013/14 capital budget. However, further funding will be required for the planning, Section 18, followed by the operation, administration, and enforcement of the safe and equal storage system and this is proposed to be included in the 2013/14 operational budget.

### **Legal**

An approved dinghy management plan will decrease the City's exposure to potential public liability issues, be in compliance with relevant state legislation (SRT) and ensure the public have safe and equal access to the river and foreshore. With the recent gazetting of additional supporting enforcement regulations, dinghies that are left on the foreshore more than 8 hours and that are not part of an approved dinghy management system will be subject to removal and a fine of up \$5000 by the SRT.

### **Operational**

The planning, consultation, construction, administration, enforcement and operation of a dinghy storage facility will require capital and operational expenditure.

### **Organisational**

Nil

### **CONCLUSION**

The management of dinghies and other water craft along the foreshore is considered the City's responsibility under State Legislation and the Reserves Vesting. It is clear from the recent community engagement process that there is strong community support for a dinghy storage facility along the foreshore.

Until a decision is made on the method in which the Council wishes the City to undertake the management of dinghies along the foreshore, the City will remain out of compliance with relevant State Legislation. Additionally, in keeping good faith with the Traditional Owners of the Registered Site, it is recommended to consider their preferences in the decision making process.

### **STRATEGIC AND POLICY IMPLICATIONS**

- Lead in the provision of environmentally sustainable solutions for the benefit of future generations.
- Create a community where people feel safe in both private and public spaces
- Providing a great vibrant City in which to live work and play, through growth and renewal.

### **COMMUNITY ENGAGEMENT**

Community engagement was undertaken during the months of July and August 2011 with the aims to:

1. Evaluate support for the proposed dinghy management options;
2. Assess reasons for support or opposition;
3. Assist council to determine a preferred option to put forward to the relevant government authorities on this issue.

The objectives of the community engagement process were to provide stakeholders and the community with:

- Information about the dinghy management plan and proposed storage options;
- Opportunity to make inquiries, ask questions and clarify any information provided; and;
- Opportunity to provide feedback to the City on the proposed storage options.

A two-step process was used for this engagement process:

1. Hard copy survey package mailed out directly to 47 mooring licence holders,

2. Hard copy of the survey was distributed in to the North Fremantle community via the Fremantle Herald

An online survey (using the same questions as the hard copy survey) available to the wider community through a link placed on the City's website.

A total of 39 people completed the survey: six via hard copy and 33 online. It should be noted that 22 respondents indicated that they use the river to access a boat mooring or launch a dinghy (or similar), representing 56% of the survey sample, and a bias toward the interests of this stakeholder group. A summary of results is shown below;

- The majority of respondents live in North Fremantle (76%) and use the river foreshore for a range of informal recreation purposes.
- The majority of respondents (81%) are opposed to banning dinghy storage on the foreshore.
- Similarly, the majority of respondents (65%) are opposed to a pedestrian access ramp being created to launch a dinghy from the foreshore.
- The dinghy storage system consisting of bollards and anchor chain is preferred by most (50%) respondents, while the pedestrian access ramp is preferred by 31% of respondents and banning dinghy storage is preferred by 19% of respondents.

A dinghy storage system is the most preferred option for a dinghy management plan.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**MOVED: Cr J Strachan**

That Council;

1. Approves a bollard and chain storage system to be put into place at Prawn Bay Reserve that accommodates the community's boat storage needs subject to the Swan River Trust's approval.
2. Lists for consideration funds of \$25,000 in the draft 2013/2014 Capital Budget for the installation of a bollard and chain system around Prawn Bay.
3. Lists for consideration funding for the administration, implementation and enforcement of the SRT regulation SRT/D26 in the Operating budget.

**Cr D Thompson MOVED an amendment to the Officer's Recommendation to include the following wording to Part 1 of the recommendation:**

**That Council;**

1. Approves a bollard and chain storage system to be put into place at Prawn Bay Reserve that accommodates the community's boat storage needs subject to:
  - a) *Swan River Trust's approval.*
  - b) *Minimisation of storage footprint*
  - c) *Fee system put in place to recover initial and ongoing costs*
  - d) *Limited time span for implementation of storage access to allow equitable access to limited storage spaces.*

**CARRIED: 6/0**

For	Against
Cr Jon Strachan Cr Tim Grey-Smith Cr David Hume Cr Sam Wainwright Cr Dave Coggin Cr Doug Thompson	

#### **COMMITTEE RECOMMENDATION/COUNCIL DECISION**

**MOVED: Cr J Strachan**

That Council;

1. Approves a bollard and chain storage system to be put into place at Prawn Bay Reserve that accommodates the community's boat storage needs subject to:
  - a) Swan River Trust's approval.
  - b) Minimisation of storage footprint
  - c) Fee system put in place to recover initial and ongoing costs
  - d) Limited time span for implementation of storage access to allow equitable access to limited storage spaces.
2. Lists for consideration funds of \$25,000 in the draft 2013/2014 Capital Budget for the installation of a bollard and chain system around Prawn Bay.
3. Lists for consideration funding for the administration, implementation and enforcement of the SRT regulation SRT/D26 in the Operating budget.

#### **REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION**

To add parts b, c and d to Part 1 of the Officer's Recommendation.

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

## SGS1304-7 CITY OF FREMANTLE DRAFT LOCAL BICYCLE PLAN 2013-2017

<b>DataWorks Reference:</b>	165/008
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	10 April 2013
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Peter Pikor Director Technical Services
<b>Actioning Officer:</b>	Phillip Adams, Manager Infrastructure Projects
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	City of Fremantle draft Local Bicycle Plan 2013-2017 (under separate cover)

### EXECUTIVE SUMMARY

Following the expiry of the previous Bike Plan for Fremantle, a new plan was developed for 2011 - 2016. This Plan was adopted by Council in September 2010. This Plan focused on increasing integration of bicycle facilities within the City's transport structure to promote cycling as an alternative form of transport.

Ongoing changes to the City have stimulated a detailed review of the existing plans relating to bicycle infrastructure. This has identified the need to update the 2011 - 2016 Bike Plan. Accordingly, a draft Local Bicycle Plan 2013 - 2017 has been developed. This draft Plan provides a comprehensive guide to the policies and programs that is intended the City will commit to, with the aim of becoming one of the best cycling friendly cities.

It is proposed that this Draft Local Bicycle Plan be released for community input prior to Council's formal adoption.

### BACKGROUND

Bike Plans are strategic documents which give Local Governments a clear action plan to improve their cycling infrastructure and strategies on public involvement. The staging of actions for a Bike Plan is usually over five years and shows a commitment from the City to pursue excellence in alternative transport options for both commuters and recreational users.

### COMMENT

Whilst the current cycling rates in Fremantle is almost double the Perth average, they are very low in comparison to many other liveable cities in Europe and North America. It is considered that, to improve the modal share for cycling in the City over the next five years will require a continuous high quality cycling network together with community behaviour change. A detailed local bicycle plan for the next five years has been developed that identifies new infrastructure such as bike lanes as well as use of education and information to bring about behaviour change.



The Draft Local Bicycle Plan focuses on three approaches to a safe, well connected Fremantle bicycle network:

1. *Everyone with access to a bike*

The City will ensure that everyone will have access to a bike and welcomes the expansion of such incentives that provides free or affordable cycle hire in the City.

2. *Hard Infrastructure – Well connected, safe and secure cycling infrastructure*

The City will ensure that its cycling network is safe, enjoyable and a well connected with completed network of separated bike lanes, clearly marked cycle route and clear signage of a safe and legible cycling environment.

The City will also plan for and provide improved 'end of trip' facilities such as bicycle lockers, secure bike parking areas that are a requirement of many bicycle trips in addition to convenient bike parking.

3. *Soft Infrastructure – Education and promotional programs.*

The City will encourage a community of cycling through education, cycling promotion, behaviour change, and community support programs. We will be an advocate for school based road safety education that is inclusive of cycling skill as and safety training and for community based road safety education. Soft solutions give people practical information and positive reasons for using a bike.

By combining the above approaches the City aims to achieve the ambitious target of doubling its cycling rate from 2.9% to 5.8% by 2017.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

There will need to be consideration on funding allocated for the implementation of the Local Bike Plan projects. This funding will be allocated through the usual Council budgeting process. The City will also pursue additional funding from the State Government. The well developed relationship between project officers at Bikewest has added to the success of acquisition of these funds by highlighting opportunities for improvement and flexibility in project delivery.

### **Legal**

The regulatory pavement marking and signage is required to be in accordance with Main Roads WA standards.

### **Operational**

Nil.

### **Organisational**

Promoting the benefits of cycling in the community will benefit the organisation as a whole and increasing the cycling infrastructure will benefit the community in terms of sustainable transport options as well as the health and well being benefits that come from cycling as a transport option.

## **CONCLUSION**

The draft Local Bicycle Plan 2013-2017 provides a comprehensive guide to the policies, programs and infrastructure investment to make Fremantle one of the best cycling friendly cities. The implementation of this plan will result in some dramatic changes to the City's cycling infrastructure. It is initially proposed that the draft plan is released for community consultation.

## **STRATEGIC AND POLICY IMPLICATIONS**

Transport: lead in the provision of environmentally and economically sustainable transport solutions.

## **COMMUNITY ENGAGEMENT**

The draft plan is proposed to be released for community consultation.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr J Strachan**

### **That Council:**

- 1. Receives that draft City of Fremantle Local Bicycle Plan 2013-2017**
- 2. Authorises the draft City of Fremantle Local Bicycle Plan 2013-2017 to be released for community consultation and a further report be presented on the outcomes.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Jon Strachan Cr Tim Grey-Smith Cr David Hume Cr Sam Wainwright Cr Dave Coggin Cr Doug Thompson	

**COUNCIL DECISION**

**MOVED: Cr J Strachan**

**That Council:**

1. Receives that draft City of Fremantle Local Bicycle Plan 2013-2017
2. Authorises the draft City of Fremantle Local Bicycle Plan 2013-2017 to be released for community consultation and a further report be presented on the outcomes.

**SECONDED: Cr D Hume**

**Cr S Wainwright MOVED** an amendment to the Committee and Officer's Recommendation as follows:

**MOVED: Cr S Wainwright**

**That Council:**

1. Receives the draft City of Fremantle Local Bicycle Plan 2013-2017 *with the following amendments;*
  - i. *Improve bicycle access to and from Fremantle station as part of the Philimore St/Vic Quay precinct upgrade.*
  - ii. *A pedestrian/bicycle overpass of Stock Rd at a mid-point between South St and Winterfold Rd, dependent on approval and co-funding by MainRoads.*
  - iii. *SUPs to parallel Stock Rd between South St and Winterfold St, dependent on approval and co-funding by MainRoads.*
  - iv. *Crossing of Parry St by Queen Victoria/Adelaide Streets.*
  - v. *Change the reference to "South Street crossing Stock Rd" to be "South St (including the crossing of Stock Rd)"*
  - vi. *Change "High St" to be "High St (including the intersection with Ord St)".*
2. Authorises the draft City of Fremantle Local Bicycle Plan 2013-2017 as amended to be released for community consultation and a further report be presented on the outcomes.

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt	

<p>Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson</p>	
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## REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION

To ensure improved clarification of the elements of the Plan.

**Cr R Pemberton MOVED an amendment to the Officer's Recommendation as follows:**

**MOVED: Cr R Pemberton**

1. **Receives the draft City of Fremantle Local Bicycle Plan 2013-2017 with the following amendments;**

### Facilities (page 33)

- **Recognize that the City of Fremantle is doing very well in the provision of free bike hire facilities**
- **Delete "However, at this stage the bicycle plan does not include any major incentives to include a bike share scheme at this time."**
- **Add "Considers an expansion of the city's bike share scheme to include additional free bike hire facilities in local suburban hubs such as at the Hilton Community Centre, the Meeting Place in South Fremantle and North Fremantle Bowls Club."**

### Location of Priority Upgrades

- **Pg 45 - Port Beach Road – include "no parking" signs in and a rumble strip to separate traffic from the bike lane along Curtin Ave at Port and Leighton Beach**
- **Pg 48 – South Tce / Market St – minimize clutter in the streetscape with additional signs and road markings by limiting to a shared street sign at entry point**
- **Pg 50 - Tydeman Road – enable safe bike access in and out of Bracks Street by cutting into the traffic islands at Walter Place and Tydeman Road**

### Standards for Bike Infrastructure

- **That traffic light sensors (and symbols) are positioned in the bike lane rather than the centre of the traffic lane**

- Include a rumble strip on the line that defines the bike lane, particularly in environments where traffic travels over 50km per hour

2. Authorises the draft City of Fremantle Local Bicycle Plan 2013-2017 (as amended in part 1 above) to be released for community consultation and a further report be presented on the outcomes.

**SECONDED: Cr I Waltham**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**Mayor, Brad Pettitt put the amended Recommendation as follows:**

**That Council:**

1. Receives the draft City of Fremantle Local Bicycle Plan 2013-2017 as amended.

**MOVED: Cr S Wainwright**

**That Council:**

1. Receives the draft City of Fremantle Local Bicycle Plan 2013-2017 as amended.

**SECONDED: Cr R Pemberton**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham	

Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	
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## MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil.

## REPORTS BY THE MAYOR OR OFFICERS OF COUNCIL

### STATUTORY COUNCIL ITEMS

#### C1304-01 MONTHLY FINANCIAL REPORT-MARCH 2013

<b>DataWorks Reference:</b>	087/002
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	Council 27 March 2013
<b>Previous Item:</b>	C1302-2 of 27 February 2013
<b>Responsible Officer:</b>	Glen Dougall, Director Corporate Services
<b>Actioning Officer:</b>	Alan Carmichael, Manager Finance and Administration
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	<ol style="list-style-type: none"><li>1. Statement of Financial Activity by Nature to 28 February 2013</li><li>2. Statement of Financial Position to 28 February 2013</li><li>3. Determination of Closing Funds (Net Current Assets) to 28 February 2013</li><li>4. Schedule of Accounts Paid February 2013</li><li>5. Investment Report to 28 February 2013</li><li>6. Debtors Outstanding as at 28 February 2013</li><li>7. Payment Report for February 2013 (<b>under separate cover</b>)</li></ol>

### EXECUTIVE SUMMARY

**The City adopted its Annual Budget on 25 July 2012 with an estimated municipal surplus of \$80,000.**

**This report highlights any issues that may impact on the financial position to 30 June 2013 and the opening funds for the 2013/2014 Budget.**

### BACKGROUND

The 2012/13 Budget was adopted on 25 July 2012 with an estimated municipal cash surplus of \$80,000. Item SGS1212-10 on 19 December 2012 for the Local Government Reform Survey resulted in the surplus being reduced to \$65,000 and item PSC1302-27 on 27 February 2013 for the Kings Square project design competition then reduced the surplus to \$5,000.

The Council at its meeting on Wednesday 25 July 2012 (Item SGS1207-3) adopted nature and type as the preferred reporting format and 2.5% with a threshold of \$200,000 as the level for explanation of variances.

## **COMMENT**

As the mid-year budget review item is included with this agenda this monthly report is only provided to reference the monthly attachments.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

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

### **Legal**

Regulation 13 (Financial Management) under section 6.10 of the Local Government Act 1995 (Listing of Accounts Paid).

Regulation 34 (Financial Management) under section 6.4 of the Local Government Act 1995 (Financial Report by Nature and Explanation of Variances).

### **Operational**

This report is provided to council to keep track of the operational issues affecting the implementation of projects and activities provided for under the 2012/13 adopted budget by reporting actual revenue and expenditure against budget.

### **Organisational**

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

## **CONCLUSION**

The financial statements as attached are received.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required



**OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**The City of Fremantle Financial Report for the period ended 28 February, 2013 is received.**

**MOVED: Mayor, Brad Pettitt**

**The City of Fremantle Financial Report for the period ended 28 February, 2013 is received.**

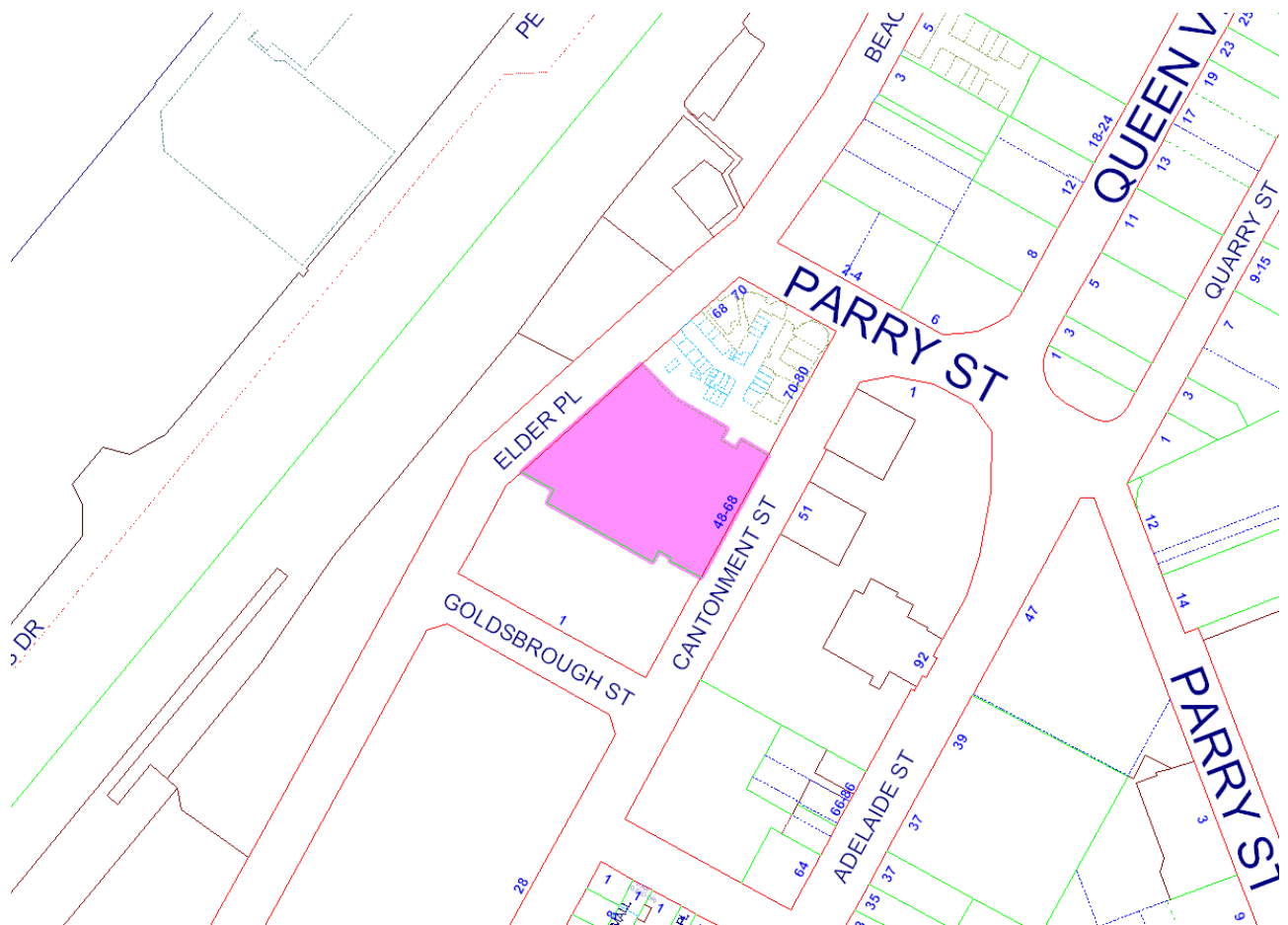
**SECONDED: Cr D Hume**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**TITLE**                    **ADDITIONAL REPORT - SAT MATTER - CANTONMENT STREET NO 48-68 (LOT 201 AND STRATA LOT 40 ON LOT 202) REMOVAL OF TIMBER FLOORING FROM HERITAGE LISTED SITE (WOOLSTORES) (WOOLSTORES)**

**DataWorks Reference:**            059/002  
**Disclosure of Interest:**            Nil  
**Responsible Officer:**            Manager Statutory Planning  
**Actioning Officer:**                Coordinator Planning Mediation  
**Date of Meeting:**                    24 April 2013  
**Decision Making Level:**           Council  
**Previous Item Number/s:**        PSC 1203-29 (7 March 2012); PSC1304-49 (3 April 2013)  
**Owner Name:**                        MMAGS  
**Submitted by:**                        N/A  
**Scheme:**                                City Centre  
**Heritage Listing:**                    Heritage List – Local Planning Scheme No. 4  
     MHI Management Category 2  
**Existing Landuse:**                    Vacant Building



## EXECUTIVE SUMMARY

This matter was considered by the Planning Services Committee (PSC) at its meeting held on the 3 April 2013 (Refer PSC1304-49) and the Committee resolved to refer its recommendation to the April 2013 meeting of Council for consideration. Since that decision, the owners have advised that they will be submitting further information. Having regard to this, it is recommended that the matter be referred to the next appropriate meeting of the PSC.

## PLANNING COMMENT

At its meeting held on the 3 April 2013, the PSC resolved as follows:

- A *That Council, having regard to Section 26(a) and (b) of the State Administrative Tribunal Act 2004, advise the State Administrative Tribunal that it does not agree to the draft Deed, as the City is of the view that there is still a significant amount of timber that has yet to be returned and the Council is not yet satisfied that sufficient explanation for this has been provided, and;*
- B *That Council authorises the Chief Executive Office to continue with the legal proceedings under Section 218 of the Planning and Development Act for the unauthorised works as soon as practical.*

The PSC then resolved to forward its decision to the 24 April 2013 Council meeting.

The owners have advised that they wish to submit additional information in relation to this issue. As there is no specific time frame to deal with this matter, and the additional information may have a bearing on this issue, there are no objections to deferral of this matter to enable this information to be considered.

## OFFICER'S RECOMMENDATION/COUNCIL DECISION

**That consideration of this matter be deferred to the next appropriate meeting of the Planning Services Committee.**

**MOVED: Cr A Sullivan**

**Cr Andrew Sullivan MOVED to defer the item to the next appropriate meeting of the Planning Services Committee.**

**SECONDED: Cr D Coggin**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**C1304-03 APPOINTMENT OF CANTONMENT HILL WORKING GROUP**

<b>DataWorks Reference:</b>	039/068
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	24 April 2013
<b>Previous Item:</b>	SGS1212-2
<b>Responsible Officer:</b>	Peter Pikor, Director Technical Services
<b>Actioning Officer:</b>	Lionel Nicholson, Manager City Works
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Instrument of Appointment – Cantonment Hill Working Group

**EXECUTIVE SUMMARY**

**This item presents the proposed membership for the Cantonment Hill Working Group. Council agreed at the December 2012 Ordinary meeting to reinstitute a working group to participate in the implementation of the approved master plan and associated first stage works for Cantonment Hill.**

**Attached with this agenda for reference is the Instrument of Appointment for the Cantonment Hill Working Group.**

**BACKGROUND**

At the December 2012 Ordinary Meeting of Council, it was considered due to the successful completion of the master plan and high public interest in this significant project the community should continue to participate in the implementation of the Cantonment Hill Master Plan. This partnership will ensure outcomes are managed to timelines, targets are achieved and maximise opportunities for securing grant funds.

The Working Group will participate in the implementation of the master plan and ensure the following essential outcomes are achieved;

- Integrated implementation and management of stages
- Consultation with the community.
- Secure available grant funding.
- Cooperative working arrangement with the Army Museum Foundation.

The key recommendations of the plan include short and long term goals and the main options in the plan are summarised below;

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

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

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

Signal Station – This is a highly visible landmark, and the draft report recommends that the City should carry out partial restoration including;

- Up-lighting the building
- Remove all fencing except those sections required for safety reasons
- Repair windows and reconnect services.

To address safety and risk implications building audits are to be carried out on the Naval Store and Signal Station to assess the condition of these structures and suitability for potential uses.

The plan indicates that if partial restorative works are undertaken immediately some use of the area and buildings is possible and can generate an income stream for the City.

#### Stage of works

Following assessment of the works, it is proposed that initially, the oval and the Bush Forever site works be undertaken as the first stage.

#### Expressions of Interest

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

### **COMMENT**

The recommended working group requirements in the instrument of appointment are:

Two elected members

- One community member with a heritage interest
- One community member with an aboriginal interest
- One representative from the Army Museum of western Australia
- Three community representatives with interest, knowledge or experience in landscape master planning, environment science or natural areas

The following people have submitted their applications and are willing to be part of the working group:

Dr Peter Cock – demonstrated experience as an environmental consultant on large projects and a interest in preserving and enhancing character of Fremantle

Jeremy Wilks – a senior landscape architect with suitable experience and keen to reinvigorate open space assets for community use

Vaughn Brazier – demonstrated experience in property development, involvement in securing funding and member of former working group

Paula Amaral – member of former working group, professional artist and active networker in local community

Patrick Howard – founding member Cantonment Hill Residents Action Group, member of former working group

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The master plan proposes a number of recommendations and identifies works to the Oval and Bush Forever areas costing \$655,000. The works to the Signal Station and Naval Store were not costed in the draft plan however are expected to be of significant amounts.

The building condition audit is estimated to cost approximately \$50,000 and is currently in progress.

Currently there are cash-in-lieu funds of \$130,000 available and \$2 million allocated in reserve funding for Cantonment Hill.

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

### **Legal**

The master plan was been prepared in consultation with the Heritage Council of WA, Department of Planning and other stakeholders. In order for any works to occur on Cantonment Hill, consent from the Minister for Indigenous Affairs under Section 18 of the Aboriginal Heritage Act 1972 must be obtained.

### **Operational**

Implementation of the stages of the master plan can be carried out with internal resources or external contractors pending strategic and budget priorities. It is estimated that the first stage works will start in May 2013 after detailed designs are prepared.

### **Organisational**

The implementation of the master plan will draw resources from multiple business units and require the preparation of a detailed project management plan. The Directorate Corporate Services will progress the administration of calling of expressions of interest and commercial operations.

## **CONCLUSION**

The proposed membership comprises a wealth of knowledge, experience and continued participation from former members of the working group responsible for the development of the master plan. The proposed two elected members to participate on the working group will be considered at the council meeting.

## **STRATEGIC AND POLICY IMPLICATIONS**

### *Strategic Imperative - Character*

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

### *Strategic Imperative - Urban Renewal and Integration*

Provide a great place to live, work and play through growth and renewal

## **COMMUNITY ENGAGEMENT**

The implementation of the plan will continue to include community participation demonstrating the City's commitment to empowering its community to play an active role in its business of delivering services.

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

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

## **OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**That Council appoints the following members of the Cantonment Hill Working Group:**

- **Dr Peter Cock**
- **Jeremy Wilks**
- **Vaughn Brazier**
- **Paula Amaral**
- **Patrick Howard**
- **Cr R Fittock and Cr J Wilson as the elected member representatives.**

**MOVED: Mayor, Brad Pettitt**



**That Council appoints the following members of the Cantonment Hill Working Group:**

- **Dr Peter Cock**
- **Jeremy Wilks**
- **Vaughn Brazier**
- **Paula Amaral**
- **Patrick Howard**
- **Cr R Fittock and Cr J Wilson as the elected member representatives.**

**SECONDED: Cr D Hume**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Tim Grey-Smith Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**C1304-04 INFORMATION REPORT - APRIL 2013**

**REJECTION OF TENDER FCC395/12 FOR FREMANTLE ARTS CENTRE ELECTRICAL UPGRADE**

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

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Fremantle Arts Centre Electrical Upgrade to reject all tenders. Technical Services will apply for additional funding in the next financial year to complete the project with a new tender.

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

**ACCEPTANCE OF TENDER FCC394/12 FOR CENTRE MANAGEMENT SOFTWARE SYSTEM**

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

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Centre Management Software System to be awarded to Links Modular Solutions Pty Ltd for the price of \$132,000.00 including GST.

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

**QUARTERLY PROJECTS REPORT**

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

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

**OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**The information report for April 2013 be received.**

**SECONDED: Cr D Thompson**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**C1304-05      CONSIDERATION OF FULL POSTAL ELECTIONS FOR THE 2013  
LOCAL GOVERNMENT ORDINARY ELECTIONS**

**DataWorks Reference:** 099/010  
**Disclosure of Interest:** Nil  
**Meeting Date:** 24 April 2013  
**Previous Item:** SGS1011-6 (Council 24 November 2010)  
**Responsible Officer:** Glen Dougall, Director Corporate Services  
**Actioning Officer:** Melody Foster, Governance Officer  
**Decision Making Authority:** Council  
**Agenda Attachments:** Letter from the WA Electoral Commissioner

**EXECUTIVE SUMMARY**

**The Western Australian Electoral Commissioner has written to the City offering to undertake the 2013 elections as full postal elections. In able to do this, the Council is required to resolve for the elections to be held as postal elections.**

**BACKGROUND**

The Local Government Act 1995 only permits the Western Australian Electoral Commissioner to conduct full postal elections for local government. At its ordinary meeting of 15 December 2003, Council resolved that future elections be conducted as full postal subject to:-

- Confirmation by Council prior to the election
- Confirmation of costs.

**COMMENT**

The next ordinary elections are due in October 2013 which includes a Mayoral election. As per previous years the Electoral Commissioner has confirmed in writing that he is willing to undertake the 2013 elections as full postal.

The estimated cost to conduct the 2013 ordinary elections provided by the Electoral Commission is \$75,000 including GST excluding the following:

- non-statutory advertising;
- any legal expenses other than those that are determined to be borne by the WA Electoral Commission in a Court of Disputed Returns; and
- the provision of one local government staff member to work in a polling place on election day.

That estimate has been based on 19,500 electors, a response rate of approximately 45%, 7 vacancies (6 Councillors and Mayor) and the count to be conducted at the premises of the City. The estimated costs are up slightly on the 2011 elections (2011 estimated at \$65,000). The Commission is required by the Local Government Act 1995 to

conduct local government elections on a full cost recovery and recent experience has demonstrated that the Commission final costs are within their estimate.

The recommendation provides for the Electoral Commissioner to be responsible for the ordinary and any other elections in 2013, which means if any extraordinary vacancies should arise, the approvals are in place to proceed with those elections as full postal.

Council has now conducted full postal elections since 2003 with very good levels of voter participation compared to other local authorities.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Only risk seen is for legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns.

### **Legal**

Only the Western Australian Electoral Commissioner can conduct full postal local government elections.

### **Operational**

Whilst the appointment is for the Western Australian Electoral Commissioner to conduct the elections, the city is still responsible for the preparation of the owners and occupiers roll used in the elections plus providing administrative support for the election process.

### **Organisational**

Induction of any newly elected councillors is the major organisational issue that arises from the conduct of the elections.

## **CONCLUSION**

That Council should conduct the 2013 elections as full postal elections and appoint the Western Australian Electoral Commissioner to conduct the elections.

## **STRATEGIC AND POLICY IMPLICATIONS**

How the ordinary council elections are conducted is a strategic decision, but this item does not recommend any change in the policy that has operated since 2003.

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

**OFFICER'S RECOMMENDATION/COUNCIL DECISION**

1. In accordance with section 4.20(4) of the *Local Government Act 1995*, the City of Fremantle declare the Electoral Commissioner be responsible for the conduct of the 2013 ordinary elections together with any other elections or polls which may be required; and
2. In accordance with section 4.61(2) of the *Local Government Act 1995*, the City of Fremantle decides the method of conducting the elections will be as postal elections.

**SECONDED: Cr D Thompson**

**CARRIED: 11/0**

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	



**C1304-07 STRATEGIC PLAN PROGRESS REPORT - MARCH 2013 - ITEM FOR  
OCM 240413.DOCX**

**DataWorks Reference:** 030/017  
**Disclosure of Interest:** Nil  
**Meeting Date:** 24 April 2013  
**Previous Item:** C1303-3  
**Responsible Officer:** Graeme Mackenzie, Chief Executive Officer  
**Actioning Officer:** Glen Dougall, Director Corporate Services  
**Decision Making Authority:** Council  
**Agenda Attachments:** Strategic Imperatives progress report - March 2013  
(under separate cover):

### **EXECUTIVE SUMMARY**

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

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

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

### **BACKGROUND**

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

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

### **COMMENT**

**2.1.3.31 Conduct examination of scheme provisions to encourage redevelopment of North Fremantle Town Centre (Queen Victoria Street) and proceed with amendments if supported.**



Preliminary work on review of current scheme content commenced. Limited progress due to resources being focused on higher priority projects relating to city centre area.

### **3.1.1.2 Develop action plan for mitigation/adaptation of expected storm Events**

This plan will be developed after the findings of the Consultant's sea level rise study has been received. It is anticipated that the findings will be available in the middle of next year.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Nil.

### **Legal**

Local Governments are required to develop and maintain a strategic plan (for the moment known as a plan for the future).

### **Operational**

Further development of the internal systems is being undertaken to ensure proper alignment with the local government reform agenda and reporting of progress for strategic projects.

### **Organisational**

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

## **CONCLUSION**

The City of Fremantle Strategic Plan Progress Report for March 2013 is noted.

## **STRATEGIC AND POLICY IMPLICATIONS**

As discussed within this report.

## **COMMUNITY ENGAGEMENT**

Nil.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

**OFFICER'S RECOMMENDATION/COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

**SECONDED: Cr D Thompson**

**CARRIED: 11/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Jon Strachan Cr David Hume Cr Rachel Pemberton Cr Josh Wilson Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie Cr Dave Coggin Cr Andrew Sullivan Cr Doug Thompson	

**CONFIDENTIAL MATTERS**

Nil.

**CLOSURE OF MEETING**

**THE MAYOR, B PETTITT DECLARED THE MEETING CLOSED AT 9.15 PM.**

## SUMMARY GUIDE TO CITIZEN PARTICIPATION & CONSULTATION

The Council adopted a Community Engagement Policy in December 2010 to give effect to its commitment to involving citizens in its decision-making processes.

The City values community engagement and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective community engagement requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

<b>How consultative processes work at the City of Fremantle</b>	
<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

<b>How consultative processes work at the City of Fremantle</b>	
	any statute that applies or within the parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.
<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.

How consultative processes work at the City of Fremantle	
<b>Community engagement processes have cut-off dates that will be adhered to.</b>	<p>1 As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, community engagement processes need to have defined and rigorously observed cut-off dates, after which date officers will not include 'late' input in their analysis. In such circumstances, the existence of 'late' input will be made known to decision-makers. In most cases where community input is involved, the Council is the decision-maker and this affords community members the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.</p>
<b>Citizens need to check for any changes to decision making arrangements made</b>	<p>1 The City will take initial responsibility for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting the City's website, checking the Fremantle News in the Fremantle Gazette or inquiring at the Customer Service Centre by phone, email or in-person.</p>
<b>Citizens are entitled to know how their input has been assessed</b>	<p>1 In reporting to decision-makers, City officers will in all cases produce a community engagement outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.</p>
<b>Reasons for decisions must be transparent</b>	<p>1 Decision-makers must provide the reasons for their decisions.</p>
<b>Decisions posted on the City's website</b>	<p>1 Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at the City's website under 'community engagement' or at the City Library or Service and Information Centre.</p>

## 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.

