



AGENDA

Planning Services Committee

Wednesday, 4 December 2013, 6.00pm

CITY OF FREMANTLE
NOTICE OF A PLANNING SERVICES COMMITTEE MEETING

Elected Members

A Planning Services Committee meeting of the City of Fremantle will be held on **Wednesday, 4 December 2013** in the Council Chamber, Town Hall Centre, 8 William Street, Fremantle (access via stairs, next to the playground in Kings Square) commencing at 6.00 pm.

Philip St John
DIRECTOR PLANNING AND DEVELOPMENT SERVICES

29 November 2013

PLANNING SERVICES COMMITTEE

AGENDA

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

At the Planning Services Committee Meeting held on 20th of November 2013 the following questions were taken on notice:

Summary of Questions by Benjamin Lane and Summary of Responses from the Manager Statutory Planning:

Due to the height discretion being 'significant' was the application advertised within a 100m radius?

The application for rear additions to a dwelling was not classified as a 'significant' application that required advertising within a 100m radius. The application was advertised to adjoining owners and occupiers as required by the City's *Local Planning Policy 1.3 Public Notification of Planning Proposals*.

Has a second dwelling been approved on site?

Planning approval was granted for detached additions and not for a second dwelling. Should the additions be used as a second dwelling then the City's Compliance Services will investigate and take any necessary action.

How was the wind turbine allowed?

On balance the wind turbine was supported due to its contribution to energy efficiency however it was acknowledged that the wind turbines are unprecedented in residential areas however, as the use of wind turbines becomes a more common practice in

providing alternative energy for housing, the proposal will be less at odds with the surrounds, thereby it was anticipated that associated implications with amenity will become ameliorated over time.

To what extent was overshadowing considered?

The proposed overshadowing was on balance supported for as:

- The proposal would not result in any additional outdoor living areas, major openings or verandahs being shaded for the southern adjoining property;
- Whilst the addition results in the shading of a verandah and major openings associated with the southern adjoining property, these elements are already subject to shading by the addition approved in the original 2011 approved plans;
- The discretion will not restrict the access of sunlight to any solar collectors associated with the southern adjoining property and
- The southern adjoining property has its main outdoor living area located in the north eastern portion of its site and is not subject to any shading that will result from the addition.

To what extent was noise taken into account?

Noise is administered through separate legislation to planning requirements. There is a requirement that any noise emanating from the property meets the relevant noise regulations. Should noise emanating from the property be found to not be in compliance with noise requirements, the City will take the necessary action.

How was privacy considered?

The privacy discretions relating to the northern mezzanine and balcony were not supported and conditions of approval were included to require screening. Openings to the west and south comply with privacy requirements of the R Codes.

More detailed discussion regarding the above matters can be found the Planning Services Committee reports already provided to you.

PUBLIC QUESTION TIME

DEPUTATIONS / PRESENTATIONS

DISCLOSURES OF INTEREST BY MEMBERS

LATE ITEMS NOTED

CONFIRMATION OF MINUTES

That the minutes of the Planning Services Committee dated 20 November 2013 be confirmed as a true and accurate record.

TABLED DOCUMENTS

TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
	ITEMS REFERRED FROM COUNCIL (COMMITTEE DELEGATION)	1
PSC1312-187	SUBMISSION TO DEPARTMENT OF PLANNING CONCERNING THE DISCUSSION PAPER "PLANNING PROVISIONS FOR AFFORDABLE HOUSING"	1
PSC1312-188	PROPOSED ALFRESCO DINING LOCAL LAW	16
	DEFERRED ITEMS (COMMITTEE DELEGATION)	29
PSC1312-189	DEFERRED ITEM - HAMPTON ROAD, NO. 24/219 (LOT 33) - PARTIAL CHANGE OF USE FROM SHOP TO LIQUOR STORE - (CJ DA0078/13)	29
PSC1312-190	TUCKFIELD STREET, NO. 34-36 (LOT 10 & 11) - TWO STOREY ADDITION TO EXISTING TWO STOREY SINGLE HOUSE - (AA DA0506/13)	34
PSC1312-191	QUARRY STREET, NO. 77 (LOT 6), FREMANTLE -CARPORT - (CJ DA0414/13)	40
	REPORTS BY OFFICERS (COMMITTEE DELEGATION)	45
PSC1312-192	SOUTH TERRACE, NO. 177 (LOT 2) SOUTH FREMANTLE - ADDITIONS & ALTERATIONS AND PARTIAL CHANGE OF USE TO RESTAURANT, SHOP AND INDUSTRY LIGHT (COFFEE ROASTING) - (AA DA0497/13)	45
PSC1312-193	MCCABE STREET NO 9-15 (LOTS 18, 315 & 326) NORTH FREMANTLE - FIVE STOREY MULTIPLE DWELLING DEVELOPMENT (20 MULTIPLE DWELLINGS) AND BASEMENT VEHICLE PARKING LEVEL - (AA DAP80006/13)	57
PSC1312-194	MCCABE STREET NO 9-11 (LOTS 18, 315 & 326)NORTH FREMANTLE - EIGHT, THREE STOREY GROUPED DWELLINGS - (AA DA0448/13)	67
PSC1312-195	MCCABE STREET NO; 9-11 (LOTS 18, 315 & 326) NORTH FREMANTLE - FOUR STOREY MULTIPLE DWELLING DEVELOPMENT (21 DWELLINGS)- (KS DA0449/13)	77
PSC1312-196	JOSLIN STREET, NO. 17 (LOT 1195), HILTON - TWO (2), SINGLE STOREY (ONE WITH LOFT) GROUPED DWELLINGS AND CARPORT ADDITION AND ALTERATIONS TO EXISTING DWELLING (AD DA0411/13)	85

PSC1312-197	CHESTER STREET NO.40 (LOT 94), SOUTH FREMANTLE - TWO STOREY GROUPED DWELLING WITH ROOFTOP TERRACE (JL DA0454/13)	96
PSC1312-198	STIRLING HIGHWAY NO.74 (LOT 4), NORTH FREMANTLE - THREE STOREY GROUPED DWELLING AND OFFICE DEVELOPMENT (JL DA0461/13)	102
PSC1312-199	ADELAIDE STREET, NO. 52 (LOT 2), FREMANTLE - DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF SEVEN (7) STOREY HOTEL (151 ROOMS) AND GROUND FLOOR RESTAURANT (AD DAP80004/13)	111
PSC1312-200	DAP - MCNEECE PLACE NO. 5 (LOT 95) O'CONNOR - WAREHOUSE (SELF STORAGE FACILITY) - RAR REPORT (AD DAP80007/13)	123
PSC1312-201	SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY (3.61.21)	135
	REPORTS BY OFFICERS (COUNCIL DECISION)	136
PSC1312-202	PROPOSED AMENDMENT NO. 57 TO LOCAL PLANNING SCHEME NO. 4 - CHANGE TO THE DENSITY CODE AT 19-21 AND 23-25 BURT ST, FREMANTLE - FINAL ADOPTION	136
PSC1312-203	PROPOSED PARTIAL CLOSURE AND AMALGAMATION OF A PORTION OF PRIVATE RIGHT OF WAY NO. 70 WITH NO. 23 (LOT 15) CADD STREET, BEACONSFIELD - (KW)	159
PSC1312-204	DRAFT STRUCTURE PLAN - DEVELOPMENT AREA 12 - FORMER KIM BEAZLEY SCHOOL SITE - ADOPTION FOR FINAL APPROVAL	166
	CONFIDENTIAL MATTERS	182
	AGENDA ATTACHMENTS	1
PSC1312-189	DEFERRED ITEM - HAMPTON ROAD, NO. 24/219 (LOT 33) - PARTIAL CHANGE OF USE FROM SHOP TO LIQUOR STORE - (CJ DA0078/13)	3
PSC1312-190	TUCKFIELD STREET, NO. 34-36 (LOT 10 & 11) - TWO STOREY ADDITION TO EXISTING TWO STOREY SINGLE HOUSE - (AA DA0506/13)	30
PSC1312-191	QUARRY STREET, NO. 77 (LOT 6), FREMANTLE -CARPORT - (CJ DA0414/13)	42
PSC1312-192	SOUTH TERRACE, NO. 177 (LOT 2) SOUTH FREMANTLE - ADDITIONS & ALTERATIONS AND PARTIAL CHANGE OF USE TO RESTAURANT, SHOP AND INDUSTRY LIGHT (COFFEE ROASTING) - (AA DA0497/13)	76

PSC1312-193	MCCABE STREET NO 9-15 (LOTS 18, 315 & 326) NORTH FREMANTLE - FIVE STOREY MULTIPLE DWELLING DEVELOPMENT (20 MULTIPLE DWELLINGS) AND BASEMENT VEHICLE PARKING LEVEL - (AA DAP80006/13)	83
PSC1312-194	MCCABE STREET NO 9-11 (LOTS 18, 315 & 326)NORTH FREMANTLE - EIGHT, THREE STOREY GROUPE DWELLINGS - (AA DA0448/13)	91
PSC1312-195	MCCABE STREET NO; 9-11 (LOTS 18, 315 & 326) NORTH FREMANTLE - FOUR STOREY MULTIPLE DWELLING DEVELOPMENT (21 DWELLINGS)- (KS DA0449/13)	103
PSC1312-196	JOSLIN STREET, NO. 17 (LOT 1195), HILTON - TWO (2), SINGLE STOREY (ONE WITH LOFT) GROUPE DWELLINGS AND CARPORT ADDITION AND ALTERATIONS TO EXISTING DWELLING (AD DA0411/13)	118
PSC1312-197	CHESTER STREET NO.40 (LOT 94), SOUTH FREMANTLE - TWO STOREY GROUPE DWELLING WITH ROOFTOP TERRACE (JL DA0454/13)	124
PSC1312-198	STIRLING HIGHWAY NO.74 (LOT 4), NORTH FREMANTLE - THREE STOREY GROUPE DWELLING AND OFFICE DEVELOPMENT (JL DA0461/13)	131
PSC1312-199	ADELAIDE STREET, NO. 52 (LOT 2), FREMANTLE - DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF SEVEN (7) STOREY HOTEL (151 ROOMS) AND GROUND FLOOR RESTAURANT (AD DAP80004/13)	137
PSC1312-200	DAP - MCNEECE PLACE NO. 5 (LOT 95) O'CONNOR - WAREHOUSE (SELF STORAGE FACILITY) - RAR REPORT (AD DAP80007/13)	156
PSC1312-201	SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY (3.61.21)	165
PSC1312-202	PROPOSED AMENDMENT NO. 57 TO LOCAL PLANNING SCHEME NO. 4 - CHANGE TO THE DENSITY CODE AT 19-21 AND 23-25 BURT ST, FREMANTLE - FINAL ADOPTION	166
PSC1312-203	PROPOSED PARTIAL CLOSURE AND AMALGAMATION OF A PORTION OF PRIVATE RIGHT OF WAY NO. 70 WITH NO. 23 (LOT 15) CADD STREET, BEACONSFIELD - (KW)	167

ITEMS REFERRED FROM COUNCIL (COMMITTEE DELEGATION)

PSC1312-187 SUBMISSION TO DEPARTMENT OF PLANNING CONCERNING THE DISCUSSION PAPER "PLANNING PROVISIONS FOR AFFORDABLE HOUSING"

DataWorks Reference: 118/001, 102/009
Disclosure of Interest: Nil
Meeting Date: PSC 20 November 2013
Responsible Officer: Manager Planning Projects
Actioning Officer: Senior Strategic Planning Officer
Decision Making Level: Council
Attachments: Options for the introduction of affordable housing into the WA planning system (excerpt from the Discussion Paper)

EXECUTIVE SUMMARY

The Department of Planning is seeking public comment on a discussion paper titled "Planning provisions for affordable housing". The period for public comment ends 9 December 2013.

The discussion paper is in response to a specific action in the State Government's "State Affordable Housing Strategy 2010-2020: Opening Doors to Affordable Housing", to investigate the role that the planning system can play in the provision of affordable housing.

In essence the discussion paper is seeking comment initially on whether planning should have a role to play in the provision of affordable housing, and then on a variety of measures that can be applied to the planning system to deliver housing affordability. These measures range from provisions to aimed at delivering greater diversity of housing stock to provisions that mandate components of affordable housing within new developments.

This report presents an overview of the discussion paper for Council's consideration and a recommended submission in the format provided in the discussion paper.

BACKGROUND

The following information is relevant to this report.

State Affordable Housing Strategy 2010-2020: Opening Doors to Affordable Housing

In 2011, the State Government released the *State Affordable Housing Strategy 2010-2020: Opening Doors to Affordable Housing* (SAH Strategy). The SAH Strategy was prepared to respond to the issue of housing affordability and the supply of affordable

housing in WA and outlines a multi-faceted and coordinated approach to improve the supply of affordable housing and the effectiveness of the housing system.

Two key points from the SAH Strategy relevant to this report are:

1. The SAH Strategy identified the planning system as having a crucial role to play in the provision of affordable housing by increasing density and providing for different forms of dwelling construction and dwelling configuration. Further the SAH Strategy encourages the use of incentivised planning provisions where greater development yield is available subject to the development including an affordable housing component.
2. The SAH Strategy introduced a definition for 'Affordable Housing', as well as definitions for 'low income households' and 'moderate income households' which are referenced in the definition of 'Affordable Housing'. This definition provides a clear and measurable statement by what is meant by affordable housing and one that is capable of adapting over time as income levels change. Affordable housing is defined as:

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

***"Low Income Households** refers to housings with incomes between 50% and 80% of the median household income (i.e. \$36,000 - \$57,000 p.a. for WA, as at August 2010)."*

***"Moderate Income Households** refers to households with incomes between 80% and 120% of the median household income (i.e. \$57,000 - \$86,000 p.a. for WA, as at August 2010)."*

City of Fremantle Local Planning Scheme No. 4

Local Planning Scheme No. 4 (LPS4) currently seeks to address housing affordability in a number of ways, outlined as follows:

1. Offering residential density bonuses for development of 'low income housing' in appropriately coded residential areas.
2. Mandating for a diverse range of dwelling sizes in developments of ten or more multiple dwellings. This provision applies throughout the Scheme area.
3. Small secondary dwellings – allowing for small secondary dwellings to be built on residential properties, occupied independently of the main dwelling, and in certain circumstances constructed without the need for planning approval.
4. Increased height for developments on select sites in the city centre where 15% of the residential component of the development is provided as affordable housing, amongst other discretionary criteria (Amendment 49). The definition of affordable housing in LPS4 is the same as that provided in the SAH Strategy.

5. Proposed Amendment 50 will introduce provisions to allow for the development, and subsequent subdivision, of an additional dwelling on certain lots with dual road frontage irrespective of the residential density coding applicable to the land.

OVERVIEW OF DISCUSSION PAPER: PLANNING PROVISIONS FOR AFFORDABLE HOUSING

The Department of Planning discussion paper, *Planning Provisions for Affordable Housing*, responds to the commitment made in the SAH Strategy that the State Government explores opportunities for the planning system to facilitate the development of affordable housing.

The discussion paper has two broad objectives:

- ‘1. *Outline a range of approaches that the planning system could use to engage with affordable housing, including whether it should encourage, actively promote or mandate the provision of affordable housing; and*
2. *Drawing on these approaches, present a range of implementation options, seeking feedback from key stakeholders on the implications of each, and determine which is most appropriate for Western Australia.*’ (Page 7)

After gaining feedback on this discussion paper, the Department of Planning will consult with key stakeholders to inform the development of an implementation framework based on a preferred approach, including statutory and policy provisions. A final package of planning provisions will be developed for approval by the WAPC and State Government for implementation through the planning system.

The discussion paper requests that submissions be made in response to specific questions that are structured under three main sections. The following comments summarise the discussion paper with relevance to these three sections that will form the recommended submission.

1. The role of planning in delivering affordable housing - overview of Western Australian planning system and comparison with other states

The head of power for planning in Western Australia is the *Planning and Development Act 2005* (PD Act 2005). The discussion paper notes that there is no reference to either housing diversity or affordability in the PD Act 2005 nor is housing affordability referenced as a matter to be dealt with by a local planning scheme. The PD Act 2005 therefore does not provide a clear head of power for local planning schemes to require consideration or delivery of affordable housing as part of development. This situation differs from other states within Australia (SA, NSW, Qld, Vic) where housing affordability and diversity are specific objectives of the relevant legislation. In SA and NSW supporting planning policies explicitly or implicitly support the development and protection of affordable housing in local planning schemes. In South Australia, government policy requires that 15 percent of all new significant development is to be dedicated for affordable housing, whilst in NSW mandatory requirements and developer contributions are enabled in some locations.

Even though there is considered a lack of a clear head of power in Western Australia for the planning system to consider housing affordability, high level strategic planning documents (eg. *Directions 2031* and draft Central Metropolitan Perth Sub-Regional Strategy) include objectives relating to improving or providing affordable and diverse housing. However these documents tend to focus on planning's ability to provide a diverse range of housing options through dwelling diversity and lot size controls that are intended to provide lower cost housing, and by reducing the regulatory barriers to land availability. These documents suggest that dedicated affordable housing should be delivered by affordable housing providers (through the purchase and management of market housing), rather than the planning system itself.

Current planning measures to address housing diversity and affordability

To date the planning system's approach to addressing housing affordability has largely been focussed on improving the diversity of dwellings with the recent changes to the Residential Design Codes (R-Codes) allowing for greater flexibility for Multi-Unit Housing in the medium to high residential density codings, removing the occupancy restrictions for ancillary dwellings (granny flats) and providing subdivisional incentives for smaller dwellings. Planning requirements that specifically target 'affordable housing' are applied inconsistently and in a generally ad hoc manner. There are differing definitions of 'affordable housing', and varying ways that local authorities are implementing measures to improve housing affordability that vary from mandatory components (or 'inclusionary zoning') to incentivised development requirements.

2. Planning mechanisms to deliver affordable housing

The discussion paper considers that the different approaches to the provision of affordable housing through planning can be broadly summarised as:

- *'Encouraging the development of affordable housing through measures that promote the efficient supply of well-located diverse housing;*
- *Promoting the development of affordable housing with specific incentives for affordable housing enabled through planning schemes and policies; or*
- *Requiring the development of affordable housing with the use of mandatory provisions in appropriate locations.'* (page 23)

These approaches are not mutually exclusive, and can be most effective when used together. The discussion paper notes that the first approach is largely consistent with the 'affordability through diversity' approach outlined in *Directions 2031*, while the SAH Strategy and draft *State Planning Strategy* (2012) suggest an approach that incorporates all three.

Depending on the preferred policy approach, there is a range of implementation mechanisms that can be used to facilitate affordable housing in planning schemes, policies or structure plans. Broadly speaking these mechanisms fit into the following five categories.

Barrier reduction strategies: Seek to remove or reduce controls that may inhibit the development of affordable housing – eg. Restrictive covenants on new housing estates that require particular building design, finishes, materials etc.

Protective mechanisms: Mechanisms or policies generally used to retain low cost accommodation in an area, or to mitigate its loss during periods of redevelopment - eg. Measures to prevent or mitigate the demolition, change of use or redevelopment of low cost housing.

Planning incentives: Voluntary provisions that aim to make development projects more profitable in exchange for the provision of affordable housing - eg. Density or height bonuses, fast track approval processes.

Voluntary negotiated agreements: Negotiated between a developer and the local (or redevelopment) authority before development commences and can result in the alteration of standard planning conditions in enhance for the provision of affordable housing across the whole development. Usually occur in redevelopments of large land parcels. Potentially could also occur during the development of a local structure plan.

Mandatory provisions: Require that a certain percentage or floor area of the development is provided as affordable housing. Can also include cash payments in lieu of providing the land and/or dwellings as affordable housing.

3. Preferred implementation options for Western Australia.

The discussion paper presents four potential options for the introduction of affordable housing into the Western Australian planning system, ranging from the 'diversity as a proxy for affordability' approach at one end of the spectrum through to the introduction of mandatory requirements at the other. Each approach is likely to require a different combination of legislative, statutory, policy and other supportive mechanisms.

	Approach			Supporting legislative, statutory or policy mechanisms		
	No specific provisions for affordability	Voluntary incentive provisions	Mandatory provisions on private land	Legislation	SPP	Guidelines with toolbox
Option 1	•					
Option 2		•		•		•
Option 3		•	Only in selected areas	•	•	•
Option 4		•	•	•	•	•

The discussion paper provides a discussion on the key elements, pros and cons of each of the four options which has been attached to this report (refer Attachment 1).

COMMENT

The discussion paper requests that submissions be made in response to specific questions, whilst also providing space for expanded discussion. This format has been used to prepare the City's submission on the discussion paper, as follows.

1. The role of planning in delivering affordable housing.

Do you think the planning system should play a role in helping to deliver affordable housing?

Yes, the City is of the strong view that the planning system has a role to play in the delivery of affordable housing. In this regard the City supports the recognition of housing affordability at the highest level of the planning framework to provide a clear and unchallengeable head of power.

Traditionally the planning system did not consider issues such as housing affordability as it was considered that the market was the best mechanism to deliver housing to meet the demand at the 'correct' price. However the market changed due to factors largely outside of the planning realm (including deregulation of the financial sector, favourable tax incentives for property investment, superannuation investments, and general economic prosperity) all of which have resulted in the costs of housing increasing disproportionately to the increase in the average household income. The desire to purchase a dwelling is still firmly entrenched in Australian society with the vast majority of people preferring to own and occupy a property rather than rent (Department of Planning: The housing we'd choose: a study for Perth and Peel, 2013) however the recent dramatic decline in housing affordability in Perth since the early 2000s has resulted in this aspiration of home ownership being more and more difficult to achieve. As a result people, particularly those seeking to enter the property market for the first time and key workers (police, nurses, teachers etc), are being pushed to the fringes of the metropolitan area to more affordable areas. This, in turn, has broader impacts on society in terms of infrastructure delivery, provision of services, transport and congestion; all of which contribute to a less than optimal distribution of residents and capital.

In recent times planning has sought to improve the supply side of the housing market by improving the diversity of housing stock, increasing land supply and introducing measures to improve the regulatory approval process. However these initiatives seem to have had little impact on the overall affordability of housing.

It is highly unlikely that the changes to Australian society that have contributed to issues of housing affordability mentioned above will be reversed or changed to such a degree that house prices will decline and affordability will improve. Therefore there is the potential for planning to influence the provision of housing in a way that doesn't fundamentally alter the prevailing market conditions (and thus housing prices) yet in a way that opens the opportunity for those on lower to medium incomes to purchase a home in a location suitable to their occupation and needs.

However, whilst planning has a dominant role in housing development up to the development approval stage, after that planning has a far more limited role in regards to the sale and occupation of housing, as clearly stated in the discussion paper (page 7). Therefore any planning measures aimed at providing greater levels of affordable housing need to be supported by strong and clear implementation processes, particularly the role of governmental and/or not-for-profit organisations in administering and ensuring the longer term supply of affordable housing. This is will require a far broader governmental approach that can ensure the relevant government and not-for-profit organisations are adequately resourced to implement the affordable housing that may be created and required through the planning system. This point is further discussed in the City's response to Part 5, "Other issues for consideration".

2. Planning mechanisms to deliver affordable housing.

Please indicate how effective you think each of the different Implementation Mechanisms outlined in Section 6 are likely to be. Please also provide comments on the effectiveness, benefits and drawbacks of each mechanism.

Mechanism	Very	Somewhat	Not at all	Unsure
Barrier reduction strategies (e.g. limits on restrictive covenants)			X	
Protective mechanisms (e.g. prevent or mitigate demolition or loss of affordable housing)		X		
Planning incentives (e.g. density or height bonuses)		X		
Voluntary negotiated agreements (e.g. as part of broader rezoning process)	X			
Mandatory provisions (e.g. provide land, housing or cash for affordable housing in each development)	X			

Comments on the effectiveness, benefits and drawbacks of each mechanism:

a) Barrier reduction strategies (e.g. limits on restrictive covenants)

Whilst it is acknowledged that some restrictive covenants may impact on the cost of providing housing, there is no clear evidence presented in the discussion paper that such cost impacts are major. It is also important to recognise the role such measures play in ensuring desired urban design and streetscapes within new developments and estates. If the use of such restrictive covenants was restricted, similar design focused requirements would likely be required by the local authority (potentially at the beckoning of the land developer) through a local planning policy or local development plans, which would therefore have a similar impact on housing costs (it is noted the Residential Design Codes allow for local planning policies to consider building materials, design etc).

b) Protective mechanisms (e.g. prevent or mitigate demolition or loss of affordable housing)

Protective mechanisms could be effective in maintaining an existing level of affordable housing during redevelopment, however it would be important that such mechanisms are flexible so as to not unnecessarily restrict redevelopment opportunities that may provide new and updated affordable housing options.

The main criticism of this option is that it doesn't seem to provide for the delivery of any additional affordable housing.

c) Planning incentives (e.g. density or height bonuses)

The City supports the notion of providing greater development yield on appropriately located development sites subject to the provision of affordable housing. The City has adopted this approach in relation to key development sites in the city centre to encourage the provision of affordable housing (Scheme Amendment 49).

However it is difficult to pick the tipping point where the additional development yield potentially available outweighs the additional costs involved in providing affordable

housing and there becomes an incentive to provide the affordable housing component. There is a real risk with this approach that if the incentives aren't attractive enough, then developers will simply build to the 'as of right' level without providing any affordable housing and thus the opportunity for new development to incorporate affordable housing will be lost. There are many variables that can influence the viability of a development and therefore it would likely to be problematic to try and apply a one size fits all approach. In this regard the City considers that an incentivised approach to affordable housing should be implemented at a local planning level however the City would welcome the support of the Department of Planning to assist in qualifying the development viability aspects of such an approach.

d) Voluntary negotiated agreements (e.g. as part of broader rezoning process)

Voluntary negotiated agreements appear to provide the greatest certainty for planning to deliver affordable housing as all the terms and conditions are negotiated up front to suit both parties. However there are considered limited opportunities where this approach may apply, particularly in urban renewal areas where the redevelopment opportunities are often in fragmented land ownership where multiple land owners may have varying expectations of redevelopment.

e) Mandatory provisions (e.g. provide land, housing or cash for affordable housing in each development)

The City considers that mandatory provisions for affordable housing, including appropriate cash payments in lieu of on-site affordable housing in some circumstances, would be the most effective way to ensure the provision of affordable housing within Western Australia.

Whilst it is likely that the development industry would resist such measures, the City's experience with the development industry suggests that one of the greatest concerns with planning and development is regulatory uncertainty, rather than the content of planning measures that may impact on the viability of development. In this regard a universal approach at state level that clearly sets out the parameters of where and when affordable housing would be required would provide the development industry with the necessary certainty to make decisions on development viability.

A mandated approach would further need to consider factors such as:

- The location of affordable housing – activity centres vs suburbs;
- The concentration of affordable housing – affordable housing should be integrated into the local housing stock rather than concentrated on individual developments; and
- Ensuring the on-going provision of affordable housing in approved locations.

However, as has been discussed previously, the main consideration in regards to the effectiveness of mandating affordable housing through the planning system is the ability of housing providers to take up and administer affordable housing. It is the City's experience that there is very little common knowledge about affordable housing and its providers throughout the development industry, with only a select number of developers actively engaged with affordable housing providers. The financial and legal aspects of affordable housing are complex and, in the City's view, require clear and centralised standards that are administered either by government or approved not-for-profit

providers. Furthermore, as affordable housing is essentially subsidised and non-profitable housing that can only be provided by government and/or not-for-profit organisations, it is critical that these organisations are adequately resourced to be able to take up the affordable housing that would be generated by the mandated approach.

3. Preferred implementation options for Western Australia.

Four potential Implementation Options have been outlined in Section 8 and are summarised in the table below.

	Approach			Supporting legislative, statutory or policy mechanisms		
	No specific provisions for affordability	Voluntary incentive provisions	Mandatory provisions on private land	Legislation	SPP	Guidelines with toolbox
Option 1	•					
Option 2		•		•		•
Option 3		•	Only in selected areas	•	•	•
Option 4		•	•	•	•	•

Please identify any benefits, challenges or drawbacks associated with each Option.

Option 1 – Focus on diversity, with no specific provisions for affordable housing

The City considers that this approach would not adequately address the issues of housing affordability in Western Australia. Housing diversity measures are already in the planning system and whilst these measures could be adjusted, improved and expanded, it is not anticipated that improving housing diversity alone will sufficiently address the issue of housing affordability. The City’s response to point 5 “Other issues for consideration” elaborates further on housing diversity measures that could be pursued to address housing affordability.

Also worth noting is the City’s feedback from developers that even with the introduction of the multi-unit residential design codes and therefore potential for greater dwelling yield, the most profitable and preferred form of land development within Fremantle’s suburbs is still single houses on lots of approximately 350-400sqm in area. Within the city centre area, recent multiple dwelling development approvals have included significant numbers of 1-2 bedroom units that go beyond the diversity requirements of the Residential Design Codes. Both of these situations demonstrate that, within Fremantle at least, the current diversity provisions of the R-Codes (including the plot ratio approach of the multi unit codes) aren’t necessarily the dominant factor in delivering housing diversity on the ground, rather that market conditions are still the determinant factor in determining the form of housing development.

Option 2 – Allow incentives for affordable housing

The City sees some merit in allowing incentives for affordable housing however, as mentioned previously in response to 1 c), it is difficult to calculate the amount of additional development potential that is required to create a financially attractive development environment where the developer would be prepared to provide an affordable housing component. In this regard, relying on an incentivised approach alone would not provide a predictable level of affordable housing as part of new development as the opportunity may be lost if the incentives are not sufficient. Whilst this option could be a step in the right direction, the City is of the view that it would not provide any certainty about the degree of affordable housing provided into the future.

It is noted that the discussion paper proposes that a ‘toolbox’ would be prepared by the WAPC to assist with this incentivised approach – an initiative that would be supported by the City.

Option 3 – Allow incentives for affordable housing, with requirements only allowed in selected strategic areas

The comments regarding option 2 are repeated with regards to an incentivised approach to affordable housing.

The City supports the idea of mandating affordable housing provisions on private land in selected strategic areas. However if this approach is only applicable once a particular need has been identified, there is concern that the delivery of affordable housing will be after housing affordability issues are already evident. Furthermore it is not clear how such a need would be determined, particularly at a localised level.

However, as the provision of affordable housing within Western Australia is still a relatively new sector, this option may give the opportunity for the sector to strengthen and expand its capacity to take on greater amounts of affordable housing.

Option 4 – Allow incentives and requirements for affordable housing

The City is of the view that of the four options presented this approach would best address the issue of housing affordability in Western Australia, provide certainty for development and enable the growth of an affordable housing industry. However whilst this option is considered the best of the four presented, it is not without its shortcomings.

The discussion paper makes a clear point that including mandatory provisions into local planning strategies and schemes would still require local governments to justify their inclusion and ultimately would still require the approval of the WAPC. Therefore whilst there may be state level support for the inclusion of mandatory affordable housing provisions in local planning schemes, the onus and responsibility would lie with the relevant local authority. This approach is considered problematic for three main reasons:

1. Local governments, reflecting local community concerns, may not see the need for affordable housing in their community and therefore won't include affordable housing provisions in their statutory framework;

2. The preparation of a housing strategy to support a local planning strategy is a complex, time and resource intensive undertaking that local governments may not be prepared to do within an optimal time frame (eg. local planning strategies are rarely reviewed in reality within 10 years); and
3. Given the above two points, this option does not provide certainty to the delivery of affordable housing.

In response to the next point 4, "Alternative implementation options for Western Australia", the City proposes a revised version of this option, for consideration.

With your previous answers in mind, which of the four Implementation Options do you think presents the most appropriate approach for the planning system to deliver affordable housing in Western Australia? If you have further comments explaining your choice, please provide them.

Option 4.

4. Alternative implementation options for Western Australia.

Are there other implementation options that are likely to be more effective than the four above? If yes, please explain what they are and why they would be more effective.

Due to the 3 main concerns outlined in the response to Option 4 above, the City proposes a revised version of Option 4 for consideration.

The City considers that, as a matter of principle, provisions for affordable housing should be mandated at the highest level in the planning framework, ideally through legislation and/or state planning policy, in a manner similar to the provisions pertaining to public open space provision. This would ensure that affordable housing is provided uniformly across local governments and would take away the need for local planning schemes to be individually amended to address this issue. Furthermore a mandatory approach at the highest level would provide consistency and clarity for landowners and developers as well as create market certainty for increased investment by affordable housing providers. An across the board approach would also benefit social integration of affordable housing, rather than affordable housing being concentrated and potentially isolated in select areas.

The City would therefore advocate the setting of a benchmark level of affordable housing provision to be made as part of all new residential developments or subdivisions (possibly with a minimum threshold size of say 10 dwelling units/lots), probably best expressed as a minimum percentage of the total number of dwellings/lots in the overall development/subdivision. The City understands that the WAPC has previously commissioned research studies into affordable housing provision and needs in the Perth metro area that could form the basis of state level work to determine an appropriate benchmark level of affordable housing provision to be met in most developments.

The City recognises however that there are genuine occasions where a set mandatory requirement for affordable housing may not be in the best interests of the locality and therefore there should also be criteria for circumstances where the requirement can be reduced, increased or waived to suit local needs. For instance, a mandated amount of affordable housing in a lower cost development targeted to the lower income housing market may have an overall negative impact on the affordability of the housing not

deemed to be 'affordable housing', which would be an outcome not in the best interests of the development or locality (i.e. the profit margin expected from the standard housing lots would need to cover the 'lost' profit margin from the affordable housing component, thereby driving up the price of the standard housing lots). Also, in a locality where a higher than average proportion of the housing stock is already affordable or low cost housing, there may not be a need for more affordable housing. Another scenario to consider is where a major employment generator or activity centre may require a greater percentage of affordable housing in the locality than that specified in an overall target requirement (eg. housing for key workers near the Murdoch Specialised Centre). Exemptions or variations to the requirements could be subject to WAPC approval and could be administered by a state planning policy that sets out the relevant criteria for local planning schemes to vary the affordable housing provisions. It would be under this assessment process that housing research and/or strategies would be required at a local level to justify an exemption or variation from the mandatory, 'across the board' requirement.

There are many details that would need careful consideration under such a proposal and the City is under no illusion that such an approach would be an easy proposition to present to the broader development and government community. However the City considers housing affordability to be a major issue in Western Australia and one that requires strong and clear direction and leadership at a state level. Pursuing a mandatory approach to affordable housing in Western Australia could have broad ranging positive implications to the future development and integration of the metropolitan area, including reducing urban sprawl pressures, reducing transport costs and congestion, which further reinforces housing affordability as a theme integral to Western Australian planning.

5. Other issues for consideration.

Are there any implementation issues that the WAPC should consider when determining the best approach to using the planning system to facilitate the delivery of affordable housing? If so, what are they? The issues outlined in Section 9 (repeated overleaf) provide some examples to consider.

The City strongly supports measures that can deliver greater amounts of affordable housing through the planning system. However the City's main concern is related to the delivery, on-going management and retention of the affordable housing after the planning approval process. Introducing planning provisions to require components of affordable housing is considered the easier part of the issue – the real challenge is creating a process and environment that deals with affordable housing once the role of planning has effectively ended. The City's experience with the development industry suggests that there is a real lack of awareness about what is 'affordable housing' and who can provide it and therefore how a developer can satisfy a condition of planning approval. In this regard the City sees that there is a real need for greater advocacy and education about this issue, particularly to the development industry. The Departments of Planning and Housing are considered best placed to jointly promote this issue, particularly if requirements for affordable housing become more prevalent throughout the planning system, and there needs to be a point of reference for local governments, developers and the community to gain information about the delivery of affordable housing.

6. Other comments or suggestions.

Improving the diversity of housing stock is considered a significant factor in housing affordability and choice. The recent Multi Unit Housing provisions of the Residential Design Codes are a significant step in the right direction in this regard with the control focus shifted from dwelling numbers to built form outcomes. The building sector appears to have responded positively to these recent changes across many locations in the metropolitan area, with a number of new housing developments offering a greater range of housing stock commensurate with the intention of the Multi Unit Codes.

However the City sees further opportunity for the R-Codes to encourage greater diversity in areas coded less than R30 in the metropolitan area with a similar emphasis on controlling built form as opposed to dwelling numbers. The current system for the lower density coded areas tends to encourage a low to modest dwelling yield of large houses without offering any real incentive for innovative built form approaches that could increase the dwelling yield whilst still respecting the existing amenity of the area. Therefore the City strongly encourages the Department of Planning to further review the lower density provisions of the R-Codes to identify opportunities to incentivise innovative built form outcomes that offer greater housing diversity.

CONCLUSION

Consideration that the planning system has a role to play in the provision of affordable housing is enthusiastically welcomed as the City is of the strong view that the planning system is well positioned to assist in the delivery of affordable housing. Overall the City considers that a mandatory requirement for affordable housing embedded in the planning framework at the highest level is the optimal statutory approach required to really address the issue of housing affordability in Western Australia.

However, the provision of affordable housing is a complex issue that demands the efforts of not just the planning sector of government. The implementation of affordable housing is the real challenge to this issue and is the area that needs the most attention to ensure that any planning controls can be effectively and efficiently implemented.

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Cr R Fittock

That Council authorise the Chief Executive Officer to present a submission to the Department of Planning regarding the discussion paper, "Planning Provisions for Affordable Housing", in accordance with the officer comments contained in this report.

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	

COMMITTEE AND OFFICER'S RECOMMENDATION

MOVED: Mayor, Brad Pettitt

That Council authorise the Chief Executive Officer to present a submission to the Department of Planning regarding the discussion paper, "Planning Provisions for Affordable Housing", in accordance with the officer comments contained in this report.

SECONDED: Cr I Waltham

COUNCIL DECISION

Mayor, Brad Pettitt MOVED to defer the item to the next appropriate Planning Services Committee meeting with delegation to the Planning Services Committee to make a decision.

SECONDED: Cr I Waltham

CARRIED: 13/0

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

PSC1312-188 PROPOSED ALFRESCO DINING LOCAL LAW

DataWorks Reference:	010/006
Disclosure of Interest:	Nil
Meeting Date:	6 November 2013
Previous Item:	Nil
Responsible Officer:	Manager Health, Building and Compliance
Actioning Officer:	Policy Officer
Decision Making Authority:	Planning Services Committee
Agenda Attachments:	City of Fremantle Alfresco Dining Local Law (draft) City of Fremantle Local Laws Relating to Outdoor Eating Areas 1998

EXECUTIVE SUMMARY

Under the *Local Government Act 1995* (“The Act”), the City is required to undertake a review of its local laws every eight years. Recently the City reviewed its *Local Laws relating to Outdoor Eating Areas 1998* and identified the need to amend the local laws to enable greater flexibility for food business and licensed premises operators.

In considering the content of a revised local law, the City has sought to achieve the following objectives -

- Greater flexibility for proprietors with regard to responsible consumption of alcohol in alfresco areas;
- A simplified fee structure and licensing process;
- Alignment of the terms and definitions of the local law with other relevant legislation (e.g. the Food Act, the Local Government Act and the Liquor Control Act); and
- Modified infringement penalties for offences under the local laws.

The City’s proposed *Alfresco Dining Local Law* seeks to achieve the above mentioned objectives as well as improving the general format and useability of the local law. The purpose of this report is to present the City’s proposed *Alfresco Dining Local Law* for consideration by Council.

BACKGROUND

In 1998 the City brought into effect its *Local Laws relating to Outdoor Eating Areas* to govern the use of the road reserve for public outdoor dining in connection with ‘eating houses’. Although the local law continues to provide a framework for the licensing and management of outdoor eating areas, changes in Fremantle’s strategic direction as well as changes to liquor, tobacco and food legislation have made parts of the local law either redundant or impractical to uphold.

COMMENT

In its 2013 review of the existing local laws, the City identified a number of shortfalls including the following -

Use of the term eating house

'Eating house' is a redundant term that essentially refers to a cafe or restaurant. It was repealed in 2008 and replaced with the term 'food business' under the *Food Act 2008*. Licensed premises (other than licensed restaurants) are not considered eating houses and are technically prohibited from operating an outdoor eating area by the current local laws. This technicality prohibits premises such as Whisper Wine Bar and the National Hotel from conducting outdoor eating areas. The City has made exceptions and granted approvals to these businesses but it is essential to remove this restriction to meet current community expectations and provide a greater degree of flexibility for proprietors of licensed premises in accordance with the City's strategic vision.

The City proposes in its revised local law that alfresco dining areas will be not be limited to restaurants. The Liquor Control Act and conditions of approval can ensure the responsible consumption of alcohol in alfresco dining areas when consumption is not ancillary to a meal. Fremantle licensees have demonstrated a history of responsible service of alcohol in alfresco dining areas.

Outdated application requirements

The current local laws application requirements are tedious, overly prescriptive and in many cases unnecessary. 'Traditional' (for one of a better word) application requirements, for example those appearing in the current local laws and older style legislation, have largely been replaced in modern examples by simplified and more flexible application wording. For example, rather than stating '*an applicant shall submit a management plan*' the local law would simply state that '*an applicant shall provide any information reasonably required by the local government to determine the application*'. This has the major benefit of permitting the local government to simplify application requirements for the customer without having to amend the local law.

Smoking in outdoor eating areas

The current local laws restrict smoking in outdoor eating areas. This is redundant as the state-wide *Tobacco Products Control Act 2006* prohibits smoking in outdoor eating areas and contains enforcement provisions for non-compliance.

Outdoor dining fees based on gross rental value of the premises

Currently the local laws require outdoor eating area license fees to be determined according to the gross rental value ("GRV") of the premises. Setting fees according to GRV figures, which are often inconsistent and out of date, has led to adjacent premises paying significantly different fees to the City in the past. This is particularly unfair to disadvantaged businesses. In the City's Fees and Charges Schedule for 2012/13 and 2013/14, Council endorsed a flat rate per square metre of outdoor eating area for the inner CBD, outer CBD and non-CBD areas. It is necessary to remove the antiquated GRV fee structure from the local laws.

Absence of infringement provisions (prescribed offences)

Under the current local laws, non compliances relating to the use of outdoor eating areas must be pursued by the City via the Court system. Under the proposed local law the City has developed a number of prescribed offences to enable officers to issue infringement notices for non compliances rather than having to resort to a prosecution. Infringement provisions are now commonplace in local laws and state regulations as they provide modified penalties and a simplified enforcement pathway for local governments and other enforcement authorities and generally result in more favourable outcomes.

License and application form pro formas

The current local laws include both an application form pro forma and license pro forma. The City considers that removal of the license pro forma will enable the City to legally update the license format in accordance with future changes to the City's branding and other changes that may arise. Removal of the application form pro forma will save the City having to amend the local law should it decide to vary application requirements in the future.

In summary, the key changes proposed for the City's revised local law are as follows:

- Definition of 'eating house' replaced with 'food business'. This now encompasses licensed premises which were not previously captured under the previous *Health Act 1911* definition;
- The complicated GRV fee structure has been removed from the local laws and replaced with a simple fee structure in the City's annual fees and charges schedule calculated per m² of alfresco floor area;
- Infringement notice provisions for prescribed offences (rather than having to pursue non compliances solely through the court process);
- Appeal provisions for applicants as per the Local Government Act; and
- Removal of unnecessarily onerous procedural content from the local laws such as application requirements and licence pro forma.

-

RISK AND OTHER IMPLICATIONS

Financial

Nil.

Legal

The City must follow the local law adoption procedure as prescribed by the *Local Government Act 1995*.

Operational

The proposed local law will improve and simplify the current application, assessment and licensing process for outdoor eating areas as well as providing improved enforcement pathways for City officers.

Organisational

The proposed local laws will serve as a standalone law to manage the use of City land for alfresco dining. The City has a number of other policies and local laws that relate to activities in the road reserve and these will continue to be enforced by relevant business units.

CONCLUSION

The City's proposed *Alfresco Dining Local Law* is a significant improvement to the current local laws and will serve to support the City's strategic vision and simplify management of alfresco dining areas. The City has prepared a modern and relevant local law that seeks to achieve greater flexibility for business proprietors as well as simplifying the approvals and compliance procedures for City officers. The City considers the proposed local law to represent best practice for the management of City owned/managed space for dining and other compatible uses.

STRATEGIC AND POLICY IMPLICATIONS

City of Fremantle *Strategic Plan 2010 – 2015*

Strategic Imperative 1 – *Strengthen Fremantle's economic capacity*

Strategic Imperative 2 - *Provide a great place to live, work and play through growth and renewal.*

COMMUNITY ENGAGEMENT

The City shall advertise the draft local law and invite public submissions over a six week period.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE AND OFFICER'S RECOMMENDATION

That Council agree to adopt the City of Fremantle Alfresco Dining Local Law and repeal the City of Fremantle Local Laws Relating to Outdoor Eating Areas 1998 and Interim Local Planning Policy DBU8: Outdoor Eating (tables and chairs), as shown below:

LOCAL GOVERNMENT ACT 1995

CITY OF FREMANTLE

ALFRESCO DINING LOCAL LAW 2014

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Fremantle resolved on (insert date) to make the following Local Law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Fremantle Alfresco Dining Local Law 2014*.

1.2 Commencement

- (1) This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Purpose and effect

- (1) The purpose of the local law is to provide for the regulation, control and management of alfresco dining areas in any public place within the district.
- (2) The effect of this local law is to control alfresco areas so that they do not interfere with the safe and reasonable movement of pedestrians and vehicles as well as to encourage high quality alfresco dining to enhance amenity, vitality and ambience of the city.

1.4 Repeal

The following local laws are repealed on the day that this local law comes into operation

-
- (1) *City of Fremantle Local Laws Relating to Outdoor Eating Areas* as published in the *Government Gazette* on 6 May 1998.

1.5 Transitional

A licence issued in accordance with the *City of Fremantle Local Laws Relating to Outdoor Eating Areas* -

- (a) is to be taken to be a licence granted under this local law;
- (b) is to be valid for the period specified in the license; and
- (c) may be earlier cancelled or suspended under this local law.

1.6 Application

This local law applies throughout the district

1.7 Interpretations

In this local law, unless the context otherwise requires –

“Act” means the *Local Government Act 1995*;

“alfresco dining area” means an area in which tables, chairs and other structures are provided for the purpose of the supply of food or beverages or both to the public or the consumption of food or beverages or both by the public;

“alfresco dining” means outdoor dining or drinking or both in a public place;

“authorised person” means the CEO or any other person authorised by the City under section 9.10 of the Act to be an authorised person for the purposes of enforcing the provisions of this local law;

“CEO” means the Chief Executive Officer of the City;

“City” means the City of Fremantle;

“City property” means anything except a thoroughfare –

(a) which belongs to the City;

(b) of which the City is the management body under the *Land Administration Act 1997*; or

(c) which is an “otherwise unvested facility” within section 3.53 of the Act;

“Council” means the Council of the City of Fremantle;

“district” means the district of the City of Fremantle;

“food business” has the same meaning as the *Food Act 2008*;

“fee” means a fee or charge imposed under sections 6.16 to 6.19 of the Act;

“furniture” means chairs, tables, waiter’s stations, planter boxes, umbrellas, screens, barriers, awnings, portable gas heaters and any other structure set up in the alfresco dining area;

“Health Act” means the *Health Act 1911*;

“licence” means a licence issued by the City under this local law to set up and conduct an alfresco dining area;

“licence period” means the period referred to in clause 2.9;

“licence plan” means a plan attached to and forming part of a licence depicting the parts of a street or public place within which an alfresco dining area may be set up and conducted;

“licensee” means a proprietor of a food business who holds a valid licence;

“Liquor Control Act” means the *Liquor Control Act 1988*;

“local public notice” has the meaning given to it in section 1.7 of the Act;

“month” means calendar month;

“public place” means any thoroughfare, pedestrian mall or City property;

“proprietor” has the same meaning as the *Food Act 2008*;

“Regulations” means the *Local Government (Functions and General) Regulations 1996*;

“utility” means any public or private body which provides an essential service, such as electricity, gas, water, drainage, sewerage, telecommunications or traffic control, and has equipment on, in or under a public place for that purpose;

“valid”, in relation to a licence issued under this local law, means current and for which all the associated fees have been paid in full; and

“vehicle crossing” means a crossing used by vehicles to allow access from a thoroughfare to private land or a private thoroughfare.

PART 2 - LICENCE

2.1 Licence required

Unless exempt under clause 2.2, a person shall not set up or conduct an alfresco dining area in any public place –

(a) other than in a portion of a public place adjoining a food business;

(b) unless the person is the proprietor of a food business or is acting on behalf of the proprietor of a food business referred to in paragraph (a);

(c) unless the person is the holder of a valid licence issued under this local law; and

(d) other than in accordance with the licence plan and any terms and conditions set out in, or applying in respect of, the licence.

2.2 Exemptions

- (1) The city may exempt a person or class of persons in writing from the requirement to have a licence.
- (2) Any exemption in subclause (1) may be exercised-
 - (a) on the application of a person; or
 - (b) at the City's discretion.
- (3) An exemption in subclause (1) may be given subject to any conditions the City sees fit.
- (4) An exemption may apply to, or in respect of –
 - (a) a particular event, street festival, carnival or activity approved by the City;
 - (b) particular goods or services;
 - (c) a period of time.

2.3 Application for a licence

- (1) A person who is required to obtain a licence under this local law shall apply for the licence in accordance with subclause (2).
- (2) An application for a licence under this local law shall-
 - (a) be in the form determined by the City;
 - (b) be signed by the proprietor of a food business adjacent to the portion of the public place to which the application relates;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the City.
- (3) The City may require an applicant to provide additional information reasonably related to an application before determining the application.
- (4) The City may require an applicant to give local public notice of the application for a licence.
- (5) The City may refuse to consider an application for a licence which is not in accordance with subclause (2) or where the applicant has not complied with subclauses (3) or (4).

2.4 Relevant considerations in determining application for licence

- In determining an application for a licence, the City is to have regard to –
- (a) relevant policies of the City; and
 - (b) any other matters that it considers to be relevant.

2.5 Decision on application for licence

- (1) The City may, in respect of an application for a licence-
 - (a) approve the application unconditionally or subject to any conditions; or
 - (b) refuse to approve the application.
- (2) Without limiting the scope of the City's discretion under subclause 1(b), the City may refuse an application for a licence if, in its opinion-
 - (a) the proposed alfresco dining does not conform with the requirements of the Health Act or any other written law;
 - (b) the proposed alfresco area is undesirable;
 - (c) the proposed furniture is unsuitable, in any respect, to the location in which the licence is to operate;
 - (d) the proposed licensee has been convicted during the preceding five years of an offence against –
 - (i) this local law;

- (ii) the *City of Fremantle Local Laws Relating to Outdoor Eating Areas*;
- (iii) the Health Act;
- (iv) the Liquor Control Act; or
- (v) any other written law which affects alfresco dining; or
- (e) the proposed licensee is not a fit and proper person to hold a licence.
- (3) If the City approves an application for a licence, it is to issue to the applicant a licence in the form determined by the City.
- (4) If the City refuses to approve an application for a licence, it is, as soon as practicable after the decision is made –
 - (a) to give the applicant written notice of, and written reasons for, the refusal; and
 - (b) inform the applicant of his or her rights, under Part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.
- (5) Where a clause of this local law refers to conditions which may be imposed on a licence of which are to be taken to be imposed on a licence, the clause does not limit the power of the City to impose other conditions on the licence under subclause (1)(a).
- (6) Where a clause of this local law refers to the grounds on which an application for a licence may be of is to be refused, the clause does not limit the power of the City to refuse, the application for a licence on other grounds under subclause (1)(b).

2.6 Conditions which may be imposed on a licence

The City may approve an application for a licence subject to conditions relating to –

- (a) the area or location to which the licence applies;
- (b) the number, type, form and construction, as the case may be, of any furniture which may be used in the alfresco dining area;
- (c) the care, maintenance and cleaning of any furniture used in the alfresco dining area;
- (d) The removal and storage of furniture used in the alfresco dining area prior to the closure of the adjacent food business;
- (e) The requirement to maintain pedestrian access between the alfresco dining area and the adjacent food business;
- (f) The alfresco dining area not impeding or obstructing a public place used by either pedestrians or vehicles;
- (g) The requirement to maintain clear sight lines for vehicles entering or leaving a thoroughfare or a vehicle crossing;
- (h) The obtaining of public risk insurance in an amount and on the terms reasonably required by the City;
- (i) The grant of another approval, permit, licence or authorisation which may be required under any written law;
- (j) The duration and commencement of the licence;
- (k) The placement of advertising on furniture within the alfresco dining area;
- (l) The payment of all fees, charges, rates and taxes levied or incurred as a result of the establishment and operation of the alfresco dining area;
- (m) The payment of costs associated with the City preparing the public place for the use as an alfresco dining area including but not limited to the reshaping of footpaths and marking the boundaries of the alfresco dining area.

2.7 Compliance with conditions

Where –

- (a) an application for a licence has been approved subject to conditions; or

(b) a licence is to be taken to be subject to conditions under this local law, the licensee shall comply with each of those conditions.

2.8 Amendment of licence conditions

- (1) A licensee may apply in writing to the City to amend any of the terms of conditions of the licence.
- (2) The City may, in respect of an application under subclause (1) –
 - (i) amend the licence, either in accordance with the application or otherwise as it sees fit; or
 - (ii) decline to amend the licence.
- (3) The City may, at any time, amend any of the terms and conditions of the license.
- (4) If the City amends a licence under this clause, it is to notify the licensee in writing of the amendment as soon as practicable after the amendment is made and , unless otherwise specified in the amendment, the amended term or condition, or both, of the licence apply from the date of the notification
- (5) If the City amends a licence otherwise than in accordance with an application from the licensee, it is, as soon as practicable after the decision to amend is made –
 - (i) To give the licensee written notice of, and written reasons for, its decision to amend; and
 - (ii) Inform the licensee of his or her rights, under part 9, Division 1 of the Act, to object to, and apply for a review of, the decision.

2.9 Duration of licence

A licence is valid for twelve months from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the licence; or
- (b) cancelled under clause 2.12

2.10 Renewal of licence

- (1) A licensee may apply to the City in writing no later than two months before the expiry of a licence for the renewal of the licence.
- (2) The provisions of the local law relevant to the license which is to be renewed shall apply, with such modifications as are required, to an application for the renewal of a licence.

2.11 Transfer of licence

- (1) An application for the transfer of a valid licence is to –
 - (a) be in the form determined by the City;
 - (b) provide the information required by the form or by any other clause of this local law;
 - (c) be signed by the licensee and the proposed transferee of the licence: and
 - (d) be forwarded to the City together with any transfer fee imposed and determined by the City.
- (2) The City may refuse to consider or determine an application for the transfer of a licence, which is not in accordance with subclause (1).
- (3) The City may approve an application for the transfer of a licence, refuse to approve it or approve it subject to such terms and conditions as it sees fit, and if it is approved, the proposed transferee shall become the licensee from the date of the approval.

2.12 Cancellation of suspension of licence

- (1) A licence may be cancelled by the City on any one or more of the following grounds –
- (a) the licensee has not complied with –
 - (i) a condition of the licence; or
 - (ii) a provision of this local law or any other written law which may relate to the activity regulated by the licence;
 - (b) if it is relevant to the activity regulated by the licence –
 - (i) the licensee is an undischarged bankrupt, or is in liquidation;
 - (ii) the licensee has entered into a composition arrangement with creditors; or
 - (iii) a manager, administrator, trustee, receiver, or receiver and manager, is appointed in relation to any part of the licensee's undertakings or property;
 - (c) the proprietor of the food business changes;
 - (d) the setting up or conduct of the alfresco dining area, or the behaviour of customers within the alfresco dining area, is causing a nuisance.
- (2) The City may cancel or suspend a licence if the City or a utility requires access to or near the place to which a licence applies, for the purposes of the carrying out works in or near the vicinity of that place;
- (3) If the City cancels or suspends a licence under this clause, it is, as soon as practicable after the decision is made –
- (a) to give the licensee written notice of, and reasons for, the decision; and
 - (b) inform the licensee of his or her rights, under part 9, Division 1 of the Act, to object to, and apply for review of, the decision; and
 - (c) the cancellation or suspension takes effect from the date on which the licensee is served with the cancellation or suspension notice.
- (4) On the cancellation of a licence, the licensee shall return the licence as soon as practicable to the City.
- (5) On the cancellation or suspension of a licence, the licensee is, subject to subclause (6), to be taken to have forfeited any fees paid in respect of the licence.
- (6) Where a licence is cancelled or suspended through no fault of the licensee, the City may refund to the licensee all or part of the licence fee in respect of what would otherwise have been the balance of the terms of the licence.

2.13 Display and production of licence

- (1) A licensee shall produce to an authorised person his or her valid licence immediately on being required to do so by an authorised person.
- (2) A licensee shall display his or her valid licence in accordance with the conditions set out in the licence.

PART 3 – OBJECTIONS AND APPEALS

3.1 Application of Part 9 Division 1 of the Act

- (1) Where the City makes a decision as to whether it will –
- (a) grant an application for a licence;

(b) vary cancel or suspend a licence; or
(c) impose or amend a condition to which a licence is subject,
the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the City.

PART 4 – ENFORCEMENT

4.1 Direction of authorised person to be obeyed

(1) A licensee who is given a lawful direction by an authorised person or a member of the W.A. Police shall comply with that direction.

(2) A licensee shall not obstruct or hinder an authorised person in the performance of that person's duties.

4.2 Notice to repair damage to public place

Where any portion of a public place has been damaged as a result of the use of that public place as an alfresco dining area, the City may, by notice to the licensee, order the licensee to repair or replace that portion of the public place to the satisfaction of the City.

4.3 City may undertake requirements of notice

If a person fails to comply with a notice under clause 4.2, the City may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

4.4 Removal and impounding of goods

Where an alfresco dining area is conducted without a licence or in contravention of a condition of a licence, any furniture may be removed and impounded by an authorised person under regulation 29 of the Regulations.

4.5 Offences

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) An offence against a clause specified in the First schedule of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.

(3) A person who commits an offence under this local law shall be liable, on conviction –

- (a) to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day of part of a day during which the offence has continued.

4.6 Infringement and infringement withdrawal notice

For the purposes of this local law –

- (a) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (b) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

4.7 Offence description and Modified Penalty

The amount appearing in the final column of the First Schedule directly opposite an offence described in that schedule is the modified penalty for that offence.

4.8 Authorised persons

Unless expressly state otherwise by the City, a person appointed by the City to be an authorised person for the purposes of this local law is taken to have also been appointed by the city to be an authorised person for the purposes of sections 9.13 and 9.16 of the Act in relation to offences against this local law.

First Schedule

City of Fremantle

ALFRESCO DINING LOCAL LAW 2014

OFFENCES AND MODIFIED PENALTIES

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.1	Set up or conduct an alfresco dining area without a valid licence	300
2	2.7	Failure to comply with a condition of licence	100
3	2.13 (1)	Failure to produce to an authorised person a valid licence when requested to do so	100
4		Other offences not specified	100

CARRIED: 6/0

For	Against
Cr Rachel Pemberton Cr Robert Fittock Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Jon Strachan	

COUNCIL DECISION

Mayor, Brad Pettitt MOVED to defer the item to the next appropriate Planning Services Committee meeting.

SECONDED: Cr B Massie

CARRIED: 13/0

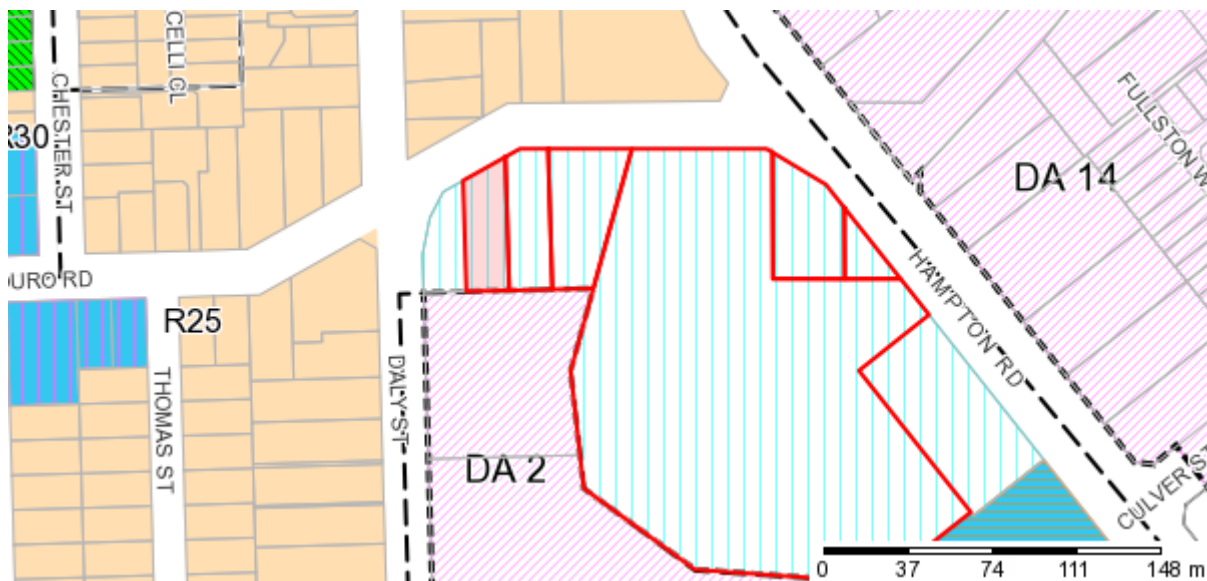
For	Against
Mayor, Brad Pettitt Cr Doug Thompson Cr Robert Fittock Cr Andrew Sullivan Cr Jon Strachan Cr Rachel Pemberton Cr Simon Naber Cr Josh Wilson Cr David Hume Cr Dave Coggin Cr Ingrid Waltham Cr Sam Wainwright Cr Bill Massie	

DEFERRED ITEMS (COMMITTEE DELEGATION)

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

PSC1312-189 DEFERRED ITEM - HAMPTON ROAD, NO. 24/219 (LOT 33) - PARTIAL CHANGE OF USE FROM SHOP TO LIQUOR STORE - (CJ DA0078/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1305-66 (15 May 2013)
PSC1001-5
Attachments: Attachment 1 – Revised Development Plans
Attachment 2 – PSC1305-66 Report
Date Received: 20 February 2013
Owner Name: Humich Pty Ltd & Anilia Pty Ltd
Submitted by: MGA Town Planners
Scheme: Local Centre Zone
Heritage Listing: Not listed
Existing Landuse: Shop and Liquor Store
Use Class: Liquor Store
Use Permissibility: A



EXECUTIVE SUMMARY

On 18 November 2013, the City received amended plans for DA0078/13, a partial change of use to Liquor Store at No. 24/219 Hampton Road, South Fremantle. The application was previously deferred by Council at an Ordinary Council Meeting on the 22 May 2013, for the applicant to provide further information regarding the activation of the frontage. Amended plans include details of the external painting and signage proposed for the northern elevation. No amendments to the internal layout are proposed as part of the changes.

The proposal seeks to alter a previously mediated outcome, which was considered to meet the needs of the applicant and satisfy the requirements for the activation of the frontage of this portion of the shopping centre. As the additional plans have not altered the proposal previously presented to PSC in terms of offering any additional level of activation, the application is recommended for on balance refusal.

BACKGROUND

The subject site is zoned Local Centre under the City's Local Planning Scheme No. 4 (LPS4). While the subject site is not listed on the City's Heritage List or Municipal Heritage Inventory, the site is located within the South Fremantle Heritage Area.

The subject site is located on the south western corner of Hampton and Douro Roads, South Fremantle and is bound by Daly Street to the west and Brockman Place to the South. The proposed change of use is within the existing South Fremantle Local Shopping Centre which currently includes a number of land uses, such as a hardware store, supermarket, cafe, liquor store, bakery, lunch bar and hairdresser. Detailed planning history is included in the previous report for this application (refer to attachment 2).

The application was presented to PSC on 15 May 2013, with the following recommendation:

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Partial Change of Use to Liquor Store at No. 24/219 Hampton Road, South Fremantle, for the following reason:

- 1. The proposal is inappropriate having regard to the purposes for which the land is zoned and Clause 4.2.1c of the City of Fremantle Local Planning Scheme No. 4 as the proposal is not consistent with the previous SAT mediation outcome and will not provide a sufficiently active frontage.**

The item was deferred to the Ordinary Meeting of Council on 22 May 2013, with the Council decision as follows:

Cr A Sullivan MOVED to defer the item PSC1305-66 to the next appropriate Planning Services Committee Meeting.

Reasons given for the deferral were:

In order for the applicant to submit revised plans to address the activation concerns raised at the Planning Services Committee on 15 May 2013.

DETAIL

Revised plans dated 18 November 2013, make no changes to the original plans other than to provide further detail relating to painting, glazing and signage on the northern frontage. Plans are included as attachment 1.

STATUTORY AND POLICY ASSESSMENT

Statutory and policy assessment is as per PSC 1305-66, with the exception of the following:

- External painting; and
- Signage.

CONSULTATION

Community

It is not considered that changes to the plans warrant an additional advertising period. The submission received is included as part of the previous report.

PLANNING COMMENT

The applicant has submitted amended plans detailing the painting and signage on the northern elevation. Justification regarding these changes is as follows:

- *Although existing shop entries are to be closed, 40% of the northern side of the building will maintain other existing shop tenancies located at each side of the Dan Murphy's store. The store will therefore not dominate the northern facade and will not feature extensive blank walls.*
- *The facade of the Dan Murphy's tenancy will be glazed for 61% of its length. The glazing will be located adjacent the entire shop sales floor area and cashier, being areas from which the greatest level of surveillance into and out of the store will be achieved. Painted wall components are associated with doors, external pillars, cool room/general office and an ice-cabinet area at the western side of the tenancy. The distribution of painted wall areas is therefore not considered extensive; and will otherwise provided some variety and articulation to the wall between glazed area, while concealing unappealing areas set aside for staff.*
- *It is noted that the previous existing planning approval for the Dan Murphy's liquor store dated 24 March 2010 specified a maximum shelf height of 1.26m adjacent glazed areas to facilitate surveillance of the car park. The facade will feature 'thematic decals' not exceeding a height of 1.2m above the shop floor level across approximately half the facade. These are similar to the graphics approved on other Dan Murphy stores such as the Hyde Park Hotel re-development. The thematic*

decals are of a height that will maintain views into and out of the store; and also improve the visual interest and amenity of the store.

External painting

In accordance with Clause 8.2h) of the City's LPS4, painting of an external surface of a property not on the City's MHI, Heritage List or the State Register of Heritage Places, is exempt from requiring planning approval. Therefore the painting of the northern frontage is permitted development.

Signage

The signage is considered to be appropriate in accordance with *DBH6 Signs and Hoardings* for the following reasons:

- Identifies the name of the business of the occupier (Dan Murphy's);
- The proposed awning signage is similar in dimension to the existing signage on site and will therefore not add to driver distraction or visual clutter;
- The sign would be replacing a number of other signs on the subject site;
- Signage would not obscure existing signs, information, sightlines or architectural features;
- The signage is illuminated, however a standard condition would apply to any approval ensuring the signage is not flashing or moving.

CONCLUSION

While the applicant has provided further information regarding the external treatments of the proposed Liquor Store, it is not considered that this will sufficiently activate the frontage. The mediated approval resulting in two additional tenancies on the frontage is recommended to be the appropriate outcome. The application is therefore recommended for refusal.

However, should Council be satisfied with the proposed external treatments encouraging additional activation of the frontage, the following recommendation would apply:

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Partial Change of Use to Liquor Store at No. 24/219 (Lot124) Hampton Road, South Fremantle, subject to the following condition (s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 18 November 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
- 2. Shelving within the building adjacent to those parts of the southern elevation which are glazed shall be no higher than 1.26metres (including any bottles which may be placed on top of the shelves) and no deeper than 533 millimetres in order to allow the appropriate surveillance of the car park.*
- 3. Goods, materials or waste associated with the development may be stored external to the building in the rear service access way, but must not be stored external to the*

building overnight or in a position that prevents use of the rear service access way. No box crushing or other similar activity associated with the development may be carried out external to the building. Waste receptacle placed outside the building on the day of collection must be returned inside the building as soon as practicable following collection.

- 4. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure, reflective, retro-reflective or fluorescent materials in its design structure.*

OFFICER'S RECOMMENDATION

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Partial Change of Use to Liquor Store at No. 24/219 (Lot 124) Hampton Road, South Fremantle for the following reason:

- 1. The proposal is inappropriate having regard to the purposes for which the land is zoned and Clause 4.2.1c of the City of Fremantle Local Planning Scheme No. 4 as the proposal is not consistent with the previous SAT mediation outcome and will not provide a sufficiently active frontage.**

EXECUTIVE SUMMARY

The application seeks planning approval for a Two Storey Addition to an existing Two Storey Single House at the subject site.

The application proposes lesser setbacks to the primary street, for external wall heights of 4.0m or less, than required in the City's Local Planning Policy 2.9 – Residential Streetscapes Policy ('LPP2.9'). The application follows a previous application refused by the City (DA0359/13) that depicted an external wall height to Tuckfield Street greater than 4m.

The lesser setback to Tuckfield Street, based on the reduced overall wall height is considered to meet the discretionary criteria contained at clause 1.2 of LPP2.9 in that it is consistent with the setback of walls to the dwelling contained on-site as well as adjoining dwellings in the *prevailing streetscape*. The application is therefore recommended for approval subject to conditions.

The application was considered by Council on 27 November 2013 and it was resolved to defer the matter to Planning Services Committee for staff to formulate a recommendation for refusal.

BACKGROUND

The subject site is zoned 'Residential' and coded R25 pursuant to Local Planning Scheme No. 4 ('LPS4'). The subject site exists on the western side of Tuckfield Street, south of Burt Street, Fremantle.

The subject site contains an existing Two Storey Single House and hardstand vehicle parking area (see **Attachment 2 – Site Photos** for images of the subject site and surrounding area).

A similar application for a Two Storey Addition was lodged with the City in July 2013 (DA0359/13). At its Ordinary Council Meeting of 16 October 2013, the Council resolved to refuse the application. The current application modifies the street presentation of the proposal to achieve greater conformity with the provisions of LPP2.9.

The application was considered by the Planning Services Committee (PSC) on 6 November 2013 who resolved to approve the application subject to condition. Due to the vote however and the delegation of PSC, the matter was referred to Council on 27 November 2013 who resolved:

Cr A Sullivan moved to defer the item to the next appropriate Planning Services Committee meeting to enable a recommendation for refusal to be formulated.

The remainder of the report remains unchanged from that considered by PSC on 6 November 2013 and Council on 27 November 2013 with the exception of the recommendation for refusal at the end of the report.

DETAIL

The application seeks planning approval for a Two Storey Addition to an Existing Two Storey Single House including;

- A lower floor garage for two vehicles access via an existing crossover to Tuckfield Street and storage area adjacent to the existing Single House; and,
- An upper floor storage and balcony area.

Modifications from the previous application considered by Council on 16 October 2013 include:

- The external wall height of the building facing Tuckfield Street being reduced to 4.0m, from a previous maximum of 4.67m;
- An upper floor dormer window facing Tuckfield Street has been removed and the length of the roof line increased to accommodate the change in wall height; and,
- The 'limestone textured wall' and main building wall, separated under the previous proposal, being combined to create one wall feature addressing Tuckfield Street.

Development plans are included in this report at **Attachment 1**.

STATUTORY AND POLICY ASSESSMENT

The proposal has been assessed against the relevant provisions of LPS4, the R Codes and planning policies. Discretionary and design principle decisions are sought against these requirements in relation to;

- Primary street setback; and,
- Lot Boundary Setbacks.

The discretionary decisions are discussed further in the 'Planning Comment' section of this report.

CONSULTATION

Community

The application was not advertised to surrounding landowners as the proposal was considered to be alike to that considered as part of DA0359/13. That previous application was advertised to affected landowners and the comments raised are summarised as follows;

- *Streetscape character*; The existing house is already significantly out of character with the street and contains an extensive blank wall on the footpath. The proposed addition adds further to the lack of keeping with the rest of the houses on the street. The proposal simply extends the already substantial impact of the blank wall of the house further detracting from the house hiding behind the current gardens;

- *Street wall*; The proposal will create a continuous 21m long wall section extending across the whole frontage of the site;
- *Heritage*; The proposed development does not consider the heritage values of the street. It is important for the Council to protect the heritage values of this section of Tuckfield Street and encourage sympathetic development.

Consideration of relevant matters raised is discussed further in the 'Planning Comment' section of this report.

PLANNING COMMENT

Primary Street Setback

Element	Required	Provided	Design Principle Assessment
4.0m external wall height or less	5.0m	2.0m	3.0m

The proposed development does not meet the prescribed setback requirements of Table 1 of LPP2.9 in relation to the setback of the building to Tuckfield Street.

DA0359/13 proposed a wall of lesser scale, but the same setback as currently proposed. In considering that element, officers in the report to the Ordinary Council Meeting of 16 October 2013 considered that;

'The setback of the ground floor element, being the portion of building with an external wall height less than 4m is supported on the basis that the setback is clearly consistent with the setback of buildings in the prevailing streetscape and the rest of Tuckfield Street more generally.'

The previous proposal included a split wall arrangement with a forward wall to 3.06m with a second wall behind to a height of 4.67m. The elements have now been combined to a 4.0m height wall at the same setback as the originally lower 3.06m wall; but the overall wall height of the proposal has been reduced.

Notwithstanding the increase in external wall height from 3.06m at the forward element to 4.0m, the proposed lesser setback is supported as it is considered consistent with the *prevailing streetscape* in the following ways;

- The proposed setback will match the existing setback (2.0m) of the projecting room of the dwelling located near the north-east boundary of the subject site;
- The proposed setback is at a comparable distance to the existing dwellings at No. 32 and 38 Tuckfield Street (see **Attachment 2 – Site Photos**); and,
- The setback distance is comparable to those adjoining dwellings further removed within the *prevailing streetscape* at No. 28, 30, 32 and 40 Tuckfield Street which are setback from Tuckfield Street approximately 2.0m.

In addition to the above a dormer window facing Tuckfield Street included in the past application (DA0359/13) has been removed. This significantly reduces the visual impression, when viewed from Tuckfield Street, that the building contains two stories. The *prevailing streetscape* contains single storey dwellings (except for the two storey

dwelling at the subject site) only and the impression of a single storey building when viewed from the street is considered complimentary to this character.

Lot Boundary Setbacks

Boundary	Required	Provided	Design Principles Assessment
South	1.2m	1.1m	0.1m

The discretionary decision is supported for the following reasons;

- The proposal is not considered to result in adverse building bulk or scale when viewed from adjoining sites, notwithstanding the high visibility of the proposal from the street boundary;
- The lesser setback does not impact on an adjoining outdoor living area or major opening to habitable rooms in respect to access to sunlight or ventilation; and,
- The lesser setback does not contribute to any impact on visual privacy;

Despite the above, the proposal will cast a shadow over existing solar panels at No. 32 Tuckfield Street. While the shadow cast by the development is compliant with the prescribed R-Code requirements, the lesser setback is nonetheless supported. The overshadowing caused by the proposal is considered to be no additional impact compared to a proposal that would otherwise meet the 1.2m setback requirement.

OFFICER'S RECOMMENDATION

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Addition to Existing Two Storey Single House at No. 34-36 (Lot 10 & 11) Tuckfield Street, Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 21 October 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. Prior to occupation, the balcony on the western and southern elevation shall be either:
 - a) fixed obscured or translucent glass to a height of 1.6 metres above floor level, or
 - b) fixed with vertical screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.65 metres above the floor level, or
 - c) a minimum sill height of 1.65 metres as determined from the internal floor level, or
 - d) screened by an alternative method to the satisfaction of the Chief Executive Officer, City of Fremantle,

in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes and thereafter maintained to the satisfaction of Chief Executive Officer, City of Fremantle.

3. All storm water discharge shall be contained and disposed of on-site.

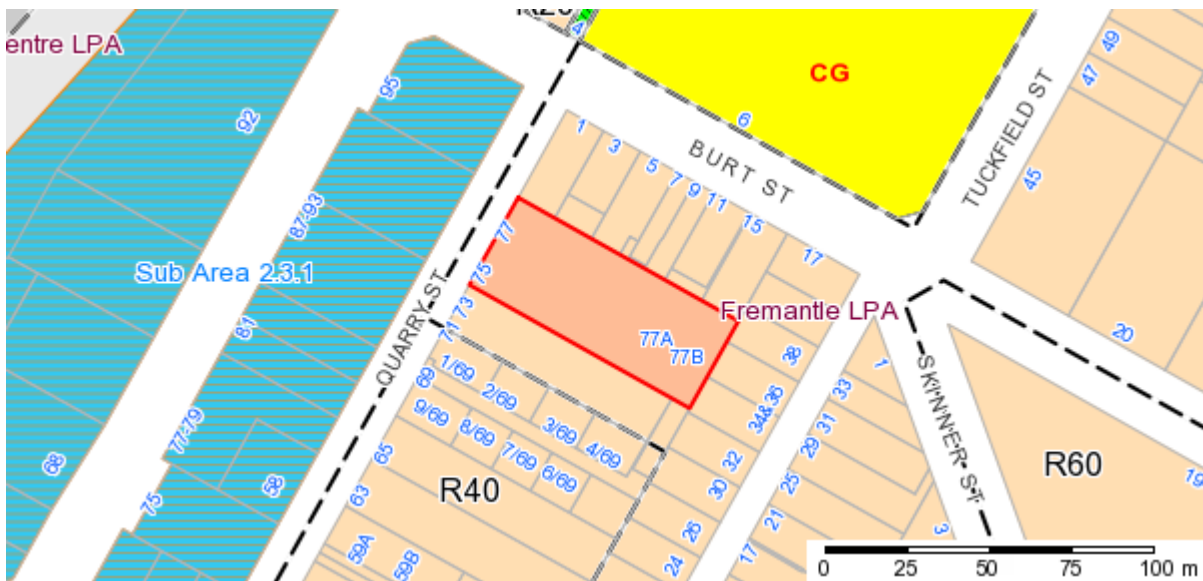
COUNCIL RECOMMENDATION

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Addition to Existing Two Storey Single House at No. 34-36 (Lot 10 & 11) Tuckfield Street, Fremantle, for the following reason:

1. **The upper floor element of the proposed development is inconsistent with the setback requirements contained in Local Planning Policy 2.9 – Residential Streetscape Policy and is considered inconsistent with the prevailing streetscape.**

PSC1312-191 QUARRY STREET, NO. 77 (LOT 6), FREMANTLE -CARPORT - (CJ DA0414/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1304-48 (3 April 2013)
PSC1311-165 (6 November 2013 and 27 November 2013 Council)
Attachments: Attachment 1 – Development Plans
Attachment 2 – PSC1304-48 Report
Date Received: 26 August 2013
Owner Name: Graeme Baumgarten
Submitted by: SIA Architects
Scheme: Residential (R25)
Heritage Listing: Level 3
Existing Landuse: Grouped Dwelling
Use Class: Grouped Dwelling
Use Permissibility: 'D'



EXECUTIVE SUMMARY

The City has received an application for the addition of a carport at No. 77 Quarry Street, Fremantle. The application seeks discretion against Local Planning Scheme No 4 (LPS4) and Local Planning Policies, and is therefore referred to the Planning Services Committee (PSC) for determination.

The carport design has been altered slightly from a previous design submitted by the applicant. The previous carport was deleted from conditional planning approval DA0424/12 which was determined by PSC in April 2013. As the amended design still does not comply with statutory planning requirements, is similar to that previously refused by Council and is not supported by the City's Heritage Planner, the application is recommended for refusal.

The matter was considered by Council on 27 November 2013 who deferred the application to Planning Services Committee in order for a recommendation for approval to be drafted with a condition limiting the width of the carport to a maximum of 6.0m.

BACKGROUND

The subject site is zoned Residential under the City's Local Planning Scheme No. 4 (LPS4) and is allocated with a density coding of R25. The site is adopted on the City's Heritage List and the Municipal Heritage Inventory as Level 3. The site is not located within a designated Heritage Area under LPS4.

The site is 679m² and is located on the eastern side of Quarry Street in Fremantle. The site is currently occupied by four Grouped Dwellings. No. 77 is located on the western portion of the site. The street block is bound by Tuckfield Street to the east, Burt Street to the north, and James Street to the south.

An application for Two Storey Additions and Alterations to Existing Grouped Dwelling (DA0424/12) was approved by PSC on 3 April 2013. The application included a three car carport in the front setback of the property. The carport was subsequently deleted from the approval as it was not supported by Heritage advice and did not comply with provisions of Local Planning Policy 2.9 Residential Streetscape Policy.

The application was considered by Planning Services Committee (PSC) on 6 November 2013 and resolved to refuse the application. Due to the voting numbers and the PSC delegation, the matter was referred to Council on 27 November 2013.

Council resolved on 27 November 2013 to:

Cr A Sullivan moved to defer the item to the next appropriate Planning Services Committee meeting, with delegation to the Planning Services Committee to make a decision in order for a recommendation for approval to be drafted with a condition limiting the width of the carport to a maximum of 6.0m

The remainder of the report remains unchanged from that considered by PSC and Council on 6 November 2013 and 27 November 2013 respectively except for the recommendation for approval at the end of this report.

DETAIL

The application proposes the addition of a carport in the front setback of No. 77 Quarry Street, Fremantle. The carport measures approximately 9m in length 6.5m in width and 2.5m in height and is designed to accommodate three (3) cars. The following has been amended from the previous car port proposal:

- Two (2) degree fall of the carport roof to the front (west) of the site rather than to the rear; and
- Roof façade thickness as viewed from the street reduced in thickness (150mm v 500mm).

Development plans are included as attachment 1. This application is for the carport only. Other proposed works on the plans have previously been approved by Council.

STATUTORY AND POLICY ASSESSMENT

The proposed development has been assessed against the relevant provisions of LPS4, Local Planning Policies and the R-Codes and includes discretion against the requirements of LPP 2.9 Residential Streetscape Policy.

Detailed assessment against the policy will be discussed below in the 'Planning Comment' section of the report.

CONSULTATION

Heritage

In accordance with LPP 1.6 Heritage Assessment, as an assessment was completed for a similar proposal for the same property within five calendar years of this application, another assessment is not required. The following concerns were raised in relation to the carport in the assessment undertaken in January 2013:

- *Given the raised height of the original duplex the additions will not have a negative impact, although the carport which is to be sited in the front setback will have a negative impact on the visual qualities to the original duplex and streetscape.*
- *The proposed carport will have a negative impact on the streetscape and the visual qualities of the overall form and in particular the northern wall of the duplex, and is therefore not supported.*

Discussions with the City's Heritage Planner, have confirmed that the previous comments also apply to the revised carport design that is presented as part of this application.

Community

The application was required to be advertised in accordance with Clause 9.4 of LPS4, as it proposed variations to Local Planning Policy 2.9. At the conclusion of the advertising period, being 19 September 2013, the City had received no submissions.

PLANNING COMMENT

Carport

Required	Provided	Discretion Sought
Open on all sides	Open on all sides	Complies
Timber or steel vertical supports no greater than 150mm in width.	100mm supports	Complies
2.8m height.	2.9-3.2m above NGL (Quarry St elevation)	100-400mm
Maintain visibility of the dwelling and surveillance to the street.	Dwelling visible, surveillance achieved	Complies
Maximum width – 6m	9.2m	3.2m
Setback 1m or greater from side boundary	2m	Complies

A carport is able to be located in front of the dwelling where it meets the above criteria of LPP 2.9 Residential Streetscape Policy. Variations to these requirements can be considered by Council for the following reason listed in Clause 2.3 of LPP 2.9:

- i. The proposed building is consistent with the character of buildings in the prevailing streetscape; or*

There are no carports in the front setback of properties located within the prevailing streetscape of No. 77 Quarry Street.

- ii. The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or topography of the land; or*

The proposed carport will be forward of the existing dwellings verandah by approximately 2.5m, and is only proposed to be 429mm setback from the primary street. This will result in a projecting element into an established streetscape.

- iii. The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthier of retention (Refer also to LPP 2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*

The proposed location of the carport is not required in order to retain a mature, significant tree on site. Existing trees in the front setback are all proposed to be removed to build the carport.

- iv. The carport is lightweight in construction, appears simple in design and is visually subservient to the form and proportion of the dwelling. Additionally, the front setback area is designed in such a way so as to maintain visibility of the dwelling from the street and surveillance from the dwelling.*

While it is acknowledged the carport “appears simple in its design”, it is significantly larger than the criteria set out in Clause 2.2 of LPP 2.9 (as listed in the table above). Additionally, heritage advice has determined the proposed carport to have a negative visual impact on the existing heritage listed grouped dwelling. Therefore, the proposed carport is not supported in accordance with the above criteria.

CONCLUSION

In summary, the application seeks to vary the requirements of LPP 2.9 and is not supported by Heritage due to its visual dominance in the front setback. As such, the application is recommended for refusal.

OFFICER'S RECOMMENDATION

That the application be **REFUSED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Carport at No. 77 (Lot 6) Quarry Street, Fremantle, as detailed on plans dated 26 August 2013, for the following reasons:

1. The proposal is inconsistent with the City of Fremantle’s Planning Policy LPP 2.9 Residential Streetscape Policy.
2. The proposal is not supported by a Heritage Assessment as required by Clause 10.2.1 and 7.4 of the City of Fremantle’s Local Planning Scheme No. 4.

COUNCIL RECOMMENDATION

That the application be **APPROVED** under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Carport at No. 77 (Lot 6) Quarry Street, Fremantle, as detailed on plans dated 26 August 2013 subject to the following conditions:

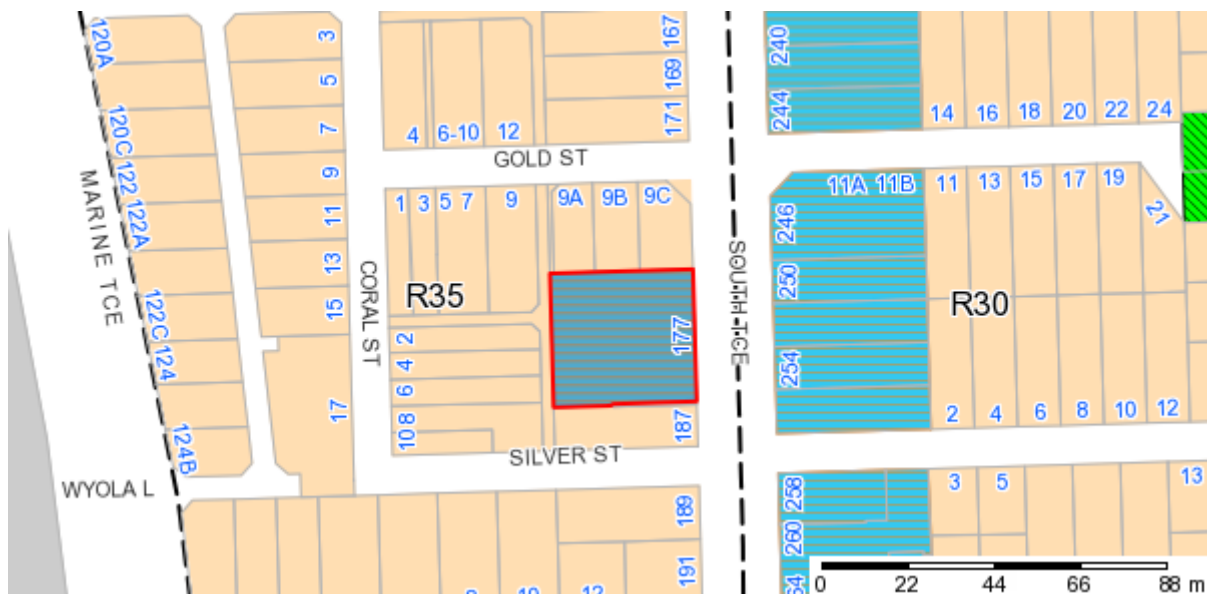
1. **This approval relates only to the development as indicated on the approved plans dated 26 August 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
2. **The width of the carport is to be reduced to a maximum of 6.0m.**
3. **All storm water discharge shall be contained and disposed of on-site.**

REPORTS BY OFFICERS (COMMITTEE DELEGATION)

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

PSC1312-192 SOUTH TERRACE, NO. 177 (LOT 2) SOUTH FREMANTLE - ADDITIONS & ALTERATIONS AND PARTIAL CHANGE OF USE TO RESTAURANT, SHOP AND INDUSTRY LIGHT (COFFEE ROASTING) - (AA DA0497/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2014
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachments: 1 – Development Plans
 2 – Site Photos
Date Received: 16 October 2013
Owner Name: Trentor Pty Ltd
Submitted by: A Holbrook
Scheme: Mixed Use
Heritage Listing: South Fremantle Heritage Area
Existing Landuse: Warehouse & Office
Use Class: Restaurant, Shop & Light Industry
Use Permissibility: 'A'



EXECUTIVE SUMMARY

The application seeks planning approval for alterations and additions to an existing warehouse building and a change of land use for the site from Warehouse to Restaurant (approximately 285m² of floor area), Shop (83m²) and Light Industry (Coffee Roasting) (43m²).

The three proposed land use classes are not permitted without first being advertised and the Council exercise its discretion to approve the proposed uses. The Restaurant and Shop land use are considered to generally accord with the objectives of the Mixed Use zone and are recommended for conditional approval. The coffee roasting element of the proposal, was reviewed by the City's Environmental Health department and recommended for approval subject to conditions. Despite the advice of the City's Environmental Health department, the proposed coffee roasting facility is likely to have a direct impact on the amenity of adjoining properties. Accordingly this element of the proposal is recommended to be deleted.

In addition to the discretionary decision relating to land use, the application also seeks variation to requirements relating to vehicle parking. While a significant parking shortfall is proposed, on balance the shortfall is considered to meet the discretionary criteria of LPS4 given the context of the subject site.

On the basis of the above, the application is recommended, on balance, for conditional approval subject to the deletion of the coffee roasting component of the proposal.

BACKGROUND

The subject site is located at No. 177 (Lot 2) South Terrace, South Fremantle and is zoned 'Mixed Use' pursuant to Local Planning Scheme No. 4 ('LPS4'). The subject site exists in the portion of South Terrace bound by Silver Street to the south and Gold Street to the north and the buildings of the site consists of a former Warehouse building. The total area of the subject site is approximately 560m². Lot 1 (No. 177) South Terrace, being the adjoining tenancy is currently utilised as an Office (Real Estate) and Shop.

The City has recently considered similar proposals to that forming part of this application, which are summarised as follows;

- On 8 November 2011, the City refused planning approval for 'Partial Change of Use to Light Industry (Micro Coffee Roasting) with Existing Restaurant' at No. 258 South Terrace, South Fremantle. These premises are identified as 'Ootong & Lincoln Restaurant' and have a seating capacity of approximately 82 seats; and,
- On 25 March 2013, the City granted planning approval for 'Partial Change of Use to Restaurant with Incidental Light Industry (Coffee Roasting) at No. 312 South Terrace, South Fremantle. These premises are identified as 'Di Bella Coffee' and have a seating capacity of approximately 87 seats. This approval included the following conditions restricting the production of coffee for use at the site or direct retail sale only (not wholesale);

1. *Coffee roasted on the premises is limited to either consumption on site or retail sale from the site (not wholesale or internet sales).*
2. *Prior to commencement, the Coffee Roasting equipment is to be fitted with an after burner designed to control emissions, to the satisfaction of the Chief Executive Officer, City of Fremantle.*

DETAIL

The application seeks planning approval for 'Additions & Alterations and Partial Change of Use to Restaurant, Shop and Industry Light (Coffee Roasting)' including;

- A ground floor area of 413m² and upper floor mezzanine area of 30m²;
- 285m² of Restaurant area inclusive of 190m² of dining area, a 30m² office space, 14m² of freezer space, 15m² storage area, 12m² furniture storage area and 16m² of circulation area;
- 83m² of grocery retail and storage area;
- 43m² of Light Industry area including an 9m² roasting area and 34m² production and storage area;
- The capacity of the Restaurant being approximately 105 seats;
- 6m² of shared bin space and 35m² of alfresco area (though this area requires separate approval of the City);
- Fit out of the premises with internal dividing walls, service and ablution areas, service counters, seating, utility equipment and a rear loading/delivery area with access to a rear right-of-way; and,
- Construction of new window and delivery openings to the western elevation of the subject site adjoining the right-of-way.

Development plans are included in this report at **Attachment 1**. The application also proposes awnings over the rear right-of-way and pedestrian footpath on South Terrace. Any decision made in relation to this application cannot include development that is proposed over another portion of land; and therefore these elements do not form part of this application.

In addition to the above, the Applicant provided a covering submission with the proposal which is summarised as follows;

- The intended hours of operation are between 7:00am and midnight;
- A coffee roasting machine will be installed at the site along with silos to store freshly roasted beans. Customers will be able to purchase roasted coffee beans for consumption off-site. The coffee roasting facility having a limited wholesaling component operating Monday to Friday between 8:00am – 5:00pm;
- Approximately 12 employees will be employed across all three land use;
- The roasting and storage area being separated from the main Restaurant and Shop area but visible to patrons;

STATUTORY AND POLICY ASSESSMENT

The proposal has been assessed against the relevant provisions of LPS4 and planning policies. Discretionary decisions are sought against these requirements in relation to;

- Land Use (Discretionary Use); and,
- Vehicle Parking.

These decisions are discussed further in the 'Planning Comment' section of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4, as the application involves a discretionary decisions relating to land use and vehicle parking. At the conclusion of the advertising period, being 11 November 2013, the City had received 15 objections, which are summarised as follows;

General Comments

- *Noise*; The proposal will generate a significant amount of noise above the levels expected in a residential area and greater than existing adjoining commercial activities;
- *Vehicle parking*; There is insufficient on-street parking in the surrounding locality. An increase in parking demand will only exacerbate the problem and degrade residential amenity. Many nearby residential properties rely on the availability of on-street parking. Other surrounding cafes, oversized residential development and yoga studio already ensure vehicle parking is unavailable;
- *Hours of operation*; The operations proposed include a restaurant likely to operate during night time and weekend periods. The property is located close to residential premises which could be impacted by noise directly from the premises and activity in the surrounding streets;
- *Activity*; In recent times there has been a significant increase in commercial activities along South Terrace which have altered and damaged the amenity of nearby residential premises. This proposal will further degrade this amenity;
- *Traffic*; The proposal will generate a significant amount of traffic, particularly during peak morning and evening periods impacting on local safety and vehicle parking. Silver Street is narrow and always fully parked. This could lead to a danger for pedestrian with more vehicles travelling down the street to find a bay;
- *Right-of-way*; The use of the right-of-way by delivery vehicles will impact on adjoining properties by way of additional traffic, particularly noise and also safety and privacy;
- *Urban design*; There ought to be a clear distinction between the non-residential activities on the eastern side of South Terrace and the residential areas on the western side;
- *Cultural Heritage*; The proposal will exist 10m from the Silver Street Studio, an iconic residential building. The proposal will impact on the eclectic nature of the space.

- *Waste disposal*; Waste from the approximately 100 customer dining hall will significantly impact on adjoining properties in terms of visual amenity as well as potential impacts of odour.
- *Access*; Concerns are raised as to the proposed front access to the site from South Terrace in accordance with the Building Code of Australia.

Light Industry (Coffee Roasting)

- *Coffee Roasting*; Coffee roasting is an industrial process and would be suitably located in an industrial area away from sensitive receptors like residential dwellings. Coffee roasting does not generate the aromas normally associated with small scale coffee shops;
- *Odour*; The odours emitted from the roasting facility would be acrid and unpleasant and detrimental to residential amenity. The proposal does not include any significant measures to mitigate, control and monitor odour emissions from the roasting facility;
- *Roasting operations*; Odour emissions are particularly hard to measure in terms of impact. There is no evidence that suitable techniques or staff training will be maintained so as to reduce the impact of odour;
- *On-going monitoring*; On-going monitoring of odour emissions is difficult and will lead to an impact on amenity if monitoring was to lapse or be too infrequent;
- *Air pollution*; The roasting operations will result in a degree of air pollution in the immediate area;
- *Precedent*; The City has previously refused a similar application for another nearby premise. Approval of this proposal may establish an undesirable precedent for the introduction of similar proposals in the surrounding area.

Further consideration of these issues is made in the Planning Comments section of this report.

Environmental Health

The application was referred to the City's Environmental Health department for comment. The following recommendation was made in relation to the coffee roasting component of the application;

'The following measures are to be taken:

- *The coffee roasting equipment is to be fitted with an after burner designed to control emissions;*
- *The applicant will need to submit detailed plans of the kitchen fit out including the mechanical ventilation and location of plumbing fixtures;*
- *The applicant will need to liaise with the water corporation regarding the requirement for the property to have a grease trap; and*
- *The applicant will need to make application for the appropriate licence to operate a food business and outdoor eating area in the City of Fremantle.'*

On the basis of the advice received from the Environmental Health department, the proposed coffee roasting component of the proposal is considered to be capable of meeting the relevant environmental health regulations.

Further to the above comments, additional comments were made in relation to the Restaurant land use and delivery activities;

- *All deliveries will need to be delivered after 7am and the business owner ensures that all deliveries arrive at a reasonable time during trading hours. No deliveries is permitted on the Western ROW entrance (Silver Street and private lane way) due to prevent noise emission from the forklift trucks;*
- *Business owner needs to ensure all staff empty glass waste into the bin after 9am and before 7pm on any day; and,*
- *Food business owner need to ensure that waste bins need to be emptied each day to prevent odour complaint.*

PLANNING COMMENT

Land Use

The application includes the use of approximately 285m² of the subject site as a Restaurant and 83m² as a Shop. The application also includes an area of Light Industry for the purpose of roasting and grinding coffee for sale from the subject site. All three land use class are discretionary pursuant to Table 1 of LPS4. Each element is therefore requirement to be consistent with the objectives of the Mixed Use zone.

For the purpose of this report, the Restaurant and Shop land use areas have been assessed independently of the Light Industry land use. Consideration against each of the zone objectives is made as follows;

Restaurant & Shop

Scheme Objective	Comment
<i>4.2.1(e)(i) provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small scale retailing of goods and services (i.e. showrooms, cafes, restaurants, consulting rooms), small scale offices and administration, entertainment, residential at upper levels and recreation.</i>	<p>The proposed land use as a Restaurant and Shop conforms wholly with the objective of providing 'small scale retailing of goods and services'. The land uses proposed are consistent and compatible with other land uses nearby in the Mixed Use zone.</p> <p>The proposal will also exist in on a site that contains other Office (Real Estate) and Shop land uses.</p>
<i>(ii) ensure future development within each of the mixed use zones is sympathetic with the desired future character of each area,</i>	<p>The use of the land as a Restaurant and Shop offering small scale retailing of goods, food and beverages is considered to be generally consistent with the local character of nearby properties in the Mixed Use zone. The proposal is also considered sympathetic to the mix of residential and non-residential</p>

	<p>uses in the area.</p> <p>Considerations relating to the scale of the proposal in the context of this objective are made further in this report.</p>
<p><i>(iii) ensure that development is not detrimental to the amenity of the adjoining owners or residential properties in the locality; and,</i></p>	<p>The land use in itself is not considered incompatible or offensive to the surrounding locality.</p> <p>Considerations relating to the scale of the proposal in the context of this objective are made further in this report.</p>

Light Industry (Coffee Roasting)

Scheme Objective	Comment
<p><i>4.2.1(e)(i) provide for a limited range of light, service and cottage industry, wholesaling, trade and professional services, small scale retailing of goods and services (i.e. showrooms, cafes, restaurants, consulting rooms), small scale offices and administration, entertainment, residential at upper levels and recreation.</i></p>	<p>A Light Industry land use such as coffee roasting is capable of approval within the Mixed Use zone.</p> <p>The proposal includes a small wholesale component. Wholesaling of small scale goods (such as coffee) is consistent with the stated objective.</p>
<p><i>(ii) ensure future development within each of the mixed use zones is sympathetic with the desired future character of each area,</i></p>	<p>The wholesaling of goods from the site significantly increases the intensity of the proposal. Considerations relating to the scale of the proposal in the context of this objective are made further in this report.</p>
<p><i>(iii) ensure that development is not detrimental to the amenity of the adjoining owners or residential properties in the locality;</i></p>	<p>Despite the advice of the City's Environmental Health department, the proposed coffee roasting is considered likely to result in odour emissions that could be considered offensive to the adjoining residential neighbourhood.</p> <p>The wholesaling of goods from this site is considered to represent a significant increase in the intensity of the land use; particularly given there is little capacity for transfer (delivery and receipt) of wholesaled goods on site.</p>

Impact on amenity

Restaurant & Shop

During the public consultation period a number of submissions were received that raised concern about the scale and intensity of the proposal submitted. Specifically the submissions raised concern with the number of customers the Restaurant and Shop land

use could attract at any one time and the potential impact on the surrounding neighbourhood in respect to noise and vehicle parking.

It is noted that the potential impact of noise is regulated through the relevant environmental health legislation and vehicle parking is discussed as an individual consideration further in this report. Notwithstanding individual compliance with these two elements, the scale and intensity of the proposal is on balance generally considered to be *'sympathetic with the desired future character of the area'* and *'not be detrimental to adjoining landowners'* for the following reasons;

- The subject site exists in a portion of South Terrace containing a range of non-residential land use including a boat sales yard, other restaurants, offices and shops. While the capacity of the proposal is considered significant, there is an expectation that a mix of land uses will exist in the location and take advantage of the land available on each site;
- The building on the site is suited to non-residential land uses. The subject site has been used for non-residential land use throughout its history;
- The subject site exists on a major thoroughfare, albeit that this particular portion of South Terrace contains a greater amount of residential properties. There are high volumes of vehicle and pedestrian traffic and a range of activities that occur along South Terrace leading to an expectation of diversity in land use and intensity in development;
- While the scale of the proposal is larger than other nearby Restaurant and Shop developments, the scale is still considered to largely cater for a local and neighbourhood need. The proposal is not considered to be of a scale that would regularly draw customers from outside the locality.

Should the Council form an alternative opinion to staff, conditions of approval limiting operations of the land uses proposed (such as customer limits and trading hours) could be applied.

Light Industry (Coffee Roasting)

Despite the advice of the City's Environmental Health department, the proposed coffee roasting is considered likely to result in odour emissions that could be considered offensive to the adjoining residential neighbourhood. Odours emitted from the proposal are likely to be significantly different to those expected in this location and may adversely impact on amenity. The Mixed Use zone provides for the capacity to entertain Light Industry land use; however it is considered that the scale of this particular use proposed would be more suited to an industrial area.

A condition of approval deleting to the Light Industry (coffee roasting) facility is therefore recommended.

Wholesale of goods

The objectives of the Mixed Use zone contemplate uses such as coffee roasting and include the wholesaling of small scale goods. The inclusion of a wholesaling component to the proposal is considered to intensify the land use in the following ways;

- The wholesaling component results in the purpose of the land transitioning from one of a local dining, grocery and hospitality to a (albeit small scale) production facility better suited to a commercial or industrial area; and,
- Wholesaling of goods from the subject site is likely to cater for a district need and would regularly draw customers from outside the locality. This will further increase parking and delivery demand. Frequent deliveries and transfers of goods to the site may have an impact on the amenity of adjoining sites.

It is recommended that wholesaling of goods from the subject site be restricted. A condition of approval to this affect is recommended.

Vehicle Parking

Element	Required	Provided	Discretion Sought
Restaurant	1: 5m ² of dining area (190m ² = 38bays)	Nil	38
Shop	1:20m ² (83m ² = 5 bays)		5
Light Industry	1: 50m ² (43m ² = 1 bay)		1
Delivery	2 bays		2
TOTAL	46		46

The application seeks approval for a variation to the parking requirements of Table 3 of LPS4 of 44 vehicle bays and 2 delivery bays.

It is noted that the approved Warehouse and Office land use included an existing shortfall of parking of 2 bays. Pursuant to clause 5.7.3.1 this reduces the overall shortfall of parking on the site to 44 bays.

The discretionary decision is, on-balance, supported for the following reasons;

- The subject site exists adjacent or nearby to high frequency public transport and cycling infrastructure on South Terrace, Marine Terrace and South Street;
- On-street parking exists along South Terrace and nearby streets however it is recognised that there is only limited availability of this parking;
- Reciprocal use of the on-street parking between peak use of surrounding land use (Shop and Office uses) and the dominant Restaurant component of the proposal are likely to occur; and,
- The scale of the proposal, while significant, is not considered so large that customers will often be drawn from significantly outside the surrounding locality. The local area contains a high standard of pedestrian, bicycle and public transport infrastructure.

It is recognised that there is a significant shortfall of parking sought under the proposed development. It is considered that in the context of the subject site and proposed development, the provision of no vehicle parking is appropriate and is consistent with the built form on the site. Should Council form an alternative view to officers, an alternative recommendation for refusal is provided.

Delivery Vehicles

The application includes a rear delivery bay access via the adjoining right-of-way. A number of submissions were received during the community consultation period raised concerns relating to noise and safety should delivery vehicles utilise the right-of-way.

In submitting the application, the Applicant notes that;

'Deliveries would generally use the western ROW entrance via a trolley ramp and steps.

NB This tenancy has consistently allowed pedestrian and delivery vehicle entry.

The generous service access provisions via the ROW would permit bulk (pallet-based) deliveries minimizing disruption to the street and obstruction to the public within the building. A new service ramp would assist larger trolleys and separate public and service access, improving safety and delivery efficiencies.'

It is noted that the right-of-way measures only ~3.5m wide (see **Attachment 2 – Site Photos**) and contains a number of obstructions. The subject site contains a number of rear pedestrian access points to the right-of-way. Given the restricted width and uneven surface of the right-of-way it is unlikely that large commercial vehicles will utilise this access to the subject site. Moreover, the limited size of the loading area (approximately 2.2m wide by 3.5m long) again does not lend itself to the receipt of goods from large commercial vehicles.

Council may consider a condition of approval limiting deliveries to the rear of the site however no such restriction is recommended in the context of this planning assessment.

Hours of Operation

A number of submissions raised concern relating to the hours of operations, particularly regarding the Restaurant component of the proposal. The Applicant has suggested that premises will operate between 7am to midnight.

Further to this, the City's Environmental Health department raised concern relating the impact of after hour's delivery or waste disposal on adjoining properties.

No restriction on operating hours is recommended on the basis that noise compliance is determined (and monitored) under the environmental health regulation. Advice notes reflecting the comments of the City's Environmental Health department are recommended so as to advise the Applicant of what practices are likely to result in non-compliance with the regulations.

However given the sensitive amenity considerations involved, the Council may consider applying a restriction on operating hours through appropriate conditions of approval.

CONCLUSION

The application is summarised as follows;

- The application seeks planning approval for alterations and additions and for the use of the site as a Restaurant, Shop, Light Industry (Coffee Roasting);
- During the public consultation period a large number of submissions were received relating to vehicle parking, intensity of land use and odour from the proposed coffee roasting facility;
- The application, predominately the coffee roasting component was reviewed by the City's Environmental Health department and recommended for approval subject to conditions;
- The proposal is generally considered to accord with the objectives of the Mixed Use zone however the proposed coffee roasting facility is likely to have an adverse impact on the amenity of adjoining properties. Accordingly this element of the proposal is recommended to be deleted from any approval;
- Council may consider the application too intense for the subject site and either refuse the proposal, or impose further conditions limiting its operations (in terms of patron numbers, operating times, or restriction of deliveries) however no such conditions are recommended for the reasons stated in the report;

The application is therefore recommended, on balance, for conditional approval. Should the Council form a different view, the following alternative recommendation is provided;

That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Additions & Alterations and Partial Change of Use to Restaurant, Shop and Industry Light (Coffee Roasting) at No. 177 (Lot 2) South Terrace, South Fremantle, for the following reasons;

- The proposed development is not consider sympathetic with the desired future character of the area and will impact on the amenity of adjoining land owners in accordance with clause 4.2.1(e)(ii) & (iii) having regard to the scale, intensity and likely external emissions of the development proposed.*

Alternative, should the Council form the view that the Light Industry (Coffee Roasting) land use will not be detrimental to adjoining amenity, the following addition condition should apply in lieu of Condition 2 of the officers recommendation;

Prior to commencement, the Coffee Roasting equipment is to be fitted with an after burner designed to control emissions, to the satisfaction of the Chief Executive Officer, City of Fremantle.

OFFICER'S RECOMMENDATION

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Additions & Alterations and Partial Change of Use to Restaurant, Shop and Industry Light (Coffee Roasting) at No. 177 (Lot 2) South Terrace, South Fremantle, subject to the following conditions;

- 1. This approval relates only to the development as indicated on the approved plans, dated 16 October 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Despite Condition 1 of this approval, the Light Industry (Coffee Roasting) land use is hereby deleted from the plans and does not form part of this approval.**
- 3. Sale of goods from the premises is limited to either consumption on site or direct retail sale only (not wholesale or internet sales).**
- 4. Prior to commencement, detailed plans of the kitchen fit out including the mechanical ventilation and location of plumbing fixtures will need to be submitted to the City's Environmental Health Department.**
- 5. The awnings and structures shown on the approved plans fall over the boundaries of the subject site. These cannot be approved as part of this application. The applicant should seek further approval from the relevant approval authority for these elements.**

**PSC1312-193 MCCABE STREET NO 9-15 (LOTS 18, 315 & 326) NORTH
FREMANTLE - FIVE STOREY MULTIPLE DWELLING
DEVELOPMENT (20 MULTIPLE DWELLINGS) AND BASEMENT
VEHICLE PARKING LEVEL - (AA DAP80006/13)**

Application Details:	Five Storey Multiple Dwelling Development (20 Multiple Dwellings) and Basement Vehicle Parking Level
Property Location:	No. 9-11 (Lots 18, 315 and 326) McCabe Street, North Fremantle
DAP Name:	Metro South-West JDAP
Applicant:	TPG Town Planning, Urban Design and Heritage
Owner:	Taskers Living Pty Ltd
LG Reference:	DAP80006/13
Responsible Authority:	City of Fremantle
Authorising Officer:	Manager Statutory Planning
Department of Planning File No:	DP/13/00843
Report Date:	31 December 2013
Application Receipt Date:	14 October 2013
Application Process Days:	80 days
Attachment(s):	1: Location Plan 2: Development Plans dated 15 October 2013 (SK2.00, SK2.01, SK2.02, SK2.03, SK2.04, SK2.05 & SK3.01)

Executive Summary:

The application seeks planning approval for the development of a five storey multiple dwelling development (20 residential dwellings) at the subject site. The proposal is considered to be generally consistent with the requirements of the McCabe Street Structure Plan ('the Structure Plan').

At this stage, no comments from the Design Advisory Committee ('DAC') have been provided relating to this application. The application was presented to the DAC on 15 November 2013 but no comments were made on the basis that insufficient information was provided by the Applicant.

In light of the absence of DAC comments, Council may consider deferring the application to seek comments from the DAC prior to making a recommendation.

However it should be noted that the City's recommendation to the JDAP is required by no later than 31 December 2013. Given the absence of meetings before this time, an extension of time to the JDAP submission date will need to be sought. This extension must be agreed to by the Applicant.

Subject to advice the advice of the DAC, given that the proposal is considered to generally accord with the Structure Plan, the application is therefore recommended for approval.

Recommendation:

That the Metro South-West Joint Development Assessment Panel resolves to;

- A. Advise the applicant that the Metro South-West Joint Development Assessment Panel is not prepared to approved the application reference DP/13/00843 and accompanying plans dated 15 October 2013, SK2.00, SK2.01, SK2.02, SK2.03, SK2.04, SK2.05 & SK3.01 for Five Storey Multiple Dwelling Development (20 Multiple Dwellings) and Basement Vehicle Parking Level at No. 9 and 15 (Lots 18, 315 & 326) McCabe Street, North Fremantle as submitted as the Design Advisory Committee has not been provided with sufficient information to comment on the design quality of the proposal.
- B. The Applicant is invited to provide the additional information required for the Design Advisory Committee to properly assess the design quality of the development and further liaise with the Design Advisory Committee.

Background:

Property Address:	No. 9-11 (Lots 18, 315 and 326) McCabe Street, North Fremantle
Zoning	MRS: Urban
	LPS: Development Area
Use Class:	N/A

Strategy Policy:	Local Planning Area 3 – North Fremantle
Development Scheme:	City of Fremantle – Local Planning Scheme No. 4 – McCabe Street Structure Plan
Lot Size:	Lot 18: 8,059m ² , Lot 315: 3,743m ² , Lot 326: 2318m ²
Existing Land Use:	N/A - Vacant
Value of Development:	\$8,000,000

The subject site consists of three lots; Lot 18, 315 and 326 McCabe Street, North Fremantle ('the site') (see **Attachment 1 – Location Plan**). The subject site is mostly vacant of improvements however a multiple dwelling development subject to prior approval of the City is under construction in the south-west corner of the subject site.

The subject site is located within the North Fremantle Local Planning Area pursuant to Local Planning Scheme No. 4 ('LPS4') and exists in the portion of McCabe Street bound by Stirling Highway to the west, and Edwards Parade, Mosman Park, to the east.

The subject site also subject to the following classifications;

- Zoned 'Development Area (DA18)' pursuant to LPS4 and subject to the McCabe Street Structure Plan;
- Contained within the North Fremantle Heritage Area but is not individually listed on the City's Heritage List. The subject site also falls within the 'Rocky Bay' Aboriginal Heritage Area; and,
- The subject site is noted as being adjacent to high voltage transmission lines located on McCabe Street.

A summary of the relevant planning history relating to the site is as follows;

- On 3 March 2009, the SAT set aside a decision made by the City on 25 June 2008 to refuse the Structure Plan for the subject site and approved the Structure Plan. The Structure Plan outlines a maximum wall height of 43.50m AHD and a maximum ridge height of 48.00m AHD. The Structure Plan contemplates a ridged roof design, as opposed to a flat or skillion style roof with higher wall or gable ends;
- On 9 June 2010, the City granted planning approval for 'Residential Grouped and Multiple Dwelling Development' (DA0087/10). This application consisted of the construction of ninety-five (95) multiple dwellings across four buildings and eight (8) grouped dwellings in an additional building at the land. A further variation to this approval increasing the number of multiple dwellings from 95 to 96 and making minor modifications to common areas and on-site parking was approved by the City on 13 April 2011 (VA0009/11). Condition 14 of the original approval (DA0087/10) required that the land be amalgamated into one lot;
- On 9 June 2012, planning approval DA0087/10 and VA0009/11, being the original and subsequently modified approval for the redevelopment of the land expired;
- On 25 October 2012, the City approved an application for 'Six Storey (Two Basement), 51 Apartment Multiple Dwelling Development' at the subject site

- (DA0417/12). This proposal broadly reflected that approved as part of DA0087/10 and VA0009/11;
- At its meeting of 15 May 2013, the City granted planning approval for modifications to DA0417/12 that included modifications to the external height of the proposal (DA0176/13); and,
 - The application forms part of the staged development of the subject site. The first stage of the proposal, being the 6 storey multiple dwelling development approved as DA0417/12 (and subsequently DA0176/13), is currently under construction. Two further applications DA0448/13 (8 Grouped Dwellings) and DA0449/13 (21 multiple dwellings), represent the second and third stages of the proposal. The current proposal DAP80006/13 (20 multiple dwellings) represents the fourth stage of the development. At this time, the fifth and final stage, shown indicatively on the development plans in the south-east corner of the subject site has not been submitted to the City.

Details: outline of development application

The application seeks planning approval for a 'Five Storey Multiple Dwelling Development (20 Multiple Dwellings) and Basement Vehicle Parking Level' ('the proposed development') (see **Attachment 2 – Development Plans dated 15 October 2013**) at the site including;

- A five (5) storey multiple dwelling building containing 20 residential dwellings and an additional basement level containing vehicle parking;
- The building having a maximum external wall height of 46.50m AHD and a maximum roof height of 47.1m AHD;
- 39 vehicle parking bays being provided in the basement level of the building including 14 tandem bays. 4 visitor bays are also provided to the northern side of the building;
- The ground floor containing lobby and service areas as well as 5 multiple dwelling;
- The first, second and third floors all containing service areas and an additional 5 dwellings per floor;
- The fourth (most upper floor) containing additional living and bedroom areas for three of the dwelling accessed via the third floor; and,
- The total plot ratio of dwelling proposed as determined by the R-Codes being 2,677.2m².

Legislation & policy:

The application has been assessed against the following legislative documents:

- City of Fremantle Local Planning Scheme No. 4 (LPS4) – application for development on the site is to be determined in accordance with provisions of Part 10 of the Scheme.

Legislation

The following provisions of LPS4 are considered relevant in the assessment of the planning application;

- Clause 6.2.3 – Subdivision and Development in Development Areas;
- Clause 9.4 – Advertising of Applications;
- Clause 2.3 – Relationship of Local Planning Policies to Scheme; and,
- Clause 10.2 – Matters to be considered by the Council.
- Clause 11.8 – Design Advisory Committee

State Government Policies

There are no State Government policies relevant to the assessment of the application.

Local Policies

The proposed development is subject to the following Local Planning Policies, adopted under LPS4;

- Local Planning Policy 3.11 – McCabe Street Area – Height of New Buildings; and,
- Local Planning Policy 2.13 – Sustainable Building Design Requirements.
- Local Planning Policy 1.9 - *Design Advisory Committee and Principles of Design*;

Consultation:

Public Consultation

The application was required to be advertised in accordance with Clause 9.4 of the LPS4. In accordance with Local Planning Policy 1.3 – Public Notification of Planning Proposal, the application was advertised as a ‘Significant Application’. At the conclusion of the advertising period, being 15 November 2013, the City had received one submission including 1 objection. The issues raised are summarised as follows;

- *Vehicle traffic*; Concern is raised in regards to the vehicle traffic the proposal will generate once the site is fully developed;
- *Cycle route*; No major cycle route along McCabe Street will become hazardous, especially at the intersection of Stirling Highway.

Consideration of the matters raised is discussed further in the Planning Assessment section of this report.

Design Advisory Committee (DAC) (Internal referral)

The proposal was presented to the City’s Design Advisory Committee at its meeting of 15 November 2013. The following recommendations were made;

“The Committee was not able to provide detailed advice as the required information was not provided.

It is acknowledged that the development previously had planning approval however it is the role of this committee to provide advice relating to design quality. The statutory planning framework has changed since the original planning approval was issued and now requires that this development be referred to the DAC for comment.

The Committee would be happy to give further consideration to the proposal once additional information has been provided. This will need to include:

- 1. Streetscape character analysis;*
- 2. Design matters raised in Local Planning Policy 1.9 - Design Advisory Committee and Principles of Design;*
- 3. Response to the CABA Alarm Bells;*
- 4. Site sections and sectional elevations;*
- 5. Materials and finishes;*
- 6. Detailing;*
- 7. Durability;*
- 8. Comprehensibility (how an individual navigates the site).”*

Despite the DAC advice, the City is required to submit a report to the DAP within a statutory time frame of 80 days. Unlike development applications received for other buildings on the subject site, the application cannot be deferred by the City beyond the 80 day statutory timeframe.

Planning assessment:

The subject land is zoned ‘Development Area’ and is not given a density coding.

As a result, the assessment of the proposed development is largely provided for in the Structure Plan.

Clause 6.2.3.2 of LPS4 requires that;

*‘The subdivision and development of land within a Development Area is to **generally be in accordance with any structure plan that applies to the land.**’*
[Emphasis added].

Consideration of the development is therefore made, generally, against the content of the Structure Plan.

Building location & form

The design context for the proposed development has been broadly set by decisions at earlier stages of the planning process, notably the approval of a structure plan for the site by the State Administrative Tribunal in March 2009. The structure plan included details of the location and orientation of new buildings within the site and their overall massing including maximum heights. Subsequent development applications have proposed building forms in general conformity with the content of the approved structure plan as is required under clause 6.2.3.2 of LPS4. These previous applications were not considered

by the DAC as the committee was only established after the original planning approvals were granted..

The applicant was previously advised of the requirements for presentations to the DAC that include the 8 matters raised above. The architect for the proposal was not present at the DAC meeting to give an explanation of the architectural design rationale for the proposal. Consideration of matters by the DAC is important to the assessment of the application in terms of its design and function and is required to be given due regard pursuant to clause 11.8.5 of LPS4.

The proposed development is considered to be generally consistent with the requirements of the Structure Plan, however as per the recommendation of the DAC, it is considered that there is insufficient information provided in respect to certain design elements of the proposal.

As a result, the City is not prepared to recommend approval of the application until satisfactory DAC comments have been received.

External Wall Height

The adopted Structure Plan provides a maximum external wall of 43.50m AHD and a maximum ridge height of 48.00m AHD for the subject site. Local Planning Policy 3.11 – McCabe Street (Height of New Buildings) provides a maximum height for development of 14.0m. As the Structure Plan provides a more specific height requirement for the land, the Structure Plan is preferred and the higher order statutory document (the policy was used to inform the structure plan).

The table below outlines the required (as per the adopted Structure Plan), previously approved and currently proposed AHD levels of the external wall height and maximum roof ridge height.

Element	Structure Plan Requirement	Current Proposal	Variation to Structure Plan
Maximum Wall	43.50m AHD	46.50m AHD	3.00m AHD
Maximum Roof	48.00m AHD	47.10m AHD	Nil

The discretionary decision is supported for the following reasons;

- The Structure Plan outlines that buildings in the location of the proposed development should be limited to four storeys. The building proposed is clearly a five storey proposal but the addition storey is setback from the main building wall to all elevations. This not only reduces the bulk and scale of the building but takes advantage of space that would otherwise form a pitched roof. Given the setback of the additional floor, the proposal is not considered to be of greater bulk, scale or impact compared to a four storey proposal with a pitched roof or loft level;
- The portions of wall height that exist above the Structure Plan requirement are setback from the edge of the main building face, reducing the overall bulk of the proposal;
- The additional height, in particular the additional external wall height is not considered to unreasonably restrict access to direct light or views of

- significance to surrounding properties having regard to the separation distance between the development and the nearest residential property; and,
- The proposed modifications are considered minor in nature having regard to previous approvals and represent only a marginal departure from the recommendations of the Structure Plan.

Visual Privacy

The Structure Plan outlines that the desired density of the subject site ought to be equivalent to R80; despite the fact that no density coding is directly applicable under the scheme maps of LPS4. On the basis of the R80 code, the proposal is considered to meet all of the deemed-to-comply requirements of the R-Codes in the following ways;

- All major openings and raised outdoor living areas to boundaries of adjoining residential properties (including the internal separation between the proposed development and other residential developments on the subject site) meet the cone-of-vision setback requirement of the R-Codes; or
- The elevations where a lesser setback is sought address non-residential premises at No. 19-21 McCabe Street) and in those instance, the visual privacy provisions do not apply.

Sustainable Building Design

The proposed development is required to achieve a rating of not less than 4 Star Green Star (or equivalent) using the relevant Green Building Council of Australia rating tool pursuant to Local Planning Policy 2.13 – Sustainable Building Design ('LPP2.13').

The applicant has proposed the use of an alternative energy efficiency rating system in lieu of the 4 Star Green Star requirements. Use of this rating tool is consistent with previous resolutions of the City and Joint Development Assessment panels relating to recent applications.

In the instance that Committee considered that a recommendation of approval is appropriate a condition of approval requiring achievement of an equivalent rating under the alternative tool is recommended.

Vehicle traffic

As part of DA0087/10 previously approved by the City, the applicant provided to the City a Transport Statement prepared by Shawmac, dated July 2009. The statement stated that the transport capabilities of the site and surrounding connecting roads were sufficient. This report was based on a similar yield of dwellings to what is currently proposed and remains relevant.

Given the relevancy of this report and the general compliance with the adopted Structure Plan, the submission received relating to vehicle traffic are not considered to be of planning concern.

Conclusion:

The application seeks planning approval for the development of a five storey multiple dwelling development (20 residential dwellings) at the subject site. The proposal is summarised as follows;

- The subject site is zoned 'Development Area (DA18) pursuant to LPS4 and is subject to the adopted Structure Plan;
- In accordance with clause 6.2.3.2 of LPS4, the proposal is required to be generally in accordance with the Structure Plan;
- The proposal is generally consistent with the Structure Plan in terms of building position, scale, density, height and vehicle traffic; and,
- The proposal is required to meet the sustainable building requirements of LPP2.13 and a condition of approval is recommended to this affect;

The application was presented to the DAC which determined that there was insufficient information required to comment on the proposal.

Given the absence of design comments for a significant planning proposal, the application is recommended to be deferred to afford the Applicant time to prepare the additional information sought by the DAC. However an alternative recommendation for conditional approval is also provided should Council form the view that the proposal provides sufficient design detail;

'That the Metro South-West Joint Development Assessment Panel resolves to:

Approve DAP Application reference DP/13/00843 and accompanying plans dated 15 October 2013, SK2.00, SK2.01, SK2.02, SK2.03, SK2.04, SK2.05 & SK3.01 in accordance with Clause 10.2 of the City of Fremantle Local Planning Scheme No. 4, subject to the following conditions:

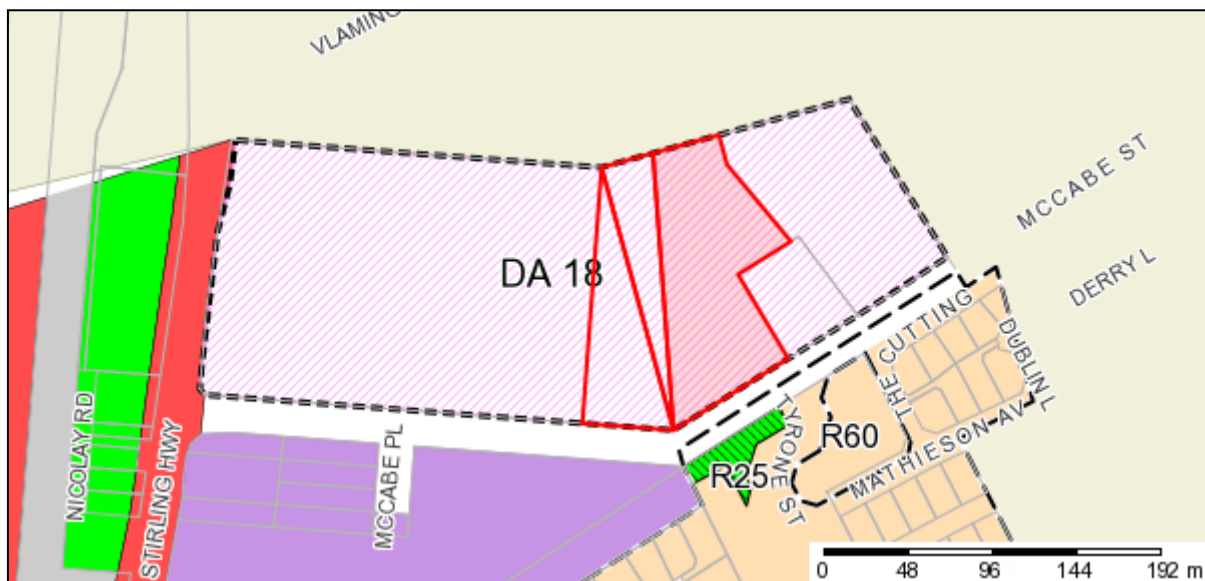
1. *This approval relates only to the development as indicated on the approved plans, dated 15 October 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
2. *The design and construction of the development is to meet the 4 star green star standard as per Local Planning Policy 2.13 or alternatively to an equivalent standard as agreed upon by the Chief Executive Officer, City of Fremantle when a green star rating tool is not available. Any costs associated with generating, reviewing or modifying the alternative equivalent standard is to be incurred by the owner of the development site. Within 12 months of an issue of a certificate of Building Compliance for the development, the owner shall submit either of the following to the City to the satisfaction of the Chief Executive Officer – City of Fremantle;*
 - i. *a copy of documentation from the Green Building Council of Australia certifying that the development achieves a Green Star Rating of at least 4 Stars, or*

- ii. a copy of agreed equivalent documentation for instance where there is no green star rating tool available certifying that the development achieves a Green Star Rating of at least 4 Stars.*
- 3. All storm water discharge shall be contained and disposed of on-site.*
- 4. Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 5. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle*
- 6. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 7. Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 5.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 8. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 9. Prior to the submission of a Building Permit application, the owner is to submit further details on the storage and management of the waste generated by the development to the satisfaction of and approval by the Chief Executive Officer, City of Fremantle.'*

However it should be noted that the City's recommendation to the JDAP is required by no later than 31 December 2013. Given the absence of meetings before this time, there may not be another opportunity for Council to comment on the proposal without an extension of time being granted by the Applicant.

**PSC1312-194 MCCABE STREET NO 9-11 (LOTS 18, 315 & 326)NORTH
FREMANTLE - EIGHT, THREE STOREY GROUPED DWELLINGS -
(AA DA0448/13)**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1006-12 (9 June 2010)
Attachments: 1 – Development Plans (DA0448/13)
 2 – Site Photos
 3 – Applicants Response to Submissions
Date Received: 12 September 2013
Owner Name: Taskers Living Pty Ltd
Submitted by: TPG Town Planning, Urban Design and Heritage
Scheme: Development Area (DA18)
Heritage Listing: North Fremantle Heritage Area
Existing Landuse: Multiple Dwellings
Use Class: Grouped Dwellings
Use Permissibility: N/A



EXECUTIVE SUMMARY

The application seeks planning approval for eight, three storey grouped dwellings at No. 9-15 (Lots 18, 315 & 326) McCabe Street, North Fremantle ('the subject site'). In 9 June 2010 the City granted planning approval for an eight three storey grouped dwellings in the same location on the site with similar external wall and maximum roof heights.

In 2009 the State Administrative Tribunal ('SAT') set aside a decision of the City to refuse a structure plan for the subject site. The Structure Plan specifies planning requirements relating to;

- Density
- Plot Ratio
- Vehicular access;
- Building location; and
- Building height.

The adopted McCabe Street Structure Plan ('the Structure Plan') establishes a maximum external wall height limit of 39.50m Australian Height Datum ('ADH') and a maximum ridge height of 42.50m AHD. The Structure Plan depicts and anticipates a pitched roof design for development. The application proposes a maximum external wall height of 41.3m AHD but otherwise meets the maximum roof pitch height requirement of the Structure Plan.

The proposed development is considered to be generally in accordance with the requirements of the Structure Plan and applicable requirements of the City's planning framework including the Residential Design Codes.

The application was presented to the City's Design Advisory Committee ('DAC') at its meeting of 15 November 2013. The DAC determined that there was insufficient information required to comment on the proposal.

Given the absence of design comments for a significant planning proposal, the application is recommended to be deferred to afford the Applicant greater time to prepare the information sought by the DAC. However an alternative recommendation for conditional approval is also provided should Council form the view that the proposal provides sufficient design detail.

BACKGROUND

The subject site is zoned Development Area – DA18' under the provisions of the City LPS. The site is located within the North Fremantle Local Planning Area. The site is not listed on the City's Heritage List and the Municipal Heritage Inventory. The land is located within the North Fremantle Heritage Area.

The subject site previously contained industrial buildings which were removed from the land as part of previous planning approvals.

The subject site is located on the northern side of McCabe Street, North Fremantle and has a site area of approximately 8,059m². The subject site is within the portion of

McCabe Street bound by Stirling Highway to the west, Edwards Parade (in the Town of Mosman Park) to the east and the 'Buckland Hill Estate' to the north.

On 3 March 2009, the SAT set aside a decision made by the City on 25 June 2008 to refuse the Structure Plan for the subject site and approved the Structure Plan. The Structure Plan outlines a maximum wall height of 39.50m AHD and a maximum ridge height of 42.50m AHD. The Structure Plan contemplates a ridged roof design, as opposed to a flat or skillion style roof with higher wall or gable ends.

On 9 June 2010, the City granted planning approval for 'Residential Grouped and Multiple Dwelling Development' (DA0087/10). This application consisted of the construction of ninety-five (95) multiple dwellings across four buildings and eight (8) grouped dwellings in an additional building on the land. A further variation to this approval increasing the number of multiple dwellings from 95 to 96 and making minor modifications to common areas and on-site parking was approved by the City on 13 April 2011 (VA0009/11). Condition 14 of the original approval (DA0087/10) required that the land be amalgamated into one lot.

On 9 June 2012, planning approval DA0087/10 and VA0009/11, being the original and subsequently modified approval for the redevelopment of the land expired.

On 25 October 2012, the City approved an application for 'Six Storey (Two Basement), 51 Apartment Multiple Dwelling Development' at the subject site (DA0417/12). This proposal broadly reflected that approved as part of DA0087/10 and VA0009/11. At its meeting of 15 May 2013, the City granted planning approval for modifications to DA0417/12 that included modifications to the external height of the proposal (DA0176/13).

On 12 September 2013, the City received the current application. The application forms part of the staged development of the subject site. The first stage of the proposal, being the 6 storey multiple dwelling development approved as DA0417/12 (and subsequently DA0176/13), is currently under construction. This application, together with the simultaneously considered DA0449/13 (21 multiple dwellings), represent the second and third stages of the proposal. A further fourth stage is also under consideration as part of DAP80006/13 (20 multiple dwellings). At this time, the fifth and final stage, shown indicatively on the development plans in the south-east corner of the subject site has not been submitted to the City.

DETAIL

The application seeks planning approval for eight, three storey Grouped Dwellings at the subject site including;

- Eight three storey Grouped Dwelling containing vehicle parking, service and bedroom areas on the ground floor, additional bedrooms on the first floor and the main living areas on the upper floor. Balconies are also provided to the first and upper floor with views to the western, northern and eastern boundaries of the subject site; and,
- The buildings having a maximum external wall height of 41.30m AHD and a maximum ridge height of 41.717 AHD;

The proposed development is largely consistent with the two previous approved development applications, being DA0087/10 and VA0009/11, albeit that these two approvals have now since lapsed and are not valid. The proposed development is different to VA0009/11 in the following ways;

- A decrease in the ground floor setback to the northern boundary of 0.5m as well as a decrease in the setback to the western boundary on the first and upper floor of the western most Grouped Dwelling by 0.5m to 5.5m in total;
- Modifications to the configuration and size of balconies on the upper floors; and,
- Modifications to the overall wall, roof and finished floor level heights across the buildings.

STATUTORY AND POLICY ASSESSMENT

The proposed development has been assessed against the relevant provisions contained within the Structure Plan, LPS4, the R-Codes and Council Local Planning Policies. The proposed development includes the following discretions and design principles assessments:

- Building height (external wall);
- Visual privacy; and,
- Lot boundary setbacks (boundary walls).

Further discussion of the design principles assessments and discretionary decision relating to height is contained in the Planning Comment section of this report.

CONSULTATION

Community Consultation

In accordance with 'Local Planning Policy 1.3 – Public Notification of Planning Proposals' the application was advertised as a 'significant application'. At the close of the submission period, being 1 November 2013, 11 submissions were received including 9 objections. The issues raised during the consultation period are summarised as follows;

- *Visual privacy*; The balconies and windows of the proposal will have views directly into rear outdoor living areas and windows of adjoining properties to the north. This will result in a considerable loss of amenity and impact the enjoyment of these spaces. Privacy screening should be applied to these elevations.
- *Building bulk and scale*; The size of the buildings proposed being 3 storeys is out of character with the adjoining single and double storey development.
- *Vehicle parking*; Insufficient vehicle parking is provided for the development. Additional visitor parking should be provided to account for any overflow during peak periods;
- *Building height*; The proposed building height is greater than that provided in Structure Plan and the Structure Plan should be adhered to. The additional height will set an undesirable precedent for greater height of other nearby buildings. The height of the buildings represents a scale of proposal that is significantly at odds with adjoining properties.

- *Density*: The proposal is at a density considerably higher than on adjoining properties and will affect local character;
- *Buffer zone*; There seems to be no transition between the large three storey development and the existing low density development in the Buckland Hill estate. The buildings should be setback further from the boundary to ensure an appropriate transition of height and scale;
- *Vehicle traffic*; The proposal will result in an increase in vehicle traffic on McCabe Street that presents safety and congestion issues for the use of this road.

The Applicant provided a response to the comments raised which is contained at **Attachment 3** of this report.

Further consideration of these matters raised is made in the Planning Comment section of this report.

Design Advisory Committee

The application was presented to the DAC on 15 November 2013. The DAC made the following recommendations;

“The Committee was not able to provide detailed advice as the required information was not provided.

It is acknowledged that the development previously had planning approval however it is the role of this committee to provide advice relating to design quality. The statutory planning framework has changed since the original planning approval was issued and now requires that this development be referred to the DAC for comment.

The Committee would be happy to give further consideration to the proposal once additional information has been provided. This will need to include:

1. *Streetscape character analysis;*
2. *Design matters raised in Local Planning Policy 1.9 - Design Advisory Committee and Principles of Design;*
3. *Response to the CABE Alarm Bells;*
4. *Site sections and sectional elevations;*
5. *Materials and finishes;*
6. *Detailing;*
7. *Durability;*
8. *Comprehensibility (how an individual navigates the site).”*

Further discussion of the issue raised by DAC is made in the Planning Comment section of this report.

PLANNING COMMENT

Design elements of the proposal

The design context for the proposed development has been broadly set by decisions at earlier stages of the planning process, notably the approval of a structure plan for the site

by the State Administrative Tribunal in March 2009. The structure plan included details of the location and orientation of new buildings within the site and their overall massing including maximum heights. Subsequent development applications have proposed building forms in general conformity with the content of the approved structure plan as is required under clause 6.2.3.2 of LPS4.

Despite the above, as per the recommendation of the DAC, it is considered that there is insufficient information provided in respect to certain design elements of the proposal. In this regard, it is recommended that the application be deferred to allow the Applicant time to provide these additional details.

The applicant was previously advised of the requirements for presentations to the DAC that include the 8 matters raised above. Also the architect for the proposal was not present at the DAC meeting to give an explanation of the architectural design rationale for the proposed design. Notwithstanding the above, should the Council consider there to be sufficient information available to determine the application, a full assessment of the application has been undertaken and an alternative recommendation is provided.

Development Assessment

The subject land is zoned 'Development Area' and is not given a density coding. As a result, the assessment of the proposed development is largely provided for in the Structure Plan.

Clause 6.2.3.2 of LPS4 requires that;

*'The subdivision and development of land within a Development Area is to **generally be in accordance with any structure plan that applies to the land.**'*
[Emphasis added].

Consideration of the development is therefore made, generally, against the content of the Structure Plan.

Building Height

The adopted Structure Plan provides a maximum external wall of 39.50m AHD and a maximum ridge height of 42.50m AHD for the subject site. Local Planning Policy 3.11 – McCabe Street (Height of New Buildings) provides a maximum height for development of 11.0m. As the Structure Plan provides a more specific height requirement for the land, the Structure Plan is preferred and the higher order statutory document (the policy was used to inform the structure plan). Notwithstanding this, LPP3.11 does provide for an increase in maximum external wall height of up to 3.0m above the stated distance to assist in the provision of such facilities as air-conditioning units, lift overrun rooms, aerials and other minor projections.

The table below outlines the required (as per the adopted Structure Plan), previously approved and currently proposed AHD levels of the external wall height and maximum roof ridge height.

Element	Structure Plan Requirement	Previous Approval	Current Proposal	Variation to Structure
---------	----------------------------	-------------------	------------------	------------------------

				Plan
Maximum Wall	39.50m	39.90m	41.3m	1.8m
Maximum Roof	42.50m	41.71m	41.3m	Nil

In accordance with clause 6.2.3.2, the City must be satisfied that the development is generally in accordance with any applicable Structure Plan.

On balance, the discretionary decision is supported for the following reasons;

- The Structure Plan outlines that buildings in the location of the proposed development should be limited to not more than three storeys. The buildings proposed are three storeys pursuant to the definitions of LPS4;
- The overall bulk of the structure is reduced as a result of the flat-roof proposal. A building containing a pitched roof to the maximum roof height outlined in the Structure Plan would likely present greater building bulk and scale;
- In the most part, the portions of wall exceeding the external wall height requirement are over a void space with highlight windows to an angled roof plane;
- The additional height, in particular the additional external wall height is not considered to unreasonably restrict access to direct light or views of significance to surrounding properties having regard to the separation distance between the development and the nearest residential property (over 7.5m); and,
- The proposed modifications are considered minor in nature having regard to previous approvals and represent only an insignificant departure from the recommendations of the Structure Plan.
- The form of the development and the circumstances involved in the previously approved discretionary decision relating to DA0087/10 have not changed;

Lot boundary setbacks (boundary walls)

The Structure Plan includes depiction of the location of buildings on the site. In reference to the setback of buildings to property boundaries generally, the proposed development is considered to be in accordance with the depictions on the Structure Plan with the exception of a boundary wall to the subject sites eastern boundary.

The boundary wall proposed is up to two storeys high (to a maximum height of 6.5m from natural ground level) built to the eastern boundary for a length of ~20m. This is not explicitly consistent with the depiction of building location contained in the Structure Plan. Despite this the boundary walls are supported for the following reasons;

- The adjoining site (No. 19-21 McCabe Street, North Fremantle) does not contain residential development and specifically, the area directly abutting the boundary wall exists as an area of vacant hardstand;
- The proposed boundary wall does not result in a loss of access to daylight or direct sunlight owing to its location of the eastern boundary;
- The boundary wall is not considered to contribute to a sense of confinement or building bulk given the lack of development on the adjoining site;
- The boundary wall is not considered to impact on any views of significance.

Visual privacy

During the public consultation period of the application a number of submissions raised concern relating to visual privacy; largely on the basis that the proposed development will be of considerably greater height than the adjoining Single House developments in the Town of Mosman Park.

The Structure Plan outlines that the desired density of the subject site ought to be equivalent to R80; despite the fact that no density coding is directly applicable under the scheme maps of LPS4.

The proposed development includes a number of raised balconies on the first and upper floors of each Grouped Dwelling which address the west, north and eastern boundary.

All balconies and major openings from habitable rooms are considered to meet the deemed-to-comply requirements of the R-Codes for development at the R80 code in the following ways;

- The areas are setback a minimum distance of 7.5m (being the maximum required setback distance pursuant to the R-Codes) to an adjoining property boundary, particularly in the case of those addressing the northern boundary; or,
- Are provided with permanent vertical screening in accordance with the cone-of-vision requirements of the R-Codes which can be upheld by appropriate conditions of approval; or,
- The western and eastern elevations address boundaries that do not contain residential development (in the case of No. 140 Stirling Highway, referred to as the 'One Steel site' and No. 19-21 McCabe Street) and in those instance, the setback requirements for the purpose of assessing visual privacy do not apply.

A condition of approval ensuring screening material shown on the submitted plans is installed and maintained prior to occupation is therefore recommended.

CONCLUSION

The application seeks planning approval for eight, three storey grouped dwellings at the subject site. The proposed development is considered to be generally in accordance with the requirements of the Structure Plan and applicable requirements of the City's planning framework including the Residential Design Codes.

The application was presented to the DAC which determined that there was insufficient information required to comment on the proposal.

Given the absence of design comments for a significant planning proposal, the application is recommended to be deferred to afford the Applicant time to prepare the additional information sought by the DAC. However an alternative recommendation for conditional approval is also provided should Council form the view that the proposal provides sufficient design detail;

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for Eight, Three Storey Grouped Dwellings at No. 9 and 15 (Lots 18, 315 & 326) McCabe Street, North Fremantle, subject to the following conditions:

1. *This approval relates only to the development as indicated on the approved plans dated 12 September 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
2. *All storm water discharge shall be contained and disposed of on-site.*
3. *Prior to occupation, the upper floor, north facing balcony on the first and second (upper) floor shall be either:*
 - a) *fixed obscured or translucent glass to a height of 1.60 metres above floor level, or*
 - b) *fixed with vertical screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the floor level, or*
 - c) *a minimum sill height of 1.60 metres as determined from the internal floor level, or*
 - d) *screened by an alternative method to the satisfaction of the Chief Executive Officer, City of Fremantle,*

where the cone-of-vision is within 7.5m of the northern boundary in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes and thereafter maintained to the satisfaction of Chief Executive Officer, City of Fremantle.

4. *Prior to occupation, the boundary wall located on the eastern boundary shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.*
5. *Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the Chief Executive Officer, City of Fremantle.*
6. *All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle*
7. *Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 5.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the Chief Executive Officer, City of Fremantle.*
8. *All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the Chief Executive Officer, City of Fremantle.*

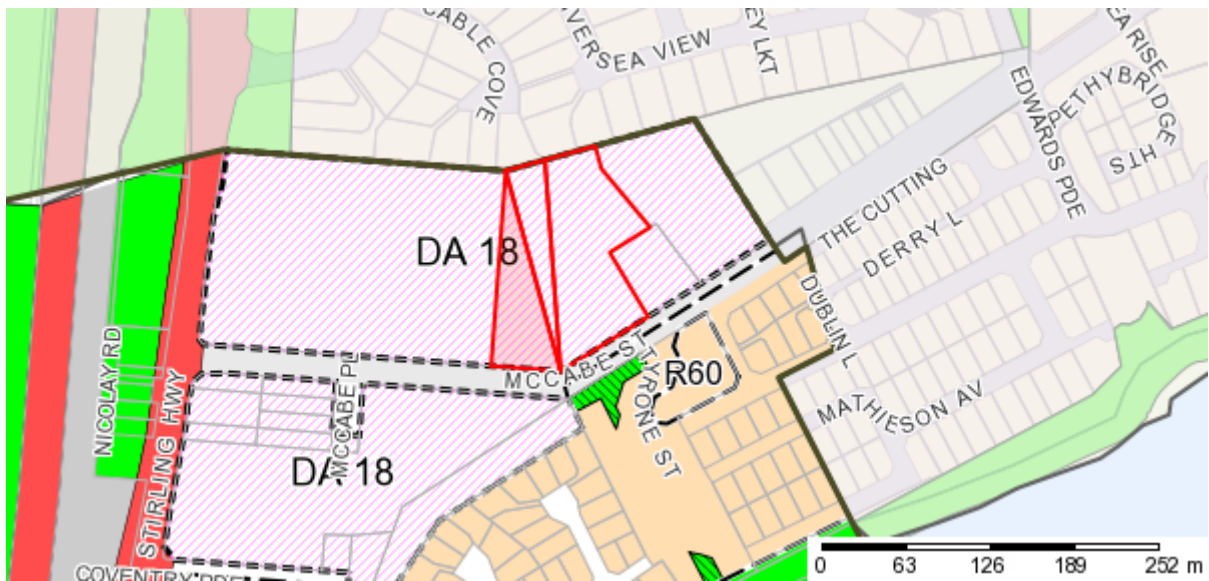
OFFICER'S RECOMMENDATION

- A. The applicant be advised that the Committee is not prepared to approved the application for Eight, Three Storey Grouped Dwellings at No. 9 and 15 (Lots 18, 315 & 326) McCabe Street, North Fremantle as submitted as the Design Advisory Committee has not been provided with sufficient information to comment on the design quality of the proposal.**

- B. The Applicant is invited to provide the additional information required for the Design Advisory Committee to properly assess the design quality of the development and further liaise with the Design Advisory Committee.**

**PSC1312-195 MCCABE STREET NO; 9-11 (LOTS 18, 315 & 326) NORTH
FREMANTLE - FOUR STOREY MULTIPLE DWELLING
DEVELOPMENT (21 DWELLINGS)- (KS DA0449/13)**

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: PSC1006-101 (9 June 2010)
Attachment 1: Development plans
Attachment 2: Site Photos
Date Received: 12 September 2013
Owner Name: Taskers Living Pty Ltd
Submitted by: TPG Town Planning, Urban Design and Heritage
Scheme: Development zone (Development Area 18)
Heritage Listing: North Fremantle Heritage Area
Existing Landuse: Vacant site (Multiple dwellings under construction)
Use Class: Multiple Dwellings
Use Permissibility: Multiple Dwellings consistent with Structure Plan



EXECUTIVE SUMMARY

Planning approval is sought for a four storey multiple dwelling development comprising 21 dwellings at No. 9-11 (Lots 18, 315 & 326) McCabe Street, North Fremantle ('subject site').

In 2009 the State Administrative Tribunal ('SAT') set aside a decision of the City to refuse a structure plan for the subject site. The adopted McCabe Street Structure Plan ('Structure Plan') establishes a maximum external wall height limit of 41.0m Australian Height Datum ('ADH') and a maximum roof ridge height of 45.5m AHD. The Structure Plan depicts and anticipates a pitched roof design for development.

The proposed development has been assessed against the relevant planning framework and seeks departures from the Structure Plan in relation to building height (external wall height).

The application was presented to the City's Design Advisory Committee ('DAC') at its meeting of 15 November 2013. The DAC determined that there was insufficient information required to comment on the proposal.

Given the absence of design comments for a significant planning proposal, the application is recommended to be deferred to afford the Applicant greater time to prepare the information sought by the DAC. However an alternative recommendation for conditional approval is also provided should Council form the view that the proposal provides sufficient design detail.

BACKGROUND

The subject site is zoned Development Area – 'DA18' under the provisions of the City Local Planning Scheme No. 4 ('LPS4'). The site is located within the North Fremantle Local Planning Area. The site is not listed on the City's Heritage List or the Municipal Heritage Inventory but is located within the North Fremantle Heritage Area.

The subject site previously contained industrial buildings which were removed from the land as part of previous planning approvals.

The subject site is located on the northern side of McCabe Street, North Fremantle and has a site area of approximately 8,059m². The subject site is bound by McCabe Street to the south, Stirling Highway to the west, Edwards Parade (in the Town of Mosman Park) to the east and the 'Buckland Hill Estate' (Town of Mosman Park) to the north.

On 3 March 2009, the SAT set aside a decision made by the City on 25 June 2008 to refuse the proposed Structure Plan for the subject site and approved the Structure Plan. The Structure Plan outlines a maximum wall height of 41.0m AHD and a maximum ridge height of 45.50m AHD for 'Apartment 4' of which the subject application pertains. The Structure Plan contemplates a ridged roof design, as opposed to a flat or concealed style roof.

On 9 June 2010 the City granted conditional planning approval for a 95 multiple dwelling and 8 grouped dwelling development at No. 9-11 McCabe Street, North Fremantle (refer DA0087/10). Subsequently on 13 April 2010 (VA0009/11) planning approval for

variations (additional multiple dwelling) to planning approval DA0087/10 was granted resulting in a 96 multiple dwelling and 8 grouped dwelling development at No. 9-11 McCabe Street, North Fremantle. These approvals included a four storey development (Apartment 4) which comprised 16 Multiple Dwellings.

On 9 June 2012, planning approval DA0087/10 and VA0009/11, being the original and subsequently modified approval for the redevelopment of the land expired.

On 25 October 2012, the City approved an application for a 'Six Storey (Two Basement), 51 Apartment Multiple Dwelling Development' at the subject site (DA0417/12). This proposal broadly reflected the south western multiple dwelling building approved as part of DA0087/10 and VA0009/11.

On 12 September 2013, the City received the subject application. The application forms part of the staged development of the subject site. The first stage of the proposal, being the 6 storey multiple dwelling development approved as DA0417/12 (and subsequently DA0176/13), is currently under construction. This application, together with the simultaneously considered DA0448/13 (8 grouped dwellings), represent the second and third stages of the proposal. A further fourth stage is also under consideration as part of DAP80006/13 (20 multiple dwellings). At this time, the fifth and final stage, shown indicatively on the development plans in the south-east corner of the subject site has not been submitted to the City.

DETAIL

The applicant is seeking planning approval for a four storey multiple dwelling development in the western portion of the site at No. 9-11 McCabe Street, North Fremantle. The development comprises a basement level which is to be primarily used for car parking and is to comprise 21 dwellings, as follows:

- 7x single bedroom dwellings (between 55sqm and 65sqm floor area);
- 10x two bedroom dwellings (between 83sqm and 110sqm floor area); and
- 4x three bedroom dwellings (between 128sqm and 143sqm floor area).

Development plans are contained as 'Attachment 1' of this report.

STATUTORY AND POLICY ASSESSMENT

The proposed development has been assessed against the relevant provisions contained within the McCabe Street Structure Plan (DA18), LPS4, the Residential Design Codes ('R-Codes') and Council Local Planning Policies and requires the following discretionary decisions:

- External wall height from the Structure Plan and building height from LPP3.11.

The discretions are discussed in the Planning Comment section of this report.

CONSULTATION

Community

In accordance with 'Local Planning Policy 1.3 – Public Notification of Planning Proposals' the application was advertised as a 'significant application'. At the close of the submission period, being 1 November 2013, 12 submissions were received including 9 objections. The issues raised during the consultation period are summarised as follows;

- Impact of traffic and congestion upon McCabe Street;
- Setback of development from McCabe Street;
- Support for the proposed development, request for application to be expedited;
- Overlooking;
- Impact of height upon restriction of views and building bulk;
- Impact of noise; and
- Visual dominance of building in relation to height and massing.

The proposal complies with the Structure Plan, LPS4 and the R-Codes in relation to boundary setbacks and visual privacy. Matters raised in relation to height will be discussed further in the Planning Comment section of this report.

Design Advisory Committee

The application was presented to the DAC on 15 November 2013. The DAC made the following recommendations;

"The Committee was not able to provide detailed advice as the required information was not provided.

It is acknowledged that the development previously had planning approval however it is the role of this committee to provide advice relating to design quality. The statutory planning framework has changed since the original planning approval was issued and now requires that this development be referred to the DAC for comment.

The Committee would be happy to give further consideration to the proposal once additional information has been provided. This will need to include:

1. *Streetscape character analysis;*
2. *Design matters raised in Local Planning Policy 1.9 - Design Advisory Committee and Principles of Design;*
3. *Response to the CABA Alarm Bells;*
4. *Site sections and sectional elevations;*
5. *Materials and finishes;*
6. *Detailing;*
7. *Durability;*
8. *Comprehensibility (how an individual navigates the site)."*

Further discussion of the issue raised by DAC is made in the Planning Comment section of this report.

PLANNING COMMENT

Design elements of the proposal

The design context for the proposed development has been broadly set by decisions at earlier stages of the planning process, notably the approval of a structure plan for the site by the State Administrative Tribunal in March 2009. The structure plan included details of the location and orientation of new buildings within the site and their overall massing including maximum heights. Subsequent development applications have proposed building forms in general conformity with the content of the approved structure plan as is required under clause 6.2.3.2 of LPS4.

Despite the above, as per the recommendation of the DAC, it is considered that there is insufficient information provided in respect to certain design elements of the proposal. In this regard, it is recommended that the application be deferred to allow the Applicant time to provide these additional details.

The applicant was previously advised of the requirements for presentations to the DAC that include the 8 matters raised above. Also the architect for the proposal was not present at the DAC meeting to give an explanation of the architectural design rationale for the proposed design. Notwithstanding the above, should the Council consider there to be sufficient information available to determine the application, a full assessment of the application has been undertaken and an alternative recommendation is provided.

Development Assessment

The subject land is zoned 'Development Area' and is not given a density coding. As a result, the assessment of the proposed development is largely provided for in the Structure Plan. Clause 6.2.3.2 of LPS4 requires that;

*'The subdivision and development of land within a Development Area is to **generally** be in accordance with any structure plan that applies to the land.'*
[Emphasis added in bold].

Consideration of the development is therefore made, generally, against the content of the Structure Plan.

Height

The adopted Structure Plan for DA18 provides a maximum external wall height for development within the footprint of 'Apartment 4' at 41m AHD and maximum roof height at 45.5m AHD. At the same time, in the location that the development is proposed (zone C) LPP3.11 requires a maximum building height of 14m from natural ground level.

Clause 2.3.2 of LPS4 pertains to the relationship of local planning policies to LPS4 as follows:

"A Local Planning Policy is not part of the Scheme and does not bind the Council in respect of any application for planning approval but the Council is to have due regard to

the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.”

Clause 6.2.3.2 of LPS4 in relation to structure plans reads as follows:

“The subdivision and development of land within a Development Area is to generally be in accordance with any structure plan that applies to that land.”

On this basis, the height requirements of the Structure Plan are considered to take precedence over the height requirements of LPP3.11 as LPS4 requires development to be ‘generally in accordance with any structure plan that applies to that land’ opposed to Council being required to have ‘due regard’ to the provision of any local planning policy. Further, the previous and now expired planning approval DA0087/10 for the subject site was granted based on the assessment of building heights against the Structure Plan opposed to LPP3.13.

Structure Plan height requirements

Required	Provided	Discretion
Wall height: 41m AHD	42.4m AHD	1.4m AHD
Roof height: 45.5m AHD	42.4m AHD	Complies. No discretion sought.

In accordance with clause 6.2.3.2, the City is not bound by the requirements of the Structure Plan but must approve development ‘generally in accordance’ with any applicable structure plan.

The Structure Plan height requirements set maximum roof and wall heights and have been formulated for buildings with a pitched roof. The application proposes a multiple dwelling development with a flat roof design and whilst the overall building height is significantly within the maximum roof height requirement (3.1m) of the Structure Plan the development poses up to 1.4m of discretionary external wall height. Further, it is understood that the Structure Plan height requirements are based on securing distant views over and within the development site to the ocean. On this basis, the reduced overall building height in the provision of a flat roof is considered to ensure ocean views are secured and the development to be ‘generally in accordance’ with the height requirements of the Structure Plan.

Further, the discretion is supported against clause 10.2 of LPS4 as the development is not considered to have any significantly detrimental impact upon the locality or adjoining properties by means of its building bulk or height for the following reasons:

CONCLUSION

The proposed development is considered to be generally in accordance with the requirements of the Structure Plan and applicable requirements of the City’s planning framework including the Residential Design Codes.

The application was presented to the DAC which determined that there was insufficient information required to comment on the proposal.

Given the absence of design comments for a significant planning proposal, the application is recommended to be deferred to afford the Applicant time to prepare the additional information sought by the DAC. However an alternative recommendation for conditional approval is also provided should Council form the view that the proposal provides sufficient design detail;

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the four storey multiple dwelling development (21 dwellings) at No. 9-11 (Lots 315, 18, 326) McCabe Street, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 12 September 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
- 2. All storm water discharge shall be contained and disposed of on-site.*
- 3. The design and construction of the development is to meet the 4 Star Green Star standard as per Local Planning Policy 2.13 or alternatively to an equivalent standard as agreed upon by the Chief Executive Officer, City of Fremantle when a green star rating tool is not available. Any costs associated with generating, reviewing or modifying the alternative equivalent standard are to be incurred by the owner of the development site. Within 12 months of an issue of a certificate of Building Compliance for the development, the owner shall submit either of the following to the City to the satisfaction of the Chief Executive Officer, City of Fremantle:*
 - a. A copy of documentation from the Green Building Council of Australia certifying that the development achieves a Green Star Rating of at least 4 Stars, or*
 - b. A copy of agreed equivalent documentation for instances where there is no green star rating tool available certifying that the development achieves a Green Star Rating of at least 4 Stars.*
- 4. Prior to occupation, the car parking area shown on the approved site plan shall be marked and provided in accordance with Clause 5.7.1(a) of the City of Fremantle Local Planning Scheme No. 4, to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 5. Prior to the submission of a Building Permit application, the owner is to submit further details on the storage and management of the waste generated by the development for approval by the Chief Executive Officer, City of Fremantle.*
- 6. Prior to occupation, a minimum of 9 bicycle racks are to be provided onsite to the satisfaction of the Chief Executive Officer, City of Fremantle.*
- 7. Prior to occupation, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points*

shall be suitably located, screened or housed, to the satisfaction of the Chief Executive Officer, City of Fremantle.

8. *All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle*
9. *Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.*

OFFICER'S RECOMMENDATION

- A. **The applicant be advised that the Committee is not prepared to approved the application for the 4 storey 21 Multiple Dwelling development at No. 9 and 15 (Lots 18, 315 & 326) McCabe Street, North Fremantle as submitted as the Design Advisory Committee has not been provided with sufficient information to comment on the design quality of the proposal.**
- B. **The Applicant is invited to provide the additional information required for the Design Advisory Committee to properly assess the design quality of the development and further liaise with the Design Advisory Committee.**

PSC1312-196 JOSLIN STREET, NO. 17 (LOT 1195), HILTON - TWO (2), SINGLE STOREY (ONE WITH LOFT) GROUPED DWELLINGS AND CARPORT ADDITION AND ALTERATIONS TO EXISTING DWELLING (AD DA0411/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Senior Planning Officer
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachment 1: Development plans (as amended)
Attachment 2: Justification from the applicant
Date Received: 26 August 2013
 15 October 2013 (amended plans)
Owner Name: Corey Parsons
Submitted by: As above
Scheme: Residential R20/R25
Heritage Listing: Not individually listed;
 Hilton Garden Suburb Precinct Heritage Area
Existing Landuse: Single House
Use Class: Grouped Dwelling
Use Permissibility: D



EXECUTIVE SUMMARY

The application is presented to Council due to the nature of the proposed variations regarding the proposed development.

The applicant is seeking Planning Approval for two (2), single storey (one with loft) Grouped Dwellings and carport addition and alterations to existing dwelling at No. 17 (Lot 1195) Joslin Street, Hilton. The application is not considered to comply with the relevant requirements of the City's Local Planning Scheme No. 4 (LPS4) in relation to Clause 5.3.4 which relates to split density codes. As the proposal does not satisfy Clause 5.3.4 of LPS4, the application in its current form should be refused.

Notwithstanding the above, the proposal complies with Council's Local Planning Policies, with exception of the following:

- Local Planning Policy 2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule (LPP2.2);
- Local Planning Policy 2.4 – Boundary Walls in Residential Development (LPP2.4);
- Local Planning Policy 3.7 - "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy (LPP3.7).

The proposal is not considered to comply with Council's LPP2.2, or satisfy the provisions of the discretionary criteria of Council's LPP3.7 pertaining to Clause 1.4, 3.1 and/or 4.1.

Accordingly, the application is recommended for refusal.

BACKGROUND

The site is zoned 'Residential' with a split density coding of R20/R25 under the City's Local Planning Scheme No. 4 (LPS4) and is located within the Hilton Local Planning Area 7 (LPA 7) as prescribed in Schedule 12 of LPS4.

The site is located in the street block bounded by Joslin Street to the north, Griffiths Place to the west, Snook Crescent to the east and Holmes Place to the south. The site is not individually listed on the City's Heritage List; however it is located within the Hilton Garden Suburb Precinct Heritage Area which is a prescribed Heritage Area under Clause 7.2 of LPS4.

The subject site is 1,151m², has a predominantly north-south orientation and is currently improved by a single storey Single House, outbuilding and associated structures. It is noted that the existing Single House faces the splay of the intersection of Joslin Street and Snook Crescent. There are also a number of mature trees and other vegetation throughout the site. In terms of its topography, the subject site falls by approximately 2.50 metres downwards from its south-eastern boundary to its north-western boundary.

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

- On 20 January 2006, the Western Australian Planning Commission (WAPC) granted conditional approval for a two (2) lot green title (freehold) subdivision of No. 17 (Lot 1195) Joslin Street, Hilton (refer DA129516). This subdivision was ultimately never acted upon.

DETAIL

On 26 August 2013, the City received an application seeking Planning Approval for two (2), single storey (one with loft) Grouped Dwellings and carport addition and alterations to existing dwelling at No. 17 (Lot 1195) Joslin Street, Hilton.

On 30 October 2013, the City requested amended plans and/or justification to a large number of discretionary decisions pertaining to Council's Local Planning Policies as well as 'design principle' assessments of the R-Codes.

On 5 November 2013, the City met with the applicant to discuss the issues identified with the proposal by the City. Issues included non-compliance with Council's LPP2.2 and LPP3.7.

On 15 November 2013, the City received amended plans from the applicant which addressed some of the issues with the proposal that addressed certain aspects of LPP3.7 but did not fully address the provisions of LPP2.2.

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

The applicants' justification is contained as 'Attachment 2' of this report.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of the LPS4 and Council's *Local Planning Policy 1.3 - Notification of Planning Proposals* (LPP 1.3), as the applicant is seeking assessment against the relevant R Codes design principles and discretions to Council's Local Planning Policies. At the conclusion of the advertising period, being 4 September 2013, the City received three (3) submissions pertaining to the proposal, of which one (1) had no objection whilst the other two (2) objected to the proposal and raised the following concerns relevant to planning:

- Streetscape;
- Building bulk.

STATUTORY AND POLICY ASSESSMENT

The proposal was assessed against the relevant provisions of LPS4, R-Codes and Council's Local Planning Policies. Policy discretions and assessment against the R Codes design principles sought by this application are discussed in the 'Planning Comment' section of this report.

PLANNING COMMENT

Local Planning Scheme No. 4 (LPS4)

As discussed earlier in this report in the 'Background' section, the subject site has a split density code of R20/R25. Clause 5.3.4 of LPS4 relates to split density codes and outlines the circumstances where the higher of the two coding may be applied and states that:

“Where a site is identified as having a split density coding and is connected to reticulated sewerage, the higher code may only be applied where one or more of the following specific requirements are addressed to the satisfaction of Council—

- (a) a building of cultural heritage significance is retained on the lot,*
- (b) provision of “low income housing”,*
- (c) designed in accordance with Council’s energy efficiency and sustainability schedule, and*
- (d) removal of a non-conforming use.*

In all other circumstances, the lower of the two Codes prevails.”

Based on the subject site having an area of 1,152m², the development potential of the site is outlined in the table below:

R-Code	Minimum average lot size per dwelling required	Potential dwellings/lots
R20	450m ²	2.56 (2)
R25	350m ²	3.29 (3)

Based on the table above, it is clear that the proposal in its current form is seeking access to the higher R25 density code to allow potential for up to three (3) Grouped Dwellings to be developed on-site, whilst the lower R20 code only permits an additional dwelling to the existing one (therefore two in total). On this basis, to access the higher R25 density code sought by this proposal, Council must be satisfied that at least one of the four criteria (a), (b), (c) or (d) of Clause 5.3.4 of LPS4 has been met. In the event that at least one of these criteria has not been met, then the lower R20 density code prevails and the proposal in its current form for three (3) Grouped Dwellings should be refused.

The applicant has made it clear that they are attempting to access the higher R25 density under the provisions of Clause 5.3.4 (c) which relates to buildings being designed in accordance with Council’s LPP2.2, of which is discussed below.

Council’s Local Planning Policies

LPP2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule

Required	Proposed	Discretion
The external side wall of the home should have a setback of a minimum 4m from the northern boundary.	House 1 – external side wall has a setback to northern boundary as close as 0.00m (nil). House 1 does have a north facing courtyard with up to a 7.0m northern setback however its triangular configuration results in a discretionary decision	4m
Eaves with a minimum	House 1 – eaves not provided to all walls	Refer

horizontal distance from the walls of 500mm.		comments below
--	--	----------------

Council's LPP2.2 states, in relation to addressing Part B – Energy Efficiency and Sustainability Schedule that:

“The following requirements need to be shown on plans submitted for assessment. All requirements must be satisfied unless demonstrated to Councils satisfaction that the applicant meets the objectives of the schedule in an alternative way.”

The applicant has not proposed alternatives to the requirements of LPP2.2 that they are not satisfying. In this regard, the proposal is not considered to satisfy the provisions of LPP2.2 and therefore the higher R25 density, of which the proposal is dependent upon, cannot be supported and the application should be refused.

It is noted that the City has reiterated on numerous occasions to the applicant the importance of the need to satisfy LPP2.2 otherwise the proposal cannot be supported in relation to the density proposed. The City afforded the applicant multiple opportunities to address the City's LPP2.2, both before the application was submitted and during the life of application itself.

In relation to the provision of eaves with a minimum horizontal distance from the walls of 500mm, this matter is discussed further in the report in the discussion pertaining to boundary walls.

LPP2.4 - Boundary Walls

	House	Required	Proposed	Discretion
1	1	Southern boundary (garage) – 1.00m setback required	0.00m (nil)	1.00m
2	1	Northern boundary (bed 4/study) – 1.00m setback required	0.00m (nil)	1.00m
3	2	Western boundary (garage) - 1.00m setback required	0.00m (nil)	1.00m
4	2	Eastern boundary (ensuite/bed 1/WIR) - 1.00m setback required	0.00m (nil)	1.00m
5	2	Eastern boundary (dining/lounge) - 1.00m setback required	0.00m (nil)	1.00m
6	2	Eastern boundary (bath/bed 4) - 1.00m setback required	0.00m (nil)	1.00m

These discretionary decisions are on balance supportable under the discretionary criteria of LPP2.4 for the following reasons:

- The proposed layouts of Lot 1 (House 1) and Lot 2 (House 2) respectively are considered to be irregular in layout and design and as such inherently lends itself to limiting the type of development that can occur upon them. In this regard, it is considered that the proposed boundary walls of House 1 (walls 1 and 2) and House 2 (walls 3-6) make effective use of space on their respective sites;
- In relation to additional criteria of Council's LPP2.4, the proposal has been designed to limit the number of boundary walls to adjoining properties, with House 1 only having one boundary wall to an external common boundary (southern

boundary), with House 2 also only proposing one boundary wall to an external common boundary (western boundary). In this regard, it is not considered to significantly add to any sense of confinement in terms of accumulative building bulk upon the southern or western adjoining properties;

- Overall the proposed boundary walls to the external boundaries in particular are not considered to have a significant adverse impact on the southern and/or western adjoining properties, in terms of restricted solar access (as a direct cause), building bulk or loss of visual amenity;
- Therefore these proposed discretion can supported as it is considered to address the relevant ‘design principles’ of Design Element 5.1.3 of the R-Codes and the additional criteria stipulated in Council’s LPP2.4 policy.

Notwithstanding the above, Clause 3.1 of LPP3.7 - “Hilton Garden Suburb Precinct” Heritage Area Local Planning Policy states that:

“Development that proposes building up to the boundary shall be assessed against the requirements of local planning policy, LPP2.4 Boundary Walls in Residential Development.

When considering an application under the performance criteria in clause 6.3.2P2 of the Residential Design Codes, in addition to the factors detailed in LPP2.4 Boundary Walls in Residential Development, Council shall only approve a boundary wall where it is satisfied that the boundary wall is located a significant distance from the front boundary of the property to maintain a streetscape of separated single residences separated by open space.”

In relation to the Clause 3.1 above, it is noted that the proposed boundary walls associated with House 1 (walls 1 and 2) and House 2 (walls 3 and 4) are setback the required 7.0m from their respective streets. However, the proposal for boundary-to-boundary walls at the front of both House 1 and House 2 is not considered to maintain a streetscape of separated single residences separated by open space. So despite the proposal being supportable against LPP2.4, it is not considered that the proposal complies with Clause 3.1 of LPP3.7. Accordingly, it is not considered that the proposal should be supported.

LPP3.7 - “Hilton Garden Suburb Precinct” Heritage Area Local Planning Policy

1.4.1 - Garage width

Required	Proposed	Discretion
Where garage is setback in line with or less than 2m behind front wall of dwelling, width of garage shall be no more than 3.2m	House 1 - 5.9m	2.7m

The discretionary criteria for Clause 1.4 of LPP3.7 states that:

“Council may, at its discretion, vary the width of a garage where it is satisfied that the development meets one of the following criteria:

- a) The visual impact of the garage on the streetscape is alleviated due to significant variations in the topography in the front setback area such that the garage floor level is situated well below the ground level of the street; or*
- b) The garage is setback a significant distance from the street boundary of the property and the width of the driveway is minimised to maintain a streetscape*

- of open front setback areas and single residences separated by open space that are not dominated by garages; or*
- c) *The positioning of the garage will assist in producing an overall building design more in keeping with the form and proportions of traditional Hilton houses, including a simpler roof form and the width of the driveway is minimised to maintain a streetscape of open front setback areas and single residences separated by open space that are not dominated by garages.”*

In relation to (a) above, it is noted that there is some variation in the topography in the front setback area of proposed House 1, with a maximum change of approximately 0.60m (500mm). The proposed Finished Floor Level (FFL) of the garage is 35.914 whilst the ground level of the street at the footpath is approximately 36.50. In this regard, it is considered that whilst there is indeed a variation in the topography within the front setback of House 1, it is not considered that the extent of this variation in topography is enough to significantly alleviate the visual impact of the proposed double garage on the streetscape.

Whilst House 1 satisfies the 7.0m primary street setback requirement, it is not considered that the proposal satisfies (b) above in that the proposal includes boundary-to-boundary walls (northern and southern boundaries) and that this does not represent single residences separated by open spaces that are not dominated by garages.

It is not considered that the proposal can be supported against (c) above as the positioning of the garage is not considered to assist in producing an overall building design more in keeping with the form and proportion of traditional Hilton houses including a simpler roof form and the width of the driveway is minimised to maintain a streetscape of open front setback areas and single residences separated by open space that are not dominated by garages.

As the proposal is not considered to satisfy any of the criteria above, this discretionary decision is not supported.

2.1.1 – Minimum external wall height

Required	Proposed	Discretion
Minimum external wall height shall be 3.2m for elevations fronting the primary street	House 2 – 3.10m	0.10m (100mm)

The discretionary criteria for Clause 2.1 of LPP3.7 states that:

“Council may, at its discretion, allow a lesser external wall height where it is satisfied that the proposed external wall height is consistent with the external wall height of development within the prevailing streetscape and the development meets one of the following criteria:

- a) *The development incorporates design elements that give the development a greater, more traditional presence to the street such as gable ends greater than the minimum external wall height or a steeper roof pitch (within the maximum roof pitch requirement of 35 degrees); or*
- b) *The natural ground level of the site is higher than the street so the development maintains a greater, more traditional presence to the street.”*

Of the six properties within the 'prevailing streetscape' in the context of this application, it is considered that only one of those properties has an external wall height for the elevation that fronts the street of less than 3.20m, being No. 2A (Lot 1) Griffiths Place, Hilton. Notwithstanding, it is considered that the proposed discretion of 0.10m is relatively minor in nature and that it will not be significantly noticeable given that the site of House 2 slopes upwards from the street, therefore supportable against (b) above.

In this regard, this discretion is considered supportable.

2.2.1 – Maximum external wall height

Required	Proposed	Discretion
Maximum external wall height shall be 3.5m (equivalent to single storey with loft)	House 1 – up to 6.7m (northern elevation)	3.2m

The discretionary criteria for Clause 2.2 of LPP3.7 states that:

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

- a) *The development is on a rear survey strata lot, battleaxe lot or the equivalent and has minimal presentation to the streetscape and the development complies with the Acceptable Development provisions of the Residential Design Codes regarding:*
 - i. *Design Element 6.3.1 – Buildings setback from the boundary; and*
 - ii. *Design Element 6.4.1 – Open Space; and*
 - iii. *Design Element 6.9.1 – Design for Climate.*

Or

- b) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the front and side elevations of the development present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element exceeding the prescribed maximum building height located at the rear of the dwelling; or*
- c) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the proposed building height is consistent with the building height of development within the prevailing streetscape.”*

House 1 does not have minimal presentation to the street and as such discretionary criteria (a) cannot be used. In relation to (c) above, it is not considered that the proposed building height is consistent with the building height of the development within the prevailing streetscape. In relation to (b), the development is considered to present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element which exceeds the 3.5m maximum located at the rear of the dwelling.

In this regard, this discretion is considered supportable.

2.2.2 – Maximum roof ridge height

Required	Proposed	Discretion
Maximum roof ridge height shall be 6.5m	House 1 – 7.3m	0.80m (800mm)

The discretionary criteria for Clause 2.2 of LPP3.7 states that:

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

- a) *The development is on a rear survey strata lot, battleaxe lot or the equivalent and has minimal presentation to the streetscape and the development complies with the Acceptable Development provisions of the Residential Design Codes regarding:

 - i. *Design Element 6.3.1 – Buildings setback from the boundary; and*
 - ii. *Design Element 6.4.1 – Open Space; and*
 - iii. *Design Element 6.9.1 – Design for Climate.**

Or

- b) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the front and side elevations of the development present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element exceeding the prescribed maximum building height located at the rear of the dwelling; or*
- c) *Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the proposed building height is consistent with the building height of development within the prevailing streetscape.”*

House 1 does not have minimal presentation to the street and as such discretionary criteria (a) cannot be used. In relation to (c) above, it is not considered that the proposed building height is consistent with the building height of the development within the prevailing streetscape. In relation to (b), the development is considered to present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element which exceeds the 3.5m maximum located at the rear of the dwelling.

In this regard, this discretion is considered supportable.

4.1.2 – Roof form

Required	Proposed	Discretion
Roof form shall be simple in form incorporating no more than 2 roof elements facing the primary street	House 1: 3 roof elements facing the primary street	1 roof element
	House 2: 4 roof elements facing the primary street	2 roof elements

The discretionary criteria for Clause 4.1 of LPP3.7 states that:

“Council may, at its discretion, vary the roof form and eaves requirements of clauses 4.1.1 – 4.1.3 where it is satisfied that the development is consistent with the roof forms and eaves of dwellings within the prevailing streetscape.”

In relation to House 1, it is considered that this discretionary decision should be supported on balance as the third roof element is located at the rear of the dwelling (‘alfresco’) and that it will not be readily visible from the street. Its location is also screened effectively by the existing dwelling.

In relation to House 2, it is not considered that this discretionary decision should be supported as the site slopes upwards from the street towards the rear and as such all four roof elements will be visible from the street. Of the six properties within the 'prevailing streetscape' in the context of this application, it is considered that only one of those properties has a roof form that incorporates more than 2 roof elements facing the primary street, with No. 2A (Lot 1) Griffiths Place, Hilton having 3 roof elements facing the primary street. Given that only one of the properties within the prevailing streetscape has a roof form with more than 2 roof elements facing the primary street; it is not considered that the proposal for House 2 is consistent with the number of roof elements facing the street of development within the prevailing streetscape.

CONCLUSION

The proposed two (2), single storey (one with loft) Grouped Dwellings and carport addition and alterations to existing dwelling at No. 17 (Lot 1195) Joslin Street, Hilton has been assessed against the provisions of LPS4, Council's Local Planning Policies and the R-Codes.

The proposal is not considered to satisfy Part B of Council's LPP2.2 and as such does not comply with Clause 5.3.4 of LPS4 which relates to the split density codes. In this regard, given the proposal does not satisfy Clause 5.3.4 of LPS4, the proposal for a total of three (3) dwellings on-site should be refused as the maximum number of dwellings on-site under the lower R20 density code is only two (2).

The proposal is not considered to comply with Council's LPP2.2, or satisfy the provisions of the discretionary criteria of Council's LPP3.7 pertaining to Clause 1.4, 3.1 and/or 4.1.

It is considered that due to the significant number of discretions, and the nature of them, that the proposal represents overdevelopment of the site. The major discretions that can't be supported relates to non-compliance with Council's LPP2.2 and LPP3.7 (boundary walls; garage door width; and number of roof forms).

Accordingly, the application is recommended for refusal.

OFFICER'S RECOMMENDATION

That the application be REFUSAL under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the two (2), single storey (one with loft) Grouped Dwellings and carport addition and alterations to existing dwelling at No. 17 (Lot 1195) Joslin Street, Hilton, as detailed on plans dated 15 November 2013, for the following reasons:

- 1. The proposal would be detrimental to the residential amenity of the area under clause 10.2 of the City of Fremantle's Local Planning Scheme No. 4.**
- 2. The intensity and nature of the proposed development and use is incompatible with the existing and future character of the area as envisaged by the City of Fremantle.**
- 3. The proposal is inconsistent with Clauses 1.4; 3.1; and 4.1 of the City of Fremantle's Local Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy.**
- 4. The proposal is inconsistent with the Part B of the City of Fremantle's Local Planning Policy 2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule.**

PSC1312-197 CHESTER STREET NO.40 (LOT 94), SOUTH FREMANTLE - TWO STOREY GROUPED DWELLING WITH ROOFTOP TERRACE (JL DA0454/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Coordinator Statutory Planning
Decision Making Level: Planning Services Committee
Previous Item Number/s: Nil
Attachments: Development Plans (Dated 7 November 2013)
Date Received: Amended plans 7 November 2013
Owner Name: Emma Williamson
Submitted by: Coda Architecture and Urban Design
Scheme: Residential R25
Heritage Listing: Heritage Listed - MHI Level 3
Existing Landuse: Single House
Use Class: Grouped Dwelling
Use Permissibility: D



EXECUTIVE SUMMARY

The application is referred to the Planning Services Committee (the Committee) due to submissions being received regarding the proposal raising concerns that cannot be dealt with appropriately via the imposition of planning conditions.

The proposal requires Design Principle assessments of the Residential Design Codes in relation to the following:

- **External Wall Building Height (south western corner of the two storey dwelling)**
- **Vehicular Access Width, and**
- **Visual privacy of the northern adjoining property.**

It is recommended that the application be approved subject to appropriate conditions.

BACKGROUND

The subject site is zoned 'Residential' under the provisions of LPS4 and has a density coding of R25. The subject site is listed on the City's Heritage List and is identified as a Management Category level 3 on the City's Municipal heritage inventory. Furthermore the site is located within the prescribed South Fremantle Heritage Area under the clause 7.2 of LPS4.

The subject site is currently improved by a single storey single House located at the front of site. The subject site comprises of approximately 1163m² of site area and is located on the eastern side of Chester Street, South Fremantle. The site is provided with vehicular access via a concrete crossover which enters the site from the southern verge area. The site slopes from the rear to the front by approximately 2 – 2.5 metres.

Synopsis of adjoining properties

The adjoining residential zoned northern property is improved by a single storey single house located at the front of site and has a similar cross fall and slope topography to the subject site itself. The adjoining southern properties (being No.42 Chester Street and No.8 (Lots 50 & 51) Lloyd Street) are also improved by single storey Single house having a slightly lower topography of approximately between 800mm -1m. The eastern adjoining site is currently vacant rear battleaxe lot which has a slightly higher topography than the subject site of approximately 200mm – 600mm.

DETAIL

On 16 September 2013 the City received a development application seeking Planning Approval for a Two Storey Grouped Dwelling Addition at the rear of the subject site.

Mid October 2013 the applicant met City Officers and discussed several matters regarding the original proposed development and submissions received regarding the proposal.

The applicant submitted amended plans on 7 November 2013, addressing some of the concerns relating to the proposal and justification regarding the proposed external wall height.

STATUTORY AND POLICY ASSESSMENT

The development has been assessed against the provisions of the City's Local Planning Scheme No.4 (LPS4), the Residential Design Codes 2013 of WA (R-Codes) and Council's Local Planning Policies (Council's Policies).

Residential Design Codes (2013)

The proposal requires Design Principle assessments in relation to the following:

- *Building Height (external Wall height),*
- *Vehicular access, and*
- *Visual Privacy*

CONSULTATION

Community

The original proposed development was required to be advertised in accordance with Clause 9.4 of LPS4 and the City's *LPP1.3 Public Notification of Planning Proposals* policy. At the conclusion of the original advertising period, being 8 October 2013, the City had received three submissions. A summary of the concerns raised are as follows:

- Overshadowing
- Building height
- Loss of views of significance
- Loss of direct sunlight to buildings and appurtenant open spaces and
- Loss of daylight to major openings into habitable rooms

With regards to the concerns raised in relation to overshadowing, the proposal has been assessed against and complies with the Deemed to Comply requirements for R25 coded property as per the R-Codes and as such is considered acceptable. The maximum shadow allowed to be cast on an adjoining R25 coded site being 25% of the site area (Lot 51 , No.8 Lloyd street, south Fremantle = 331m² of area) with the proposal being calculated at throwing 75m² of shadow, equalling 23% of the adjoining site area.

Concerns associated with the proposed buildings height and subsidiary impacts such as loss of views of significance and loss of direct access to sunlight further discussion regarding these concerns will be included in the '*Planning Comment*' section of this report.

PLANNING COMMENT

External Wall Height

Deemed to Comply	Proposed	Design Assessment	Principle
Max. 6m external wall height Max. 9m roof ridge	Up to 6.38m 8.6m	380mm Complies	

As mentioned previously, the development proposes a maximum 6.38 metre external wall height for the south eastern corner elevation of the rear dwelling.

As seen from the eastern adjoining property (27A Daly Street) the proposed dwelling wall height ranges from 5.8m to 6.24m (north corner to south) as measured from natural ground level (ngl) and is 11.4m long. As seen from the southern adjoining site (Lot 51, No.8 Lloyd Street), the proposed dwelling wall height ranges from 6.24m to 6.38m (east corner to west) as measured from ngl and is 5.5m long. As seen from the northern adjoining site (No.38 Chester Street), the proposed dwelling wall ranges from 5.8m to 6.325m (east corner to west) as measured from ngl and is 5.5m long. The western elevation of the dwelling is internal to the development site and as seen from the existing dwelling at the front of site this wall of the dwelling ranges in height from 6.325 to 6.38m (north corner to south) and is 11.4m long.

As mentioned previously during the community consultation process several objections were received raising concern to the proposed building height and in particular the impacts created by the additional external wall height and the:

- Loss of views of significance
- Loss of direct sunlight to buildings and appurtenant open spaces and
- Loss of daylight to major openings into habitable rooms

As also stated previously the proposal has been assessed against and is compliant with the 'Deemed to comply' provisions for 'Solar access for adjoining sites' provisions of the R-Codes. The shadow thrown by the proposed development will fall on existing rear backyard and Outbuilding roof space of the southern adjoining property, being Lot 51 (No.8 Lloyd Street). In terms of loss of direct sun to existing habitable room windows of this adjoining dwelling, as the existing dwelling located on Lot 50 is significantly setback (approximately 18m) from the common boundary between the two sites no adverse impact would be the resultant.

With respect to loss of daylight to appurtenant open spaces of adjoining sites, whilst it's recognised that the shadow created by the development would fall directly on remote backyard area, which is also occupied by an existing Outbuilding of No.8 Lloyd Street, the level of adverse impact is considered negligible, given the primary outdoor living area of the adjoining dwelling is located at the rear of the existing dwelling onsite, which is central to the property. Additionally with regards to building bulk impacts created on the southern neighbour, whilst an additional 240 - 380mm of wall height is sought as part of the proposal, given the wall is only 5.4m long and is setback 2.5m from the common boundary between the respective sites, the overall accumulative building bulk impacts created by the increased wall height is considered negligible.

In terms of loss of views of significance it's acknowledged that the proposed development will have some adverse impact as it will restrict the some of the existing western views to the ocean as currently captured from the eastern adjoining properties at no.27 and a future development at 27A Daly Street. For this reason alone, Council could consider the proposal inconsistent with the building height Design Principle criteria of the R-Codes and as such require the proposal to be amended to include a 6m maximum external wall height. However, whilst some of these significant views will be interrupted, the affected eastern sites will still have the ability to capture significant views to the south-west and north-west of the ocean. Furthermore, it's also considered that a compliant 6m external wall height and 9m roof ridge dwelling would have a very similar level of impact to that envisaged of the 6.38m external wall height and 8.6m roof ridge height dwelling.

In summary, taking into consideration the significant sloping natural topography of the site and immediate locality, the limited second storey additions footprint (62m² approx) and the overall roof ridge height of the development being less than the 9.0m permitted (8.6m high), the overall development is considered to portray a very similar level of building bulk to that of a typical compliant two storey ridge roof dwelling. Accordingly, the proposed maximum 380mm additional external wall height isn't considered excessive in this instance and is supportable as the proposal is considered to address the Design Principle criteria of the R-Codes.

Vehicular Access

Deemed to Comply requirement	Proposed	Design Principle Assessment
Vehicular Access – Minimum 3m Wide	2.88m	120mm

The proposed vehicular access width is supported for the following reasons:

- Only one crossover is proposed for this site that comprises of 2 dwellings; and
- Ultimately, the proposed access width is considered to be safe for future vehicular and pedestrian movement to and from the development site.

Visual Privacy

All major openings of the dwelling have been assessed against and comply with the Deemed to comply provisions of the R-codes except for:

Area and Impacted property	Deemed to comply requirement	proposed	Design Principle assessment
Upper terrace area Northern adjoining property	7.5m	7m	500mm

Its acknowledged that the applicant is proposing to install 1.6m high screening material to the majority of the western elevation of the roof top terrace area, however the proposed level of screening still allows direct overlooking of area which is considered to

be visually sensitive. The proposed 500mm reduction in setback isn't supported under the Design Principle criteria of the R-codes as the line of sight allows direct looking of the northern adjoining properties outdoor living area at the rear of its respective dwelling. Accordingly, a condition is recommended to be imposed as part of the determination of this application.

CONCLUSION

Based upon the above assessment it is considered that the proposed development adheres to the majority of the relevant R-Codes 'Deemed to Comply' provisions. Where the proposed development does not meet these criteria, it has been outlined above that it is considered to satisfy the 'Design Principle' criteria.

Consequently, the application is recommended for approval, subject to appropriate conditions.

OFFICER'S RECOMMENDATION

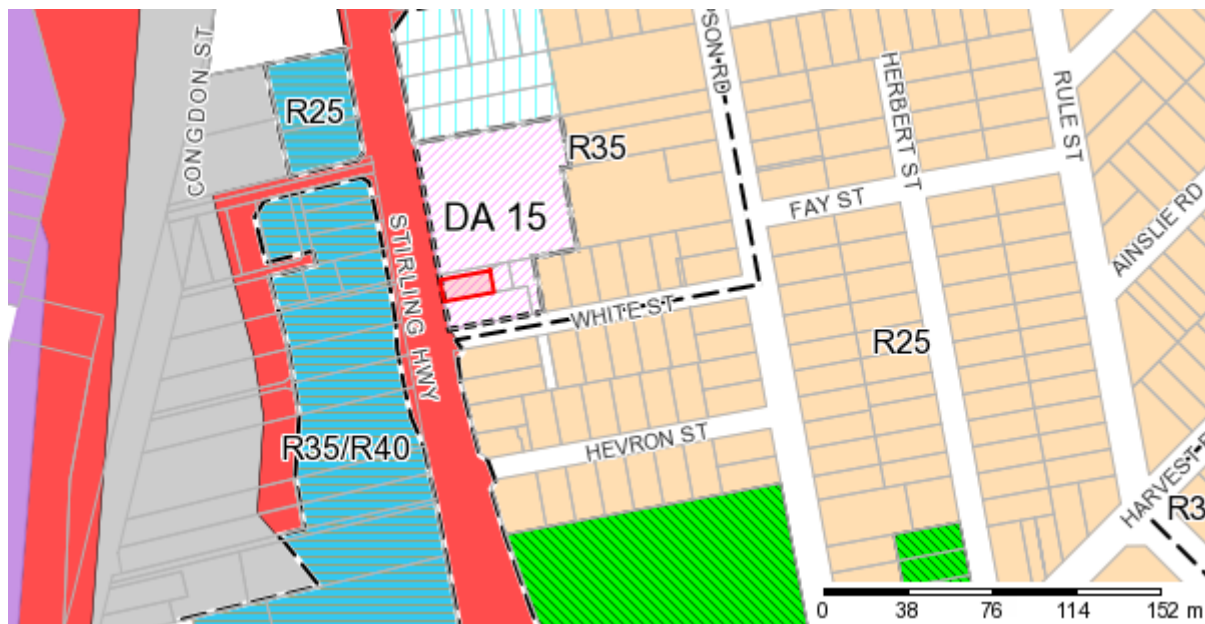
That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Two Storey Grouped Dwelling with Roof top Terrace at No. 40 (Lot 94) Chester Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 7 November 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site.**
- 3. Prior to occupation, the western elevation of the rooftop terrace shall be either:**
 - a) fixed with vertical screening that is at least 75% obscure, to a minimum height of 1.60 metres above the floor level, or**
 - b) screened by an alternative method to the satisfaction of the Chief Executive Officer, City of Fremantle,**

in accordance with Clause 5.4.1 C1.1 & C1.2 of the Residential Design Codes and thereafter maintained to the satisfaction of Chief Executive Officer, City of Fremantle.

PSC1312-198 STIRLING HIGHWAY NO.74 (LOT 4), NORTH FREMANTLE - THREE STOREY GROUPED DWELLING AND OFFICE DEVELOPMENT (JL DA0461/13)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Coordinator Statutory Planning
Decision Making Level: Planning Services Committee
Previous Item Number/s: DA
Attachment 1: Development Plans
Attachment 2: Site Photos
Date Received: 17 September 2013
Owner Name: Derek Westra
Submitted by: As Above
Scheme: Development Zone – Development Area 15
Heritage Listing: Not Listed – North Fremantle Heritage Area
Existing Landuse: Office
Use Class: Grouped Dwelling and Office



EXECUTIVE SUMMARY

The Planning Service Committee (PSC) is requested to consider an application for the construction of a three storey Grouped dwelling and Office Development at No.74 Stirling Highway, North Fremantle (the site).

The application is presented before the Planning Services Committee, due to the applicant applying for several Design Principle assessments from the Residential Design Codes in relation:

- **Northern and Southern Boundary setbacks,**
- **Eastern Boundary Wall,**
- **Primary Street Setback,**
- **External Wall height, and**
- **Overshadowing**

Overall, the development is considered to satisfy the requirements and Design Principle criteria set out within LPS4, the R-Codes and relevant Local Planning Policies. Consequently, the application is recommended for approval, subject to appropriate conditions.

BACKGROUND

Planning History

Development approval for the construction of a mixed residential and commercial development at 74 Stirling Highway, North Fremantle was approved on 26 July 2006 (DA700/05).

A variation to the above development application for alterations to the verandah, parking and stairs was approved on 3 July 2007 (DA55/07).

On 1 May 2008 the City granted approval for the extension to the term of approval for DA700/05. This planning approval was extended for a period not exceeding two years from the date 26 July 2008 (new expiry date being 26 July 2010).

On 24 June 2009 variation including internal and external alterations and additions to the Multiple Dwelling located centrally to the site as part of planning approval DA700/05 (VA13/09).

On 16 August 2010 the City granted approval for second extension to the term of approval for DA700/05. This planning approval was extended for a period not exceeding two years from the date 26 July 2010 (new expiry date being 2012). No development associated with DA700/05 begun onsite and as such the City's planning approval has lapsed.

On 17 September 2010 the Western Australian Planning Commission (WAPC) endorsed a two lot survey strata (refer DA77/07) of No.74 Stirling Highway, North Fremantle with the resulting lots being No.74 Stirling Highway and No.1A White Street, North Fremantle.

On 28 June 2011 the Western Australian Planning Commission (WAPC) endorsed a two lot survey strata (refer WAPC1115-10) of No.74 Stirling Highway, North Fremantle with the resulting lots being No.74 and No.74A Stirling Highway, North Fremantle.

Site Information

The subject site is located at No.74 Stirling Highway, North Fremantle. The site is zoned Development Zone – Development Area 15 – ‘Rose Hotel Site’ under the provisions of the City’s Local Planning Scheme No.4 (LPS4). There is no R-Coding awarded to this site nor has there been a Structure Plan adopted as per Schedule 11 requirements of LPS4. The site is not individually listed on the City’s Heritage List, but the site is located within is the prescribed North Fremantle Heritage Area under the provisions of LPS4.

The subject site is currently vacant, comprises of approximately 229m² and is located on the eastern side of Stirling Highway, North Fremantle. The site has a west - east orientation and has a sloping topography of approximately 1.5m from west to east. The site is improved by a single storey Office building, which incorporates hardstand parking to the front of site.

DETAIL

On 17 September 2013, the City received a development application (refer DA0461/13) seeking Planning Approval to construct a three storey Grouped Dwelling and ground floor Office development on the subject site.

The proposal requires Design Principle assessments of the R-Codes and Council local planning policies relating to:

- Boundary Wall (East elevation)
- Boundary Setbacks (North and South elevations),
- Primary Street Setback,
- Building height (External Wall height northern elevation), and
- Solar Access to adjoining site (Southern property).

Additionally the following Council Local Planning Policies are of relevance to the assessment of this application:

- *L.P.P2.3 – Fremantle Port Buffer Area Development Policy,*
- *L.P.P2.9 – Streetscape policy, and*
- *L.P.P2.4 – Boundary Walls in Residential Development Policy*

STATUTORY AND POLICY ASSESSMENT

Local Planning Scheme No.4 (LPS4)

The application is required to be assessed against the objectives provided in clause 4.2.1 (h) of LPS4 for Development Zone. Cl4.2.1 (h) states as follows:

The purpose of the Development Zone is to provide for future residential, industrial, commercial or other uses in accordance with a comprehensive structure plan or detailed area plan prepared in accordance with the provisions of the Scheme.

CONSULTATION

Community

The application was required to be advertised in accordance with Clause 9.4 of LPS4. At the conclusion of the advertising period, being 10 October 2013 September 2013, the City had received two submissions which raised no objections to the proposal.

Main Roads Western Australia (MRWA)

As the application site abuts Stirling Highway, being a Category 2 Primary Regional Road, comments from Main Roads and advice provided 8 October 2013 to the City, stated that they had no objection to the proposed development.

PLANNING COMMENT

Reduced Northern Boundary Setback

<i>Required provision</i>	<i>Proposed</i>	<i>Deign Principle assessment</i>
Ground Floor – 1.5m	5.3m (inc of half the adjoining vehicle access leg)	Complies
First Floor – 5m	3.75m (inc of half the adjoining vehicle access leg)	1.25m
Roof Top Terrace/ Sun Room – 4.8m	3.75m (inc of half the adjoining vehicle access leg= 1.35m)	1.05m

The northern elevation of the dwelling abuts the vehicle access leg and southern elevation of the Commercial building (Rose Hotel development) on the northern adjoining property.

The proposed reduced northern boundary setbacks are supported, as the development is considered to address the relevant Design Principle criteria of the R-Codes for the following reasons:

- Due to the southern location of the property the development will not restrict direct sun access to the adjoin northern site, and given a 5m wide communal vehicle access leg separates these two sites natural ventilation will always be appropriately preserved for the two sites and respective built form,
- Given the northern elevation of the building abuts the shared vehicle access leg for No.74, No.74A and 78 Stirling Highway and is directly adjacent to the southern wall of the existing Two Storey Rose Hotel Building which incorporates no major openings, the development would not have any significant detrimental impact on the northern adjoining property by way of excessive building bulk and scale.

Reduced Southern Boundary Setback

<i>Required provision</i>	<i>Proposed</i>	<i>Deign Principle assessment</i>
---------------------------	-----------------	-----------------------------------

Ground Floor – 1.5m	1m -2.2m (Stairway wall)	500mm
First Floor – 2.5m	1.75m – 2.2m (Living/ Dining Room and Stairway Wall)	250 - 750mm

The proposed reduced southern boundary setbacks are supported, as the development is considered to address the relevant Design Principle criteria for the following reasons:

- In terms of excessive building bulk impacts, given the southern adjoining dwelling includes a 2.5m northern boundary setback and the proposed development includes articulated design with between 1-2.2 setback to this common boundary, the combines separation distance of between 3.5 -4.7m is considered adequate and would effectively help mitigated this particular issue.
- With regards to restricting solar access to existing major openings or loss of visual privacy, the southern adjoining dwelling doesn't incorporate major openings to the northern elevation of the dwelling and therefore no adverse impact would be the resultant of the proposed reduced setbacks.
- Furthermore, taking into account that the southern adjoining dwellings exclusive outdoor living area is located to the eastern side of site and that this development is limited to the western portion of site, any building bulk impacts and reduction in terms of solar access and ventilation is negligible.

Boundary Wall (Eastern Boundary Wall)

A two storey boundary wall exists on the western elevation of the eastern adjoining property (No.74A Stirling highway) which is of similar dimension.

The Design Principle assessment is supported for the following reasons:

- Approximately 85% of the proposed boundary wall will abut an existing boundary of similar proportions,
- The majority of the upper floor element of the boundary wall will abut the upper level of the eastern adjoining development and given the wall is to be on the western common boundary of the adjoining impacted site, it is considered that the boundary wall will not significantly restrict direct sun access to the eastern adjoining property, apart form late afternoon sun.
- As the majority of the proposed boundary wall is to abut existing development of the eastern adjoining property, it is considered that the addition will not create a sense of confinement by way of excessive building bulk; and
- The boundary wall is considered to make effective use of the space due to the small area and narrow dimensions of the lot.

Primary Street Setback

North Fremantle	Required	Provided	Design Principle Assessment
Prescribed minimum street setback for	5m	3.6m	1.4m

development with a 4 metre or less external wall height			
Prescribed minimum setback for development with an external wall height greater than 4 metres	7m	4.75m	2.25m

The proposed street setbacks don't comply with Table 1 requirements for North Fremantle as per LPP2.9. Variation to these requirements is sought under clause 1.2 of LPP2.9. The northern adjoining properties existing building incorporates a 2 metre setback to both the ground floor and upper floor to Stirling Highway. The adjoining commercial building has an approximate maximum 7.5m external wall height and 12.5m roof ridge height. It's also acknowledged that the southern adjoining property consists only of a single storey building which incorporates 7.7m street setback, but in this instance there isn't considered to be an existing established streetscape worthy of protection.

Overall, the proposed 3.6m and 4.75m street setbacks to the ground and first floor of the development is supported as they are consistent with the setback of the only building of comparable height within this prevailing streetscape being No.78 Stirling Highway (Former Rose Hotel Building) whilst providing an appropriate stepped building alignment of built form to complement the existing 7.7m setback of the Single storey dwelling located on the southern adjoining property.

External Wall height (Building Height)

Schedule 12 of LPS4 contains specific height requirements for designated Local Planning Areas. As the site is located within a Development Zone and Development Area 15, the height requirements of Schedule 12 do not apply in this instance.

In accordance with Schedule 11, there are no specific height requirements for development within Development Area 15. Therefore for guidance purposes only, it is considered that a Design principle assessment should be undertaken in relation to height requirements of the R-Codes would be appropriate in this instance.

The proposed development incorporates a skillion roof designed with a maximum wall height (northern elevation) between 8.7m - 9.6m (north-west to north-east elevation) and between 5.6m to 7m (south west – south east elevation).

The proposed height is supported for the following reasons:

- The building is considered consistent with the desired height and would not have a significant detrimental impact to the amenity of adjoining buildings and development in general within the locality; and
- It's acknowledged that southern adjoining site is improved by a single house which is currently unoccupied and in a state of neglect, but given the potential residential

land use, the impact in terms of loss of direct sunlight, ventilation and building bulk impacts should be assessed in determining this element of the proposal.

- Furthermore the proposed skillion roof design and associated wall heights (highest pitch north leaning to the south) helps effectively graduate the existing building height of the northern and southern adjoining properties.

Overshadowing

Again it's important to note that the subject site and its immediate adjoining properties are not awarded a specific density coding under the Local Planning Scheme No.4 text or map.

In assessing this development and its appropriateness in relation to solar access of adjoining sites, it must be taken into consideration that the southern adjoining property has in the past been utilised for residential activity and whilst its current state doesn't allow the building to be habitable, given the sites potential to be used for residential purposes in the future, its considered appropriate that the R-Codes 'Solar Access to adjoining sites' criteria be used as guidance in assessing the proposal appropriateness, regarding overshadowing.

The southern adjoining site (No.72 Stirling Highway) is occupied by a Single Storey Single House and is 495m² in site area approximately which is consistent with R20 Table 1 average site area requirements of the R-Codes. Therefore, the R20 provisions will be used in assessing this application against the solar access to adjoining sites provisions. The R-Codes prescribes that a maximum of 25% of the total southern site area to be overshadowed meets the Deemed to comply provision.

Taking into account the subject site has recently been subdivided into three lots, and given the recent R-Code (August 2013) amendments to assessing solar access of adjoining sites, it's impossible for any future development on this site to meet the Deemed to comply provision of the R-Codes in relation to overshadowing of the southern site, as the existing built form on No.74, 74A Stirling Highway and 1A White Street (All formerly No.74 Stirling highway property) overshadowing No.72 Stirling Highway by 35.5% . A breakdown of the calculated shadow is provided:

Property	Existing M² Shadow cast on Southern Site	Proposed M² Shadow cast on Southern Site
74 Stirling Highway	57.7m ²	80m ²
74A Stirling Highway	40m ²	40m ²
1A White Street	55.7m ²	55.7m ²
Total	153.7m² = 31% of southern site in shadow	175.7m² = 35.5% of shadow of southern site

In summary, the proposed development has been calculated to throw 4.5% (22m²) additional shadow on the southern adjoining site in comparison to the existing development on these sites today. In this instance given the following factors the proposed 4.5% additional shadow is considered supportable as the proposal is considered to meet the 'Design Principle' criteria of the R-Codes for the following reasons:

- The majority of the calculated additional thrown shadow will fall on the existing roof space of the existing dwelling located on the neighbouring property.
- Due to the skillion roof design of the development the exclusive eastern positioned outdoor living area of the neighbouring affected property is adequately protected and will ensure that direct solar access at all periods of the day will be secured,
- The owners of the southern site have provided their signature of consent to the proposal.

CONCLUSION

Based upon the above assessment it is considered that the proposed development adheres to the majority of the relevant R-Codes 'Deemed to Comply' provisions. Where the proposed development does not meet these criteria, it has been outlined above that it is considered to satisfy the 'Design Principle' criteria.

Consequently, the application is recommended for approval, subject to appropriate conditions.

OFFICER'S RECOMMENDATION

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Three Storey Grouped Dwelling and Office Development at No. 74 (Lot 4) Stirling Highway, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 September 2013. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site.**
- 3. Prior to occupation, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.**
- 4. Prior to occupation, the eastern boundary wall shall be of a clean finish in sand render or face brick, to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 5. All air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points shall be suitably located, screened or housed, to the satisfaction of the Chief Executive Officer, City of Fremantle.**

-
- 6. Prior to occupation, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:**
- a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.**
 - b) Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.**
 - c) Roof insulation in accordance with the requirements of the Building Codes of Australia**

PSC1312-199 ADELAIDE STREET, NO. 52 (LOT 2), FREMANTLE - DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF SEVEN (7) STOREY HOTEL (151 ROOMS) AND GROUND FLOOR RESTAURANT (AD DAP80004/13)

(Regulation 12)

PSC Meeting Standard - Office 2007

Property Location:	No. 52 (Lot 2) Adelaide Street, Fremantle
Application Details:	Demolition of existing building and construction of seven (7) storey hotel (151 rooms) and ground floor restaurant
DAP Name:	Metropolitan South-West Joint Development Assessment Panel
Applicant:	Yesplan Assets Pty Ltd
Owner:	Glenwaye Pty Ltd Atf Spotlight Western Region Property Trust
LG Reference:	DAP80004/13
Responsible Authority:	City of Fremantle
Authorising Officer:	Manager Statutory Planning
Department of Planning File No:	DP/13/00823
Report Date:	4 December 2013
Application Receipt Date:	14 October 2013
Application Process Days:	90 Days
Attachment(s):	1. Locality Plans 2. Development Plans 3. Schedule of submissions and City's response

RECOMMENDATION:

That the South-West Joint Development Assessment Panel resolves to:

Approve DAP Application reference DP/13/00823 and accompanying plans dated 7 October 2013, having been received by the City of Fremantle on 7 October 2013 (Plan reference: A0.00c (site survey); A0.01c (site plan); A1.00c (ground floor plan); A1.02c (floors 2-5 plan); A1.03c (sixth floor plan); A1.04c (roof plan); A1.05 (north elevation); A1.06 (south elevation); A1.06 (south elevation – signage); A1.07 (west elevation); A1.07 (west elevation – signage); A1.08 (east elevation); A1.08 (east elevation – signage); A1.09c (section); A1.10c (setbacks and floor areas) in accordance with the City of Fremantle Local Planning Scheme No. 4 and the Metropolitan Region Scheme, subject to the following conditions:

1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.
2. Prior to occupation of the development hereby approved, the applicant shall submit the following information to the satisfaction of the Chief Executive Officer, City of Fremantle on the advice on the Design Advisory Committee:

- (i) Additional detail relating to the final façade finishes to ensure a durable high quality outcome.
3. The balconies to the hotel rooms are to be constructed and thereafter maintained, to the satisfaction of the Chief Executive Officer, City of Fremantle.
4. Prior to commencement of the development hereby approved, the owner shall contribute a monetary amount equal in value to one per cent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the Chief Executive Officer, City of Fremantle, for development of public art works and/or heritage works to enhance the public realm. Based on the estimated cost the development being \$18,000,000.00, the contribution to be made is \$180,000.00.
5. Prior to occupation, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.
6. Prior to occupation, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land of the potential:
- (i) of the enclosure of the balconies located along the north-eastern boundary by future development on the adjacent site. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation; and
- (ii) for future development on adjoining land to be constructed in accordance with the building height and setback requirements applicable to City Centre Local Planning Area 1 - Sub Area 1.3.2 as prescribed in Schedule 12 of the City's Local Planning Scheme No. 4, which includes zero minimum side and rear setbacks.
- The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.
7. Prior to occupation, the design and materials of the development shall adhere to the requirements set out within City of Fremantle Local Planning Policy 2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
- (i) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.
- (ii) Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.
- (iii) Roof insulation in accordance with the requirements of the Building Codes of Australia.
8. The design and construction of the development is to meet the 4 star green star standard as per Local Planning Policy 2.13 or alternatively to an equivalent standard as agreed upon by the Chief Executive Officer, City of Fremantle when a green star rating tool is not available. Any costs associated with generating, reviewing or modifying the alternative equivalent standard is to be incurred by the owner of the development site. Within 12 months of an issue of a certificate of Building Compliance for the development, the owner shall submit either of the following to the City to the satisfaction of the Chief Executive Officer – City of Fremantle

- (i) a copy of documentation from the Green Building Council of Australia certifying that the development achieves a Green Star Rating of at least 4 Stars, or
- (ii) a copy of agreed equivalent documentation for instance where there is no green star rating tool available certifying that the development achieves a Green Star Rating of at least 4 Stars.

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

10. All storm water discharge shall be contained and disposed of on-site.

ADVICE TO APPLICANT

In relation to condition 4 relating to public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in accordance with clause 6 of L.P.P2.19 where the development incorporates public art in the development to the same value as that specified in Condition 4 that is located in a position clearly visible to the general public on the site of the development. In determining the appropriateness and artistic merit of the public art Council shall seek relevant professional advice.

Background:

Insert Property Address:	No. 52 (Lot 2) Adelaide Street, Fremantle
Insert Zoning MRS:	Central City
TPS:	City Centre
Insert Use Class:	Hotel 'A', Restaurant 'A'
Insert Strategy Policy:	N/A
Insert Development Scheme:	City of Fremantle Local Planning Scheme No. 4
Insert Lot Size:	1,492m ²
Insert Existing Land Use:	Shop (currently vacant)
Value of Development:	\$18 million

Details: outline of development application

The proposal is for the demolition of the existing building and construction of a replacement seven (7) storey hotel (151 rooms) and ground floor restaurant.

Specifically, the proposed development comprises of the following:

Ground Floor:

- Eight (8) commercial tenancies ranging in size from 43m² up to 59m², all of which have direct frontage onto the PAW;
- Hotel entry/lobby fronting Adelaide Street, including the Hotels kitchen and restaurant area;
- Incidental amenities (eg staff room, maintenance workshop, toilets end of trip facilities, lifts, stairwells, laundry, service and storage areas);

First Floor:

- 26 hotel rooms
- Incidental amenities (eg lifts, stairwells, laundry chute, linen closet, storage areas);

Second, Third, Fourth and Fifth Floors:

- 26 hotel rooms;
- Incidental amenities (eg lifts, stairwells, laundry chute, linen closet, storage areas);

Sixth Floor:

- 21 hotel rooms
- Incidental amenities (eg lifts, stairwells, laundry chute, linen closet, storage areas, A/C plant);

Rooftop:

- Twenty-one (21) roof-mounted air conditioning condenser units

Overview of hotel rooms:

- Each of the 151 proposed hotel rooms:
 - o are sized at approximately 32m² ;
 - o 7.70 metres in length, and 4.1 metres in width;
 - o are self-contained double-bed rooms with entertainment (TV, internet connection, bar fridge, safe and coffee making facilities), storage and bathroom and toilet facilities;
 - o however, only the 49 south facing rooms and 35 north facing rooms each have a 3.50m² triangular balcony projecting outwards a maximum of 1.70 metres which are wholly contained within the subject site.

Signage:

- The proposal also includes a signage strategy for the development which depicts the proposed location of the signage, all of which is to be contained on the ground floor of the development, with signage locations fronting Adelaide Street and also the Westgate Mall

Copies of the development plans are included in Attachment 2.

Summary of complete development

- Demolition of existing building;**
- 151 room hotel and associated amenities incidental to such use;**
- 8 ground floor commercial tenancies;**
- Associated signage**

Legislation & policy:

The legislative framework and policy base providing for the assessment and determination of the subject application is as follows:

- 1) City of Fremantle Local Planning Scheme No. 4 (LPS4) – application for development on the site is to be determined in accordance with provisions of Part 10 of LPS4.

City of Fremantle LPS4 Provisions:

The following Scheme provisions are considered the most relevant in the consideration of the planning application:

- Clause 4.2.1(b) - Objectives of the City Centre Zone;
- Table 3 – Vehicle parking requirements;
- Table 2 – Zoning;
- Schedule 12 – Local Planning Area 1 City Centre – Sub Area 1.3.2;
- Clause 5.15 - Demolition of Buildings and Structures;
- Schedule 1 – Dictionary of defined words and expressions;
- Clause 11.8 – Design Advisory Committee;

State Government Policies:

- Nil

Local Planning Policies

The site is subject to the following relevant Local Planning Policies:

- DBM7 – Cash-in-lieu of Car Parking Policy (DBM7);*
- Local Planning Policy 1.3 – Public Notification of Planning Proposals (LPP1.3);*
- Local Planning Policy 1.6 – Preparing Heritage Assessment (LPP1.6);*
- Local Planning Policy 1.9 – Design Advisory Committee & Principles Of Design (LPP1.9);*
- Local Planning Policy 2.3 – Fremantle Port Buffer Area Development Guidelines (LPP2.3);*
- Local Planning Policy 2.13 – Sustainable Buildings Design Requirements (LPP2.13);*
- Local Planning Policy 2.19 – Contribution for Public Art and/or Heritage Works (LPP2.19);*
and
- Local Planning Policy 3.1.5 – Precinct 5 (LPP3.1.5).*

Consultation:

Public Consultation

The planning application was identified as a “Significant Application” as set out in Local Planning Policy *LPP1.3 - Public Notification of Planning Proposals (LPP1.3)*. The application was advertised for a period of 28 days. The advertising within this period included:

- Sign on site was erected to the frontage of the existing building;
- Letter to owners and occupiers within 100 metres of the site;
- Advertising of the application occurred on the City’s website;
- the Fremantle Inner City Residents Association were informed of the proposal;
- Two notices relating to the proposal were placed in the Fremantle Gazette on the 22 and 29 October 2013.

A Community Information session was held on the 29 October 2013 for a one hour period. Land owners/occupiers within a 100 metre radius of the site and elected members of the City’s Council were invited to attend the Community Information Session. The session was attended by 4 members of the public, the applicant and a City of Fremantle Councillor. A total of 9 submissions were received. Specific comments about each submission are included in Attachment 3.

Consultation with Fremantle Port Authority (FPA)

The site is located within Area 2 of the Fremantle Port buffer area. In accordance with *LPP2.3*, the Fremantle Port Authority (FPA) was advised of the development proposal. The FPA provided the following comments in relation to the proposal on 16 October 2013:

“The built form requirements for Area 2 include treatment to windows, openings, air conditioning systems, quiet house design criteria and roof insulation. We would request that the proposal be assessed for compliance with these requirements.

We also ask that the developer demonstrates that the risks are as low as reasonably practicable in relation to the issues identified in the buffer guidelines i.e. toxic gas and shattering glass and that the noise attenuation measures are adequate.”

The guidelines contain specific conditions of approval that are to be applied to developments within Area 2. It is considered that a land use of hotel, being that it provides for accommodation, would be a sensitive land use as prescribed by *LPP2.3*. On this basis it is recommended that a condition be imposed requiring a Section 70A notification be imposed on the Certificate of Title notifying the owner and future owners of the potential amenity impacts associated with the sites proximity to the port.

Consultation with State Heritage Office (SHO)

Whilst the site is not on the City's Heritage List or on the State Heritage Register, in accordance with Section 11 of the *Heritage of Western Australia Act 1990*, the application was required to be referred to the State Heritage Office (SHO) as the proposal may affect the following nearby State Registered Heritage Places, being the:

- No. 3 Adelaide Street, Fremantle (St John's Anglican Church);
- No. 92 Adelaide Street, Fremantle (Film & Television Institute);
- No. 38 Cantonment Street, Fremantle (Elders Woolstores);
- No. 47 Adelaide Street, Fremantle (St Patricks Basilica & St Patricks Presbytery);
- No. 8 William Street, Fremantle (Fremantle Town Hall);
- Cnr Market Street & Cantonment Street, Fremantle (Wesley Church);
- Cnr Market Street & Elder Place (Taylor Memorial Drinking Fountain & Horse Trough); and
- No. 28 Phillimore Street, Fremantle (Fremantle Railway Station).

The SHO provided the following comments in relation to the proposal on 5 November 2013:

"The proposed development is not considered to have any impact on the cultural significance of the registered places as described above. Other than this we have no comment to make in relation to the proposal."

Consultation with the City's Design Advisory Committee (DAC)

The proposal has been presented to the City's Design Advisory Committee (DAC) on 2 occasions:

- 14 June 2013 – Concept designs only; and
- 12 August 2012 – Amended concept design (further to DAC meeting of 14 June 2013)

A summary of the comments from those DAC meetings are reproduced below:

DAC meeting of 14 June 2013:

"SUMMARY RECOMMENDATION

Overall the Committee supports the intent of the proposal, however, it needs more thought and design thinking outside the square. The following issues need further consideration:

- 1. The number of commercial tenancies on the ground floor may be difficult to tenant.*
- 2. A design concept incorporating laneways/malls should be reconsidered.*
- 3. The amenity of the small triangular balconies needs to be improved.*
- 4. Excessive shading of the PAW (it would be in shade 90% of the time).*
- 5. The Adelaide Street elevation should not incorporate a large blank wall.*
- 6. Suggests creating access from Cantonment street (by liaising with lots 3 and 9).*
- 7. Consider relocation of conference facility to the first floor on Adelaide Street to allow better light and amenity and provide visible first level activation."*

DAC meeting of 12 August 2013:

"SUMMARY RECOMMENDATION

- 1. Many of the previous DAC comment have been taken on board.*

2. *Although it is acknowledged that the design is still in its conceptual phase, the following issues should be further considered:*
 - a. *Additional detail relating to the final façade finishes to ensure a durable high quality outcome;*
 - b. *Ensuring that the balconies form an essential part of the development;*
 - c. *The installation of a second lift to service hotel guests having regard to the number of rooms proposed.*
 - d. *The addition of a window to the access corridor to the south east to introduce natural light and outlook.*
 - e. *The location of air-conditioning and plant equipment such that they are not visible from adjacent public areas.”*

In relation to the DAC's summary recommendations 2(a) and (b) above, it is considered that these can be addressed as conditions of planning approval.

In relation to the DAC's summary recommendation 2(c) above, the applicant has amended the proposal so as to incorporate a secondary lift to service the hotel guests (3 in total: 2 for hotel guests; 1 service lift).

In relation to the DAC's summary recommendation 2(d) above, the applicant has amended the proposal so as to satisfy this recommendation.

In relation to the DAC's summary recommendation 2(e) above, the applicant has amended the proposal so as to detail the proposed location of air-conditioning and plant equipment. It is not considered that the proposed location of this equipment will be visible from adjacent public areas and there is considered to satisfy this recommendation.

Internal Heritage Comments

In accordance with Clause 5.15 of LPS4 and Council's *Local Planning Policy 1.6 – Preparing Heritage Assessments* (LPP1.6), a Heritage Assessment was required to be undertaken as the proposal includes the demolition of the existing building on site. The heritage assessment was finalised on 4 November 2013, of which found the place to be of 'limited' cultural heritage significance. This is discussed further in detail in the 'Planning Assessment: Demolition' section of this report.

Internal Public Art Comments

The application was referred to the City's Public Art department for comment in relation to the public art contribution, with the following comments provided:

“From an initial look at their application I would recommend against an urban art approach as these works are generally classified as ‘temporary’ or ephemeral works. The percent for art policy calls for permanent artworks.

Considering this high profile central location, I would recommend they are more ambitious with their proposal. I would envisage this project would have a minimum budget at around \$180,000.

I am happy to meet with the architect and the developer and yourself to go through the plans to identify public art sites for the development early on in the planning to make sure the artwork is integrated in an appropriate manner, ie it doesn't look tacked on. There are endless possibilities for public art or artistic interpretation in these plans and I would encourage sooner rather than later.”

On this basis a condition of approval and associated advice note has been recommended that requires a 1% public art monetary contribution.

Planning assessment:

Westgate Mall

Whilst not forming part of this application, the City is undertaking a concurrent process which has implications for the Westgate Mall and is relevant to this application.

The reclassification of the pedestrian access way (PAW) reserve No. 38030 being lots 2130 and 55 and known as Westgate Mall to Mall Reserve is proposed to allow the area in front of eight (8) proposed tenancies facing south west and north west to introduce alfresco dining space as the current PAW reserve status does not permit leasing or licensing for alfresco dining and other uses.

Council has resolved to advertise this reclassification of Westgate Mall and the public submission period for this matter is due to conclude on 10 December 2013.

Building height

The proposal is considered to comply with the maximum building prescribed for the site in accordance with sub area 1.3.2 of Schedule 12 of LPS4 which permits a building height of up to 24.5 metres subject to the proposal meeting two criteria.

Demolition

Under the provisions of Clause 5.15.1 of LPS4, Council will only grant Planning Approval for the demolition of a building or structure where it is satisfied that the building or structure:

- (a) *Has limited or no cultural heritage significance, and*
- (b) *Does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located."*

The Heritage Assessment concluded that:

"Although maybe considered as an example of 1960s commercial development in Fremantle, overall the building at 52 Adelaide Street is of no particular architectural merit and is considered to be below threshold to warrant inclusion on the Heritage List and is of Limited Significance.

The building has been determined of limited significance and there is no significant fabric that will be lost due to its demolition."

In this regard, the proposed demolition of the existing building should be supported as the Heritage Assessment findings satisfy Clause 5.15.1 (a) and (b).

Car Parking Bays, Delivery Bays, Bicycle Racks

Type	Required	Provided	Discretion
Car parking bays	273	0	273
Delivery bays	7	0	7

Bicycle racks	7	0	7
---------------	---	---	---

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

“Council may—

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

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

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

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

Notwithstanding the above, Schedule 12 – City Centre Local Planning Area 1 – sub area 1.3.2(I) states:

- “(I) The provisions of clause 5.7.3 (a) (i) and (ii) of the Scheme do not apply in Sub Area 1.3.2.”*

Therefore, only Clause 5.7.3 (a) (iii – viii inclusive) are applicable in the assessment of this application, however Clause 5.7.3 (a) (i) and (ii) are not.

In relation to Clause 5.7.3 above, the applicant has provided the following justification to substantiate a relaxation of on-site parking requirements:

“A request to relax the parking requirement is considered reasonable based on an understanding of the intended use of the site and the other circumstances relevant to this application; as summarized below:

- *the transient nature and profile of guests attracted to the port city being largely tourist & business based; inherent with these clientele is the reduced need for a private vehicle and thus a car bay,*

- *the availability of alternative transport opportunities within close walking proximity such as rental car outlets, bicycle, scooter and electric bicycle hire outlets, taxi services and ranks (directly adjoining the hotel frontage) and in allowing for some guests who are on package tours, business groups or some other organised group who would often be transported in tourist coaches,*
- *a reduction in vehicle need due to the Hotel's central location and its close proximity to a wide range of commercial, tourist, retail, dining and leisure activities,*
- *the ability to promote land use efficiencies offered through reciprocal or consolidated use of shared facilities,*
- *the site's location in a busy downtown central city environment where sharing of car spaces by multiple uses are common,*
- *the likely Hotel operator has advised that their demand for parking throughout central city, metropolitan and regional hotels in Australia have been counted as being, on average, 1 bay required per 2 rooms. To arrive at the average, the larger parking demand generated at the regional operations are offset by a vastly reduced demand in the central city hotels. From this, a central city demand is likely to fall from a rate of 1 per 2 rooms to 1 per 4 rooms,*
- *there is an expectation and marketing opportunity to seek out tenants of the 8 commercial suites that complement the hotel and attract and enhance the experience of guests. A higher level of patronage by hotel guests is expected at any restaurant, small bar or retail offering thereby reducing parking demand generated by the general public,*
- *the likelihood that a high proportion of the other users of the tenancies will be in the city for other reasons, with customers drawn more opportunistically rather than specifically by these uses,*
- *embracing Council's planning and sustainability policy directions towards creation of more active and vibrant spaces and maximizing the efficient use of land; particularly with this land fronting the main movement artery into the city,*
- *acknowledging that no access or parking provision was provided on-site or directly associated with the previous land use on this site or the surrounding sub-area,*
- *consideration that access into the site is compromised and that any driveway would disrupt the activation of the primary frontage; contrary to the intent of Council's Scheme and policy directions,*
- *noting that internal movement and parking would be further complicated due to a limited vertical separation to groundwater and resulting in parking structures constructed at ground/first floor levels to the detriment of the streetscape and further preventing articulation between the buildings and public thoroughfares and spaces*
- *in the knowledge that provision for delivery and service vehicle access needs are catered for via secondary streets and service accessways."*

It is considered that the proposed on-site car parking shortfall can be supported against Clause 5.7.3 (viii) above, as there is no car parking existing on-site currently. Further, the current proposal would need to be substantially redesigned so as to accommodate on-site car parking, particularly relating to access to and from the site and that if it were obtained from Adelaide Street, it would severely compromise the desired activation of the ground floor area. Further, it is not anticipated that the 'hotel' use itself will significantly demand the provision of such car parking requirements as it is reasonable to expect that hotel guests will not bring their own vehicles to the hotel during their stay.

Clause 5.7.4 of LPS4 outlines circumstances may waive or reduce the standard parking requirement specified in Table 3, and states:

"The Council may require a cash payment in lieu of the provision of paved car parking spaces, subject to—

- (a) *a cash-in-lieu payment shall be not less than the estimated cost to the owner of providing and constructing the car parking spaces required by the Scheme including variations thereto.*

- (b) *the Council having adopted a local planning policy pursuant to clause 2.6 detailing the costs for the provision of car parking in that local planning area and detailing the purposes to which the funds are to be allocated,*
- (c) *payments under this clause shall be paid into a special fund to be used to provide public car parking stations within the locality from which it was collected or for the provision of transport infrastructure (which includes, but is not limited to, infrastructure for cyclists, pedestrians and public transport uses and users) in accordance with a Local Planning Policy adopted under Part 2 as a Transport Infrastructure Strategy.”*

On 6 September 1999, Council adopted Local Planning Policy D.B.M7 – Cash-in-lieu of Car Parking Policy. Notwithstanding:

“At its Ordinary Meeting of Council on 25 September 2013, Council resolved to:

1. *Temporarily suspend for a period of twelve months the application of cash payments in lieu of onsite car parking as provided for by clause 5.7.4 of Local Planning Scheme No. 4 and local planning policy, D.B.M7 Cash in lieu of Car Parking Policy, for development applications within the Fremantle Activity Centre* for the following land uses:*

- Office;
- Retail/Shop with active frontages to the adjacent public realm;
- Hotel;
- Restaurant;
- Small bar; and
- Tourist Accommodation

And communicate to landowners and the development industry that the temporary suspension is intended to act as an incentive to stimulate development activity in the immediate future, and there is no certainty that the Council will suspend the application of the policy beyond September 2014.

2. *Continue to apply the planning provisions regarding cash payments in lieu of onsite car parking as provided for by clause 5.7.4 of Local Planning Scheme No. 4 and local planning policy, D.B.M7 Cash in lieu of Car Parking Policy, within the Fremantle Activity Centre* for all other land uses not listed in Part 1 of this resolution.”*

In accordance with Council's resolution above, as the development proposes both 'hotel' and 'restaurant' land uses, it is not recommended that cash-in-lieu of onsite car parking be requested as part of this development which is consistent with the objective of stimulating development in the immediate future.

Council's Local Planning Policies

The following Council Local Planning Policies are relevant to this proposal, and to ensure compliance with those policy provisions, it is recommended that conditions be imposed to satisfy those policy requirements:

- *Local Planning Policy 2.3 - Fremantle Port Buffer Area Development Guidelines (LPP2.3);*
- *Local Planning Policy 2.13 - Sustainable Buildings Design Requirements (LPP2.13); and*
- *Local Planning Policy 2.19 - Contribution for Public Art and/or Heritage Works (LPP2.19).*

Conclusion:

The proposal for the demolition of the existing building and construction of a replacement seven (7) storey hotel (151 rooms) and ground floor restaurant at No. 52 (Lot 2) Adelaide Street,

Fremantle has been assessed against the provisions of the City's LPS4 and relevant Local Planning Policies.

It is considered that the proposal complies with the provisions of LPS4, with the on-site car parking discretion considered to be supportable.

It is considered that the proposal complies with the requirements of Council's Local Planning Policies, subject to the imposition of a number of conditions so as to satisfy the requirements of a number of those policies.

Therefore, it is recommended that the application be approved, subject to appropriate conditions.

**PSC1312-200 DAP - MCNEECE PLACE NO. 5 (LOT 95) O'CONNOR - WAREHOUSE
(SELF STORAGE FACILITY) - RAR REPORT (AD DAP80007/13)**

Property Location:	No. 5 (Lot 95) McNeece Place, O'Connor
Application Details:	Warehouse (Self Storage Facility)
DAP Name:	Metropolitan South-West Joint Development Assessment Panel
Applicant:	KBH Brooklyn Pty Ltd
Owner:	Horseshoe Investments Pty Ltd
LG Reference:	DAP80007/13
Responsible Authority:	City of Fremantle
Authorising Officer:	Manager Statutory Planning
Department of Planning File No:	DP/13/00832
Report Date:	4 December 2013
Application Receipt Date:	21 October 2013
Application Process Days:	90 Days
Attachment(s):	1. Locality Plans 2. Development Plans 3. Schedule of submissions and City's response

Recommendation:

That the South-West Joint Development Assessment Panel resolve to:

Approve DAP Application reference DP/13/00832 and accompanying plans dated 17 October 2013, having been received by the City of Fremantle on 17 October 2013 (Plan reference: A01 (proposed site plan & building layout); A02 (proposed building plan ground floor unit layout); A03 (proposed building plan first floor unit layout); A04 (proposed building plan second & third floor unit layout); A06 (building elevation - 1); A07 (building elevation - 2 & 3); A08 (building elevation - 4); A09 (building elevation - 5 Stock Road view); and landscaping plan) in accordance with the City of Fremantle Local Planning Scheme No. 4, subject to the following conditions:

- 1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.**
- 2. Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 5.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 3. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the Chief Executive Officer, City of Fremantle.**
- 4. Prior to occupation any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the Chief Executive Officer, City of Fremantle and at the expense of the applicant.**

5. Prior to occupation, landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the Chief Executive Officer, City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle.
6. Prior to occupation, fourteen (14) shade trees are to be installed and maintained thereafter on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle.
7. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
8. Prior to occupation, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the Chief Executive Officer, City of Fremantle.
9. The eastern-most 19.309 metre long portion of the proposed pathway along the southern lot boundary is hereby deleted from the approval.
10. All storm water discharge shall be contained and disposed of on-site.
11. No access will be permitted to or from Stock Road.
12. Redundant driveways shall be removed and the reinstatement of the verge and its vegetation shall be undertaken by the applicant.
13. No earthworks shall encroach onto the Stock Road reservation.
14. No stormwater drainage shall be discharged onto the Stock Road reservation.
15. Any damage done to the existing verge and its vegetation within the Stock Road reservation shall be made good at the full expense of the applicant.

Advice Note:

- (i) This approval relates to the subject site and does not authorise the removal or modification of verge infrastructure and/or verge trees within the verge area. Written approval is to be obtained for removal or modification of verge infrastructure and/or verge trees within the verge area from the relevant City of Fremantle department or relevant service authority, before construction commences. Please refer to the City's Tree Planting Policy (SG28) for further information.

Background:

Insert Property Address:	No. 5 (Lot 95) McNeece Place, O'Connor
Insert Zoning MRS:	Industry, Clause 32 Resolution 2011/03
TPS:	Industrial, Commercial
Insert Use Class:	Warehouse 'A' (in the Commercial Zone), 'P' (in the Industrial Zone)
Insert Strategy Policy:	N/A
Insert Development Scheme:	City of Fremantle Local Planning Scheme No. 4
Insert Lot Size:	3,724m ²

Insert Existing Land Use:	Vacant
Value of Development:	\$6,250,000

The site is zoned 'Industrial' and 'Commercial' under the City's Local Planning Scheme No. 4 (LPS4) and is located within the O'Connor Local Planning Area 8 (LPA 8) as prescribed in Schedule 12 of LPS4. Specifically, eastern-most portion of the subject site is zoned 'Commercial' (approximately 33 metres in width) accounting for 1,194.60m² of the subject site, with the remainder and most predominant zoning of the subject site being 'Industrial', of which accounts for 2,529.40m².

The site is bound by Stockdale Road to the north-west, Peel Road to the south, Stock Road to the east, and McNeece Place to the west.

The site is not listed on the City's Heritage List; nor is it located within a prescribed Heritage Area under Clause 7.2 of LPS4.

The subject site is 3,724m², has a predominantly east-west orientation and is currently vacant. The subject site used to operate as a meat packer; however a fire on 16 November 2009 razed the premises. In terms of its topography, the site slopes upward by approximately 3.00m from its McNeece Place frontage to its northern boundary and to its Stock Road frontage.

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

- On 13 December 2002, the City granted conditional Planning Approval for a storage container (refrigerated store room) under the former Town Planning Scheme No. 3 (TPS3) at No. 5 (Lot 95) McNeece Place, O'Connor (refer DA633/02);
- On 16 January 2004, the City granted conditional Planning Approval for additions to factory under the former TPS3 at No. 5 (Lot 95) McNeece Place, O'Connor (refer DA680/03);
- On 21 April 2005, the City granted conditional Planning Approval for male change rooms under the former TPS3 at No. 5 (Lot 95) McNeece Place, O'Connor (refer DA85/05);
- On 16 November 2009, a fire razed the premises, with the Fire & Emergency Services Authority of Western Australia (FESA) ultimately declaring the building to be a 'total loss'.

Copies of the locality plans are included in Attachment 1.

Details: outline of development application

The proposal is for warehouse (self storage facility) at No. 5 (Lot 95) McNeece Place, O'Connor.

Specifically, the proposed development comprises of the following:

Ground Floor:

- 2,001m² of Gross Lettable Area (GLA) for 'warehouse (self storage facility)'
- Thirteen (13) car parking bays (inclusive of four (4) loading bays)
- New front fence and automated vehicular access gate
- Landscaping

First Floor:

- 2,001m² of GLA for 'warehouse (self storage facility)'

Second Floor:

- 2,434m² of GLA for 'warehouse (self storage facility)'

Third Floor:

- 2,434m² of GLA for 'warehouse (self storage facility)'

Signage

- The proposal include a number of signage panels to be located on the southern, northern, eastern and western elevations of the proposed 'warehouse (self storage facility)'

Copies of the development plans are included in Attachment 2.

Summary of complete development

- **8,870m² of Gross Lettable Area (GLA) for 'warehouse (self storage facility)' distributed over four floors, and approximately 600 storage units, associated amenities incidental to such use and associated signage;**
- **Thirteen (13) car parking bays (inclusive of four (4) loading bays);**
- **New front fence and automated vehicular access gate;**
- **Landscaping**

Legislation & policy:

The legislative framework and policy base providing for the assessment and determination of the subject application is as follows:

- 1) City of Fremantle Local Planning Scheme No. 4 (LPS4) – application for development on the site is to be determined in accordance with provisions of Part 10 of LPS4.

City of Fremantle LPS4 Provisions:

The following Scheme provisions are considered the most relevant in the consideration of the planning application:

- Clause 4.2.1(f) - Objectives of the Commercial Zone;
- Clause 4.2.1(g) - Objectives of the Industrial Zone;
- Table 3 – Vehicle parking requirements;
- Table 2 – Zoning;
- Schedule 12 – Local Planning Area 8 O'Connor;
- Schedule 1 – Dictionary of defined words and expressions;

State Government Policies:

- Nil

Local Planning Policies

The site is subject to the following relevant Local Planning Policies:

- *Local Planning Policy 1.3 – Public Notification of Planning Proposals (LPP1.3);*
- *Local Planning Policy 3.8 – Local Planning Area 8 – O'Connor (LPP3.8);*
- *DBH6 – Signs & Hoardings (DBH6).*

Consultation:

Public Consultation

The planning application was identified as a "Significant Application" as set out in Local Planning Policy *LPP1.3 - Public Notification of Planning Proposals* (LPP1.3). The application was advertised for a period of 28 days. The advertising within this period included:

- Sign on site was erected to the frontage of the existing building;

- Letter to owners and occupiers within 100 metres of the site;
- Advertising of the application occurred on the City's website;
- All 12 of the City's precinct groups were informed of the proposal;
- Two notices relating to the proposal were placed in the Fremantle Gazette on the 5 and 12 November 2013.

A Community Information session was held on the 29 October 2013 for a one hour period. Land owners/occupiers within a 100 metre radius of the site and elected members of the City's Council were invited to attend the Community Information Session. The session was only attended by the applicant and one Councillor, with no members of the public attending. A total of 2 submissions were received. Specific comments about each submission are included in Attachment 3.

Consultation with Main Roads Western Australia (MRWA)

On 20 November 2013, the City received the following referral comments from MRWA:

"For your information, the current design for Stock Road is currently under review by Main Roads. Planning Control Area (PCA) No. 80 (Leach Highway to South Street) indicates an additional land requirement outside of the existing Metropolitan Region Scheme. Whilst our review is not yet complete, a preliminary assessment has indicated that an additional 10 metres outside of the PCA will be required.

As a consequence Main Roads cannot support the current proposal in this iteration. Revised plans will need to be submitted which take into account and remove all structures from the increased reservation.

Once this has been completed to Main Roads satisfaction the following will be imposed as conditions of development:

1. *No access will be permitted to or from Stock Road.*
2. *Redundant driveways shall be removed and the reinstatement of the verge and its vegetation shall be undertaken by the applicant.*
3. *No earthworks shall encroach onto the Stock Road reservation.*
4. *No stormwater drainage shall be discharged onto the Stock Road reservation.*
5. *Any damage done to the existing verge and its vegetation within the Stock Road reservation shall be made good at the full expense of the applicant.*

Advice to the Applicant:

1. *The project for the upgrading/widening of Stock Road is not in Main Roads 4-year forward estimated construction time frame and as such is considered long term. Please be advised that timing information is subject to change and that Main Roads assumes no liability for the timing information given."*

Subsequent to receiving the referral comments from MRWA, the City reviewed the Planning and Development Act 2005 – Instrument of Delegation Powers of Local Government MRS (DEL 2011/02). DEL 2011/02 sets out the parameters where the local government is to refer development applications to a public authority for comment and recommendation.

Schedule 1 of DEL 2011/02 states that:

"Where the recommendation provided by the public authority specified in the delegation notice is not acceptable to the local government the application, together with the recommendations provided by all public authorities consulted and the reasons why the

recommendation is not acceptable to the local government, shall be referred immediately to the WAPC for determination.”

On this basis, should the local government consider that comments and recommendations from any public authority are not acceptable, being that the local government is of the mind to go against the comments and recommendation by any public authority, the local government loses its delegation powers to determine the application and the delegate then becomes the WAPC.

As the City is supportive of the application and MRWA are not, the City relinquishes its determining authority to the WAPC to determine the application under the MRS.

It is noted that a similar situation occurred recently, in relation to an application for a change of use from Showroom to Industry Service (Waste Recycling Business) and Lunch Bar at No. 28 (Lot 39) Peel Road, O'Connor, which the PSC considered at its meeting of 2 October 2013 (refer DA0312/13; PSC1310-147). In that instance, MRWA did not support the proposal; however the City did support it and as such the City relinquished its determining authority to the WAPC to determine the application under the MRS. Ultimately, the WAPC resolved to grant conditional planning approval to that application on 30 October 2013.

Internal Technical Services Comments

The City's Technical Services Department has reviewed the proposal and provided the following comments:

- *“The included “Self Storage Facility Traffic & Parking Study” prepared by Aurecon is shows a rigorous study of existing parking requirements and methodology for data collection. The recommendations in this report are well supported.*
- *The “Self Storage Facility Traffic & Parking Study” would support the applicants request to waive the parking requirements as proposed by their GFA proposal.*
- *The included ACROD bay is correct*
- *The “Self Storage Facility Traffic & Parking Study” recommends that turning space be provided on site for a 14.5m rigid vehicle. The turning template was provided on the plan however was not shown to in fact be adequate.*

Trip generation and the impact on the local network was not discussed within the application. The City may request a Traffic impact statement for the development to be presented to council for further consideration and also allow a reasonable conclusion to made in terms of the impact of the additional traffic. In this case however, the included “Self Storage Facility Traffic & Parking Study” has presented a summary including trip generation by GFA. The impacts of this traffic have not been discussed on the local area.

The study predicts between 160-260 trips per day to/from (combined) the facility. This level of traffic in McNeece Place would be sustainable and not present an issue. The intersection of McNeece Place and Peel Road has a crash history of 2 incidents in the last 5 years. These present no clear pattern and would show no deficiency in the intersection.

Peel Road has 2187 vehicles per day as of 2008.

The maximum predicted trip generation figure of 260 per day would represent an 11% increase in traffic for this street. Even the lower estimate of 160 represents 7% increase. This increase would not exceed the recommended daily traffic capacity of Peel Road as a Industrial road under the Metropolitan Regional Road Hierarchy.

It is recognised that the traffic generated by the development is sporadic in nature and not associated with regular peak hour trips. Given this information, the impact will be dispersed

across the operating hours of the proposed business and not directly relate to peak hour issues.

Engineering staff have yet to conduct a site visit at Peel Road and McNeece Place to address any issues at the intersection. A desktop study shows good sight lines for both east and west directions. Improvements would include removal of verge A frame signs from local businesses and vegetation maintenance.

The impact on the local network would seem to be minimal when basing this reasoning on the included "Self Storage Facility Traffic & Parking Study".

- *"Proposed concrete pathway around the property as private land it is not required to follow COF requirements, however the portion leading out onto the verge area on Stock Road does not lead to the kerb line and go anywhere. Need to raise the question for the purpose of the pathway within the reserve area, what is the need and if required as Stock Road is Main Roads they will need Main Roads approval.*
- *Existing crossover on verge area Stock Road on the proposed site plan the crossover will not be required and will need to be redundant. The verge will need to be reinstated and the kerb back to current existing street kerb. Associated costs to be at owners expense.*
- *City of Fremantle proposal to upgrade existing Asphalt crossover on McNeece Place.*
- *Proposal of plants within the verge area will need to be approved by Parks and Gardens and follow requirements of height as Stock Road is a highly used area and the requirement is to maintain a clear sight view.*
- *Site plan proposal for garden on Stock Road, does not show the existing verge tree, need confirmation if the tree is to remain or to be removed.*
- *Will the commercial property require the City of Fremantle to collect refuse, on the site plan there shows private bin locations but no other bin enclosure. Should they require a verge collection need to identify area and pick up point as McNeece is the only entry in for vehicle use and area on verge as been proposed to be gardens, as the area is a turning circle requirement is to keep turning circle clear at all times.*
- *Fence and Auto gate application to be received to Planning/building and requirement is Auto Gate to slide within property boundary."*

"No mention of stormwater treatment. The property is to manage and retain stormwater on site. Stormwater design criteria for commercial property - 290m3 per hectare in 15mins duration."

In relation to the comments regarding the need to provide for appropriate manoeuvrability for a 14.5m long rigid vehicle, the City's LPS4 does not have a requirement for the provision of parking and/or delivery bays for such vehicles and as such it is not considered that this to be relevant to the assessment of this proposal.

In relation to the comments about trip generation and the impact upon the local network, the City's Technical Services Department note that the proposed increased level of traffic generation in McNeece Place will be acceptable and that the increase would not exceed the daily traffic capacity of Peel Road as a Industrial road under the Metropolitan Regional Road Hierarchy. However, Council may be of the mind to request the submission of a Traffic Impact Statement (TIS) from the applicant, of which may be imposed as a condition of planning approval should it seek to do so.

In relation to the existing crossover (exit only) onto the subject sites' Stock Road frontage, it will be recommended that a condition of planning approval be imposed requiring the removal of this redundant crossover and subsequent reinstatement of the verge area.

In relation to the proposed pathway that runs along the southern boundary, it will be recommended that the eastern-most portion measuring 19.309 metres be deleted from the approval.

With regards to the proposed landscaping in the verge area of McNeece Place, it is recommended that an advice note accompany the conditions of approval advising the applicant of the need to obtain separate approval from the relevant department at the City which deals with vegetation within the verge areas.

It will be recommended that appropriate conditions of planning approval be imposed regarding stormwater retention and management on-site.

Planning assessment:

Car parking bays

Type	Required	Provided	Discretion
Car parking bays	89	9	80

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

“Council may—

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

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

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

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

As part of their application, the applicant submitted a 'Study Results and Findings: Self Storage Facility Traffic and Parking Study' (Traffic and Parking Study) prepared by Aurecon Australia Pty Ltd for the Self Storage Association of Australasia (SSAA).

A copy of the Traffic and Parking Study is contained as Attachment 3.

The Traffic and Parking Study states that:

"Self storage facilities are becoming more and more common around Australia and New Zealand as the trend for more compact homes grow.

At present there are no specific guidelines to assist business operators or local council authorities to determine the number of vehicle parking spaces required to adequately service these types of facilities, or assess the likely traffic impacts of new storage facilities on the surrounding road network. In the past new facilities have been assessed on a site by site basis using either typical warehouse characteristics or individual surveys of a similar site as determined by different Councils."

The Traffic and Parking Study recommends the following number of parking bays for self storage developments with a Maximum Leasable Area (MLA) of between 3,000m² and 6,000m², which the applicant contends the proposal falls within as being:

MLA	Parking				
	Office	Storage Area	Staff	Trailer/Ute	Total
3,000m ² – 6,000m ²	2	5	2	1	10

The City's Technical Services Department has reviewed the Traffic and Parking Study and as such the findings as detailed in the table above and in this regard, provided the following comments in relation to the relaxation of on-site car parking sought:

"The "Self Storage Facility Traffic & Parking Study" would support the applicants request to waive the parking requirements as proposed by their GFA proposal."

The proposal includes four (4) 'loading' bays, in addition to the nine (9) car parking bays on-site. The development only requires one (1) delivery bay as per the requirements of Table 3 of LPS4, so the provision of an additional three (3) bays is considered to be an appropriate trade off given the nature of the land use, in that it is not a traditional 'warehouse' land use which may demand a higher car parking demand than a self storage facility that is currently proposed. In this regard, it is considered that the car parking discretion be supported against Clause 5.7.3 (b) of LPS4.

Council's Local Planning Policies

Local Planning Policy 3.8 – Local Planning Area 8 – O'Connor (LPP3.8)

Car parking

Clause 8.3.2 of Council's LPP3.8 states that:

"Despite the provisions of clause 5.7.3 of LPS-4, Council generally will not support relaxation of the standard parking requirements."

As detailed earlier in the 'Planning Assessment: Car parking bays' section of this report, it is considered that the proposed on-site car parking discretion sought by the applicant is supportable in this instance.

Landscaping

Required		Proposed	Discretion
Not less than 1 shade tree planted for every 50m ² of total landscaped area	14 shade trees required*	Nil (0)	14
Not less than 1 shade tree planted in the car parking area for every 4 car parking spaces provided	4 shade trees in car parking area*	Nil (0)	4

*Total landscaped area = 675m²

**Car parking bays on-site = 13

It will be recommended that a condition of planning approval be imposed requiring the provision of fourteen (14) shade trees be provided within the landscaped area.

In relation to the provision of shade trees within the car parking area, eleven (11) of the thirteen (13) on-site car parking bays are undercover and therefore requiring the provision of shade trees would not be appropriate in this instance. On this basis, the proposed discretion to the provision of shade trees within the car parking area should be supported.

Front setback

Required	Proposed	Discretion
6.00m	3.00m – 19.0m	Up to 4.50m

Clause 8.4.1 of Council's LPP3.8 relates to setbacks and states that:

"In granting consent to the minimum prescribed setbacks, Council shall be satisfied in regard to all of the following:

- *that the proposal is consistent with predominant setback patterns of adjoining properties and the locality generally,*
- *any other relevant matter outlined in Councils local planning policies.*
- *Council may require a greater setback than the minimum prescribed above."*

The front setback discretion is considered to be exacerbated by the truncation of the lot fronting McNeece Place. In this regard, the visual impact by way of building bulk of the proposal is considered to be ameliorated by the truncation of the lot itself together with the sites' location at the end of a cul-de-sac head. The 3.00m front setback of the proposal relates to the western most portion of the proposed development, however it largely relates to the second and floors only as the ground and first floors are open and used for car parking. This open plan design for the ground and first floors for this portion of the development is considered to further offset the building bulk associated with the reduced front setback of the second and third floors.

There is not considered to be any existing pattern of front setbacks in McNeece Place, especially on its eastern side. In this regard, the proposed front setback discretion is not considered to be detrimental to the amenity of the streetscape.

Plot ratio

As the subject site has a split zoning under the provisions of LPS4, for the purposes of assessment against LPP3.8, the overall lot size of 3,742m² was divided into the proportionate share of each zoning, being: 2,529.40m² zoned 'Industrial'; and 1,194.60m² zoned 'Commercial'.

Permitted	Proposed	Discretion
-----------	----------	------------

Zone			
Industrial	1.00 (2,529.4m ²)	3.05 (7,716.4m ²)	2.05 (5,187m ²)
Commercial	0.75 (895.95m ²)	1.01 (1,202.14m ²)	0.26 (306.19m ²)

Discussion pertaining to the discretions sought in relation to plot ratio is discussed in the following section along with site coverage.

Site coverage

Zone	Permitted	Proposed	Discretion
Industrial and Commercial	0.75 (1,897.05m ²)	0.85 (2,149m ²)	0.10 (251.95m ²)

Clause 8.4.2 of Council's LPP3.8 relates to plot ratio and site coverage and states that:

"The maximum plot ratios and site coverage will be considered where:

- *there is adequate open space to enable the provision of parking, delivery bays, access and manoeuvrability,*
- *the proposed site coverage and plot ratio does not adversely impact on adjoining properties, and*
- *any other relevant matter outlined in Council's local planning policies.*
- *Council may impose a lesser plot ratio or site coverage requirement in the event that the proposal does not satisfy the above requirements."*

As discussed earlier in this report, the subject site is affected by a future road widening of Stock Road. MRWA have indicated that the required are identified thus far affects approximately 19m along the southern boundary and 22m along the northern boundary, in the eastern most portion of the subject site fronting Stock Road. This accounts for an area of approximately 742m², or 19.92% of the total area of the subject site. This is considered to severely constrain the development envelope available on-site and therefore the development potential of the site itself.

It is considered that the proposal includes adequate open space so as to enable the provision of parking, delivery bays, access and manoeuvrability. As the building is not subject to height provisions of LPS4 for either the portion of the subject site zoned 'Industrial' and/or 'Commercial', it is not considered that the proposal will be detrimental to adjoining properties by way of building bulk. Therefore, it is not considered that the proposed site coverage and plot ratio adversely impacts adjoining properties.

DBH6 – Signs & Hoardings (DBH6)

The proposed signage is considered to comply with the provisions of Council's DBH6 policy and is therefore supported.

Conclusion:

The proposal for the warehouse (self storage facility) at No. 5 (Lot 95) McNeece Place, O'Connor has been assessed against the provisions of the City's LPS4 and relevant Local Planning Policies.

It is considered that the proposal complies with the provisions of LPS4, with the on-site car parking considered discretion supportable. It is considered that the proposal complies with the

requirements of Council's Local Planning Policies, whilst the proposed discretions to Council's LPP3.8 pertaining to front setback, site coverage, plot ratio and landscaping are considered to be supportable.

Therefore, it is recommended that the application be approved, subject to appropriate conditions.

**PSC1312-201 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED
AUTHORITY (3.61.21)**

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

OFFICER'S RECOMMENDATION

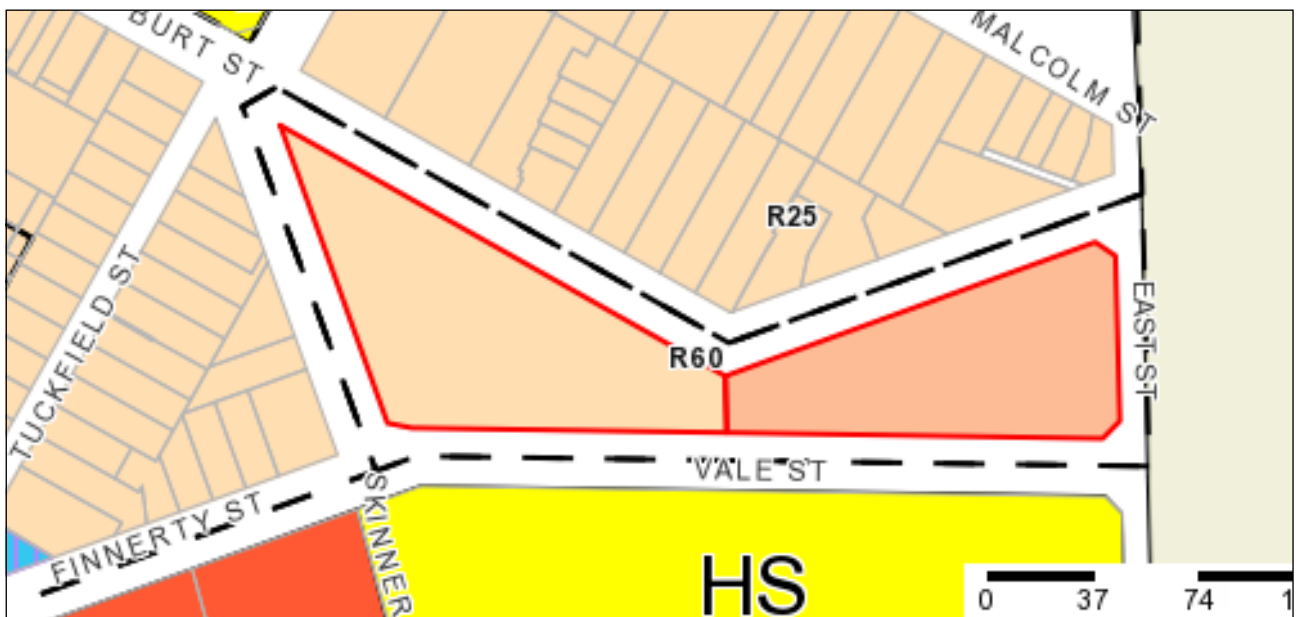
That the information is noted.

REPORTS BY OFFICERS (COUNCIL DECISION)

PSC1312-202 PROPOSED AMENDMENT NO. 57 TO LOCAL PLANNING SCHEME NO. 4 - CHANGE TO THE DENSITY CODE AT 19-21 AND 23-25 BURT ST, FREMANTLE - FINAL ADOPTION

DataWorks Reference: 218/063
Disclosure of Interest: Nil
Meeting Date: 04 December 2013
Responsible Officer: Manager Planning Projects and Policy
Actioning Officer: Strategic Planner
Decision Making Level: Council
Previous Item Number/s: PSC1301-8 16 January 2013
PSC1212-194 19 December 2012
PSC1211-170 7 November 2012
PSC1210-168 24 October 2012

Attachments:
1. Schedule of Submissions
2. Draft Memorandum of Understanding (under separate cover)



EXECUTIVE SUMMARY

The purpose of this report is twofold: for Council to consider the submissions received on Amendment No. 57 to the City's Local Planning Scheme No. 4 during advertising, and to advise Council the framework of the Amendment has been revised at the request of the Applicant (Department of Housing) and to recommend Council adopt modification to the framework of Amendment No. 57 to Local Planning Scheme No. 4.

Scheme Amendment No. 57 proposes to change the density coding of Residential zoned land at No's.19-21 (Lot 1873) and 23-25 (Lot 1907) Burt Street, Fremantle, from R60 to R160. The land is owned by the Department of Housing (DoH), and the Department had proposed that it should enter into a legal agreement with the City to secure specific outcomes from a redevelopment of the site at the proposed higher density.

DoH has since advised the City it is no longer prepared to execute a legal agreement linked to the Scheme Amendment as advertised. The DoH has therefore requested a modified approach; to place in Local Planning Scheme No. 4 those provisions appropriate for inclusion within the Scheme, with the remaining provisions of the former legal agreement to be retained in a Memorandum of Understanding (MoU) between the City and DoH. The provisions of the agreement and Amendment remain unchanged in their intent. Due to the modification to the Amendment, officers recommend Council to request the Minister to require re-advertising of the Amendment as modified prior to final determination of the Amendment.

The amendment was placed out for public comment and 42 submissions were received; nine from State service providers and Local Government, three from non-government organizations/community group, and thirty from private citizens both within the City and Town of East Fremantle. Seven submissions were in support and 25 submissions objected to various aspects of the proposed Amendment. The remaining submissions stated no objection/neutral comment. All submissions have been noted. Minor modifications to those provisions of the legal agreement transferable into the Scheme as part of the new Amendment framework are recommended in response to a number of the submissions.

Therefore, it is recommended that Council resolves to adopt the Amendment with modification and to request the Minister for Planning to direct the City to re-advertise the modified Amendment.

BACKGROUND

On 19 December 2012 Council resolved to initiate Amendment No. 57 to Local Planning Scheme No. 4 (LPS4) to increase the residential density coding of No. 19-21 (Lot 1873) and No. 23-25 (Lot 1907) Burt Street, Fremantle from R60 up to R160.

The land is owned by the Department of Housing, and the Department (the Applicant) had proposed that it enter into a legal agreement with the City of Fremantle to secure specific outcomes from a redevelopment of the site at the proposed higher density of R160. The provisions of the draft legal agreement between the City and the Department

of Housing (DoH) were advertised for public comment concurrent to the Amendment, as endorsed at the Planning Services Committee meeting of 16 January 2013 (PSC1301-8). Public advertising of Amendment 57 took place for 60 days from 26 March 2013 to 24 May 2013.

For the full background and planning history of the subject site, please see the previous PSC/Council reports of PSC1301-8 (16 January 2013) and PSC1212-194 (19 December 2013).

Modification to the Amendment framework and legal agreement

The DoH has since advised the City it is no longer prepared to execute a legal agreement linked to the Scheme Amendment as advertised. The DoH has therefore requested modification to the Amendment framework to place in the City's Local Planning Scheme No.4 those provisions previously included in the draft legal agreement which are appropriate for placement within the Scheme, with the remaining provisions of the legal agreement transferred into a Memorandum of Understanding (MoU) between the City and DoH (please see the draft MoU at Attachment 2). It is important to note the provisions of the legal agreement and Amendment remain unchanged in their intent.

The modification to the Amendment framework is discussed in detail at 'Part 2 - Modification to the framework of the Amendment and related documents' under the Planning Comment section of this report.

CONSULTATION

Following referral from the Environmental Protection Authority on the 14 January 2013, advertising was undertaken in accordance with the *Planning and Development Act 2005*, regulation 25(2) of the *Town Planning Regulations 1967* and the City's Local Planning Policy 1.3 - Public Notification of Planning Approvals. The proposed Scheme amendment was advertised for public comment from 26 March 2013 until 24 May 2013 (60 days), with two consecutive advertisements placed in the Fremantle Gazette (local newspaper) at the commencement of advertising.

The City's precinct groups, utility companies, properties within a 100m radius of the subject site and other interested parties and key agencies, including the Town of East Fremantle, were also specifically notified and copies of the amendment documents were made available for viewing at the Customer Service Counter at the Town Hall Centre and on the City's website. Hard copies of the documentation were available to be sent to residents upon request. A four page information summary sheet was also provided with the letter of notification to the above mentioned stakeholders and agencies and two signs placed on the subject site for the duration of the advertising period.

In addition, two community information sessions were held at the Fremantle Arts Centre on 20 April 2013 from 10am to 2pm and on 23 April 2013 from 5.30 pm to 7.30pm. The information sessions were facilitated through a 'drop in' format and hosted by two City planning officers, with attendance by approximately 36 community members over the two sessions.

SUMMARY OF ISSUES RAISED FROM SUBMISSIONS

This section discusses the written submissions received in response to public advertising of Amendment 57. Attachment 1 provides a full schedule of the submissions with officer comments in response to relevant concerns. The 'Planning Comment' section of this report will elaborate on the issues raised that have resulted in officers recommending minor modifications to the provisions of the revised Amendment framework.

The following table provides an overview of the categories of submitters and the levels of support, objection or otherwise:

Submitter type		Support	Support with comment	Object	No objection/Not stated	Total
Private Citizens	Within Fremantle LGA	2	2	16	2	22
	Outside Fremantle LGA	0	1	7	0	8
State service providers and Local Government		0	0	1	8	9
Non-government organization / industry / community group		0	2	1	0	3
Total		2	5	25	10	42

The issues as raised in the written submissions are summarised in the table below:

Submission issue	No. of submissions where issue is raised		
	Submission in objection	Submission in support	Neutral submission
Building height	18	2	1
Impact on views	5	-	1
Street setbacks	7	-	-
Density	17	-	-
Open space, landscaping and tree retention	7	1	2
Design	7	1	1
Noise and privacy	3	-	-
Public housing	7	1	1
Housing affordability	3	2	1
Heritage considerations	10	1	1
Streetscape and local character	9	1	-
Land use	2	-	-
Approving authority	4	-	-
Community facilities (including local schools)	8	-	-
Traffic	14	2	2
Car parking – on street	11	1	1
Car parking – on site	1	2	-
Community consultation	3	-	-

Public art	2	-	-
Retention limestone feature	4	-	-
Impact on investment	3	-	-

The key planning considerations raised from the written submissions have been grouped into the following categories and will be discussed as follows:

1. Building height and setbacks
2. Density
3. Design (including streetscape and heritage considerations)
4. Traffic and parking

Summary of written submissions – key planning issues

1. Building height and setbacks

23 of the submissions identified building height, citing various reasons including:

- Impact on existing views (loss and/or restriction)
- Loss of visual (and historical) connection to the Port from heritage properties at East St
- The proposed maximum building heights at Area C are not considered compatible with existing heritage properties and streetscape at East Street
- Recommend reduction to maximum AHD building height at Area C
- Recommend maximum height limited to two storeys over whole of subject site
- A stepped up building height design should be considered from street front to centre of subject site
- Overall reduction in AHD of 1-2 metres to subject site
- Potential bulk and scale impacts of development at this height (particularly with regards to minimum 2m street setback permissible under the Residential Design Codes for multiple dwellings) on streetscape, heritage and amenity
- Impact on access to through breezes
- A height pole or platform should be provided to provide a more accurate interpretation of heights to the community

AHD maximum building height plan - Area C

Six submissions requested a reduction in AHD building height at Area C of the Maximum Building Height Plan. A reduction in the AHD from 45m to 42m was proposed by submitters for Area C for the following reasons:

- Maintain a visual connection between the 19th Century heritage properties of East St with the port.
- The bulk and scale of future development should be compatible with the adjoining sites and conserve local character and streetscape.
- Provide height separation between the properties east of East St and Area C as provided between properties at north of Burt St and Area B.

Three submissions of support/neutral comment made comment on building height, indicating support for height whereby the scale and mass impacts of building height on the streetscape were addressed in the design.

One submission supported the proposed maximum AHD planes.

Setbacks

Seven submissions objected to the existing street setback provisions of the Residential Design Codes for multiple dwellings (development to be setback a minimum of 2m from the lot boundary with the street) being applied to East and Burt Streets, and one neutral submission made comment. An increase to the street setback at these streets is requested by submitters for the following reasons:

- Provide a setback compatible with the street setback at the adjacent properties at East St and the local streetscape and heritage
- Mitigate bulk and scale of proposed building height to East Street
- Facilitate retention of mature trees on site
- Consideration of bulk fuel line at East St
- Facilitate retention of limestone outcrop at the corner of East and Burt St
- A 2m setback is inconsistent with the prevailing streetscape

Four of the seven submissions on setbacks recommended a minimum street setback of 6m be provided at East St. One submitter recommended a 10m street setback to Burt St.

2. Density

17 submissions raised concern with the proposed density of R160 for the following reasons:

- It is excessive and inappropriate for the area
- Incompatible with surrounding residential density and amenity of R25
- Subject site not located within the inner city therefore not appropriate
- The local area already contains a number of high density residential developments
- Concern such a high density will impact noise amenity and privacy (in addition to other issues as listed in the consultation section of this report)
- Impact on community facilities, including educational institutions
- Support the principle of increased density however recommend a reduction in the density as proposed (ie. to R100)

3. Design

A number of submissions commented on the following design elements:

Submission point	Number of submissions making comment (including objection, support, neutral submissions)
Design detail	9
Open space, landscaping and tree retention	10
Heritage considerations	12
Streetscape and local character	10
Retain limestone outcrop at corner Burt and East Streets	4

The key concerns as raised in the submission regarding design are detailed below:

- Greater development design detail is required to inform submissions, such as a detailed area plan or design guidelines
- Request a development of high quality design/architecture and that acknowledges the existing streetscape/consideration of heritage
- No percentage of open space is required on site with concern to the loss of green (open) space and mature trees on site and impacts on urban heat and native fauna
- Protect existing mature trees on site
- Retain limestone outcrop landmark at corner of East and Burt Streets
- Landscaping and verge treatment should be considered in design detail
- Design detail to consider local character of streetscape and heritage buildings/surroundings and not detract from this amenity
- Support the inclusion of public housing and affordable housing
- Public housing should be dispersed throughout the site and this requirement should be a provision of the Amendment

4. Traffic and parking

Breakdown of submission points on traffic and parking:

Submission point	Number of submissions (including objection, support, neutral submissions)
Traffic and congestion	18
On street car parking	13
On site car parking	3

A high number of submissions expressed concern with traffic and parking for the following reasons:

- Traffic congestion and safety (vehicle and pedestrian) are already an issue in the local area
- The proposed density will significantly increase traffic congestion and impact pedestrian safety
- On street parking at capacity during local events (ie. Fremantle Arts Centre) and will be constrained further by the proposed density, particularly through visitor parking
- No variation to the requirements of the R Codes for onsite residential and visitor parking should be allowed
- Additional visitor parking (than what is required in the R Codes) should be provided

A number of submitters recommended a traffic management study should be provided in addressing the above issues. One submitter recommended the widening of Vale St to the northern section to address traffic flow and safety.

PLANNING COMMENT

This section of the report discusses the following components of the Amendment:

1. Key issues identified in submissions and recommended modifications to the provisions of the Amendment

2. Modification to the framework of the Amendment and related documents

1. **Key issues identified in submissions and recommended modifications to the provisions of the Amendment**

Key issues raised in submissions, as set out in Attachment 1 - Schedule of Submissions, and as outlined in the Consultation section of this report, require further discussion as follows.

1.1 Building Height

18 of the submissions objected to the building heights generally, with six recommending a reduction in the building height at Area C from 45m AHD to 42m AHD. One submission supported the proposed heights.

The former legal agreement set out building height expressed as Australian Height Datum (AHD) levels (metres above sea level) with the subject site divided into three zones, A, B and C, with a maximum horizontal height plane nominated for each zone and which corresponds to the general stepping down in topography of the site from east to west, as depicted in the plan below (Figure 1).

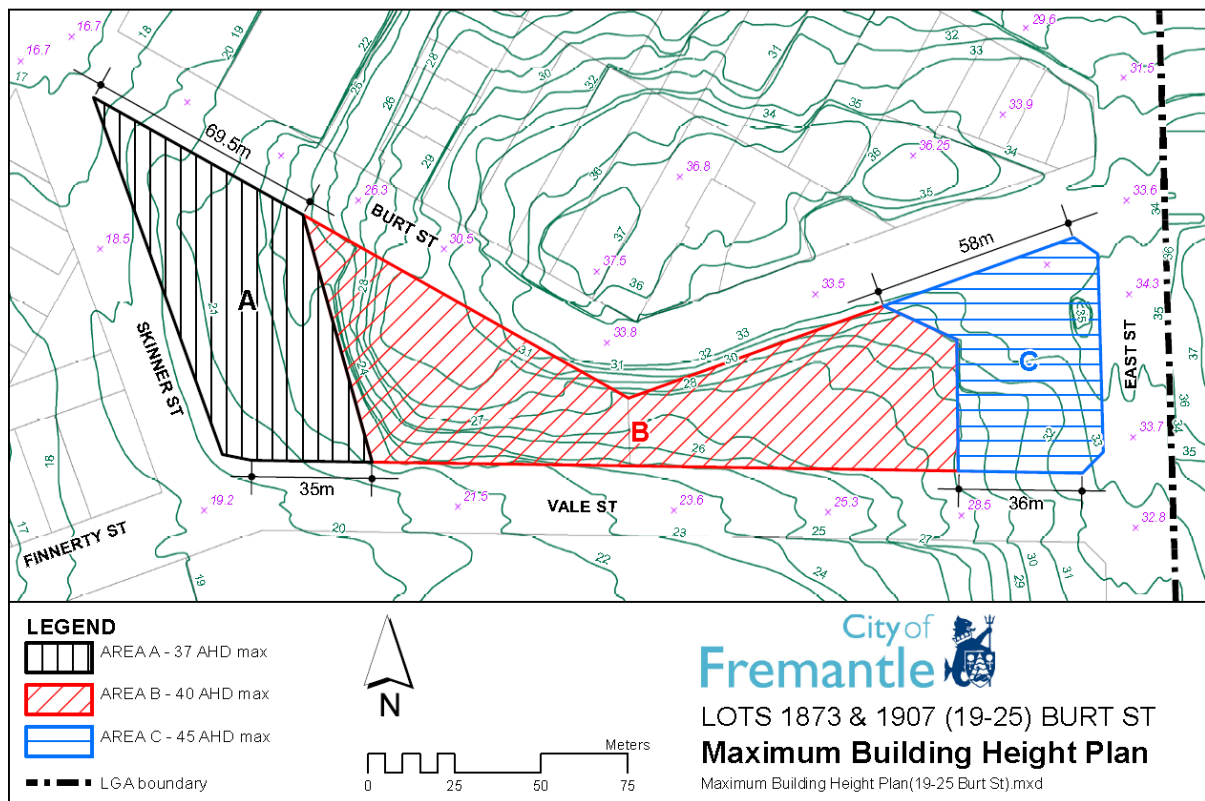


Figure 1: Maximum Building Height Plan (not to scale)

The proposed application of a 'height plane' will allow for flexibility in building design outcomes and respond more appropriately to the site's unusual topography than the maximum building height as prescribed in the State's Residential Design Codes (R

Codes), which is generally measured from ground level. The table below sets out the maximum external wall height as permitted under the R Codes for the current and proposed density codes of the subject site, and that of the adjoining residential area.
Residential Design Codes (R Codes) - Maximum external wall and building height

Residential Density Code	Maximum building height concealed roof	Maximum building height top of pitched roof
R25 (adjacent residential)	7m (external wall)	9m
R60 (current coding)	10m (external wall)	12m
R160 (proposed)	16m (to top of roof)	18m

The Maximum Building Height Plan of the former legal agreement proposed the following height plane for each of the three zones as shown in Figure 1 above:

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

The AHD building height allows for fill or excavation of the site and retaining walls (subject to the requirements of the R Codes) however the mechanism of a building height plane (as opposed to height being measured from ground level, as assessed in the R Codes) ensures building height cannot exceed a specified plane, even if fill or excavation of the site was proposed. Essentially, at Areas B and C, this reduces the height of buildings from that allowed under the R Codes for R160. For further discussion on height please refer to the previous PSC report item PSC1211-170 (7 November 2012) and PSC1212-194 (19 December 2013).

Area B

One submission objected to the proposed AHD of Area B as excessive and would have a negative impact on the adjoining properties.

The AHD of Area B is proposed at 40m. The spot level on Burt St adjacent to 32 and 24 Burt St is 30.5m AHD. Essentially, to a person standing at this section of Burt St, proposed development at the subject site would present as a 10m wall height, which is in keeping with the permissible building heights of the current coding. The topography of the land north of Burt St itself means these properties have an AHD approximately 1.5 – 2.5m (32 to 34m AHD) above the spot level of Burt St. At this level, a 40m AHD height would present as 6 to 8m (two storeys) with the Burt St road reservation providing a 20m separation (not including additional separation provided by setbacks of existing and future development from the lot boundaries of the subject site and existing residential).

Additionally, nominal cross sections of the AHD height planes between Burt St and Vale St and Burt St and Skinner St, as presented at the community information sessions, demonstrates a stepping down of the maximum AHD levels of Burt St to Area B, and Area B to Area C, equivalent to approximately one storey between them (approximately

3m). This separation between height planes (existing and proposed) maintains access to view corridors of existing two storey Burt St properties and provides access to view corridors within the subject site itself.

Area C

Six submissions recommend a reduction in the height of Area C from 45 AHD to 42 AHD (equivalent to approximately one storey).

Officers have undertaken additional analysis of the potential impact of the proposed 45m AHD height of Area C on the adjoining properties at East St, including site visits to three properties at the invitation of landowners. As discussed for Area B, cross sections of the AHD height planes between Burt St and Vale St and Burt St and Skinner St demonstrate a stepping down of the maximum AHD levels of Burt St to Area B, and Area B to Area C, equivalent to approximately one storey between them.

The stepping down of maximum AHD building height planes between that of existing East St properties and Area C depicts a stepping down of approximately 1-2m and therefore does not facilitate access to view corridors as afforded the properties at Burt St for the adjoining Area B.

Proposed modification in consideration of submissions

Impact of new development on the views enjoyed by existing residential occupiers as an aspect of their amenity is a planning consideration, but not a determinative one.

A reduction in the AHD plane of Area C would reduce the impact of the building bulk on the immediately adjoining residential development and maintain access to views to East St properties as afforded to Burt St properties immediately adjoining Area B. Therefore the recommendation by submitters to reduce the AHD of Area C from 45m to 42m is supported and modification to the AHD of Area C recommended.

1.2 Setbacks

Seven submissions objected to the existing street setback provisions of the Residential Design Codes being applied to East and Burt Streets.

The required street setbacks for multiple dwellings under the existing and proposed density, as set out in the R Codes, are as follows:

R Code	Primary St Setback	Secondary St Setback
R60 (existing)	Min. 2m	Min. 2m
R160 (proposed)	Min. 2m	Min. 2m

An increase to the street setback(s) is requested by submitters for the following reasons:

- Provide a setback compatible with the street setback at the adjacent properties at East St and the local streetscape and heritage
- Mitigate bulk and scale of proposed building height to East Street
- Facilitate retention of mature trees on site
- Consideration of bulk fuel line at East St (please note, City Planning and Heritage officers are unaware of a bulk fuel line being located at East Street)
- Facilitate retention of limestone outcrop at the corner of East and Burt St

The properties of 46 to 84 East St, East Fremantle, are not on the Town of East Fremantle's adopted (statutory) Heritage List but are recorded on the State Heritage Office 'Inherit' as a record of the Town's Municipal Heritage Inventory. Inherit's records of these properties states the places have "considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place."

Officers acknowledge the heritage of these properties provide a significant contribution to the character of the street and the history of East Fremantle. Due to their location on a limestone ridge, the ground floor level of the majority of the properties immediately adjoining the subject site are approximately 3m above the ground level of East St. These properties present to the street as two to three storey development. The AHD at the corner of Burt and East St is 33.6m, decreasing to 32.8m AHD at the corner of Vale and East St. If the reduced AHD of Area C to 42m is supported by Council, a building height to East St will present as 8.4 – 9.2m maximum wall height (2-3 storeys), and reflects the permissible height of the R Codes for adjacent dwellings.

Five of the seven submissions on setbacks recommended a minimum street setback of 6m be provided at East St. One submitter recommended a 10m street setback to Burt St. The existing properties of East St are separated from the lot boundary of the subject site to East St by a 20m road reservation. The front setbacks of existing housing stock at East Street immediately adjacent to the site are inconsistent and vary between approximately 3m, 4m, 6m, and at one site, 10m.

The Town of East Fremantle (ToEF) Local Planning Strategy discusses a preference for a front setback of 3 metres in the Plympton precinct (of which these properties are located) and that "additional setback will normally be required for buildings or parts of buildings in excess of one storey in height, so as to maintain the existing scale of development at street level." The desired development outcomes for the setback of new development as set out in the ToEF Residential Design Guidelines states "Where instances of front setbacks of adjacent residences vary, the front setback of the new development shall either: i) Match the front setback of one existing dwelling; or, ii) Be the average of the two setbacks."

Although not applicable to multi-residential development, the City's Local Planning Policy 2.9 – Residential Streetscapes sets out a front setback of 5m for a wall height of 4m or less, and a 7m front setback for a wall height greater than 7m.

Officers have taken into consideration the existing setbacks, the local character of this section of East St and its heritage significance to the Town of East Fremantle and its community, as well as relevant design guidelines of both LGA's. Officers therefore support the recommendation by submitters to modify the provisions of the Amendment to require a minimum street setback at East St, and recommend a minimum street setback of 5m for Area C at the lot boundary with East St.

1.3 Heritage considerations

The presence of properties of heritage significance in East St (both within the Town of East Fremantle and the City of Fremantle) and also heritage listed places close to the site such as the Fremantle Arts Centre and John Curtin College of the Arts are

acknowledged. The capacity for the subject site to be redeveloped at a higher density, which is the objective the proposed scheme amendment is intended to facilitate, is not considered by officers to be inherently incompatible with the preservation of the heritage values of nearby places of heritage significance. The building height and setback controls addressed in part 1.1 and 1.2 above are intended to contribute to ensuring a satisfactory relationship in this respect. The quality and compatibility of proposed new development with local places of heritage significance can only be fully assessed when a detailed development design has been prepared and submitted to the City. The City's requirements for heritage assessments to support development applications, and for consideration of major applications by the Design Advisory Committee which includes a member with particular heritage expertise, are considered to provide appropriate mechanisms to ensure proper consideration of this issue at the development application stage.

1.4 Density

A high number of submitters objected to the proposed residential density code of R160 due to density. The concerns relating to density are primarily associated with the proposed building heights, setbacks (the built form), open space and traffic. These are considered under parts 1.1, 1.2, 1.5 and 1.6 of this section of the report. The remaining comments relating to density have been addressed directly in the Schedule of Submissions at Attachment 1.

1.5 Open space and tree retention

10 submitters raised concern at the absence of prescribed open space being provided for on the subject site and requested the retention of 'green' space and existing mature trees and landscaping treatment of the street verges.

The City advocates the retention of mature trees on private property where feasible, however, the removal of trees and vegetation on a private lot, whereby the tree(s)/vegetation is not identified in the City's significant tree register, is permitted at the landowners/developers discretion under the provisions LPS4. Any proposed removal/relocation of trees located within the street verge (outside of the subject site boundary) is subject to consultation and approval of the City's Parks and Landscape department. This would be addressed at development design.

Officers recommend retention of the following provision of the former legal agreement for inclusion in the revised Amendment framework, and the inclusion of landscaping treatment of the street verge, to enable the facilitation of mature trees as feasible and the provision of 'green' space. The modified provisions are as follows:

- *Maximise opportunities to retain existing trees and provide significant areas of new planting;*
- *Landscaping treatment of the street verge, including the provision of vehicle parking for public use;*

With regards to open space (generally being the area of the subject site not occupied by a building), the Residential Design Codes does not provide a minimum percentage of open space for a density of R160. Officers do not recommend the inclusion of specific percentage of open space for the subject site as it is considered the plot ratio of 2.0,

AHD maximum building height requirements, provision of car parking and the topography of the site would facilitate and inform open space provision and allow flexibility in the development design.

Submitters will have the opportunity to consider the provision and location of open space during community consultation of any future preliminary development plans for the site. Preliminary plans will also require referral to the City's Design Advisory Committee prior to lodgement of the plans and it is anticipated provision of open space would be considered during this process.

1.6 Traffic and Parking (on street and on site)

The subject site is bound by Skinner, Burt, East and Vale Streets. 18 submitters cited traffic and congestion, in addition to 16 submissions citing impact on existing on street parking, as issues of concern and for the reasons as set out in the community consultation section of this report.

East Street

The City and the Town of East Fremantle have recently advertised for public comment a traffic calming proposal for East Street, from Canning Highway to Marmion Street.

The City's Infrastructure Projects team identifies East Street as an arterial route connecting Canning Highway to High Street, carrying high volumes of traffic in both directions daily. The road also services private dwellings with limited or no private parking opportunities. It is acknowledged these competing demands have decreased both the amenity for local residents and safety of road users, particularly pedestrians.

The East Street traffic calming plan proposes the following:

- Increase the accessibility and safety of the on street parking by increasing the width of the bays and reducing the width of the vehicle lanes in both directions.
- Add extra pedestrian facilities and traffic calming near George Street. The aim is to accommodate this busy intersection which has seen the highest level of vehicle accidents in recent years.
- Construct built-out areas at the intersections that will allow users a greater field of vision past the on street parking.
- Create an entry statement for the area.
- Enable street scaping opportunities.

At the section of East St between Burt and Vale Streets, the proposed upgrade focuses on providing greater pedestrian amenity and safety. A working group has been formed and is currently working with both local government authorities to finalise the proposal in response to submissions and community input. It is anticipated upon finalisation of a plan, works would likely to begin in the 2014–15 timeframe.

Vale Street

The road and street verges outside the boundaries of the subject site are managed by the City's Technical Services department. The Amendment has been referred to the City's Technical Services department for comment. Technical Services notes the traffic counts for East Street between Burt and Vale Street are outdated and new counts will be undertaken in the near future. Technical Services supports primary vehicle access to the

subject site from Vale Street and should the Amendment be approved by the Minister for Planning, Vale Street will be included in their future work plan. The department would support working with a developer to address any future landscaping and provision of on street parking as part of development design. With regards to this, Technical Services notes Vale Street is identified as part of the Perth Bicycle Network route and as such any improvements at Vale St should not reduce the amenity for this user group.

Officers note the location of the former cemetery site and convict wall to the south of Vale St would be a consideration in any future road or verge upgrades.

Proposed modification in consideration of submissions

Seven submitters recommended a traffic impact study to be undertaken as part of the Amendment proposal and/or with application for development approval. One submitter recommended widening of Vale Street to the north to facilitate increase traffic flow and safety.

The new framework of the Amendment includes the provision of the former legal agreement that “primary vehicle access to the site shall be from Vale St”. With consideration of submitters concerns regarding traffic and parking officers also recommend inclusion of the following provision into Amendment:

“A Traffic Impact Assessment undertaken by a suitably qualified traffic engineer shall be submitted in support of application for planning approval.”

Additionally, the former legal agreement contained the following provision regarding visitor parking both to the site and local area: “improved and increased parking to accommodate visitors to the development and address the existing high demand for parking in the surrounding area.”

Officers recommend the following modification to this provision of the Amendment to provide greater clarity:

“Landscaping treatment of the street verge, including the provision of vehicle parking for public use.”

The modified Amendment provisions are provided and discussed later in this report (section 2 of Planning Comment).

Other considerations

Design detail

The former legal agreement contained a provision requiring the design of future new development to provide some visual connectivity through the site to break up the potential bulk of new buildings. This requirement, with slightly modified wording, forms one of the design requirements recommended for inclusion in the Scheme text as a modification to the amendment.

The zoning of the site under the City’s Scheme does not require the preparation of a structure plan or detailed area plan. Detailed design of the built form is outside the scope of the Amendment and will be addressed and considered through the preparation and lodgement of a future development application and assessment against the relevant

provisions of the Scheme, Local Planning Policy and State policy. This stage of development design will also consider the location and distribution of different types of housing within the development, and as set out in the MoU.

Under the requirements of the City's *Local Planning Policy 1.9 - Design Advisory Committee and Principles of Design*, any future development application will be referred to the City's Design Advisory Committee (DAC) for consideration prior to lodgement. This is reinforced by provisions within the proposed MoU under which the Department of Housing commits to at least two consultations with the DAC prior to submission of an application, and also to engage with the local community regarding the detailed design process leading up to submission of an application. The DoH has re-affirmed its commitment to this consultation process and as part of this is hosting a community forum on 10 December 2013 to confirm and discuss this process with the community.

Approving authority

A number of submissions sought clarification as to the approving authority of a future development application under the higher density, should the Amendment be approved by the Minister for Planning. Any future development application with a composition of housing that includes private market will not be considered Public Works. Depending on the proposed development construction cost, under the requirements of the *Planning and Development Act 2005* and the State's *Planning and Development (Development Assessment Panels) Regulations 2011* a future development application for this site may be determined either by Council or a Development Assessment Panel (DAP).

Any future development application for the site will be advertised by the City for public comment in addition to the community engagement process and DAC referral as discussed above, irrespective of which body is the approving authority.

2. Modification to the framework of the Amendment and related documents

The Amendment, as advertised, proposed to change the density coding of the Residential zoned land at 19-21 and 23-25 Burt Street, Fremantle, from R60 to R160. A legal agreement between the landowner, the Department of Housing (DoH), and the City to secure specific outcomes from a redevelopment of the site at the proposed higher density, accompanied the proposed up-coding.

The DoH has since advised the City it is no longer prepared to execute a legal agreement linked to the Scheme Amendment as advertised. The DoH has therefore requested modification to the Amendment framework to place in the Scheme those provisions of the former legal agreement appropriate for placement with the Scheme, and the remaining provisions transferred into a Memorandum of Understanding (MoU) between the City and DoH. The provisions of the legal agreement and Amendment remain unchanged in their intent.

Recommended modifications to the proposed provisions of Amendment No. 57

The table below contains the provisions of the legal agreement as advertised. In the absence of a legal agreement, officers recommend the revised framework of the Amendment transfer those provisions of the former legal agreement capable of being transferred into the statutory context of the Scheme. Those provisions unsuitable for

transfer into the Scheme are proposed to be retained in the draft Memorandum of Understanding (please see Attachment 2).

The table below identifies those provisions of the former legal agreement capable of transfer into the City's Local Planning Scheme No. 4 (LPS4) (highlighted in green):

Proposed development provisions of draft legal agreement as approved by Council 30 January 2013	Ability to transfer provision into LPS4
<p>(a) where the development proposes 180 dwellings or less:</p> <ul style="list-style-type: none"> (i) between 10% and 15% of the dwellings must be in the form of Public Housing; and (ii) at least 30% of the dwellings (which is not to include the dwellings referred to in paragraph (i)), must be in the form of Affordable Housing; and (iii) all other dwellings may be in any form capable of approval under the Scheme; 	<p>No – retain in MoU</p>
<p>(b) where the development proposes in excess of 180 dwellings:</p> <ul style="list-style-type: none"> (i) between 10% and 15% of the first 180 dwellings must be in the form of Public Housing; (ii) at least 45% of the first 180 dwellings must consist of a mix of Public Housing and Affordable Housing (including the Public Housing referred to in clause 2.4.(b) (i)); (iii) the balance of the first 180 dwellings may be in any form capable of approval under the Scheme; and (iv) all dwellings in excess of the first 180 dwellings must consist of a diverse range of specialised accommodation types which may include dwellings that are adaptable to accommodate people with disabilities, studio or single bedroom dwellings, aged or dependant persons' dwellings, artist studio dwellings and dwellings for students and key workers and these dwellings may be in the form of Affordable 	<p>No – retain in MoU</p>

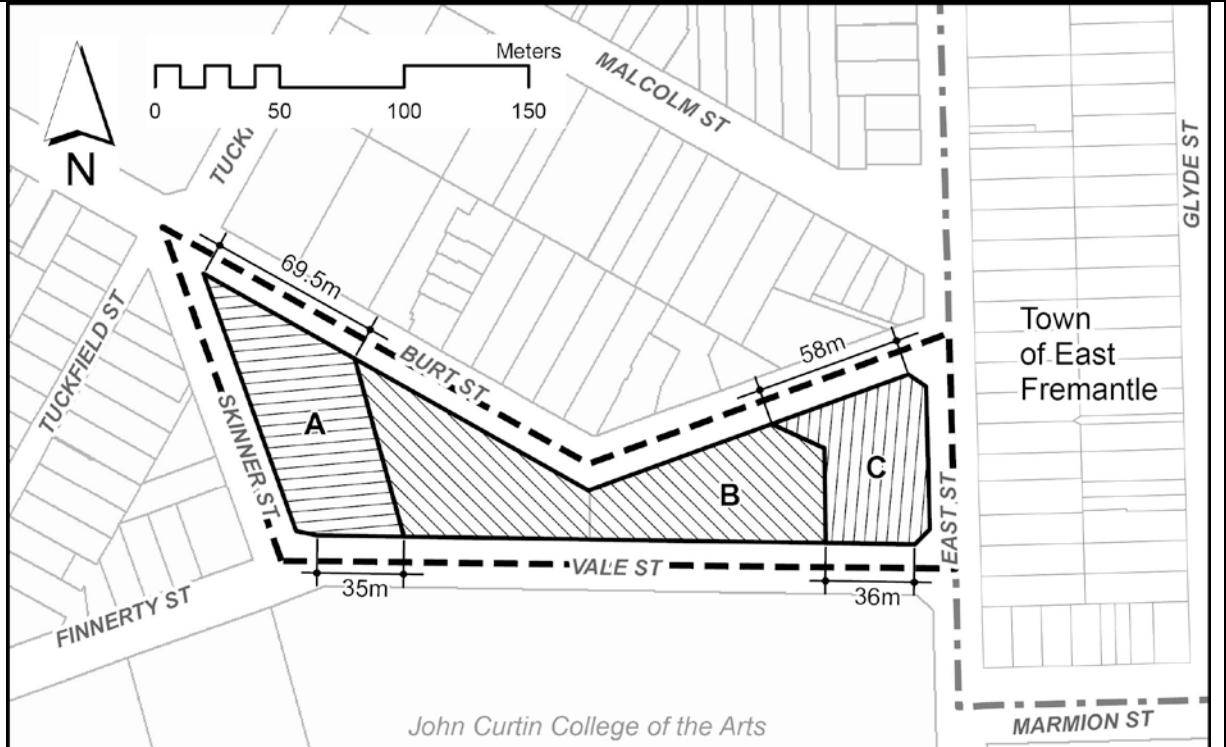
	Housing or a form suitable for sale on commercial terms in the residential property market;	
(c)	at least 25% of all dwellings shall be designed so they are readily adaptable to accommodate people with disabilities in accordance with the provisions of Australian Standard AS4299-1995 relating to adaptable housing class C;	No – retain in MoU
(d)	primary vehicle access to the development shall be from Vale Street;	Yes
(e)	the maximum height of the development shall not exceed the Australian Height Datum height plane identified in Annexure A ;	Yes
(f)	The development shall be designed to achieve a rating of not less than 5 Star Green Star using the relevant rating scheme adopted by the Green Building Council of Australia;	No – retain in MoU
(g)	the development shall incorporate public art equal in value to 1% of the Development Cost which shall: <ul style="list-style-type: none"> (i) be located within 200m of the nearest boundary of the Land; and (ii) conform with the objectives and requirements of the Percent for Art Scheme as amended from time to time and in consultation with the City; and 	No – retain in MoU
(h)	the development shall conform with the following objectives for landscaping and parking: <ul style="list-style-type: none"> (i) integration with the surrounding public areas; (ii) opportunities to retain existing trees and provide significant areas of new planting; (iii) retention and/or interpretation of any features of cultural heritage or landscape significance; (iv) improved and increased parking to accommodate visitors to the 	Yes

<p>development and address the existing high demand for parking in the surrounding area; and</p> <p>(v) physical and visual connectivity through the site.</p>	
<p>(b) Consultation with the Community and Design Advisory Committee</p> <p>Prior to the lodgement of the Development Application with the City, the Authority shall carry out the following:</p> <p>(a) consultation with the local community in accordance with a community engagement strategy to be developed in consultation with the City; and</p> <p>(b) at least two consultations with the City's Design Advisory Committee.</p>	<p>The provision for consultation and engagement with the community during the design of a future development will be retained in the MoU.</p> <p><i>Local Planning Policy 1.9 - Design Advisory Committee and Principles of Design</i> sets out the requirements for any future development application to be referred to the City's Design Advisory Committee (DAC) in accordance with LPS4.</p>

In consideration of the submissions received, and of those provisions of the former legal agreement capable of being transferred into the Scheme, the new framework of the Amendment is proposed below. Officers recommend the revised Amendment include a new sub area and related specific development criteria and controls into Schedule 12: Local Planning Area 2 – Fremantle, as set out below.

SCHEDULE 12: LOCAL PLANNING AREA 2 - FREMANTLE
SPECIFIC DEVELOPMENT CONTROLS FOR SUB AREAS

2.3.4 Sub Area 4



a) Clause 2.1 'Height controls' and clause 2.2 'Matters to be considered in applying general and specific height controls' of Local Planning Area 2 do not apply.

b) Building height and setbacks

i) The highest part of any building shall not exceed the Australian Height Datum levels as set out in the table below for Area's A, B and C of Sub Area 4 above:

Area	Australian Height Datum (metres)
A	37
B	40
C	42

ii) Notwithstanding the street setback requirements of the Residential Design Codes, in Area C of Sub Area 4, the minimum street setback shall be 5 metres at the lot boundary to East Street.

c) Car parking and vehicle access

- i) Primary vehicle access to the development shall be from Vale Street;
- ii) A Traffic Impact Assessment undertaken by a suitably qualified traffic engineer shall be submitted in support of application for planning approval.

d) Other design requirements

Development shall satisfy the following design requirements:

- i) Retain and/or interpret any features of cultural heritage or landscape significance;
- ii) Maximise opportunities to retain existing trees and provide significant areas of new planting;
- iii) Landscaping treatment of the street verge, including the provision of vehicle parking for public use;
- iv) Integrate with surrounding public areas;
- v) Provide visual permeability through the site and mitigate the impact of building bulk on streetscape.

Public re-advertising of the revised Amendment framework

Officers consider the modifications to the Amendment are significant enough to require re-advertising for public comment. The Town Planning Regulations 1967 (refer regulations 20 (1) and 17 (2)) require that only the Minister for Planning can direct the City to re-advertise, and therefore re-advertising of the modified Amendment cannot take place unless and until the City has been directed to do so by the Minister. Therefore officers have recommended that Council should resolve to specifically request the Minister to require re-advertising of the Amendment prior to the Minister's final determination of the Amendment. The Department of Housing has confirmed in writing that it agrees the amendment should be re-advertised.

Notwithstanding the above procedure, the Department of Housing will host a Community Forum on Tuesday 10 December 2013 from 6 to 8pm at the Fremantle Arts Centre. The primary purpose of this forum is discuss the Department's commitment to ongoing community consultation as proposed in the draft MoU in the future stages of a development design, should the Amendment be approved by the Minister at such a time in the future.

CONCLUSION

Scheme Amendment No. 57 proposes to change the density coding of Residential zoned land at No's.19-21 and 23-25 Burt Street, Fremantle, from R60 to R160. Upon advice from the DoH (the landowner) that they are no longer prepared to execute the legal agreement linked to the Scheme Amendment as advertised, the DoH have subsequently requested modification to the Amendment framework to place in LPS4 those provisions appropriate for placement within the Scheme, and the remaining provisions of the legal agreement to be retained in a Memorandum of Understanding (MoU) between the City and DoH.

In consideration of the submissions received, and of those provisions of the former legal agreement capable of being transferred into the Scheme, officers have modified the framework of the Amendment. The provisions of the former legal agreement and Amendment remain unchanged in their intent.

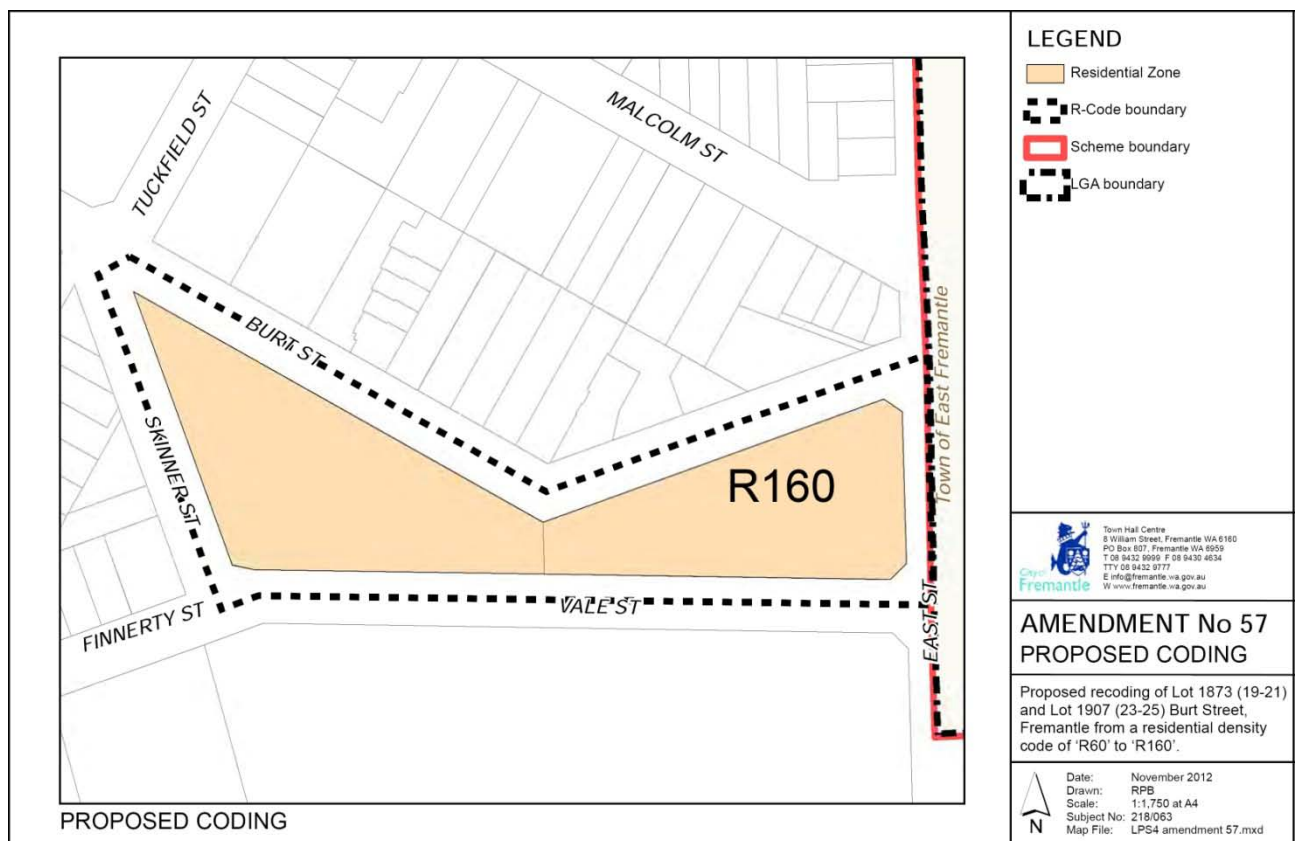
Due to the modifications to the Amendment, officers recommend Council to request the Minister to require re-advertising of the Amendment with the modifications prior to final determination of the Amendment. It is therefore recommended that Council resolves to adopt the Amendment with modification and to request the Minister for Planning to direct

the City to re-advertise the modified Amendment, and agree to enter into a MoU between the City and DoH with regards to the subject site.

OFFICER'S RECOMMENDATION

That Council:

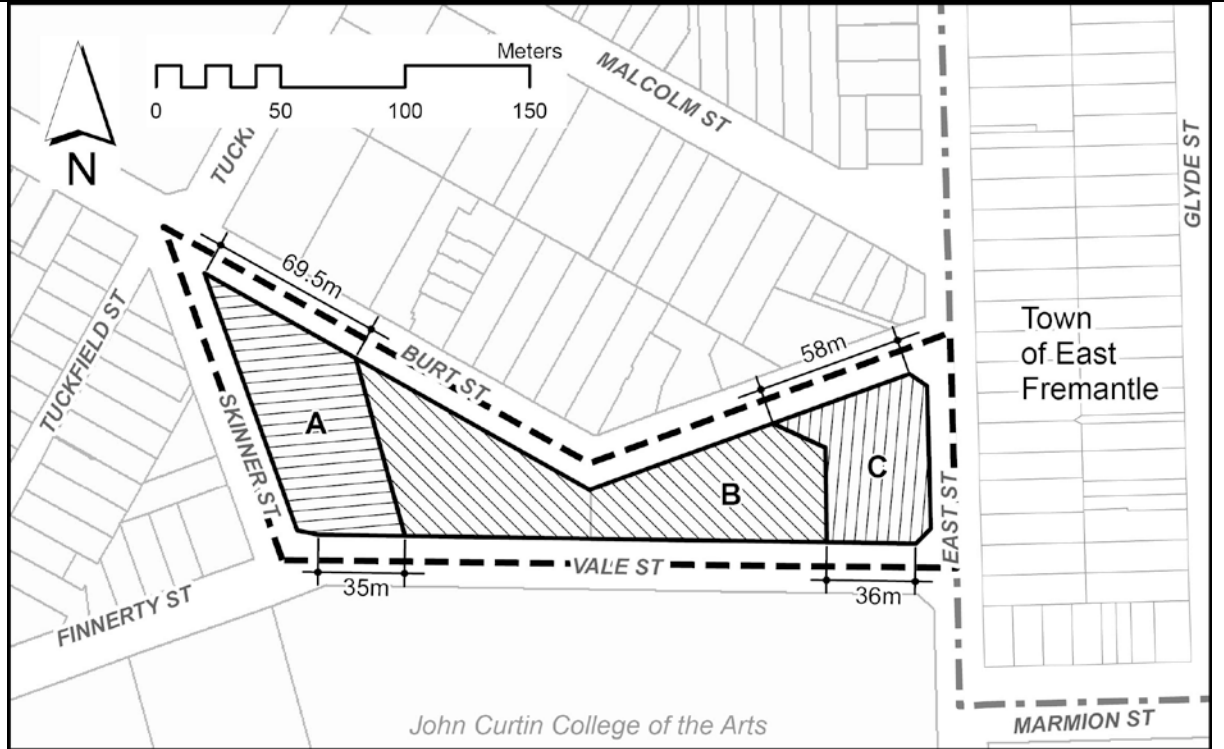
1. Note the submissions received as detailed in the officer's report;
2. Pursuant to Section 75 of the *Planning and Development Act 2005*, resolve to adopt with modifications the following amendment to Local Planning Scheme No. 4:
 - i) Amend the Scheme Map to apply a residential density coding of R160 to No. 19-21 (Lot 1873) and No. 23-25 (Lot 1907) Burt Street, Fremantle as shown on the map below:



- ii) Amending Clause 12.12 Schedule 12 Local Planning Areas (Development Requirements) Local Planning Area 2 – Fremantle by inserting the following:

**SCHEDULE 12: LOCAL PLANNING AREA 2 - FREMANTLE
SPECIFIC DEVELOPMENT CONTROLS FOR SUB AREAS**

2.3.4 Sub Area 4



a) Clause 2.1 'Height controls' and clause 2.2 'Matters to be considered in applying general and specific height controls' of Local Planning Area 2 do not apply.

b) Building height and setbacks

i) The highest part of any building shall not exceed the Australian Height Datum levels as set out in the table below for Area's A, B and C of Sub Area 4 above:

Area	Australian Height Datum (metres)
A	37
B	40
C	42

ii) Notwithstanding the street setback requirements of the Residential Design Codes, in Area C of Sub Area 4, the minimum street setback shall be 5 metres at the lot boundary to East Street.

c) Car parking and vehicle access

- i) Primary vehicle access to the development shall be from Vale Street;
- ii) A Traffic Impact Assessment undertaken by a suitably qualified traffic engineer shall be submitted in support of application for planning approval.

d) Other design requirements

Development shall satisfy the following design requirements:

- i) Retain and/or interpret any features of cultural heritage or landscape

- significance;**
- ii) Maximise opportunities to retain existing trees and provide significant areas of new planting;**
 - iii) Landscaping treatment of the street verge, including the provision of vehicle parking for public use;**
 - iv) Integrate with surrounding public areas;**
 - v) Provide visual permeability through the site and mitigate the impact of building bulk on streetscape.**

- 3. That the Mayor and Chief Executive officer be authorised to execute the relevant Scheme Amendment documentation.**
- 4. Request the Minister for Planning to require re-advertising of the Local Planning Scheme Amendment, with modifications, prior to final determination.**
- 5. Notes the Department of Housing's withdrawal from execution of the Deed as referred to in Council's resolution of item PSC1301-8 at its Ordinary Meeting of 19 December 2012, and in place of the Deed Council agrees to enter into a Memorandum of Understanding (MoU) with the Department of Housing.**
- 6. That the Mayor and Chief Executive Officer be authorised to sign the Memorandum of Understanding referred to in (5) above.**

PSC1312-203 PROPOSED PARTIAL CLOSURE AND AMALGAMATION OF A PORTION OF PRIVATE RIGHT OF WAY NO. 70 WITH NO. 23 (LOT 15) CADD STREET, BEACONSFIELD - (KW)

DataWorks Reference: 158/007
Disclosure of Interest: Nil
Meeting Date: 04 December 2013
Responsible Officer: Manager Statutory Planning
Actioning Officer: Land Administrator
Decision Making Level: Council
Previous Item Number/s: PSC1309-140 (18 September 2013)
Attachment 1: Application from owner of 23 Cadd Street, Beaconsfield
Attachment 2: Scale drawing of vehicle turning path
Attachment 3: Copy of Complex Land Solutions - ownership report

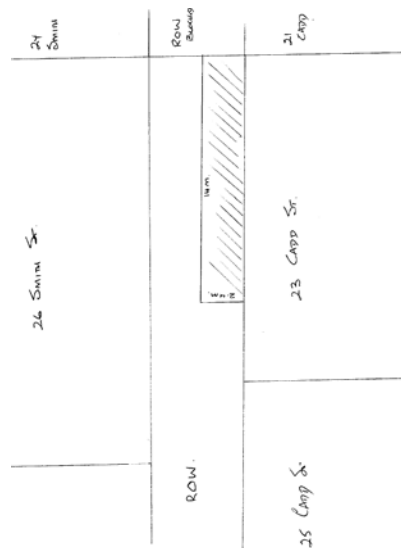


Figure 1 - Applicants sketch - subject area of ROW No. 70 shown as hatched.



Figure 2 - IntraMap with 23 Cadd St. shown in red.

EXECUTIVE SUMMARY

The purpose of this report is to submit to Council the results of a 30 day public comment period in relation to the proposed closure of a half width portion of right of way No. 70 as shown in Figure 1 ("ROW") for the purpose of amalgamation with 23 Cadd Street, Beaconsfield. The Applicant is noted as the owner of 23 Cadd Street, Beaconsfield.

The Applicant has obtained the written approval from the owner of 26 Smith Street, Beaconsfield who shares the rear access to the ROW with the Applicant. The turning circle/path into 26 Smith Street will not be affected by the proposal.

Public comment and community consultation ended on 20 November 2013. During this period the City did not receive any submissions or objections to the proposal. Further, the City did not receive any objections from the suppliers of public utility services to the subject land. However, it is noted that the Water Corporation service map confirms the location of a sewer line within the subject area - consequently the lodgement of a Water Corporation easement over the Certificate of Title of No.23 (Lot 15) Cadd Street, Beaconsfield is recommended, in order to protect the infrastructure.

Therefore it is recommended that Council approve the proposed closure of a half width portion (approximately 35.28m²) of ROW No. 70 as shown in Figure 1 for the purpose of amalgamation with 23 Cadd Street, Beaconsfield pursuant of Section 52 and Section 87 of the Land Administration Act 1997 ("Act").

BACKGROUND

Portions of private right of way No. 70 running north of the Applicants property are noted as being the subject of a completed closure and amalgamation process from 1997 to 2000. The result of the earlier right of way closure left both the east-west linkages open between Cadd and Smith Street at the southern ends together with the portion running north.

On 17 June 2013 the City's Building Compliance Officers inspected the rear of 23 Cadd Street and observed that unapproved structures were constructed within the subject portion of the ROW.

On 20 June 2013 the City wrote to the Applicant and requested that the structures be removed from the ROW by 19 July 2013.

On 25 June 2013 the Applicant wrote to the City providing his reasons for erecting the structures on the ROW and made enquiries as to the best way to have the ROW closed and to retain the structures as erected. The timeframe to complete a private right of way closure and amalgamation is estimated to be between 12 and 18 months, subject to all statutory approvals.

Council at its Ordinary Meeting held on 25 September 2013 (PSC1309-140) resolved to:

1. *APPROVE: the commencement of a public consultation and advertising process including a 30 day public comment period in relation to the proposed partial closure and amalgamation of the private right of way located at the rear of 23 Cadd Street, Beaconsfield as shown in the Applicants sketch (figure 1) pursuant of Section 52 and 87 of the Land Administration Act 1997.*
2. *Following the completion of the advertising period, consider the submissions received during this time in a report to Council for a final decision to approve or refuse the proposal as described in item 1.*

The City did not receive any public submissions or objections to the proposal at the conclusion of a 30 day public comment period ending on 20 November 2013. Further, the City did not receive any objections from public utility services. The original application provided the written consent from the owner of 26 Smith Street, Beaconsfield providing conditional support for the proposal as discussed in further detail within this report.

STATUTORY REQUIREMENTS

The proposed ROW closure is pursuant of Section 52 (1)(b) of the Land Administration Act 1997 (LAA) which requires that the application be advertised to adjoining owners and utility companies for 30 days.

Section 87 of the LAA provides the Minister with the means for disposal of the land in a closed road by lodgement of a Conveyance and Amalgamation Order by RDL that allows for the amalgamation of land into an adjoining land holder's land.

The City's Policy D.A. 15 being the Policy and Procedures for the Dedication, Upgrade or Closure of Rights of Way supports the requirements of the Section 52 of the LAA under Section 4.1 headed 'Closure of ROWs and PAWs'.

COMMENTS

The successful closure and amalgamation of the subject portion of ROW with the Applicant's property will resolve the building compliance issues currently in progress. The applicant has agreed to pay all costs involved with this process.

The Owners of 26 Smith Street, Beaconsfield who shares the subject ROW with the Applicant have provided their written support for the proposal, subject to the following condition;

"We only agree to this on the condition that any use of the ROW by us will not be compromised i.e.: the use of the ROW for the movement of our vehicles."

The subject portion of ROW to be closed is identified as being approximately 14metres in length and 2.52metres wide with a total area of 35.28m². This leaves approximately 12 metres of full width right of way remaining open and available for a turning path into the garage located at the rear of 26 Smith Street (as shown in figure 3). A scale drawing with measurements taken from a site visit provides a closer examination of the vehicle turning path (see attachment 2).

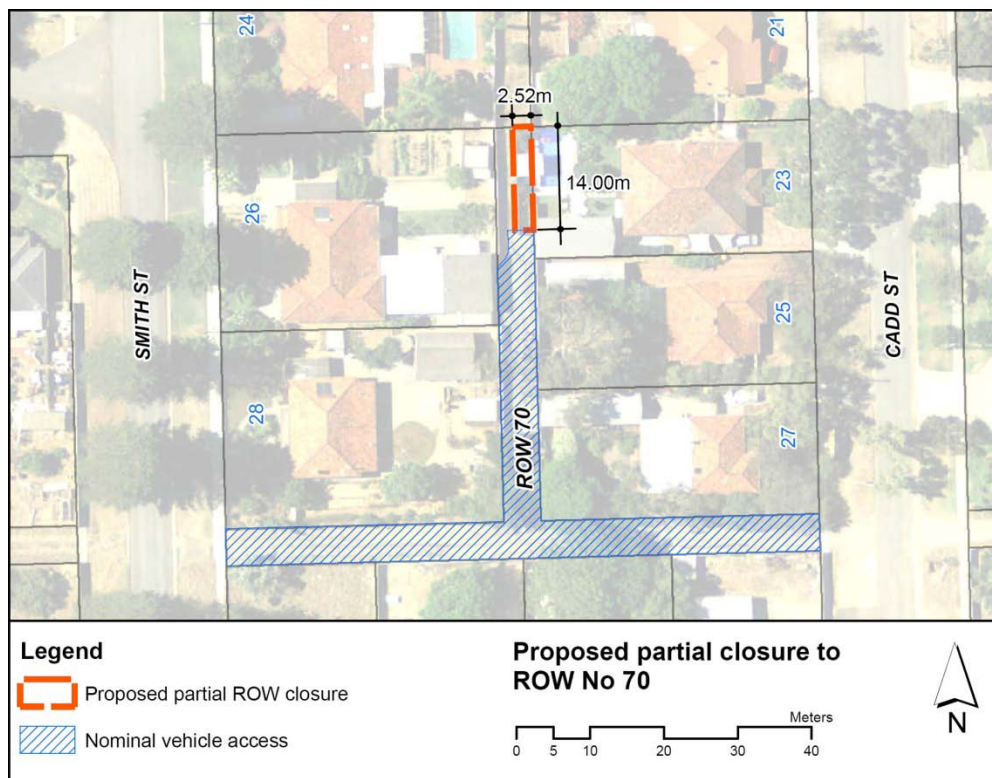


Figure 3 - Vehicle access and turning path to garage at rear of 26 Smith Street, Beaconsfield

Building Compliance - comments

Officers of the City inspected the subject property on 17 June 2013 and observed that a colour bond fence together with a wood and corrugated roofed patio had been constructed on the private ROW at the rear of 23 Cadd Street. On 20 June 2013 the City wrote to the owner of 23 Cadd Street (Applicant) and requested that the structures be removed from the ROW by 19 July 2013.

On 25 June 2013 the Applicant wrote to the City providing his reasons for erecting the structures on the ROW and made enquiries as to the best way to have the ROW closed and to retain the structures as erected.

Should the closure and amalgamation process not proceed, the Applicant would still be required to remove the structures.

Technical Services - comments

Has no objection to the proposal closure and amalgamation of the subject portion of ROW.

Technical Service records indicate that the City has no drainage infrastructure or drainage easement located within the private ROW.

However, it appears that the Water Corporation has a sewer main installed in the ROW, hence there may be a Water Corporation sewer easement already formalised. It is therefore recommended that a One Call search be requested and that all service providers are contacted to confirm and presence of underground services or easement in the ROW and obtains support for the amalgamation.

The vehicle turning path of 26 Smith Street, Beaconsfield was the subject of a site visit where measurements were taken to create a scale drawing (see attachment 2). The examination concluded that the proposed closure of the subject portion of ROW No. 70 will not restrict or compromise the movement of vehicles from the garage area of 26 Smith Street.

One Call search

As recommended above, the Water Corporation has responded to a One Call search on 22 August 2013 with confirmation that a "Critical Pipeline" is located within the subject area. The pipeline runs down the centre of the ROW running north to south. The Water Corporation will require an easement to protect their infrastructure.

Private ROW ownership

The subject portion of ROW No. 70 as shown in Figure 1 forms part of Certificate of Title Volume 2720 Folio 371 ("Title") being Lot 303 on Plan 3336. The Title is in the name of Flora Frances North in ½ Share and Charles Frederic John North as Administrator of the Estate of Frederic Dudley North (Deceased) in ½ share as tenants in common.

In 2009 a portion of a private right of way in the same ownership as described above, running north to south only and between Cadd and Carrington Street, Beaconsfield have been successfully closed with no known living owner/s found. The City enlisted a

specialist company to investigate the right of way ownership in order to give notice to the owner/s as a requirement of Section 52 (3)(a)(i) of the Land Administration Act 1997. The report dated 23 November 2006 concluded that;

... "Based on the above, we are of the opinion that any possible inheritance rights under the estates of Flora Frances North and the late Frederic Dudley North are so diluted as to not to allow any effective or practical transfer of the ownership of the "ROW".

We believe in this instance, that the City should make application to the Department of Planning and Infrastructure seeking the closure of the ROW pursuant to section 52 of the Land Administration Act."

A copy of the full report is included as attachment 3.

EXTERNAL SUBMISSIONS

Community

The proposed partial closure and amalgamation of an approximate 35.28m² portion of ROW No. 70 with 23 Cadd Street, Beaconsfield as shown in the Applicants sketch (Figure 1) was advertised for a period of not less than 30 days in accordance with statutory requirements. Public advertising included:

- Advertisement placed in the Fremantle Gazette on 22 October 2013 with a 30 day public comment period.
- Proposal advertised on the City of Fremantle Public Engagement website.
- Letters sent to public utility services requesting their comments.

At the conclusion of the 30 day advertising period, being 20 November 2013, the City had not received any public submissions or comments.

No objections were received from public utility services. The Water Corporation supplied the City with a map which confirmed the existence of the sewer line within the subject area and an easement is recommended to protect the infrastructure.

FINANCIAL IMPLICATIONS

The Applicant has agreed in writing to pay all costs associated with the ROW closure and amalgamation process.

CONCLUSION

The successful closure and amalgamation of the subject land (as shown in Figure 1) will fully contain the unapproved structures, currently located within the ROW, within the property boundary line of 23 Cadd Street, Beaconsfield. The structures in their current form could be easily removed should the Water Corporation require access to the sewer line.

An on- site inspection concluded that the proposed ROW closure will not restrict or compromise the movement of vehicles from the garage area of 26 Smith Street, Beaconsfield.

The Applicant has agreed in writing to pay all costs involved with the proposed closure and amalgamation process.

As no objections were received during the public advertising period it is recommended that Council approval the closure and amalgamation of a portion of private ROW No.70 with 23 Cadd Street, Beaconsfield as shown in Figure 1 with an advice note recommending an easement in favour of the Water Corporation.

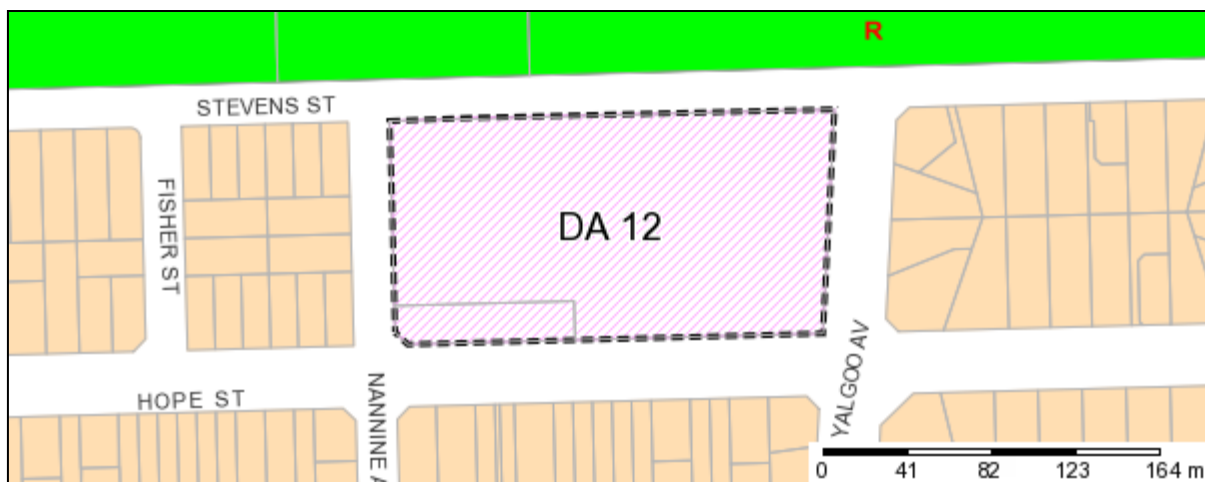
OFFICER'S RECOMMENDATION

That Council:

- 1. NOTE that no objections were received during the 30 day public advertising period ending on 20 November 2013.**
- 2. APPROVE: the proposed closure of a half width portion (approximately 35.28m²) of private right of way No. 70 as shown in Figure 1, for the purpose of amalgamation with No. 23 (Lot 15) Cadd Street, Beaconsfield pursuant of *Section 52* and *Section 87 of the Land Administration Act 1997* with the following advice:**
 - a. That an easement in favour of the Water Corporation be registered over the Certificate of Title of No. 23 (Lot 15) Cadd Street, Beaconsfield to protect the sewer line located within the subject portion of right of way.**
- 3. APPLY to the Department of Lands requesting the closure and amalgamation of the portion of private right of way No. 70 as described in item 2 - subject to Councils approval.**

**PSC1312204 DRAFT STRUCTURE PLAN - DEVELOPMENT AREA 12 - FORMER
KIM BEAZLEY SCHOOL SITE - ADOPTION FOR FINAL APPROVAL**

DataWorks Reference: 115/106
Disclosure of Interest: Nil
Meeting Date: 4 December 2013
Responsible Officer: Manager Planning Projects
Actioning Officer: Strategic Planning Officer
Decision Making Level: Council
Previous Item Number/s: 28 August 2013 PSC1308-121
Attachments: 1. Summary of Submissions
 2. Schedule of Modifications
 (under separate cover)



EXECUTIVE SUMMARY

The purpose of this report is to present for Council’s consideration and final adoption the proposed Structure Plan for the former Kim Beazley School Site.

The proposed structure plan was advertised from Tuesday 2 September 2013 to Friday 18 October 2013 (46 days) for public comment. The public consultation period also included a community information session, which was attended by approximately 30 community members. An additional presentation and a community information session were held after the public consultation period. At the completion of the public comment period the City had received 161 submissions on the Structure Plan. The main points made in the submissions were concerns around loss of existing trees, additional traffic and the proposed density and building height.

In light of the submission points made it is recommended the proposed structure plan be modified. Originally the structure plan proposed density ranges of R25-R40 and R50-R80. Officers propose these ranges be modified to include areas of R35, R40, R60 and R80 density codings. Minor wording corrections are also recommended as well as the requirement for a local planning policy to guide future development.

It is recommended that the proposed structure plan be adopted subject to a condition and modifications to be made prior to referral of the plan to the Western Australian Planning Commission for final approval.

BACKGROUND

The proposed White Gum Valley former Kim Beazley school site Local Structure Plan (LSP) has been prepared to guide and facilitate the subdivision and development of the former Kim Beazley School site in accordance with the requirements of the zoning, clause 6.2 – Development Areas and Schedule 11 of the City's Local Planning Scheme No. 4 (LPS4 or Scheme) and the West Australian Planning Commission's (WAPC) Structure Plan Preparation Guidelines. The LSP has been submitted by LandCorp.

The LSP applies to the former Kim Beazley School Site at Lot 2089 Stevens Street and the adjoining drainage reserve at Lot 2065 Hope Street, White Gum Valley. These properties are Crown land in the name of the State of Western Australia. Lot 2089 (Reserve number 38088) is a reserve for the purpose of Special School Site, and Lot 2065 (Reserve 42029) is under a management order to the City of Fremantle as a reserve for the purpose of drainage. The site is zoned Development Zone (Development Area 12) under the LPS4 and is approximately 2.29ha in area. It is located approximately 2.5 kilometres east of Fremantle, and positioned between the Royal Fremantle Golf Course/Booyeembarra Park and existing residential development. The site is predominately vacant of all structures with the exception of Sullivan Hall and the former Fremantle Pigeon Racing Club Hall (Men's Shed), located on the western portion of the site near Nannine Avenue.

The LSP proposes the area be zoned residential with a combination of R25-R40 and R50-R80 density coding and associated public open space (POS) at the western end of the site. The area of proposed open space is 0.25ha representing 11.7% of the gross site area excluding the drainage reserve. The existing Sullivan Hall and Men's Shed buildings are proposed to be retained within the POS area. A through road is provided from Stevens Street to Hope Street. The indicative overall yield from development in accordance with the proposed LSP would be approximately 75 – 80 dwelling units. Refer to figure 1 below for the LSP.

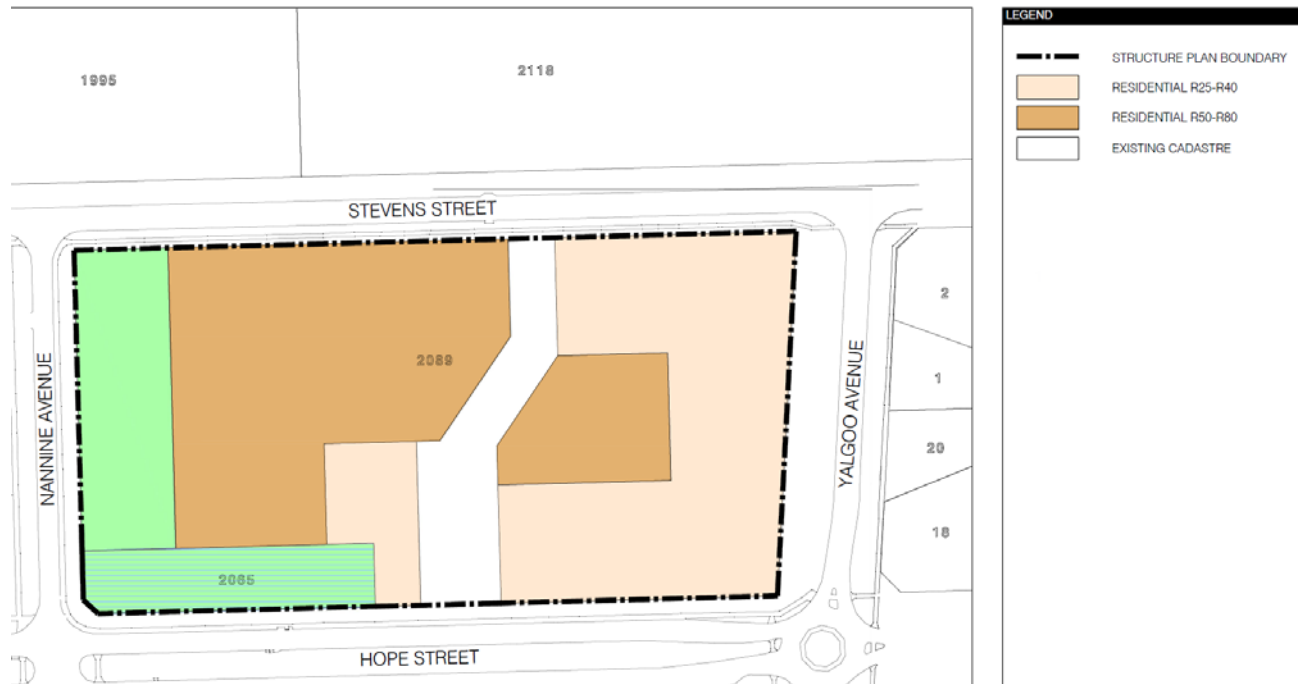


Figure 1. Proposed White Gum Valley former Kim Beazley school site Local Structure Plan

For further background on the LSP please see the ordinary meeting of Council minutes 28 August 2013 PSC1308-121.

STATUTORY AND POLICY REQUIREMENTS

Requirement for the structure plan

The site is zoned Development Zone (Development Area 12 – DA12) under LPS4. Clause 6.2.4 of LPS4 requires a structure plan to come into effect prior to subdivision or development of land within a Development Area. The provisions of Schedule 11 of LPS4 dealing with development areas require the following in respect to DA12:

1. *Structure Plan is to be adopted to guide subdivision, land use and development prior to approval of development applications.*
2. *Investigation of potential site contamination to the satisfaction of the DEC.*

The proposed structure plan complies with the requirements of clause 6.2.6, details of a proposed structure plan, of LPS4 and the Western Australian Planning Commission's (WAPC) *Structure Plan Preparation Guidelines*.

Adoption of the proposed structure plan

Clause 6.2.9 of LPS4 provides the following process for adoption of the structure plan by Council:

- 6.2.9.1 *The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:*
- (a) *adopt the proposed structure plan, with or without modifications; or*

- (b) *refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.*

Following adoption of the structure plan by Council the structure plan will require endorsement by the WAPC as per clause 6.2.10 of the City's LPS4.

CONSULTATION

Previous to Council adopting the proposed LSP for public comment, and throughout the preparation of the LSP, a series of community consultation processes were undertaken by the Landcorp project team to explore the community development aspirations and vision for the site. The consultation process utilised a number of approaches to ensure a wide variety of community members were informed of the project.

A series of community workshops were conducted at the end of 2011, including a series of briefing sessions and 'hands-on' group workshops. The outcomes of the 2011 workshops informed the project vision, objectives and planning and urban design principles outlined in the final proposed LSP. Both the original and alternative concept plans were further presented to the White Gum Valley precinct group in May 2013.

Following adoption of the proposed LSP by the City of Fremantle Council for public comment, the proposed LSP was advertised in accordance with clause 6.2.8.1 and 6.2.8.2 of LPS4 and the City's Local Planning Policy 1.3 - Public Notification of Planning Proposals, from Tuesday 2 September 2013 to Friday 18 October 2013 (46 days). Advertising of the proposed LSP consisted of:

- Public advertising notices placed in the City of Fremantle's "News Bites" in the Fremantle Gazette local newspaper – 3 and 10 September 2013.
- City of Fremantle website notification for the duration of consultation period. This included information on the proposal and public comment period and access to the proposed LSP document, appendices and submission forms. The page also included a link to LandCorp's website.
- Letters of notification and inviting comment on the proposal sent to Land owners and occupiers within at least 100m of the proposed LSP area. This comprised of 191 letters.
- Also, letters of notification and inviting comment on the proposal sent to various service agencies and government organisations.
- A letter of notification (electronic) and inviting comment sent to all precinct groups.
- An information package made publically available at the City's Customer Service counter in the City of Fremantle administration building.
- A community information session held Saturday 21 September 2013 during the advertising period and attended by approximately 30 community members.
- A sign on site giving notification that the proposed LSP was out for public comment.
- The City's planning officer's contact information, including direct dial number, was made available on all correspondence (letters and the City's website) for any further enquiries on the proposed LSP.

Additionally during the advertising period LandCorp were available to be contacted, had a dedicated webpage for the proposed LSP and prepared a 'Frequently Asked

Questions' information document which was made this available at the public information session and on their website.

Following the end of the advertising period representatives of LandCorp and the City's Planning Department attended a White Gum Valley Precinct meeting on 29 October 2013. Landcorp gave a presentation on the LSP. A further community information session organised by the City was held on Tuesday 26 November 2013. Approximately 20 community members attended.

At the completion of the public comment period the City had received 161 submissions on the Structure Plan. Any further submissions that may be received following the additional community information session on 26 November will be tabled at Committee. The following table provides an overview of the categories of submitters and the level of support/objection.

Submitter Type	Support	Object	No Objection	Comment only /Neutral	Total
Owner/Occupier in WGV Suburb		150		1	151
Owner/Occupier from outside of WGV suburb		1			1
Government and other agencies			5	2	7
SHAC	1				1
White Gum Valley Precinct Group		1			1
Total	1	152	5	3	161

Many of the submissions objecting to the proposed LSP were similar in form and contained the same submission points. The concerns raised in submissions included:

- No big lots being provided in the LSP, especially for families. The preference for R25 or R20 sized lots (larger than 300 – 350 sq m) was expressed.
- The LSP not being consistent with WAPC's Directions 2031 and Beyond (Directions 2031) target of 15 dwellings per hectare in new development areas.
- The dual density code ranges (R25/R40 and R50/R80) provided in the LSP being too wide.
- The proposed density being too high and concern that future development will not fit in with the surrounding/existing WGV suburb.
- The impact of the high density on the site coupled with the affect of future development of the adjacent Department of Housing site. Additional concern that the LSP will set a precedent for future development in the area.
- The proposed 3-4 storeys height being too high.
- The loss of trees.
- The proposal devaluing property value in the area.
- The potential increase in traffic on the local roads and the resulting danger from this.
- The potential increase in crime and the area becoming a future slum and/or concrete jungle.
- No/not enough public open space (POS) provided on site.
- The development needing to be based on sustainable principles and design of the new buildings being included in the LSP.

The submissions have been addressed individually in the schedule of submissions (refer to attachment 1). The main submission points are also considered in the Planning Comment section of this report and include:

- Density;
- Building height;
- Further retention of existing trees;
- Traffic; and
- The Public Open Space requirement.

Additionally, other matters are discussed under Planning Comment including potential affordable housing provision on the site for a community artists organisation, and the need for more detailed design guidance/policy.

PLANNING COMMENT

The intent of a structure plan is to provide a broad planning framework for the coordinated provision and arrangement of future land use, subdivision and development. The submitted LSP for the former Kim Beazley School site contains an appropriate level of detail in the LSP document and appendices to fulfil the intent of a LSP.

The key planning considerations raised by the LSP, and also raised in submissions are addressed below. In order to address some issues, and partly in response to certain matters raised in submissions, officers consider that some modifications to the proposed LSP would be appropriate. These recommended modifications are discussed, where relevant, below. For further detail on the modifications recommended please see the schedule of modifications in Attachment 2.

Density

The main submission points on density were in relation to:

- WAPC Directions 2031 density targets;
- Lot size of the proposed lots; and
- The dual density code ranges proposed.

Each of these points is discussed below.

WAPC Directions 2031 density targets

The purpose of Directions 2031 is to provide a high level spatial framework and strategic plan for Perth's future population growth. Directions 2031 includes a target for an average density of at least 15 dwellings per gross urban zoned hectare to be achieved in new greenfield development on the urban front (i.e. urban fringe of the metropolitan area). Many of the submissions commented that the LSP was not consistent with this target as the proposal would provide for more than 15 dwellings/ha. However as stated above this target of at least 15 dwellings per gross urban zoned hectare applies to greenfield development occurring on the urban fringe, i.e. the outer local government areas of the Perth Metropolitan area. The City of Fremantle is located within the Central Metropolitan sub regional area and does not have greenfield development areas of this type. Therefore this Greenfield development density target is not applicable to the subject site.

The former Kim Beazley school site is considered to be a large urban infill site. Directions 2031 sets a target of accommodating 47 percent of the total additional future dwelling

requirement of the metro Perth region on infill development sites, and states planning will need to:

- *Focus on target locations for future growth such as in and around retail and employment centres, transit orientated developments and high frequency public transport corridors; and*
- *Apply higher R-codes in strategies and schemes within areas that have close proximity to educational institutions, community facilities and services such as hospitals, medical centres and libraries.*

This should not be interpreted as a requirement for across-the-board increase in density throughout established suburbs.

Therefore it would be consistent with the vision and intent of Directions 2031 for the LSP to provide for a range of densities and different housing types on the site which does not necessarily mirror the density of existing housing stock in White Gum Valley. Officers consider the site can adequately provide for this. The site presents an opportunity to provide for higher density living in a generally low density area close to existing amenities, facilities and services, including high frequency public transport and the Fremantle city centre. This opportunity is supported by the following characteristics of the site:

- **Configuration** - The site is bounded by streets on all boundaries and does not immediately adjoin existing residential properties, meaning all future development is contained to the one area and not directly abutting existing housing.
- **Topography** - The site is located in a 'dip' in the valley which is relatively lower than the surrounding suburb, meaning development of higher density and built form would not 'tower over' the suburb.
- **Size** – The site is large enough in size to adequately provide for a range of different housing types.

Lot size of the proposed lots

Submissions raised the point that there are no 'big' lots being provided in the LSP, especially for families. Many submissions also expressed a preference for R25 or R20 sized lots, the same as the surrounding suburb's prevailing lot sizes and density coding.

As discussed above, as the LSP site is an infill area in central metropolitan Perth the provision of larger lots and therefore lower densities in the LSP would not be consistent with Directions 2031. Directions 2031 further states:

Perpetuating existing density provisions of local planning schemes will not deliver the required increase in infill housing supply in the metropolitan centre sub-region.

Furthermore, the City's own Strategic Plan 2010-15 includes an outcome under the strategic imperative of Urban Renewal and Integration of providing more affordable and diverse housing for a changing and growing population. The suburb of White Gum Valley has density codings of R20 and R20/R25 and already offers opportunities for those with a preference for larger lots to buy into the existing housing stock or to buy vacant land through individual infill subdivision. Alternatively, the proposed LSP proposes to cater for a range of housing types and introduce a diversity of housing supply into White Gum Valley which is not currently provided for.

The dual density code ranges proposed

Submissions raised the point that the dual density code ranges (R25/R40 and R50/R80) proposed in the LSP are too wide. The submissions are concerned with the increase in density in a generally residential R20/25 area and what this means for residents in terms of increased traffic, property values and other potential effects of higher density development and the cumulative effects of development in the neighbourhood.

The City acknowledges the advantage of allowing for some flexibility in the densities provided over the site to allow for future development to cater and respond to changing market conditions or housing needs. However officers also recognise that this flexibility restricts certainty for the community when anticipating future development in the area. Accordingly officers propose Landcorp be requested to modify the structure plan to provide more certainty in the densities over the site. Specifically the following density coding modifications are requested:

- The R25 – R40 coded sites be modified to a density coding of R35 with the exception of the portion of land to the east of the drainage reserve which should maintain a maximum density coding of R40;
- Reduce the density of the proposed grouped/multiple dwelling sites to R60 with the exception of the area immediately north of the drainage reserve which should maintain a maximum density coding of R80.

The plan below in figure 2 shows the originally proposed densities and the requested modifications (in text boxes).

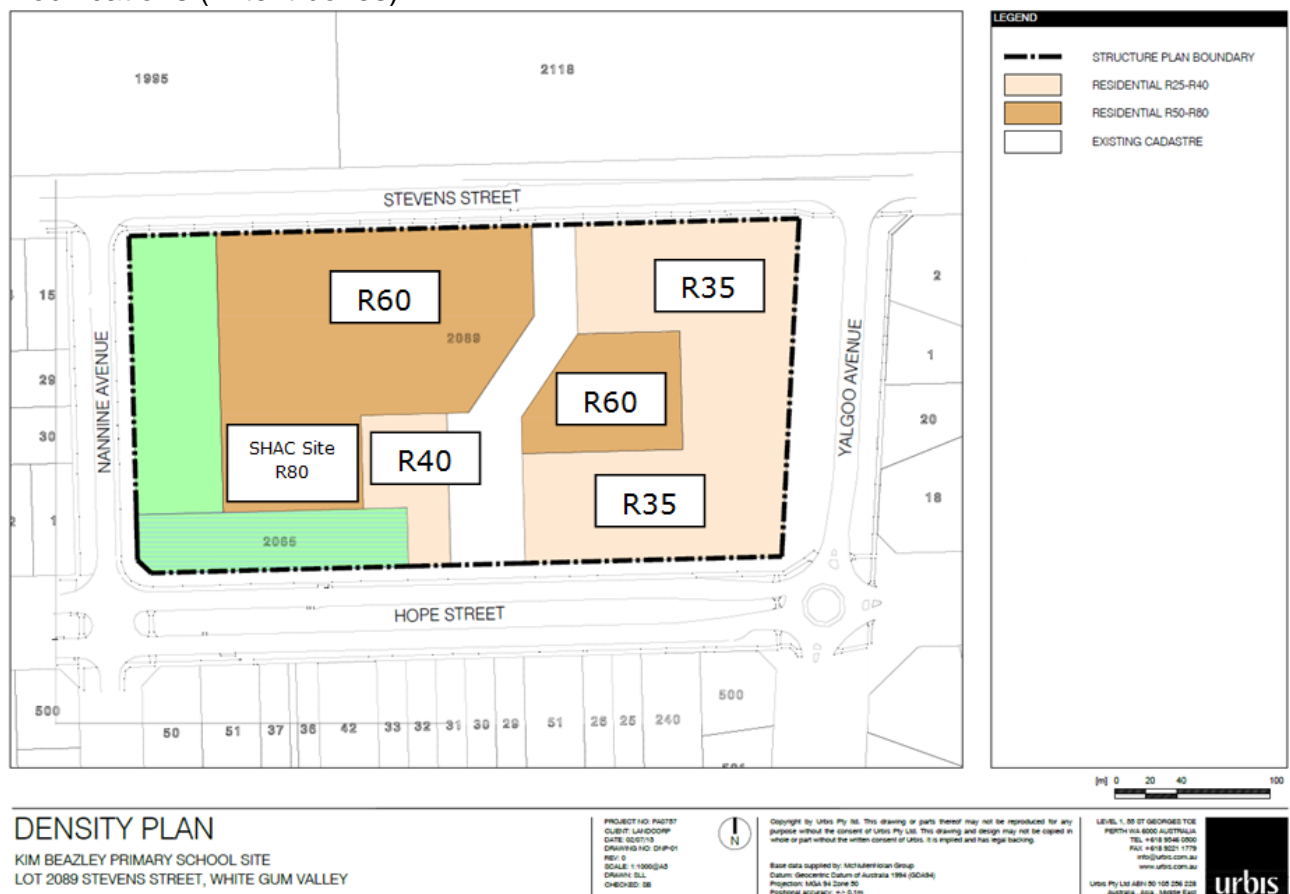


Figure 2. Proposed modifications to proposed LSP

More specific density codings are recommended by officers as they provide more certainty to the occupiers and owners of land in the surrounding area. Related to this a further point on density raised in many of the submissions was:

The increase in housing density must be considered together with a further substantial increase in housing density expected from the Housing Authority's proposed development of land bounded by Yalgoo and Wongan Avenues, Hope and Watkins Streets.

The City is not aware that the Department of Housing has any specific plans at this time to redevelop the site mentioned above at a higher density. The site in question, unlike the LSP site, is already zoned Residential with a density coding of R20/25 under LPS4. Any future redevelopment of this land would have to occur at a density consistent with the R20/25 density coding, unless an amendment to LPS4 to increase the density coding was proposed, and supported by both the City and the Minister for Planning. Accordingly assessment of the current structure plan can only be based on its own merits.

Height

The building height limits for the proposed densities in the LSP are as per the Residential Design Codes 2013 (R-codes). The height limits in the R-codes are expressed as a measurement in metres, however for guidance purposes in this report the heights are discussed in terms of number of storeys. The R-code height limits are provided in table 1 below.

Table 1. R-code height limits for each applicable density coding

Height limit/ density coding	Top of external wall (roof above)	Top of external wall (concealed roof)	Top of pitched roof	Equivalent maximum number of storeys*
R35	6	7	9	Two
R40	6	7	9	Two
R60	9	10	12	Three
R80	12	13	15	Four

*Note, in all density codings a loft space may be possible within the roof space, depending on how the development is designed e.g. with a concealed/flat roof or a pitched roof. A loft is not considered another storey.

The land coded R60 would have the potential to be developed with buildings up to three storeys high, and on the R80 coded land potentially four storey buildings could be developed. The recommended R35 and R40 coded land would have a maximum height limit of two storeys only.

The issue raised in submissions on height was that 3-4 storey development within the LSP area is too high and not in keeping with the surrounding properties and area. This may be the case if the site directly adjoined the existing generally single storey and two storey single residential housing stock in White Gum Valley, however the recommended R60 and R80 coded areas have been deliberately located centrally within the site and on the lower lying areas away from surrounding existing properties.

For example the recommended R80 coded site overlooks the drainage sump to the south and is adjacent to the Men's Shed to the west and the proposed R40 coded land to the east. Due to the site's central location, development on this site will not impact on any existing properties in White Gum Valley in terms of overshadowing or overlooking. Additionally, the four storey height limit would increase the opportunity for the site to meet its full density potential and provide for a combination of affordable housing types (further discussion on below).

The two areas recommended to be R60 coded housing sites within the proposed LSP are located away from existing homes in the suburb also. One of the areas is centrally located and the other fronts Stevens Street on the lower part of the LSP area.

Landcorp propose the centrally located R60 coded site in the proposed LSP to be used for maisonette style development (development that presents as a house, however contains multiple self contained dwellings). The recommended R60 coded site fronting Stevens Street is proposed to be multiple dwellings (see figure 3 below for a conceptual design). Both of these sites do not adjoin or abut existing residential properties and therefore development of the sites would not affect the amenity of occupiers of existing nearby properties in terms of over shadowing or overlooking. Further the recommended R60 coded area on Stevens Street is located on a relatively low area of the valley meaning development up to three storeys would not 'tower over' the existing suburb. Stevens Street is a relatively wide (approximately eight metres) local road and development on this site would be afforded views of Booyeembarra Park increasing the amenity of the site.



Figure 3. Concept plan for R60 multiple dwellings fronting Stevens Street

Loss of trees

The tree survey undertaken for the LSP indicates that out of the 120 trees within the boundary of the site, 11 trees are of appropriate health and located in suitable positions to be retained as part of the LSP proposal. The submissions received on this submission point advocate for a greater retention of existing trees within the LSP than the 11 identified in the plan and many also suggest approval of the structure plan be conditioned to retain more trees.

Officers acknowledge this and the City supports the desirability of retaining more of the existing trees if possible. However, officers also recognise the difficulty in retaining existing trees in the LSP area due to the sporadic and irregular distribution of the trees over the site and the need to provide for development. The location of the POS at the

western end of the site in order to retain the existing community buildings, in accordance with the wishes of a large majority of the local community, also limits scope to retain trees in the centre of the site by placing them within areas of POS. Nevertheless the design of the extra large centrally located internal north to south road reserve in the LSP is intended to facilitate maintaining a cluster of good quality trees and comes at the cost of land for development. As it would be preferable for more trees to be retained officers support the suggestion made in the submissions and recommend that Council condition approval of the LSP to require Landcorp to explore additional opportunities to retain existing trees in future stages of developing the site.

This recommendation would be consistent with Landcorp's commitment to further work on retaining additional existing trees as part of the detailed engineering required for subdivision. There would be little scope to retain additional trees in their current positions, though the relocation or transplanting of suitable candidates to the public open space and verge areas may be possible. The City's parks and landscape officers have been in discussions with Landcorp on forming a working group to achieve the maximum retention possible of existing trees and Landcorp are confident that additional trees can be retained this way.

Additionally, it must also be noted, that the new development will not be destitute of trees as landscaping, including planting new suitable tree species, is expected to be undertaken as part of future development works.

Traffic

As with any structure plan or large development application there is always the concern that the increase in population in an area will also increase the traffic on the existing local road network to such a degree that it would negatively impact on the existing neighbourhood and safety in the street. To address this matter a traffic and movement study was undertaken for the LSP area in accordance with the WAPC's *Transport Assessment Guidelines for Developments* (2006). The study addressed the following:

- Existing local road network
- Street types and cross sections
- Traffic forecasts
- Access intersection control and traffic management
- Pedestrian and cyclist facilities

As part of the study the potential impact of the proposed LSP on the local road network was analysed by assigning traffic flows, based on the proposed number of dwellings possible under the proposed LSP, to the adjacent existing road network. These flows were then used for modelling traffic impacts associated with the site. From this the study concluded that the predicted traffic flows from the LSP can be accommodated within the existing road network without unacceptable adverse impacts on the existing neighbourhood. The level of service on all adjacent roads is considered to remain within the design parameters and operational performance is expected to remain unchanged. Additionally the predicted traffic increase, when distributed to the adjacent intersections was not considered to adversely impact on intersection performance or safety. As a result the current capacity of the streets surrounding the LSP are considered to adequately provide for the proposed increase in traffic from future development of the site and the proposed LSP will not trigger the need for any intersection upgrades.

Parking within the LSP was not a major issue that came up in the submissions, however was discussed with individuals at the community information sessions. Officers note that the R-codes provide the requirement for every development to provide parking on site for every dwelling. Visitor parking is additionally required within multiple dwelling developments and, subject to agreement with the City, there would be capacity to provide some suitably designed on-street parking facilities within the wide road reserves bounding the site.

Public Open Space (POS)

The LSP site area is approximately 2.29ha. The provision of 10% of the gross subdivisible site area as on-site Public Open Space (POS) is the standard planning requirement of the WAPC for a structure plan for residential subdivision. The proposed POS on the LSP site is 11.7% of the total area to be subdivided and includes the land required to retain Sullivan Hall and the Men’s Shed in situ, in accordance with community wishes strongly expressed through community consultation since 2011. The drainage reserve is not included in the 11% POS provided in the structure plan.



Figure 4. The extent of Lot 2089 Stevens Street shaded in red.

Other options to provide for the POS requirement were considered when drafting the structure plan, including allowing for payment of cash-in-lieu particularly in view of the site’s proximity to Booyeembara Park (approx. 15.5ha within across the road from the site) and Valley Park (corner of Watkins Street and Nannine Avenue – 4400 sqm within 300m of the site) or creating more POS in the middle of the LSP area adjacent to the through road to allow for the retention of more trees, but at the expense of retention of the Hall and Men’s Shed. The former option was considered early on in the structure plan preparation process, but rejected by Council as the hall and shed were considered too valuable to the community to remove (Council resolution August 2009).

In further correspondence on the POS, Landcorp have noted that the Structure Plan does not mention that a new toilet facility will be built for Sullivan Hall. This will be

required given that the existing toilet block on site would be sited partly outside the proposed POS area.

Design guides

As mentioned above, structure plan documents are for the purpose of providing a broad framework for the coordinated provision and arrangement of future land use, subdivision and development. Detailed design guidelines are not required as part of structure plan documents, but may be required at a later stage. The former Kim Beazley school site LSP proposes the preparation of Local Development Plans (design guidelines) for all lots subject to the following:

- Directly abutting public open space and the green link (Yalgoo Avenue)
- Affected by rear laneways
- Narrow front loaded lots that require special consideration
- Directly abutting land reserved for 'Drainage'
- Grouped housing and multiple dwelling sites
- Lots adjacent to the internal spine road.

Due to the context and size of the site officers recommend the Structure Plan documentation be modified to include the requirement for more detailed guidance on the design of future development on the site to be prepared and adopted in the form of a Local Planning Policy rather than Local Development Plans. This would give the document a more formal status under LPS4 as a Local Planning Policy would be subject to public advertising, and the policy would only come into effect once Council has considered submissions received and finally adopted the Local Planning Policy.

A Local Planning Policy could guide future development and built form outcomes for the structure plan area and is considered to be a suitable mechanism for the implementation of specific provisions that promote high quality built form outcomes and optimise solar orientation. Once adopted, the City would use the Local Planning Policy to assess and determine any development applications received for development in the LSP area.

Affordable Housing

Although not explicitly proposed in the LSP as a site for housing of a specific type or tenure, the site immediately north of the drainage reserve proposed to have a density coding of R80 has been the subject of discussion between LandCorp and a local organisation called Sustainable Housing for Artists and Creatives (SHAC). Although this matter was not raised in submissions, officers consider it should be brought to Council's attention as it could potentially provide an affordable housing component in the structure plan area.

To explain the SHAC proposal an excerpt from the SHAC submission is provided below:
Over the past 5 - 10 years, rising real estate costs (land & houses prices & rents) have seen a mass exodus of artists and creatives from the City as many have been forced to re-locate to suburbs in Cockburn and Melville or elsewhere altogether. This loss of artistic and cultural capital threatens the City's identity and soul.

SHAC was formed by artists and creatives proactively seeking ways to remain in our home – Fremantle. We have been working towards solutions for 5 years, having discussions with the City of Fremantle, community housing providers, Landcorp and other potential partners to source suitable sites and financial strategies. The site nominated for SHAC within the Kim Beazley structure plan is the result of very active

support from the Landcorp over the past 2 years to assist us in our goals. We are very excited that together with ACCESS Housing this site could become a permanent, affordable and secure home for 12 artists, their work and families.

If LandCorp and SHAC were to formally agree terms for the future acquisition by SHAC of the area of the site in question, it could provide affordable living opportunities for a section of the local community that has found it difficult to live in Fremantle otherwise.

Providing for such housing would also contribute towards meeting the state government's target of dedicating a minimum 15 percent of land project yields on developments on Government owned land to affordable land and housing for low-to-moderate income households. This target is contained in the Government's Affordable Housing Strategy 2010-2020. LandCorp, as an agency of the State Government, is included in the requirement to meet these targets for affordable housing.

CONCLUSION

The LSP is considered to satisfy the requirements of LPS4 for the preparation of structure plans and proposes to facilitate a diverse range of residential development types and densities with supporting POS provision. The content of the LSP is the output of an extensive consultative process with the local community and attempts to achieve an optimum balance in attempting to satisfy a number of different and in some cases conflicting planning objectives (for instance location of POS to retain community buildings and retention of maximum number of existing trees). Officers consider the development outcomes from the LSP would be consistent with strategic planning policy objectives of the State Government and also meet a number of the Council's own Strategic Plan objectives, notably in respect of providing greater diversity and affordability in housing supply to meet changing population needs. Officers consider the form of development on this site envisaged under the LSP, although different to some degree from established development in White Gum Valley, would not adversely affect the overall character of the suburb or the amenities of local residents.

It is therefore recommended that the LSP be approved by Council subject to certain modifications, which should be incorporated into the LSP documentation prior to its referral to the WAPC for final approval.

OFFICER'S RECOMMENDATION

That Council:

- 1. Note the submissions received as detailed in the Officer's report and Attachment 1;**
- 2. Adopt the White Gum Valley Former Kim Beazley Local School Site Structure Plan notated July 2013 under clause 6.2.9 of Local Planning Scheme 4, subject to the following modifications and condition:**

A. Modifications

DENSITY

- i) The R25 – R40 coded sites be modified to a density coding of R35 with the exception of the portion of land to the east of the drainage reserve which should be modified to a density coding of R40
- ii) The proposed grouped and multiple dwelling sites be modified to a density coding of R60 with the exception of the portion of land immediately north of the drainage reserve which shall have a density coding of R80.

LOCAL PLANNING POLICY REQUIREMENT

- iii) Remove reference to Local Development Plans throughout the Structure Plan document and replace with reference to a commitment to prepare in conjunction with the City of Fremantle a Local Planning Policy to guide built form and design outcomes.

MINOR TEXT MODIFICATIONS

- iv) Delete the following wording (4.2.2, p11):
The Scheme also outlines a number of other provisions relating to residential development. A summary of these provisions is provided below:
 - All residential development shall have regard to the minimum energy efficient rating specified in the local planning policy.
 - Where mixed use development is proposed, Section 7.2 of the R-Codes will apply.
 - Where a Development Area is situated within a local planning area, appropriate development requirements applicable to the Development Area shall be determined by Council through further comprehensive planning, including public consultation.
- v) Expand on the Directions 2031 and Beyond 2010 discussion (5.1.,- p13). Include discussion on infill housing targets applicable to the LSP as opposed to the Greenfield targets.
- vi) Delete “and peel” from heading Central Metropolitan Perth and peel sub- regional strategy (2010) and note that the document is draft (5.1.3, p13).
- vii) Expand on the Central Metropolitan Perth sub- regional strategy (2010) discussion (5.1.3, p13). For example, the Sub-Regional Strategy for the central Metropolitan area focuses on providing for development in this area through infill housing.
- viii) Delete reference to Alkimos-Eglinton (5.1.6, p14).
- ix) Expand on discussion on Local Planning Policy 2.13 – sustainable building design requirements (5.2.4, p19), including that the policy does not apply to grouped dwellings or single houses and would only apply to multiple dwellings over 1000 sqm in GLA.
- x) Write full name of City of Fremantle Policies including the policy number (5.2.5, 5.2.6, 5.2.8, p19 and 20).
- xi) Delete mention of Urban Design and Streetscape guidelines (5.2.5, p19) as this refers to a now-revoked City of Fremantle policy.
- xii) Delete mention of 15 dwellings/ha in Directions 2013 (8.2.4, p39).

B. Condition

- i) **Prior to any application for subdivision and/or development of the land subject to the Structure Plan, a study shall be carried out to assess the potential to retain existing trees in addition to those identified for retention in Figure 16 in Part 2 of the Local Structure Plan.**
- 3. Forward the White Gum Valley Former Kim Beazley Local School Site Structure Plan (as modified in accordance with 2 above) to the Western Australian Planning Commission for endorsement in accordance with the requirements of clause 6.2.10 of LPS4.**

CONFIDENTIAL MATTERS

Nil.

Summary Guide to Citizen Participation and Consultation

SUMMARY GUIDE TO CITIZEN PARTICIPATION & CONSULTATION

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

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

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

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

How consultative processes work at the City of Fremantle	
	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.
Decisions made for the overall good of Fremantle	8 The Local Government Act requires decision-makers to make decisions in the interests of “the good government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
Diversity of view on most issues	9 The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
City officers must be impartial	10 City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
City officers must follow policy and procedures	11 The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.

How consultative processes work at the City of Fremantle	
Community engagement processes have cut-off dates that will be adhered to.	<p>1 As City officers have the responsibility to provide</p> <p>2 objective, professional advice to decision-makers,</p> <p>.</p> <p>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>
Citizens need to check for any changes to decision making arrangements made	<p>1 The City will take initial responsibility for making</p> <p>3 citizens aware of expected time-frames and</p> <p>.</p> <p>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>
Citizens are entitled to know how their input has been assessed	<p>1 In reporting to decision-makers, City officers will in</p> <p>4 all cases produce a community engagement</p> <p>.</p> <p>outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.</p>
Reasons for decisions must be transparent	<p>1 Decision-makers must provide the reasons for</p> <p>5 their decisions.</p> <p>.</p>
Decisions posted on the City's website	<p>1 Decisions of the City need to be transparent and</p> <p>6 easily accessed. For reasons of cost, citizens</p> <p>.</p> <p>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.

