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# MINUTES

## Ordinary Meeting of Council

Wednesday, 22 October 2014, 6.00pm

## TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
	NYOONGAR ACKNOWLEDGEMENT STATEMENT	1
	IN ATTENDANCE	1
	APOLOGIES	2
	LEAVE OF ABSENCE	2
	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
	PUBLIC QUESTION TIME	2
	DISCLOSURES OF INTEREST BY MEMBERS	5
	APPLICATIONS FOR LEAVE OF ABSENCE	6
	PETITIONS / DEPUTATIONS / PRESENTATIONS	6
	CONFIRMATION OF MINUTES	6
	ANNOUNCEMENTS BY THE MAYOR	7
	QUESTIONS OR PERSONAL EXPLANATIONS BY ELECTED MEMBERS	7
	TABLED DOCUMENTS	7
	LATE ITEMS NOTED	7
	COMMITTEE REPORTS	8
	PLANNING SERVICES COMMITTEE 1 OCTOBER 2014	8
PSC1410-150	MALCOLM STREET NO.25 (LOT 3), FREMANTLE DEFERRED ITEM - TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (JL DA0104/14)	8
PSC1410-151	REVIEW AND MODELLING OF LOCAL PLANNING POLICY 3.11 MCCABE STREET AREA, NORTH FREMANTLE HEIGHT OF NEW BUILDINGS - FINAL ADOPTION	19
PSC1410-159	REQUEST FOR REMOVAL OF PEDESTRIAN ACCESS LOCATED WITHIN THE STRATA PROPERTY AT 10 DOEPEL	

	STREET, NORTH FREMANTLE (YORK APARTMENTS) PROVIDING A LINK TO THE FORESHORE RESERVE.	47
PSC1410-160	ITEM - HERITAGE LIST AND MHI ANNUAL UPDATE 2014	54
PSC1410-161	DRAFT LOCAL PLANNING POLICY 3.15 FORMER KIM BEAZLEY SCHOOL SITE - WHITE GUM VALLEY - ADOPTION FOR PUBLIC ADVERTISING	61
PSC1410-162	CITY OF FREMANTLE ALFRESCO DINING LOCAL LAW 2014 NO.2	75
	<b>SPECIAL PROJECTS COMMITTEE 8 OCTOBER 2014</b>	<b>88</b>
SPC1410-01	VICTORIA QUAY COMMERCIAL PRECINCT, FREMANTLE STATION AND PIONEER PARK DRAFT PRECINCT PLANS	88
SPC1410-02	DRAFT INTEGRATED TRANSPORT STRATEGY	98
SGS1410-4	COMMUNITY SAFETY AND CRIME PREVENTION PLAN 2011 - 2015 REPORT	101
	<b>STRATEGIC AND GENERAL SERVICES COMMITTEE 15 OCTOBER 2014</b>	<b>110</b>
SGS1410-5	MONTHLY FINANCIAL REPORT - SEPTEMBER 2014	111
SGS1410-6	INSTRUMENT OF APPOINTMENT - CANTONMENT HILL ACTIVATION WORKING GROUP	115
SGS1410-7	KIDOGO ART HOUSE - LEASE AND DEVELOPMENT PROPOSAL	119
SGS1410-8	MARK HOWLETT FOUNDATION GRANT	125
SGS1410-9	PERTH BICYCLE NETWORK (PBN) 2014-15 PROJECTS AND GRANTS (CARRINGTON STREET)	128
SGS1410-10	REQUEST FOR FENCING OF SOUTH BEACH - THE FIG GROUP - THE FIG SKINNY DIP 2015	134
	<b>MOTIONS OF WHICH NOTICE HAS BEEN GIVEN</b>	<b>138</b>
	<b>REPORTS BY THE MAYOR OR OFFICERS OF COUNCIL</b>	<b>138</b>
	<b>STATUTORY COUNCIL ITEMS</b>	<b>138</b>
	<b>COUNCIL ITEMS</b>	<b>138</b>
C1410-2	INFORMATION REPORT OCTOBER 2014	138
C1410-4	CAPITAL WORKS QUARTERLY INFORMATION REPORT OCTOBER 2014	141
	<b>CONFIDENTIAL MATTERS</b>	<b>145</b>

C1410-3	NO'S. 48-68 CANTONMENT STREET AND 1 GOLDSBOROUGH STREET - MMAGS HOLDINGS PTY LTD AND CAMELLIA HOLDINGS PTY LTD	145
C1410-5	GREEN BEAN CAFE	147
	<b>CLOSURE OF MEETING</b>	<b>148</b>
	<b>MINUTES ATTACHMENTS</b>	<b>1</b>

## **ORDINARY MEETING OF COUNCIL**

Minutes of the Ordinary Meeting of Council  
held in the Council Chambers, Fremantle City Council  
on **22 October 2014** at 6.00 pm.

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

The Mayor, Dr Brad Pettitt declared the meeting open at 6.05pm and welcomed members of the public to the meeting.

### **NYOONGAR ACKNOWLEDGEMENT STATEMENT**

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

### **IN ATTENDANCE**

Dr Brad Pettitt	Mayor
Cr Doug Thompson	North Ward
Cr Rachel Pemberton	City Ward
Cr Simon Naber	City Ward
Cr Dave Coggin	East Ward
Cr Sam Wainwright	Hilton Ward
Cr Bill Massie	Hilton Ward
Cr Jon Strachan	South Ward
Cr David Hume	Beaconsfield Ward
Cr Josh Wilson	Deputy Mayor / Beaconsfield Ward
Mr Graeme Mackenzie	Chief Executive Officer
Mr Glen Dougall	Director Corporate Services
Ms Marisa Spaziani	Director Community Development
Mr Paul Garbett	Acting Director Planning and Development Services
Mr Peter Pikor	Director Technical Services
Mrs Linda Keys	Minute Secretary
Ms Natalie Martin Goode	Manager Statutory Planning

*There were approximately 1 members of the public and 36 member/s of the press in attendance.*

## **APOLOGIES**

Cr Andrew Sullivan                      South Ward

## **LEAVE OF ABSENCE**

Cr Ingrid Waltham                      East Ward  
Cr Robert Fittock                      North Ward

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

Nil

## **PUBLIC QUESTION TIME**

**The following member/s of the public spoke in favour of the Officer's Recommendation for item PSC1410-151:**

Claire Richards

### **Summary of questions by: John Pearman in relation to item PSC1410-151**

I have three questions:

1. Has any Councillor gone and looked at the congestion which already occurs on Stirling Highway (north and south) in conjunction with McCabe Street on Monday's and Friday's between 7.45am - 9.15am and 4.30pm - 6.30pm?
2. The second questions is has the Council given consideration to a number of residents and visitors with cars which can be accommodated from the Matilda Bay Brewing site without causing congestion around that site and if not why not?
3. Is the Council aware of the catastrophic affect which high rise developments financed by Chinese entrepreneurs or Indian entrepreneurs has caused by a number of cities like North America?

### **Summary of response from Mayor, Brad Pettitt**

Thank you for the questions all these questions especially the traffic issue will be discussed during the debate.

**The following member/s of the public spoke in favour of the Officer's Recommendation for item SGS1410-10:**

Russel Morris

### **Summary of question by Mark Woodcock, Fremantle Ratepayers Association Inc - Item PSC1410-151**

1. In the minutes of the Council meeting dated 26 June 2013 there was a motion made for the City to seek a report from the applicant (event organiser) to provide a report within 4 months of the event on the economic benefits of the event to the City.

Please advise if the report has been received:  
If yes please advise where copies of this report are available.  
If no please advise that as it is now 8 months since the event when the report is expected and if there will be any penalty to the applicant for non compliance?

2. The Visioning 2029 Project:

Please provide the final costings for this project;

Please provide the final report for the project;

3. One Planet Initiative

Please advise what cost and impact studies were performed prior to the City of Fremantle committing to the One Planet Initiative. Ratepayers would like to be made aware of the cost associated with the initiative and the implication of future costs in complying with the ideals of the initiative.

**Summary of response from Mayor, Brad Pettitt**

We shall take these questions on notice and these will be sent to you in due course.

**The following member/s of the public spoke against the Officer's Recommendation for item PSC1410-151:**

John Kelly  
Ray House

**The following member of the public spoke in relation to item SGS1410-7.**

Joanna Robertson

**The following member/s of the public spoke against the Officer's Recommendation for item PSC1410-151:**

Gerry Macgill

**Summary of comment by George Sules - Item PSC1410-151**

Today it was announced new Councils, amalgamations, your boundaries are going to be shifted back to Hammond Street, so whatever decision you make today can affect a new Council.

Before you make any decisions, you may not be making a decision for your own Council anyway.

### **Summary of response from Chief Executive Officer, Graeme Mackenzie**

My understanding of the boundary, and all that has been released is this map, it is not very clear. I have not seen any words written around this as yet and my reading of that map is McCabe Street is the boundary.

Normally a local government boundary runs down the middle of the road.

### **Summary of response from Mayor, Brad Pettitt**

As I understand it is a shift so you are correct in that regard, what is the back of the Taskers site to the back of the property line to the McCabe Street line. We will get some clarity on this and make sure everyone is clear as to where it exactly sits.

### **Summary of question by Roslyn MacNish - Item PSC1410-151**

1. My question is if you don't increase the capacity of the development or if you don't make the buildings as high as you have got them planned for, are you going to be prosecuted by the State Government?
2. So I would like to see scaled drawings shown from the developer from the street level?  
Can we have scaled drawings?

### **Summary of response from Mayor, Brad Pettitt**

Certainly there were some of those drawings that were presented to us a few meetings ago, and in terms of the objection as to whether we would be prosecuted by the State Government the answer is no.

### **Summary of response from Acting Director Planning Services and Development, Mr Paul Garbett**

They are not scaled drawings of the actual development proposals at this stage because other than the Tasker site there are no firm development proposals from the land owners that involve details of specifics.

What the City has done is to assist the Council in considering the matter commissioned some of the 3D modelling of hypothetical building forms in varied lot form that represented the maximum possible height and bulk of buildings that might be constructed under the policy that exists now or possible amendments to the policy that have been considered by the Planning Services Committee at different dates.

Those are to scale and they accurately represent the heights and buildings to the heights proposed in the policy, some of that modelling has been done from street level, and certainly if Ms MacNish would like copies of any material I can arrange that after this meeting.



**The following member of the public spoke in relation to item SPC1410-2 and SGS1410-9.**

Paul Loring

**The following member/s of the public spoke against the Officer's Recommendation for item PSC1410-151:**

John Rogers

Tracey Bishop

**Summary of question by Darryl Emmanuel - Item PSC1410-151**

Has anybody looked at what is the maximum sustainable population for Fremantle?

**Summary of response from Mayor, Brad Pettitt**

Thank you for the questions all these questions will be discussed during the debate.

**At 7.09 pm Mayor, Brad Pettitt declared a impartiality interest in item number PSC1410-150 and was absent during discussion and voting of this item.**

**At 7.09 pm the Deputy Mayor assumed the chair.**

**The following member of the public spoke against the Officer's Recommendation for item PSC1410-150:**

Susan Thouran

**The following member of the public spoke in favour of the Officer's Recommendation for item PSC1410-150:**

Kris Keen

**The following member/s of the public spoke against the Officer's Recommendation for item PSC1410-150:**

Edward Playdell - Bouerie

Monica Playdell - Bouerie

Nathan Playdell - Bouerie

Robyn Johnston

Mahinda Perera

**Cr S Naber vacated the chamber at 7.34 pm during the following item and returned at 7.38 pm prior to determination.**

Simon Clarkson

Nichola Wood

Kerry Fletcher

Georgie Adeane

**Mayor, Brad Pettitt returned to the meeting at 7.49 pm.**

## **DISCLOSURES OF INTEREST BY MEMBERS**

Mayor, Brad Pettitt declared a impartiality interest in item number PSC1410-150.

Cr D Thompson declared a proximity interest in item number PSC150-151.

## **APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## **PETITIONS / DEPUTATIONS / PRESENTATIONS**

Cr B Massie attended the 46<sup>th</sup> Anniversary - The Presidents and Committee of the WA Portuguese Club held on Saturday 18 October 2014. This event was well attended and advised Council that the Portuguese community enjoys residing in Fremantle.

Cr B Massie attended on behalf of Cr R Fittock the West Australian Marathon Club Inc held on Sunday 5 October 2014, with the event proceeds being donated to Diabetes WA.

Cr J Wilson attended the opening of new cricket training facilities, Mosman Park Cricket Club on Thursday 16 October 2014.

Cr J Wilson attended the Open the Ocean Ride for Multiple Sclerosis at Esplanade Park on Sunday 19 October 2014. The Ocean Ride for MS is an iconic bike ride which goes from Fremantle to Hillarys to raise money for Western Australian's living with Multiple Sclerosis

Cr J Wilson hosted a morning tea reception on behalf of the Mayor, Brad Pettitt on Tuesday 21 October 2014 and provided a speech for the Red Cross Centenary achievement, and a thank you to all the red cross volunteers.

Cr J Wilson attended a funeral service for a former Mayor at the City of Cockburn - Mr Ray Lees.

## **CONFIRMATION OF MINUTES**

**MOVED: Mayor, Brad Pettitt**

**That the minutes of the Ordinary Meeting of Council dated Wednesday 24 September 2014 and the minutes of the Special Council Meeting held Wednesday 8 October 2014 be confirmed as a true and accurate record.**

**SECONDED: Cr S Naber**

**CARRIED: 10/0**

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

### **ANNOUNCEMENTS BY THE MAYOR**

Nil

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

Nil

### **TABLED DOCUMENTS**

*Additional Documents - Amendment Malcolm Street No 25 (Lot 3, Fremantle deferred item - two storey additions and alterations to existing single house (JL DAO1404-14) Submitted by Cr D Thompson*

*Alternative Recommendation - Review and Modelling of Local Planning Policy 3.11 McCabe Street Area, North Fremantle Height of New Buildings - Final Adoption submitted by Cr D Thompson*

*Alternative Recommendation - Review and Modelling of Local Planning Policy 3.11 McCabe Street Area, North Fremantle Height of New Buildings - Final Adoption submitted by Mayor, Brad Pettitt*

*Amendment - Review and Modelling of Local Planning Policy 3.11 McCabe Street Area, North Fremantle Height of New Buildings - Final Adoption submitted by Mayor, Brad Pettitt*

*Confidential Agenda Item - C1410-3 - No's. 48-68 Cantonment Street and 1 Goldsborough Street - MMAGS Holdings Pty Ltd and Camellia Holdings Pty Ltd*

### **LATE ITEMS NOTED**

*Late Confidential Agenda Item - C1410-5 Green Bean Cafe*

**COMMITTEE REPORTS**

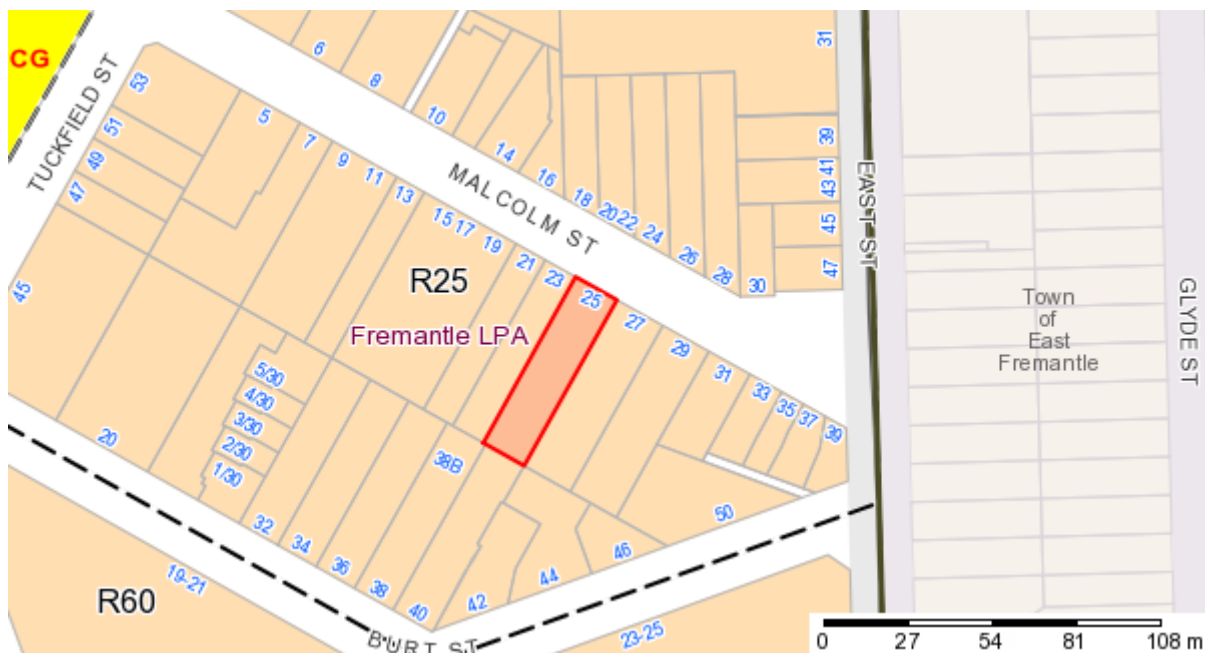
**PLANNING SERVICES COMMITTEE 1 OCTOBER 2014**

At 7.56 pm Mayor, Brad Pettitt declared a impartiality interest in item number PSC1410-150 and was absent during discussion and voting of this item.

At 7.56 pm the Deputy Mayor assumed the chair.

**PSC1410-150 MALCOLM STREET NO.25 (LOT 3), FREMANTLE DEFERRED ITEM  
- TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING  
SINGLE HOUSE (JL DA0104/14)**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 3 September 2014  
**Responsible Officer:** Manager Statutory Planning  
**Actioning Officer:** Coordinator Statutory Planning  
**Decision Making Level:** Planning Services Committee  
**Previous Item Number/s:** PSC1407-112 (2 July 2014)  
**Attachment 1:** Amended Development Plans (21 August 2014)  
**Attachment 2:** PSC Report 1407-112  
**Attachment 3:** Contour and Feature Survey (Carlton Surveys)  
**Attachment 4:** Site Photo's of No.27 and 29 Malcolm Street  
**Date Received:** 28 February 2014  
**Owner Name:** Jason & Natalie De Silveira  
**Submitted by:** Gary Keen Design  
**Scheme:** Residential R25  
**Heritage Listing:** Nil  
**Existing Landuse:** Single House  
**Use Class:** Single House  
**Use Permissibility:** P



## **EXECUTIVE SUMMARY**

The application is referred to the Planning Services Committee (the Committee) in accordance with the Committee resolution from its 2 July 2014 meeting.

Again, the amended proposal requires Design Principle assessments of the Residential Design Codes in relation to the following:

- **Building height,**
- **Eastern boundary setback, and**
- **Visual privacy of the western adjoining property.**

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

## **BACKGROUND**

The application was presented before the Planning Service Committee (PSC) meeting at its meeting held 2 July 2014 and PSC resolved to:

*'defer the item to the next appropriate Planning Service Committee meeting to allow neighbours to seek further advice from planning staff'.*

City staff met with the adjoining landowners at adjoining properties on two occasions being 25th July and 26th August 2014. Furthermore, adjoining neighbours have also met with the City's Director of Planning & Development Service and City Officers to discuss original and amended plans relating to the proposal. Additionally, Planning Staff have met on a further two occasions since receipt of amended plans, once with the adjoining eastern land owner and another with this neighbours planning consultant to discuss amended plans and additional concerns to these plans.

Additionally since PSC's deferral of this item, the applicant has met with adjoining landowners to discuss the proposal. Resulting from this meeting the applicant lodged amended plans for the application, essentially making one change with reducing the overall wall height by 300mm.

See 'Attachment 2' below for previous background information relating to this site and application.

## **DETAIL**

See 'Attachment 2' below for details relating to the original planning application plans and site information.

The applicant submitted amended plans on 21 August 2014, proposing a 300mm reduction in building height of the development in order to address some of the concerns relating to loss of views of significance, building bulk and loss of direct solar access and ventilation to adjoining and nearby residential properties.

See 'Attachment 1' below for a copy of amended plans.

## 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 2 April 2014, the City had received two submissions with one supporting the original proposal. A summary of the original concerns raised are as follows:

- Overshadowing,
- Building height,
- Loss of views of significance,
- Loss of direct sunlight
- Demolition issues – Asbestos and Noise,
- Visual privacy from roof top terrace, and
- Impact to the heritage significance of Malcolm Street.

See previous planning report in 'Attachment 2' for detailed discussions relating to these matters.

As a result of PSC resolution for this item, the application underwent additional community consultation process. At the conclusion of the second advertising period, being 13 August 2014, the City had received one new submission and a revised submission from an original submitter. A summary of the additional and revised concerns raised are as follows:

- Impact the proposal will have to the streetscape of Malcolm Street,
- Impact the proposal has to the two heritage listed eastern adjacent properties (No.27 and No.29 Malcolm Street),
- Impact on existing views of significance captured from both No.27 and No.29 Malcolm Street properties and respective dwellings,
- the impact of both reduced ventilation and light on the existing master bedroom and upper loft floor area on the western side of the dwelling located at No.27 Malcolm Street, and
- Impact of reduced light via existing loft windows also continues with reduced natural light on kitchen and dining room downstairs of the dwelling located at No.27 Malcolm Street.
- Concerns with the indicated floor level differences between No.25 and 27 Malcolm Street as it is believed the floor level difference is in fact 1.41m not the proposed 1.71m as per amended plans,
- Exterior cladding material of the proposed upper floor additions and its detrimental impact in terms of reflectivity on neighbour.

With regards to the above mentioned concerns relating to loss of direct solar access, ventilation, building bulk or loss of views of significance further discussion regarding these new or modified concerns is included in the 'Planning Comment' section below.

In terms of the new concerns raised relation to difference in existing floor levels of the existing development at No.25 and 29 Malcolm Street, please see 'Attachment 3A and B' below of a copy of a 'Contour and Feature Survey' prepared by Carlton Surveys (Attachment 3A) and provided by the applicant after City Officer contacted the applicant

regarding the concern raised. This indicates a 1.71m difference between the existing floor levels of the dwellings located on No.25 and No.27 and as per the City's previous assessment. In response to this the neighbouring property has also provided a 'Contour and Feature Survey' prepared by Property People Surveys (Attachment 3B) which indicates a 1.41m difference between the existing floor levels of the dwellings located on No.25 and No.27. As there is dispute over the existing differences between existing FFL's of both properties, worst case scenario of 1.4m will be used in terms of the City's assessment for loss of solar access, ventilation, building bulk and Views of significance discussions below. Ultimately given the applicant is proposing to reduce the overall building height by 300mm, the City's previous assessment remains the same as the disputed 300mm FFL difference is mitigated by the proposed amended reduction of 300mm of building height for the proposal.

With respect to the concerns raised in relation to the upper floor addition and the external cladding's ability for reflection, the City doesn't have a specific planning policy limiting the types of external cladding for development within this area of Fremantle. Whilst noted as a concern this isn't considered to be a matter that can be dealt with via the relevant statutory planning legislation.

### **Fremantle Port Authority**

See 'Attachment 2' below for copy of previous referral comments.

### **STATUTORY AND POLICY ASSESSMENT**

In considering this amended proposal, again the following key issues must be addressed. Whilst a reduction of 300mm is now proposed for the overall building height of the development the applicant is still requesting several R-Codes Design Principle assessments and Council policy discretionary assessments in relation to certain aspects of the proposal.

Again, as stated in the previous planning report these matters should be considered in the context of the relevant 'Design Principle' criteria of the relevant Design Element of the R-Codes and discretionary criteria of relevant Council local planning policies, as outlined below in the Planning Comment section of this report.

### **PLANNING COMMENT**

#### Building Height - External Wall Height

#### Amended Building Height Assessment

<b>Permitted</b>	<b>Proposed Upper floor</b>	<b>Design Principle Assessment</b>
Max. 7m external wall height ( <i>Concealed roof</i> )	East – 6m south east corner – 6.5m north east corner	Complies
	West- 7m south west corner - 8.6m north west corner	Up to 1.6m
	North- 6.5m north east corner – 7.8m north west corner	Up to 0.8m
	South -6m south east corner– 7m south west corner	Complies

See previous report in 'Attachment 2' for discussion relating to this matter.

Eastern and western Reduced Boundary setbacks

**Original Setback Assessment**

Elevation		Required provision	Proposed	Design Principle Assessment
East	Ground floor wall (25m long x 6m high wall with major opening)*	5.7m	612mm	5.58m
West	Ground floor wall (11m long x 8m high wall with major opening)"	4.2m	2.6m	1.6m
	Rooftop terrace screen wall (25m long x 8.5m high with no major opening)	3.3m	2.6m	0.7m

\*the majority of these ground floor walls are existing and only an additional 700mm in length is being added.

The previous assessed setback requirement remains the same even with the reduction in wall height and changes to FFL's of the development.

For the same reasons outlined in the previous report, the proposed reduced setbacks are considered to meet the relevant design principles of the R-Codes, for the same reasons outlined in the City's previous report (see Attachment 2 below).

Visual Privacy

Again, the proposal isn't considered to meet the Design Principle criteria of the R-Codes pertaining to Visual Privacy and for identical reasons outlined in the previous planning report this merit based assessment isn't supported. On this basis condition of approval are recommended to require screening which would make the development meet the deemed to comply requirements of the R Codes relating to privacy. Again see previous report in 'Attachment 2' for discussion relating to this matter.

Additional Community Concerns

Upon completion of the second period of community consultation, a summary of the new or modified concerns regarding the amended proposal are as follows:

- Impact the proposal will have to the streetscape of Malcolm Street,
- Impact the proposal has to the two heritage listed eastern adjacent properties (No.27 and No.29 Malcolm Street),
- Impact on existing views of significance captured from both No.27 and No.29 Malcolm Street properties and respective dwellings,
- the impact of both reduced ventilation and light on the existing master bedroom and upper loft floor area on the western side of the dwelling located at No.27 Malcolm Street, and



- Impact of reduced light via existing loft windows also continues with reduced natural light on kitchen and dining room downstairs of the dwelling located at No.27 Malcolm Street.

Again, City Officers clearly acknowledge that the proposed development will have a higher level of amenity impact in terms of all of the above concerns raised compared to the existing built form on site today. However the level of significance of the impact is the point of subjectivity, particularly when assessing loss of solar access, loss of ventilation and loss of views of significance.

As outlined in the previous report, Council could be of the opinion that any change to existing built form in terms of eastern boundary setbacks and/or external wall height would have a significant detrimental impact on the eastern adjoining properties and for these reasons refuse the proposal in its current form. However, for the reasons outlined in the previous report the level of amenity impact isn't considered to result in a significantly detrimental impact particular when referring to loss of solar access and loss of ventilation.

In terms of loss of views of significance, again it is noted that both No.29 and No.27 Malcolm Street properties currently capture significant views of Rottnest Island, the Fremantle Port and landscape north of Fremantle. See 'Attachment 4' below for several site photos of views of significance captured over both No.27 and 29 Malcolm Street properties and respective dwellings. It's also acknowledged that the proposal will have an impact on some of these views currently captured from various advantage points of these two properties and the respective dwellings and habitable internal spaces.

However, whilst an impact is anticipated to some of these views of significance, taking into consideration:

- that the eastern external wall height of the development complies with the deemed to comply 7m building height provision,
- The majority of the upper floor addition incorporates an unroofed deck area rather than a high pitched roof;
- that the upper floor addition is limited to 90m<sup>2</sup> footprint and is centrally located onsite, preserving significant view corridors to the rear and front of the subject property for both immediate eastern adjoining properties, and
- that the upper floor eastern lot boundary setback complies with the R-Code setback requirement,

the level of access and impact to these advantage view points is again considered reasonable and supportable.

Notwithstanding the above, if Council was of the opinion that the proposed development would significantly impact the neighboring properties in terms of loss of direct solar access, ventilation, building bulk and views of significance and is therefore not supported, the following recommendation would be applicable:

*That the application be REFUSED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the two storey addition and alterations to existing Single House at No. 25 (Lot 3) Malcolm Street, Fremantle, for the following reason(s):*

1. *The proposal doesn't meet the Design Principle criteria of the Residential Design Codes in respect to the Design Element 5.1.3 (P3.1) Lot boundary setbacks and Design Element 5.1.6 (P6) - Building height.*

## **CONCLUSION**

In conclusion, it is again 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 the relevant criteria, it has been outlined above and in the previous report that it is considered to either satisfy the relevant 'Design Principle' criteria or planning conditions have been imposed as part of the 'Officers Recommendation' bringing the development into compliance.

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

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

### **MOVED: Cr R Pemberton**

That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the two storey addition and alterations to existing Single House at No. 25 (Lot 3) Malcolm Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 21 August 2014. 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 ground floor front verandah addition and pool terrace on the western elevation, as marked in red on approved plans dated 21 August 2014, 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. 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.

4. Prior to the issue of a Building Permit, 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.
5. Prior to occupation, any new or modified crossover and/or tree removal associated with the hereby approved development must receive separate approval from the City of Fremantle’s Infrastructure and Parks Department.
6. 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.

Advice Note(s):

- i) The approval of the new / revised vehicle access has been granted based on the plans as submitted by the applicant to the City of Fremantle showing existing infrastructure and trees within the road verge and road. Should it transpire that this existing infrastructure was not accurately depicted on the plan it is the responsibility of the applicant to either;
- submit amended plans to the City of Fremantle for consideration, or
  - submit a request to the City for removal or modification of the infrastructure.

This request will be considered independently of any Planning Approval granted, and this Planning Approval should not be taken as approval for removal or modification of any infrastructure within the road reserve.

- ii) 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 and Vehicle Crossings Policies (SG28 and MD0015) for further information.
- iii) In the event that such an approval is not forthcoming from the relevant City of Fremantle department or relevant service authority prior to the commencement of this development, this planning approval will be incapable of implementation.

Any building work involving the removal or alterations to asbestos products should be carried out with extreme caution. The disposal of asbestos products to be in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Please contact Environmental Health Services on 9432 9856.

**CARRIED: 4/3**

**Cr R Pemberton MOVED to DEFER the Committee's and Officer's Recommendation and include the following wording:**

Replace a condition that will remove the rear terrace (southern) from the approval

**SECONDED: Cr S Naber**

LOST: 4/5

For	Against
Cr Doug Thompson Cr Rachel Pemberton Cr Simon Naber Cr Bill Massie	Cr Jon Strachan Cr Josh Wilson Cr David Hume Cr Dave Coggin Cr Sam Wainwright

**COUNCIL DECISION**

**MOVED: Cr R Pemberton**

**That the application be APPROVED under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the two storey addition and alterations to existing Single House at No. 25 (Lot 3) Malcolm Street, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 21 August 2014. 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 ground floor front verandah addition and pool terrace on the western elevation, as marked in red on approved plans dated 21 August 2014, 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. 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.**

4. Prior to the issue of a Building Permit, 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.
5. Prior to occupation, any new or modified crossover and/or tree removal associated with the hereby approved development must receive separate approval from the City of Fremantle’s Infrastructure and Parks Department.
6. 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.

**Advice Note(s):**

- i) The approval of the new / revised vehicle access has been granted based on the plans as submitted by the applicant to the City of Fremantle showing existing infrastructure and trees within the road verge and road. Should it transpire that this existing infrastructure was not accurately depicted on the plan it is the responsibility of the applicant to either;
  - submit amended plans to the City of Fremantle for consideration, or
  - submit a request to the City for removal or modification of the infrastructure.

This request will be considered independently of any Planning Approval granted, and this Planning Approval should not be taken as approval for removal or modification of any infrastructure within the road reserve.

- ii) 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 and Vehicle Crossings Policies (SG28 and MD0015) for further information.
- iii) In the event that such an approval is not forthcoming from the relevant City of Fremantle department or relevant service authority prior to the commencement of this development, this planning approval will be incapable of implementation.

**Any building work involving the removal or alterations to asbestos products should be carried out with extreme caution. The disposal of asbestos products to be in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Please contact Environmental Health Services on 9432 9856.**

**SECONDED: Cr D Coggin**

**CARRIED: 6/3**

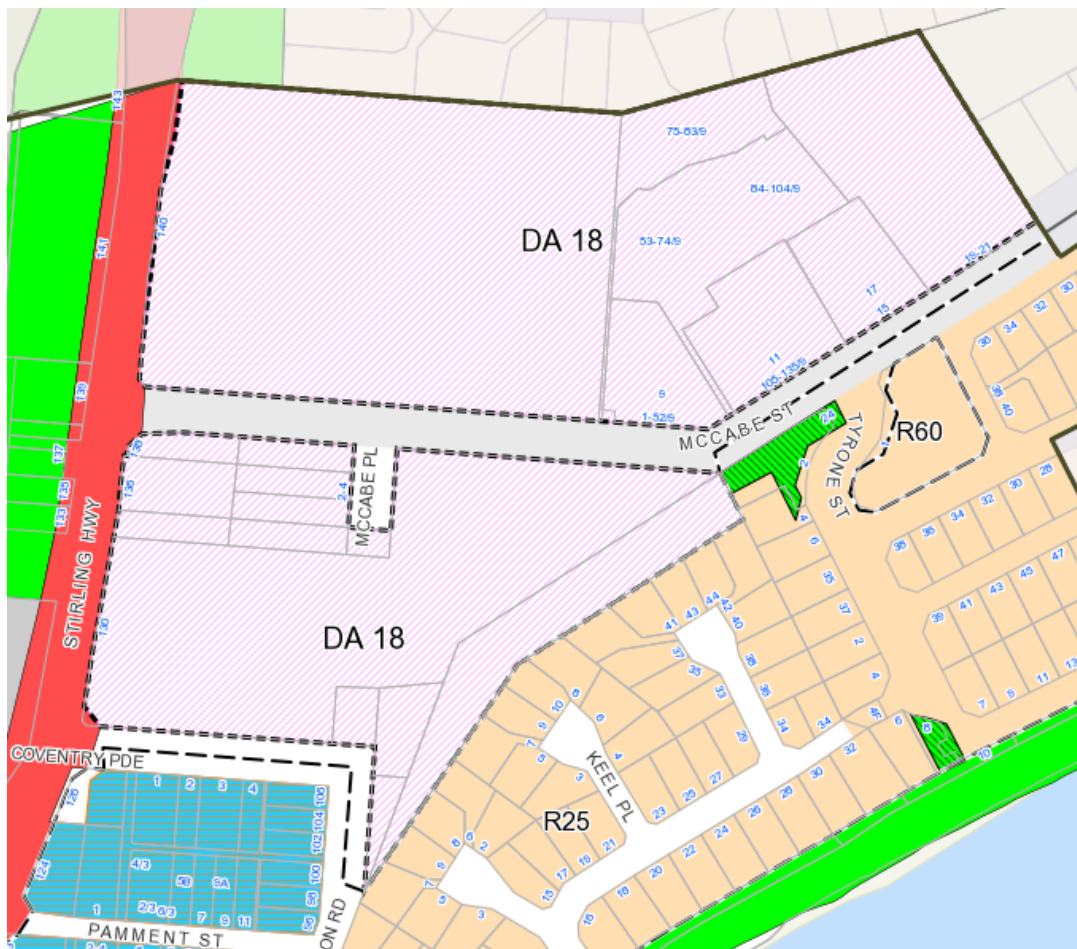
<b>For</b>	<b>Against</b>
Cr Rachel Pemberton Cr Simon Naber Cr Josh Wilson Cr David Hume Cr Dave Coggin Cr Bill Massie	Cr Doug Thompson Cr Jon Strachan Cr Sam Wainwright

Mayor, Brad Pettitt returned to the meeting at 8.41 pm.

**PSC1410-151 REVIEW AND MODELLING OF LOCAL PLANNING POLICY 3.11 MCCABE STREET AREA, NORTH FREMANTLE HEIGHT OF NEW BUILDINGS - FINAL ADOPTION**

**DataWorks Reference:** 117/034  
**Disclosure of Interest:** Nil  
**Meeting Date:** PSC 1 October 2014; Council 22 October 2014  
**Responsible Officer:** Acting Director Planning and Development Services  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** 24 April 2013 PSC1304-58; 24 July 2013 PSC1307-107; 27 November 2013 PSC1311-183; 26 February 2014 PSC1402-32; 26 March 2014 PSC1403-51; 23 July 2014 PSC1407-124

- Attachments:**
1. Schedule of Submissions
  2. 3D Modelling
  3. Scenic Spectrums view photomontages
  4. Previous Council Minutes 23 July 2014



## EXECUTIVE SUMMARY

A report on modified heights and the submissions received on the reviewed *Local Planning Policy 3.11 – McCabe Street Area, North Fremantle - Height of New Buildings* (LPP3.11) was presented to Planning Services Committee and Council on 16 July 2014 and 23 July 2014 respectively. The modified LPP3.11 as recommended by officers proposed limited changes to the policy that would allow for additional building height, at Council's discretion, of up to 33m in the newly defined location of zone H2 (to the rear of the former Matilda Bay Brewery/Ford factory heritage building) and 25m in height in zone D2 (the south west portion of 9-11 McCabe Street fronting McCabe Street), subject to meeting specific design criteria. The other modifications proposed were general updates to the wording and an additional control over height on the eastern part of the former Matilda Bay brewery site adjacent to McCabe Street.

At the Planning Services Committee meeting the Committee resolved to recommend to Council that the building height limit in zone D2 be increased from the 25m height limit recommended by officers to 29m and the building height limit in zone H2 be increased from the recommended 33m to 42m. Council then resolved to defer the item to the next appropriate Planning Services Committee meeting to allow for the development of modelling of the impact of a building height of 42 metres in area H2.

This modelling of increased building heights in zone H2 and also in zone D2 and the potential outlook from specific viewpoints of indicative buildings in the policy area has been undertaken. The results of the modelling is discussed in this report and presented in attachment 2 and 3. The officer's recommendation previously presented to Council has been amended to include an additional policy provision that would allow Council a discretionary authority to consider additional height up to 42m in zone H2, but only in circumstances where a structure plan has been submitted and includes satisfactory design details and justification for a building of this height; with this exception the officer recommendation in respect of maximum building heights is unchanged.

The differing maximum heights previously resolved by the Planning Services Committee are also reproduced in the report should the Committee consider the previous committee recommendation to be more appropriate.

## BACKGROUND

*Local Planning Policy 3.11 – McCabe Street Area, North Fremantle - Height of New Buildings* (LPP3.11) was adopted in 2009. Since this time the state government has provided strategic direction for Perth's future population growth in the document *Directions 2031 and beyond*. The intent of the height policy review is therefore to increase the capacity for comprehensive development in the development area in line with state government's strategic direction whilst at the same time limiting the impact of new built form on the established view corridors in the area.



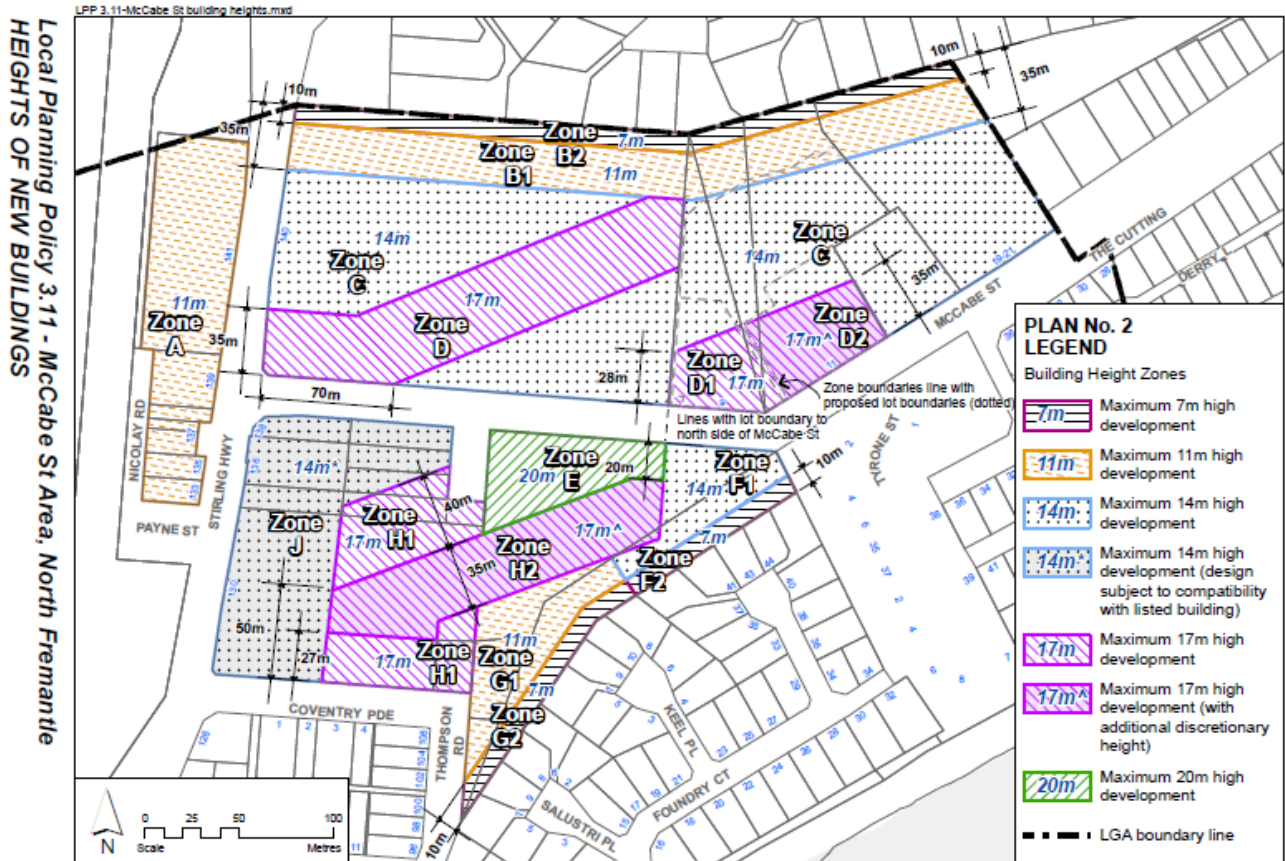


Figure 1. Proposed modification to the building heights in LPP3.11 on the former Matilda Bay Brewery and Tasker's site – as advertised for public comment

The modified LPP3.11 as advertised for comment proposed limited changes to the policy that would allow for additional building height, at Council's discretion, of up to 33m in the newly defined location of zone H2 (to the rear of the former Matilda Bay Brewery/Ford factory heritage building) and up to 29m in zone D2 (the south west portion of 9-11 McCabe Street fronting McCabe Street) (refer to figure 1 above), subject to meeting specific design criteria. This criteria includes the requirement for development to consider the State Planning Policy 2.6 – Coastal Planning Policy (where applicable), be 5 star Green Star rating in design, conserve the heritage significance of the heritage building, be of distinctive architecture befitting its location and exceptional design, not encroach on view corridors as defined in the McCabe Street Height Study and be limited in building footprint (in zone H2). The other modifications proposed were general updates to the wording and an additional control over height on the eastern part of the former Matilda Bay brewery site adjacent to McCabe Street.

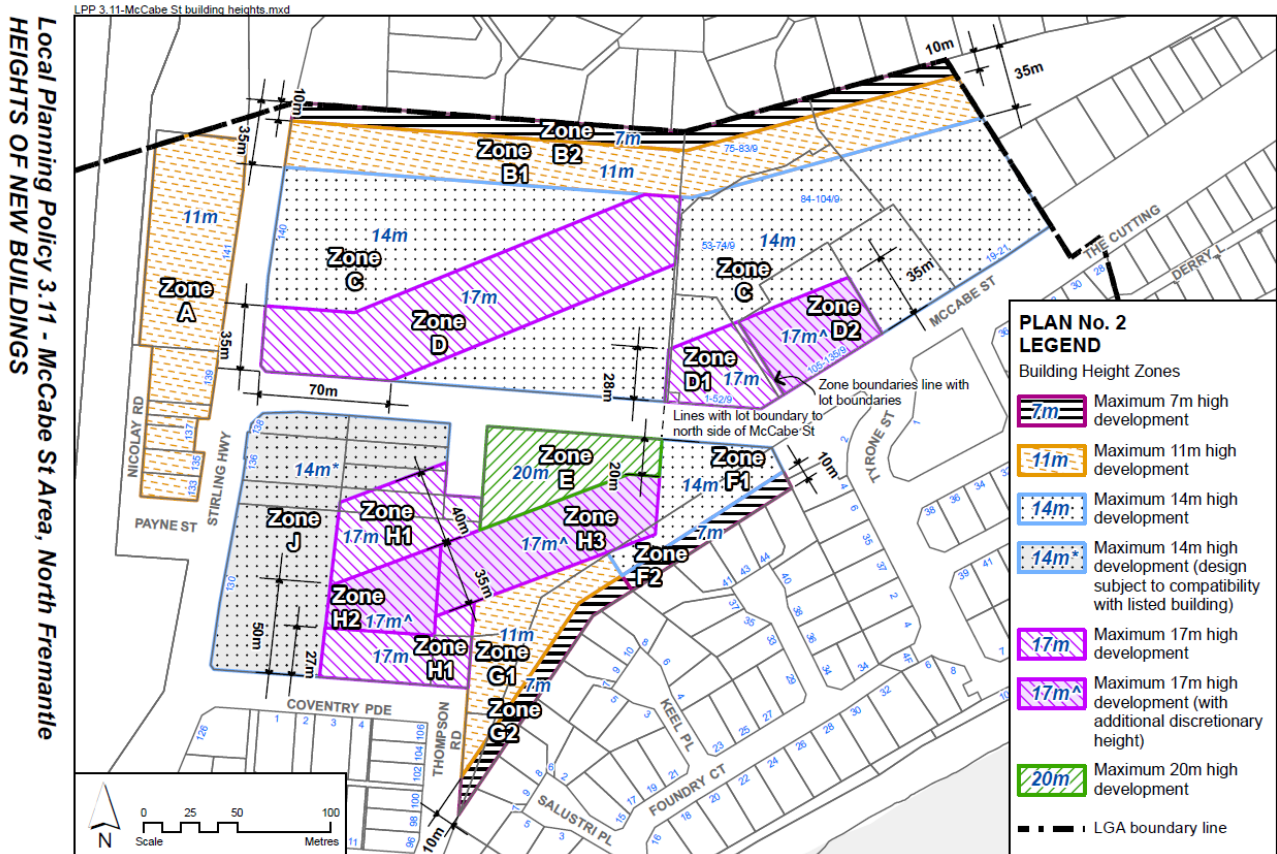


Figure 2. Proposed modification to the building heights in LPP3.11 on the former Matilda Bay Brewery and Tasker's site – **Officer's recommendation**

Following the public comment period officers reported back to Planning Services Committee and the Ordinary Meeting of Council on the 16 July 2014 and 23 July 2014 respectively, with a summary of the submissions received and proposed the following three further modifications to the reviewed LPP3.11 (refer to figure 2 above):

1. Reduce the proposed discretionary building height in a portion of zone H2 from 33m to 25m and rename this portion zone H3. Zone H2 (directly behind the Matilda Bay building) would remain a discretionary building height of 33m;
2. Reduce the proposed discretionary building height in zone D2 from 29m to 25m; and
3. Amend the wording of the discretionary height building criteria relating to environmentally sustainable design.

At the Planning Services Committee meeting amendments to the officer's recommendation were carried as follows: (a) the height limit in zone D2 be increased from 25m to 29m; and (b) the height limit in zone H2 be increased from 33m to 42m. The Committee then further resolved that final consideration of the matter be deferred to allow for the development of modelling of the impact of a building height of 42 metres in area H2. At the Ordinary Meeting of Council the Committee recommendations were carried by Council, thereby deferring the item to the next appropriate Planning Services Committee meeting to allow for the modelling of building heights to be undertaken. The modelling has now been completed and is discussed in the Planning Comment section of this report.

For further background including information on the submissions received and previous discussion on the issues please refer to the schedule of submissions in attachment 1 and the previous Ordinary Meeting of Council minutes (23 July 2014) in attachment 4.

## **CONSULTATION**

The consultation previously undertaken and the submissions received are detailed in attachments 1 and 4. For the full summary of submissions please refer to attachment 1. For the report back to Council on the submissions please refer to the Ordinary meeting of Council Minutes 23 July 2014 (PSC1407-124) in attachment 4.

## **PLANNING COMMENT**

The purpose of LPP3.11 is to identify limitations on the maximum height of new buildings that Council will apply in assessing structure plans and subsequent planning applications for the development of land zoned development zone (development area 18) in McCabe Street, North Fremantle. The policy is intended to help ensure that new buildings developed in the area do not adversely affect the visual amenity of the locality in general or the amenity of occupiers of nearby residential properties. In particular, the policy is intended to help safeguard important views from publicly accessible viewpoints towards and over the Indian Ocean and the Swan River and the setting of existing buildings and landscape features of cultural heritage significance.

Following Council's deferral of this item, the City commissioned modelling of the current heights allowable under the policy (including the 25m discretionary building height on 140 Stirling Highway on the corner of Stirling Highway and McCabe Street), and the following two different height scenarios on the Matilda Bay and Tasker sites using indicative building footprints:

- Officer's recommended discretionary height of up to 25m (56m AHD) in zone D2, 25m (42m AHD) in zone H3 and 33m (51m AHD) in zone H2; and
- PSC's resolution to consider additional discretionary height of up to 29m (60m AHD) in zone D2, 25m in zone H3 (42m AHD) and 42m (60m AHD) in zone H2.

CODA provided the City with a 3D 'SketchUp' (3D modelling program) model of the area. This model takes into account the topography of the area, provides indicative buildings on site to the heights provided in LPP3.11 and the height scenarios above, and represents existing surrounding building stock as block models to roof height. Screenshots of this 3D modelling from different vantage points have been provided in attachment 2.

Scenic Spectrums (landscape impact consultants) prepared six photo montages for the two different building height scenarios based on the same views as represented in previous work undertaken in May 2008 by the same consultant for the *McCabe Street Height Study* which informed the original content of LPP3.11. These photomontages have been provided in attachment 3.

## **Discussion on modelling**

### Overshadowing

Overshadowing was one of the main concerns expressed in submissions on the review of LPP3.11. The Residential Design Codes (R-codes) assesses the overshadowing



impact of proposed development on adjoining sites by calculating the shadow that would be cast by a proposed development at midday on the 21<sup>st</sup> of June (the winter solstice). The “deemed to comply” requirement of how much shadow a proposed development can cast on adjoining properties depends on the adjoining properties’ density coding. For example, under the R-codes where a multiple dwelling adjoins R25 coded properties (e.g. the Rocky Bay area to the south of the LPP3.11 policy area) the development would satisfy the “deemed to comply” criteria if the shadow cast by the proposed development on any adjoining property does not exceed 25 per cent. The ‘deemed to comply’ provisions for *Solar access for adjoining sites* (clauses 5.1.2 C2.1 and C2.2, 6.4.2 C2.1) under the R-codes are not clauses that can be amended or replaced by a local planning policy. Accordingly, overshadowing will be assessed as part of any development application received in the area, once structure plans have been established.

Nonetheless, to help with decision-making officers have provided screenshots from the 3D modelling of shadowing of indicative buildings in the area in figures 3 and 4 below to assist Council in visualising where the shadow from buildings of maximum height in this area would be cast. A completely realistic portrayal of overshadowing of future development on adjoining properties, and whether development meets the R-code requirements, cannot be undertaken without development plans. Instead the figures are indicative block models that give an indication of where shadowing could occur, and can be considered a “worst case scenario” representation.

Figure 3 below depicts the shadowing at midday on 21 June from the indicative buildings at the maximum discretionary building height proposed in the officer’s recommendation, i.e. 25m in zone D2, 33m in zone H2 and 25m in zone H3.



Figure 3. Shadowing of maximum discretionary building heights proposed in the review of the policy including 25m in zone D2, 33m in zone H2 and 25m in zone H3 - **Officers Recommendation**

Figure 4, similar to figure 3, depicts the shadowing at midday on 21 June from the indicative buildings at the maximum discretionary building height proposed in the Committee’s recommendation, i.e. 29m in zone D2, 42m in zone H2 and 25m in zone H3



Figure 4. Shadowing of maximum discretionary building heights proposed in the review of the policy including 29m in zone D2, 42m in zone H2 and 25m in zone H3 – **Committee recommendation**

From the modelling presented in figures 3 and 4 it can be seen that shadowing from development in zone D2 at midday on 21<sup>st</sup> of June would occur on McCabe Street and the adjoining Public Open Space in the Minim Cove area. The shadowing of a building up to 25m or 29m in height in zone D2 would therefore have little effect on resident housing and would meet the “deemed to comply” criteria of the R-codes.

Similarly, the indicative buildings in the modelling also show that the discretionary height of up to 25m in zone H3 would likely meet the “deemed to comply” criteria of the R-codes overshadowing requirements.

The modelling of building height up to 42m in zone H2 however shows that shadowing would probably not meet the “deemed to comply” criteria of the R-codes if development occurred as per the indicative building modelled. On the contrary, the modelling of the height up to 33m in zone H2 shows the shadowing to be of similar impact to the shadowing that currently occurs from the existing building on site abutting the northern side of Coventry Parade. The property on the corner of Coventry Parade and Thompson Road (106 Thompson Road) has a density coding of R25, meaning for development in the H2 zone to meet the “deemed to comply” criteria of the R-codes the shadow cast at midday on the 21<sup>st</sup> of June is to be 25 per cent of the adjoining property’s site area or less. Any development proposed on site would be assessed on this requirement of the R-codes and limiting overshadowing of adjoining property could be achieved through design of the development e.g. a stepping down in height to this side. Nonetheless, if zone H2 is to have a discretionary building height of up to 42m, very careful design would be required to mitigate the impact of shadowing on adjoining properties to acceptable levels.

Visual Impact of Building Height*Zone H2 (former Matilda Bay site)*

In the previous report to Council (23 July 2014) officers recommended zone H2 be limited to a discretionary building height of 33m. The reason for this recommendation was:

- a. Due to topography of the area the 33m building height in zone H2 would be of similar height to the 25m discretionary height already allowed in the policy for the One Steel (140 Stirling Highway) and 25m discretionary height proposed in the officer's recommendation for zone D2 on the Taskers (15 McCabe Street) site.
- b. Zone H2 is centrally located in the policy area directly behind the former Matilda Bay Brewery heritage building well away from existing residential properties and Stirling Highway. The central location of a taller building in the area limits the impact of future development in zone H2 on view corridors and streetscape.

The modelling and indicative views provided in attachment 2 and 3 illustrate, from different vantage points, what an indicative building of up to 33m or alternatively 42m in height in zone H2 could look like. Based on the indicative building modelled, officers consider the additional discretionary height of up to 42m in zone H2 to have no materially greater impact on view corridors and streetscape than a building of 33m. The additional nine metres (up to 42m) of height would however (as discussed above) cast a greater shadow and be taller overall than the building heights allowed on the One Steel site (corner McCabe Street and Stirling Highway) and proposed on the Tasker's site.

However, officers acknowledge that there is potential scope to allow for a building height of up to 42m in zone H2 where overshadowing is kept to a minimum, and has been demonstrated to do so through submission of satisfactory design details. Accordingly while officers recommend that generally within the policy the discretionary building height in zone H2 should be maintained at 33m (where the proposed criteria can be met), an additional policy provision is further recommended that would allow Council further discretionary authority to consider supporting additional height of up to 42m; but only in circumstances where a structure plan has formally been submitted and includes satisfactory design details and justification for a building of this height as part of comprehensive planning proposals for the former Matilda Bay Brewery site as a whole. Because a structure plan would be subject to further public consultation in its own right prior to determination by Council, any decision to approve a building of up to 42m in height would only be made after the local community had been able to consider such a proposal with the benefit of additional details of general building form and design and had opportunity to submit comments on the merits of such a proposal for Council's consideration.

This additional proposed policy provision is outlined below.

Proposed new paragraph 4.2.5 in the last section of the policy under "Specific Requirements Additional to General Policy Provisions"

*Height Zone H2 – Notwithstanding the general maximum building height and discretionary additional height provisions contained in other parts of this policy, at the time of determination of a structure plan relating to the whole of the former Matilda Bay Brewery site Council may at its discretion support development up to 42m above ground level, in this zone only, where the information provided as part of the structure plan*

*includes sufficient details of the design of the proposed building(s) in this zone to demonstrate to the satisfaction of the City that:*

- (1) shadows cast by the building(s) will comply with the applicable "Deemed to Comply" provisions of the Residential Design Codes relating to solar access for adjoining sites; and*
- (2) all of the provisions applicable to development in zone H2 as stated in paragraphs 4.1.5 and 4.2.2 of this policy are complied with.*

### *Zone D2 (Taskers Site)*

The modelling and indicative views provided in attachment 2 and 3 illustrate, from different vantage points, what an indicative building of up to 25m (previous officer recommendation) and 29m (previous Committee resolution) in height in zone D2 could look like. The modelling is based on a previous approval given for a building on the Tasker's site. Officers considered it reasonable to assume that any future building in zone D2 would be of a similar footprint to what was previously approved with a height of up to 25m or 29m. The previously approved building (and subsequently the building modelled) has a long footprint that runs parallel to McCabe Street to take advantage of the river views. The 29m building height limit coupled with the long building footprint and prominent location on McCabe Street results in a quite dominant building in the streetscape. Comparatively, development up to 33 or 42m in zone H2 is less dominant as it has a lower ground level overall and is centrally located on the site behind retained buildings of 15-16m in height. Of course building bulk can be ameliorated through articulation of the façade and other design aspects, however on balance officers consider that the 25m height limit portrayed in the modelling on zone D2 is a sufficient height limit for the site as it allows for a little extra height without being over dominant in the area. Accordingly officers recommend the discretionary building height of zone D2 be limited to 25m.

## **CONCLUSION**

The purpose of the LPP3.11 McCabe Street Height Policy review is to facilitate the capacity for comprehensive redevelopment in the development area in line with the State government's strategic direction whilst at the same time limiting the impact of new built form on the established view corridors in the area.

In light of the modelling provided, officers consider a modified version of their previous recommendation to be appropriate. This retains the previously recommended discretionary building height limits of up to 25m in zone D2, 25m in zone H3 and 33m in zone H2; however a new policy provision is additionally recommended that would allow Council further discretionary authority to consider supporting additional height of up to 42m in zone H2, but only in circumstances where a structure plan has formally been submitted and includes satisfactory design details and justification for a building of this height as part of comprehensive planning proposals for the former Matilda Bay Brewery site as a whole, and after such a structure plan has been the subject of further community consultation.

Alternatively, if Council consider the previous committee recommendation to be more appropriate, the following amendments to the officer's recommendation would be required:

- Clause 4.1.5 to specify a maximum building height of 29 metres instead of 25 metres in zone D2;
- Clause 4.1.5 to specify a maximum building height of 42 metres instead of 33 metres in zone H2; and
- Delete proposed new paragraph 4.2.5 that would allow for height up to 42m in zone H2 to be considered at the structure plan stage as it would no longer be relevant.

## **OFFICER'S RECOMMENDATION**

### **MOVED: Cr R Pemberton**

That Council:

1. Notes the submission received as detailed in the previous Officer's report 23 July 2014 (attachment 4) and schedule of submissions (attachment 1); and
2. Adopts amended local planning policy Local Planning Policy 3. 11 – McCabe Street Area, North Fremantle - Height of New Buildings, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4, as shown below:

### CITY OF FREMANTLE

#### LOCAL PLANNING POLICY 3.11

#### MCCABE STREET AREA, NORTH FREMANTLE - HEIGHT OF NEW BUILDINGS

ADOPTION DATE: 22 April 2009

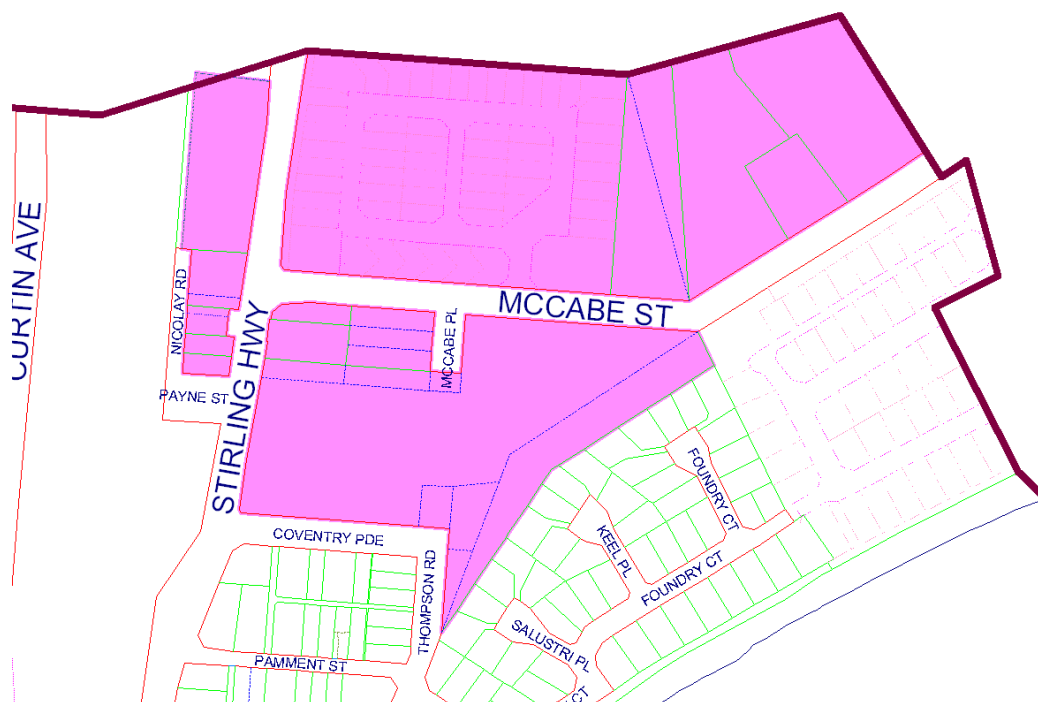
AMENDED DATE: ???

AUTHORITY: LOCAL PLANNING SCHEME NO.4

#### 1. PURPOSE

- 1.1 The purpose of the policy is to identify limitations on the maximum heights of new buildings that Council will apply in assessing planning proposals relating to land adjacent to McCabe Street, North Fremantle as defined by the shaded area on the plan below:





- 1.2 The policy is intended to help ensure that new buildings developed in the area defined on Plan No. 1 above do not adversely affect the visual amenity of the locality in general or the amenity of occupiers of nearby residential properties. In particular, the policy is intended to help safeguard important views from publicly accessible viewpoints towards and over the Indian Ocean and the Swan River and the setting of existing buildings and landscape features of cultural heritage significance.

## 2. APPLICATION OF POLICY

- 2.1 The policy applies to all land within the area defined on Plan No. 1 that is zoned under Local Planning Scheme No. 4 (LPS4), unless any such land is subject to specific or general height controls under the provisions of Clause 12.12 Schedule 12 – Local Planning Areas (Height Requirements) of LPS4, in which case the provisions of the Scheme shall prevail.
- 2.2 Council will apply the policy in determining applications for planning approval to undertake development under Part 8 of LPS4, and in determining structure plans and detailed area plans under Part 6 of LPS4 in cases where such plans include information regarding proposed building heights. The policy applies to development proposals involving both residential and non-residential land uses.

## 3. STATUTORY BACKGROUND

- 3.1 This policy has been prepared in accordance with the provisions of LPS4 relating to the preparation and adoption on local planning policies.

- 3.2 Clause 5.2.2 of LPS4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Codes.
- 3.3 Part 7.3 of the Residential Design Codes (R-codes) states that local planning policies may contain provisions that amend or replace deemed to comply provisions set out in part 5 and 6 of the R-codes in relation to various design elements including building height. This local planning policy replaces the deemed to comply provisions relating to building height set out in design element 5.1.6 and 6.1.2 of the R-codes.
4. POLICY
- 4.1 General
- 4.1.1 Plan No. 2 defines a series of building height zones within the area covered by this policy. The maximum height of any new building shall not exceed the height above ground level prescribed in the height zone applying to the location of the proposed new building, except for any variations as specified in 4.1.5 below.
- 4.1.2 Maximum building height will be measured as the vertical distance in metres from ground level to the highest part of the main building structure, irrespective of whether that part of the structure is a wall, parapet or roof.
- 4.1.3 For the purpose of measuring building height above ground level, the meaning of ground level is the level which existed prior to the proposed development. Any site works associated with the proposed development which involve alterations to existing ground level must be included within the same application for planning approval. If any such site works involve filling above existing ground level, the depth of proposed fill as well as the height of the proposed new building(s) must be accommodated within the maximum height of development specified in this policy. The contents of this policy do not preclude Council from exercising its discretionary ability under clause 5.8.1 of Local Planning Scheme No. 4 to increase the standard applicable height limit by up to 0.5 metres where there is a variation in ground level over a development footprint of greater than 1 metre.
- 4.1.4 Where the main structure of a building is located in more than one height zone as shown on Plan No. 2, the part of the building in each height zone must comply with the maximum height requirement for that zone.
- 4.1.5 Council may approve planning proposals involving variations to the maximum building heights prescribed on Plan No. 2 in the following circumstances:
- Minor projections above the highest part of the main building structure may be permitted subject to the criteria in clause 5.8.1.3 of LPS4
  - Minor projections out from the side of a main building structure over land within an adjoining height zone where a lower maximum building height requirement applies, in cases where no part of the projection is more than 3m away from the main building structure and the total area of all projections is no more than 10% of the ground floor area of the building.

Minor projections will be interpreted as including plant and equipment, canopies, awnings, verandahs and balconies, including balconies intended for regular human use.

- In the part of Zone D that is within 60 metres of the eastern boundary of the Stirling Highway road reserve on the north side of McCabe Street, a building of a maximum height of 25 metres may be approved by Council at its discretion subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) The development must incorporate non-residential ground floor uses that contribute to the function of the locality as an activity and/or tourist node;
  - (c) The development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (d) The design of the development must perform the urban design function of an 'entry statement' into the City of Fremantle, including design qualities that convey a contemporary coastal aesthetic informed by the local context of North Fremantle and the Indian Ocean foreshore; and
  - (e) The development must not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.
  
- In the areas designated zone H2 and zone H3 on the policy map behind the former Matilda Bay brewery building a development with a maximum height of 33 metres in zone H2 and 25m in zone H3 may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) Where applicable, the development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (c) The development must incorporate works to conserve the heritage significance of the heritage building;
  - (d) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and
  - (e) The development must not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.
  - (f) The aggregate footprint of the portions of the development exceeding 17 metres in height in zones H2 and H3 must not occupy more than 60% of

the total combined land area of zone H2 and H3, and any individual portion of the development over 17 metres in height must not have a footprint greater than 20% of the total land area of zone H2 and H3.

- In the part designated zone D2 on the policy map fronting McCabe Street at 9 McCabe Street, North Fremantle, a development with a maximum height of 25 metres may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and
  - (c) The development must not encroach upon view corridors as defined in the “McCabe Street Height Study” dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.

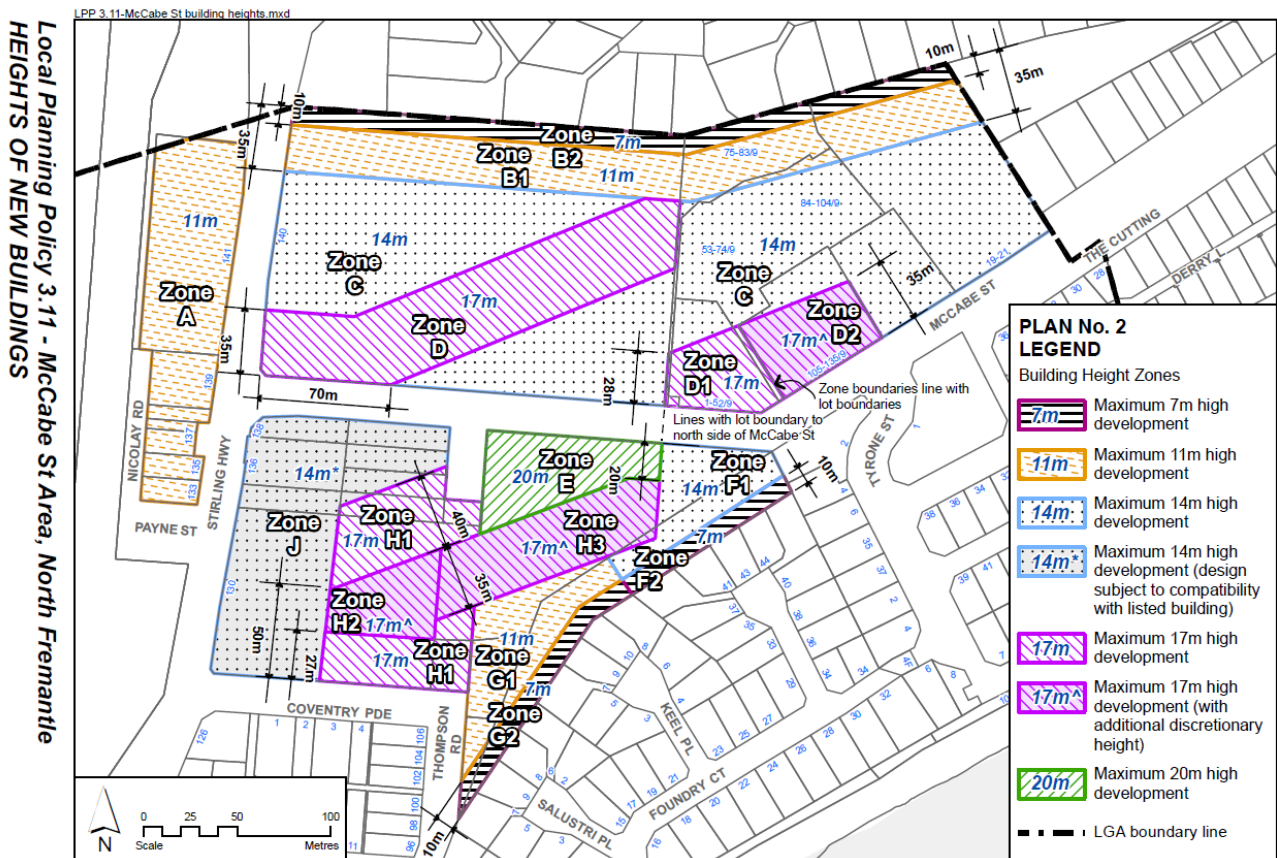
#### 4.2 Specific Requirements Additional to General Policy Provisions

- 4.2.1 Height Zone A – 133 -141 Stirling Highway. Notwithstanding the general maximum building height of 11 metres permitted under this policy, the built form of any new development in this zone must incorporate at least two significant gaps between buildings down to ground level of sufficient width to provide views of the Indian Ocean from ground level on Stirling Highway. One of these gaps must approximately align with the axis of McCabe Street at its intersection with Stirling Highway.
- 4.2.2 Height Zones H and J – new development will be assessed in terms of its impact upon the Matilda Bay Brewing Company building (former Ford Motor Company assembly plant) which is included on the Heritage List under the provisions of clause 7.1 of LPS4. Consideration will be given to the extent to which proposed new development helps to conserve and reveal the significance of the heritage place, including its identified significant attributes and features, through the siting and design of new buildings including their massing, bulk, relationship to street frontages and degree of separation from the heritage place in order to give prominence in the streetscape to the heritage place.
- 4.2.3 Height Zone E – Notwithstanding the general maximum building height of 20 metres in zone E from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of 37 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.
- 4.2.4 Height Zone F1 – Notwithstanding the general maximum building height of 14 metres in zone F1 from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of

34 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.

4.2.5 Height Zone H2 – Notwithstanding the general maximum building height and discretionary additional height provisions contained in other parts of this policy, at the time of determination of a structure plan relating to the whole of the former Matilda Bay Brewery site Council may at its discretion support development up to 42m above ground level, in this zone only, where the information provided as part of the structure plan includes sufficient details of the design of the proposed building(s) in this zone to demonstrate to the satisfaction of the City that:

- (a) shadows cast by the building(s) will comply with the applicable “Deemed to Comply” provisions of the Residential Design Codes relating to solar access for adjoining sites; and
- (b) all of the provisions applicable to development in zone H2 as stated in paragraphs 4.1.5 and 4.2.2 of this policy are complied with.



Cr B Massie **MOVED** an amendment to the Officer's Recommendation to add clause g) to the fourth dot point of 4.1.5 to state the following;

- g) The development includes a suitably located mixed-use community hub with sufficient commercial floor area to serve the existing and future residential population living within walking distance of the precinct.

**CARRIED: 7/0**

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Doug Thompson Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Jon Strachan	

**Mayor, Brad Pettitt MOVED an amendment to the Officer's Recommendation to delete clause 4.2.5:**

**CARRIED: 6/1**

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Doug Thompson Cr Josh Wilson Cr Ingrid Waltham Cr Jon Strachan	Cr Bill Massie

**COMMITTEE RECOMMENDATION**

**MOVED: Cr R Pemberton**

That Council:

- Notes the submission received as detailed in the previous Officer's report 23 July 2014 (attachment 4) and schedule of submissions (attachment 1); and
- Adopts amended local planning policy Local Planning Policy 3. 11 – McCabe Street Area, North Fremantle - Height of New Buildings, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4, as shown below:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 3.11

MCCABE STREET AREA, NORTH FREMANTLE - HEIGHT OF NEW BUILDINGS

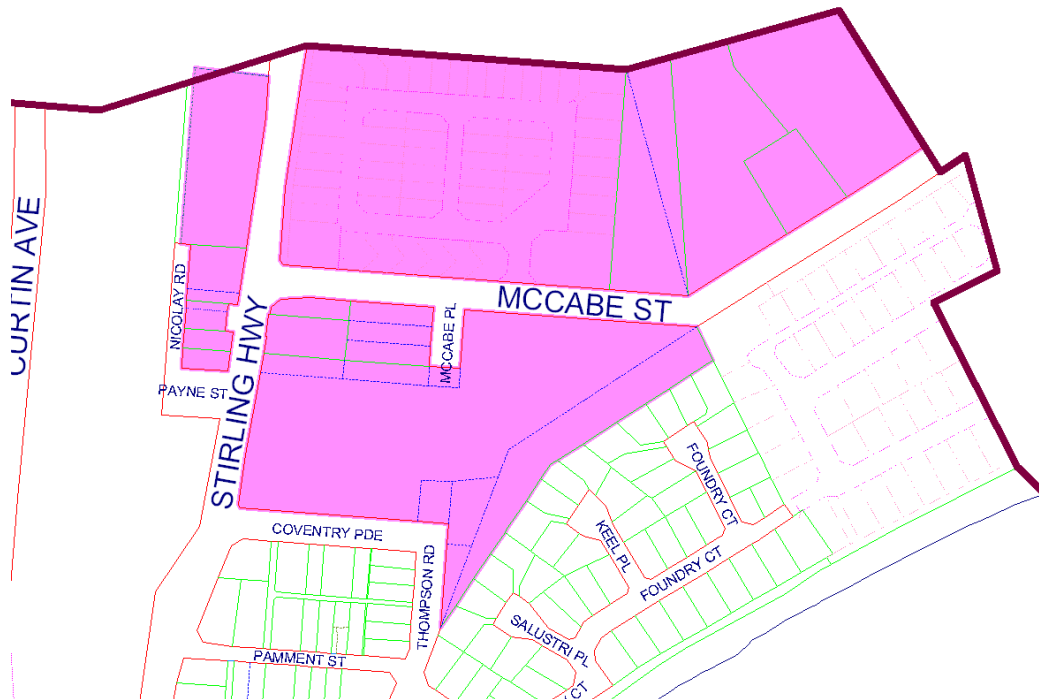
ADOPTION DATE: 22 April 2009

AMENDED DATE: ???

AUTHORITY: LOCAL PLANNING SCHEME NO.4

- PURPOSE

- 1.1 The purpose of the policy is to identify limitations on the maximum heights of new buildings that Council will apply in assessing planning proposals relating to land adjacent to McCabe Street, North Fremantle as defined by the shaded area on the plan below:



- 1.2 The policy is intended to help ensure that new buildings developed in the area defined on Plan No. 1 above do not adversely affect the visual amenity of the locality in general or the amenity of occupiers of nearby residential properties. In particular, the policy is intended to help safeguard important views from publicly accessible viewpoints towards and over the Indian Ocean and the Swan River and the setting of existing buildings and landscape features of cultural heritage significance.

## 2. APPLICATION OF POLICY

- 2.1 The policy applies to all land within the area defined on Plan No. 1 that is zoned under Local Planning Scheme No. 4 (LPS4), unless any such land is subject to specific or general height controls under the provisions of Clause 12.12 Schedule 12 – Local Planning Areas (Height Requirements) of LPS4, in which case the provisions of the Scheme shall prevail.
- 2.2 Council will apply the policy in determining applications for planning approval to undertake development under Part 8 of LPS4, and in determining structure plans and detailed area plans under Part 6 of LPS4 in cases where such plans include information regarding proposed building heights. The policy applies to development proposals involving both residential and non-residential land uses.

### 3. STATUTORY BACKGROUND

- 3.1 This policy has been prepared in accordance with the provisions of LPS4 relating to the preparation and adoption on local planning policies.
- 3.2 Clause 5.2.2 of LPS4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Codes.
- 3.3 Part 7.3 of the Residential Design Codes (R-codes) states that local planning policies may contain provisions that amend or replace deemed to comply provisions set out in part 5 and 6 of the R-codes in relation to various design elements including building height. This local planning policy replaces the deemed to comply provisions relating to building height set out in design element 5.1.6 and 6.1.2 of the R-codes.

### 4. POLICY

#### 4.1 General

- 4.1.1 Plan No. 2 defines a series of building height zones within the area covered by this policy. The maximum height of any new building shall not exceed the height above ground level prescribed in the height zone applying to the location of the proposed new building, except for any variations as specified in 4.1.5 below.
- 4.1.2 Maximum building height will be measured as the vertical distance in metres from ground level to the highest part of the main building structure, irrespective of whether that part of the structure is a wall, parapet or roof.
- 4.1.3 For the purpose of measuring building height above ground level, the meaning of ground level is the level which existed prior to the proposed development. Any site works associated with the proposed development which involve alterations to existing ground level must be included within the same application for planning approval. If any such site works involve filling above existing ground level, the depth of proposed fill as well as the height of the proposed new building(s) must be accommodated within the maximum height of development specified in this policy. The contents of this policy do not preclude Council from exercising its discretionary ability under clause 5.8.1 of Local Planning Scheme No. 4 to increase the standard applicable height limit by up to 0.5 metres where there is a variation in ground level over a development footprint of greater than 1 metre.
- 4.1.4 Where the main structure of a building is located in more than one height zone as shown on Plan No. 2, the part of the building in each height zone must comply with the maximum height requirement for that zone.
- 4.1.5 Council may approve planning proposals involving variations to the maximum building heights prescribed on Plan No. 2 in the following circumstances:
  - Minor projections above the highest part of the main building structure may be permitted subject to the criteria in clause 5.8.1.3 of LPS4



- Minor projections out from the side of a main building structure over land within an adjoining height zone where a lower maximum building height requirement applies, in cases where no part of the projection is more than 3m away from the main building structure and the total area of all projections is no more than 10% of the ground floor area of the building. Minor projections will be interpreted as including plant and equipment, canopies, awnings, verandahs and balconies, including balconies intended for regular human use.
  
- In the part of Zone D that is within 60 metres of the eastern boundary of the Stirling Highway road reserve on the north side of McCabe Street, a building of a maximum height of 25 metres may be approved by Council at its discretion subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) The development must incorporate non-residential ground floor uses that contribute to the function of the locality as an activity and/or tourist node;
  - (c) The development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (d) The design of the development must perform the urban design function of an 'entry statement' into the City of Fremantle, including design qualities that convey a contemporary coastal aesthetic informed by the local context of North Fremantle and the Indian Ocean foreshore; and
  - (e) The development must not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.
  
- In the areas designated zone H2 and zone H3 on the policy map behind the former Matilda Bay brewery building a development with a maximum height of 33 metres in zone H2 and 25m in zone H3 may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) Where applicable, the development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (c) The development must incorporate works to conserve the heritage significance of the heritage building;
  - (d) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and

(e) The development must not encroach upon view corridors as defined in the “McCabe Street Height Study” dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.

(f) The aggregate footprint of the portions of the development exceeding 17 metres in height in zones H2 and H3 must not occupy more than 60% of the total combined land area of zone H2 and H3, and any individual portion of the development over 17 metres in height must not have a footprint greater than 20% of the total land area of zone H2 and H3.

*g) The development includes a suitably located mixed-use community hub with sufficient commercial floor area to serve the existing and future residential population living within walking distance of the precinct.*

- In the part designated zone D2 on the policy map fronting McCabe Street at 9 McCabe Street, North Fremantle, a development with a maximum height of 25 metres may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:

(a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.

(b) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and

(c) The development must not encroach upon view corridors as defined in the “McCabe Street Height Study” dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.

#### 4.2 Specific Requirements Additional to General Policy Provisions

4.2.1 Height Zone A – 133 -141 Stirling Highway. Notwithstanding the general maximum building height of 11 metres permitted under this policy, the built form of any new development in this zone must incorporate at least two significant gaps between buildings down to ground level of sufficient width to provide views of the Indian Ocean from ground level on Stirling Highway. One of these gaps must approximately align with the axis of McCabe Street at its intersection with Stirling Highway.

4.2.2 Height Zones H and J – new development will be assessed in terms of its impact upon the Matilda Bay Brewing Company building (former Ford Motor Company assembly plant) which is included on the Heritage List under the provisions of clause 7.1 of LPS4. Consideration will be given to the extent to which proposed new development helps to conserve and reveal the significance of the heritage place, including its identified significant attributes and features, through the siting and design of new buildings including their massing, bulk, relationship to street frontages and degree of separation from the heritage place in order to give prominence in the streetscape to the heritage place.

- 4.2.3 Height Zone E – Notwithstanding the general maximum building height of 20 metres in zone E from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of 37 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.
- 4.2.4 Height Zone F1 – Notwithstanding the general maximum building height of 14 metres in zone F1 from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of 34 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.

CARRIED: 7/0

Cr D Thompson vacated the chamber at 8.43 pm during the following amendment.

Mayor, Brad Pettitt **MOVED** an amendment to the Committee's Recommendation to include an additional part 3 as shown below:

- a) That officers be requested to undertake an investigation of existing and potential future traffic movements on the local road network in the North Fremantle area, particularly McCabe Street, Thompson Road and connecting streets, taking into account the following issues:
  - Existing traffic volumes and speeds;
  - Additional traffic volumes likely to be generated by future development on sites in Development Area 18 and the impacts this is likely to have on the local road network, including specific consideration of how a through road connection from McCabe Street to Thompson Road/Coventry Parade is likely to affect traffic movement patterns and road safety conditions for pedestrians, cyclists and motorists;
  - Potential traffic management measures to mitigate negative impacts of current or future traffic volumes and movement patterns in the area;
- b) That council give consideration to the formation of a small working group with the Precinct 12/ North Fremantle Community Association at a suitable point in the investigation to consider ways in which the negative impacts of increased traffic on community amenity and safety can be addressed..
- c) That a report on the outcomes of this investigation be presented to Council for further consideration before February 2015.

SECONDED: Cr D Coggin

CARRIED: 9/0

For	Against
Mayor, Brad Pettitt Cr Jon Strachan Cr Rachel Pemberton Cr Simon Naber Cr Josh Wilson Cr David Hume	

Cr Dave Coggin Cr Sam Wainwright Cr Bill Massie	
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## REASON/S FOR CHANGE TO OFFICER'S RECOMMENDATION

Traffic issues in the Thompson Road and adjacent roads in North Fremantle were raised as a significant issue in relation to the mandated connection of Thompson Road to McCabe St. There is a requirement for a structure plan to include a through road connection between these two roads.

This concern will be increased significantly should a structure plan be submitted for the site No.130 Stirling Highway without serious consideration given to the impact of traffic flows and the concern that Thompson Road will become an alternative to avoid Stirling Highway. Future development will also increase traffic volumes on local roads and without adequate planning or treatment may significantly affect community safety and amenity. The City should proactively begin examining these issues now rather than wait until development proposals are lodged in order to deal with the community concerns regarding increased traffic.

**Cr D Thompson returned to the meeting at 8.45 pm.**

**Cr D Thompson MOVED to defer the following recommendation as amended of the Planning Policy back to the next appropriate Planning Services Committee with delegation.**

**Note: The deferred recommendation as amended below;**

**That Council:**

1. **Notes the submission received as detailed in the previous Officer's report 23 July 2014 (attachment 4) and schedule of submissions (attachment 1); and**
2. **Adopts amended local planning policy Local Planning Policy 3. 11 – McCabe Street Area, North Fremantle - Height of New Buildings, in accordance with the procedures set out in clause 2.4 of the City of Fremantle Local Planning Scheme No. 4, as shown below:**
3. **a) *That officers be requested to undertake an investigation of existing and potential future traffic movements on the local road network in the North Fremantle area, particularly McCabe Street, Thompson Road and connecting streets, taking into account the following issues:***
  - ***Existing traffic volumes and speeds;***
  - ***Additional traffic volumes likely to be generated by future development on sites in Development Area 18 and the impacts this is likely to have on the local road network, including specific consideration of how a through road connection from McCabe Street to Thompson Road/Coventry Parade is likely to affect traffic movement patterns and road safety conditions for pedestrians, cyclists and motorists;***

- **Potential traffic management measures to mitigate negative impacts of current or future traffic volumes and movement patterns in the area;**
- b) **That council give consideration to the formation of a small working group with the Precinct 12/ North Fremantle Community Association at a suitable point in the investigation to consider ways in which the negative impacts of increased traffic on community amenity and safety can be addressed..**
- c) **That a report on the outcomes of this investigation be presented to Council for further consideration before February 2015.**

**CITY OF FREMANTLE**

**LOCAL PLANNING POLICY 3.11**

**MCCABE STREET AREA, NORTH FREMANTLE - HEIGHT OF NEW BUILDINGS**

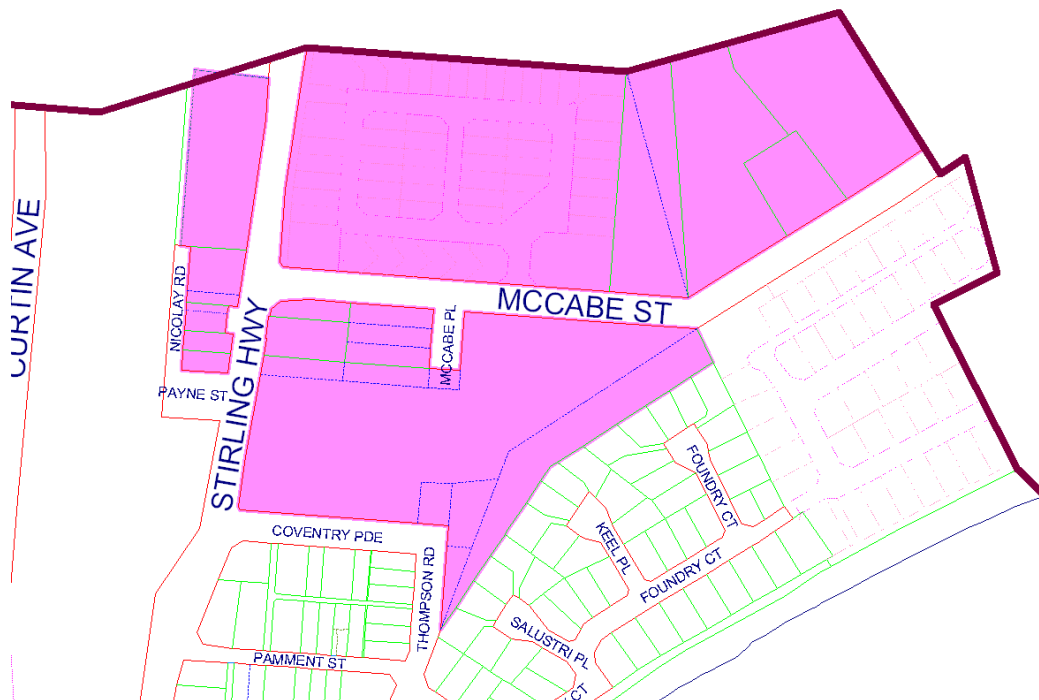
**ADOPTION DATE: 22 April 2009**

**AMENDED DATE: ???**

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

**1. PURPOSE**

- 1.1 The purpose of the policy is to identify limitations on the maximum heights of new buildings that Council will apply in assessing planning proposals relating to land adjacent to McCabe Street, North Fremantle as defined by the shaded area on the plan below:



- 1.2 The policy is intended to help ensure that new buildings developed in the area defined on Plan No. 1 above do not adversely affect the visual amenity of the locality in general or the amenity of occupiers of nearby residential properties. In particular, the policy is intended to help safeguard important views from publicly accessible viewpoints towards and over the Indian Ocean and the Swan River and the setting of existing buildings and landscape features of cultural heritage significance.

## **2. APPLICATION OF POLICY**

- 2.1 The policy applies to all land within the area defined on Plan No. 1 that is zoned under Local Planning Scheme No. 4 (LPS4), unless any such land is subject to specific or general height controls under the provisions of Clause 12.12 Schedule 12 – Local Planning Areas (Height Requirements) of LPS4, in which case the provisions of the Scheme shall prevail.
- 2.2 Council will apply the policy in determining applications for planning approval to undertake development under Part 8 of LPS4, and in determining structure plans and detailed area plans under Part 6 of LPS4 in cases where such plans include information regarding proposed building heights. The policy applies to development proposals involving both residential and non-residential land uses.

## **3. STATUTORY BACKGROUND**

- 3.1 This policy has been prepared in accordance with the provisions of LPS4 relating to the preparation and adoption on local planning policies.
- 3.2 Clause 5.2.2 of LPS4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of the Codes.
- 3.3 Part 7.3 of the Residential Design Codes (R-codes) states that local planning policies may contain provisions that amend or replace deemed to comply provisions set out in part 5 and 6 of the R-codes in relation to various design elements including building height. This local planning policy replaces the deemed to comply provisions relating to building height set out in design element 5.1.6 and 6.1.2 of the R-codes.

## **4. POLICY**

### **4.1 General**

- 4.1.1 Plan No. 2 defines a series of building height zones within the area covered by this policy. The maximum height of any new building shall not exceed the height above ground level prescribed in the height zone applying to the location of the proposed new building, except for any variations as specified in 4.1.5 below.

- 4.1.2 Maximum building height will be measured as the vertical distance in metres from ground level to the highest part of the main building structure, irrespective of whether that part of the structure is a wall, parapet or roof.**
- 4.1.3 For the purpose of measuring building height above ground level, the meaning of ground level is the level which existed prior to the proposed development. Any site works associated with the proposed development which involve alterations to existing ground level must be included within the same application for planning approval. If any such site works involve filling above existing ground level, the depth of proposed fill as well as the height of the proposed new building(s) must be accommodated within the maximum height of development specified in this policy. The contents of this policy do not preclude Council from exercising its discretionary ability under clause 5.8.1 of Local Planning Scheme No. 4 to increase the standard applicable height limit by up to 0.5 metres where there is a variation in ground level over a development footprint of greater than 1 metre.**
- 4.2.5 Where the main structure of a building is located in more than one height zone as shown on Plan No. 2, the part of the building in each height zone must comply with the maximum height requirement for that zone.**
- 4.2.6 Council may approve planning proposals involving variations to the maximum building heights prescribed on Plan No. 2 in the following circumstances:**
- Minor projections above the highest part of the main building structure may be permitted subject to the criteria in clause 5.8.1.3 of LPS4**
  - Minor projections out from the side of a main building structure over land within an adjoining height zone where a lower maximum building height requirement applies, in cases where no part of the projection is more than 3m away from the main building structure and the total area of all projections is no more than 10% of the ground floor area of the building. Minor projections will be interpreted as including plant and equipment, canopies, awnings, verandahs and balconies, including balconies intended for regular human use.**
  - In the part of Zone D that is within 60 metres of the eastern boundary of the Stirling Highway road reserve on the north side of McCabe Street, a building of a maximum height of 25 metres may be approved by Council at its discretion subject to the proposed development demonstrating that it complies with all of the following criteria:**
    - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.**
    - (b) The development must incorporate non-residential ground floor uses that contribute to the function of the locality as an activity and/or tourist node;**

- (c) The development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (d) The design of the development must perform the urban design function of an 'entry statement' into the City of Fremantle, including design qualities that convey a contemporary coastal aesthetic informed by the local context of North Fremantle and the Indian Ocean foreshore; and
  - (e) The development must not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.
- In the areas designated zone H2 and zone H3 on the policy map behind the former Matilda Bay brewery building a development with a maximum height of 33 metres in zone H2 and 25m in zone H3 may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:
  - (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
  - (b) Where applicable, the development must satisfy the planning criteria in policy measure 5.4 of State Planning Policy 2.6: State Coastal Planning Policy;
  - (c) The development must incorporate works to conserve the heritage significance of the heritage building;
  - (d) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and
  - (e) The development must not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.
  - (f) The aggregate footprint of the portions of the development exceeding 17 metres in height in zones H2 and H3 must not occupy more than 60% of the total combined land area of zone H2 and H3, and any individual portion of the development over 17 metres in height must not have a footprint greater than 20% of the total land area of zone H2 and H3.
  - g) The development includes a suitably located mixed-use community hub with sufficient commercial floor area to serve the existing and future residential population living within walking distance of the precinct.*
- In the part designated zone D2 on the policy map fronting McCabe Street at 9 McCabe Street, North Fremantle, a development with a



maximum height of 25 metres may be approved by Council, at its discretion, subject to the proposed development demonstrating that it complies with all of the following criteria:

- (a) The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent.
- (b) The development must be of distinctive architecture befitting its location and exceptional design, meeting at the highest possible standard the principles of good design listed under clause 11.8.6.3 of LPS4; and
- (c) The development must not encroach upon view corridors as defined in the “McCabe Street Height Study” dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.

#### **4.3 Specific Requirements Additional to General Policy Provisions**

- 4.2.1 Height Zone A – 133 -141 Stirling Highway.** Notwithstanding the general maximum building height of 11 metres permitted under this policy, the built form of any new development in this zone must incorporate at least two significant gaps between buildings down to ground level of sufficient width to provide views of the Indian Ocean from ground level on Stirling Highway. One of these gaps must approximately align with the axis of McCabe Street at its intersection with Stirling Highway.
- 4.2.2 Height Zones H and J – new development will be assessed in terms of its impact upon the Matilda Bay Brewing Company building (former Ford Motor Company assembly plant) which is included on the Heritage List under the provisions of clause 7.1 of LPS4.** Consideration will be given to the extent to which proposed new development helps to conserve and reveal the significance of the heritage place, including its identified significant attributes and features, through the siting and design of new buildings including their massing, bulk, relationship to street frontages and degree of separation from the heritage place in order to give prominence in the streetscape to the heritage place.
- 4.2.3 Height Zone E – Notwithstanding the general maximum building height of 20 metres in zone E from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of 37 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.**
- 4.3.4 Height Zone F1 – Notwithstanding the general maximum building height of 14 metres in zone F1 from ground level permitted under this policy, no part of any new development in this zone may exceed an Australian Height Datum (AHD) of 34 metres irrespective of the ground level from which the building height is measured under paragraph 4.1.2.**

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

There are community concerns regarding the proposed changes to maximum building heights under the policy. Deferring final adoption of the policy for a limited time would allow the opportunity for further structured engagement with the community through Precinct 12/ North Fremantle Community Association to explore whether there are alternative approaches to the built form of new development on the sites dealt with in the policy that would be more compatible and provide better integration with the existing character of the local area.

**SECONDED: Cr B Massie**

**CARRIED: 9/1**

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

**PSC1410-159 REQUEST FOR REMOVAL OF PEDESTRIAN ACCESS LOCATED WITHIN THE STRATA PROPERTY AT 10 DOEPEL STREET, NORTH FREMANTLE (YORK APARTMENTS) PROVIDING A LINK TO THE FORESHORE RESERVE.**

**DataWorks Reference:** 158/002, 059/007  
**Disclosure of Interest:** Nil  
**Meeting Date:** 1 October 2014  
**Responsible Officer:** Acting Director Planning and Development Services  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** Nil  
**Attachment 1:** Applicants letter dated 19 August 2014  
**Attachment 2:** Management Statement - Strata Plan No. 38001  
**Attachment 3:** Foreshore Management Plan – Access to the Foreshore (Figure 41)



Figure 1 - 10 Doepel Street, North Fremantle outlined with a 2.07 metre wide pedestrian access way linking Doepel Street with Northbank foreshore reserve. Also shown is the marina with 16 boat pens.

## EXECUTIVE SUMMARY

The City of Fremantle has received a request from the owners of Lot 30 (No. 10) Doepel Street, North Fremantle 'York Apartments' (Strata Plan 38001) to give consent to the removal of a Strata By-Law and to amend a relevant Local Planning Policy requiring public access between Doepel Street and the Sorrell Park Foreshore Reserve. The request has been made on the basis of increased security and safety for residents and alleged noise and nuisance behaviour occurring within their property at night time.

The public access is a requirement of planning approval and the City's Northbank Development Guidelines (Policy D.G.N6) and North Fremantle Foreshore Plan (Policy D.G.N7).

Officers consider that the public benefits of maintaining rights of public access through this connection in addition to other public access connections to the Swan River foreshore in the Northbank area, consistent with principles of good urban design, outweigh the justification put forward by the owners to support the request for closure to the public. Accordingly officers recommend that Council does not agree to the request to rescind Schedule 1, By-Law clause 31 contained within the Strata Plan 38001 Management Statement (H445866) and amend the City's Local Planning Policies D.G.N6 and D.G.N7 to remove related references to public access in this location.

## BACKGROUND

### Planning Approval

The City granted development approval for multiple dwellings at No.8-10 (Lot 30) Doepel Street on 21 April 1997. The development contained a landscaped public thoroughfare (privately owned) between Doepel Street and Sorrell Park Foreshore Reserve. This was reflected as a condition of the planning approval:

*"Condition 14 - Public access is maintained through the central open space area by means of an easement over the property for public access."*

### Property Land Description and Management Plan

No. 10 Doepel Street, North Fremantle is described as being Lot 30 on Strata Plan 38001 ('Strata Plan') with the associated Form 8 noting the registration of Management Statement H445866 on 19 May 2000. The Management Statement identifies the subject area of common property as a "Pedestrian Accessway on Annexure "A" (see Attachment 2). This plan is a mark-up plan only with Landgate confirming that no formal Pedestrian Accessway is located on Strata Plan 38001. Therefore the link to a pedestrian accessway with the associated requirements is via the Management Statement only.

The Management Statement (Attachment 2) refers to the public access requirement within Schedule 1 - By-Law 31 headed 'Compliance with City of Fremantle Public Access Requirements' as follows:

*“Subject to this by-law the public shall be entitled to pedestrian access over that portion of the common property that is marked as "Pedestrian Accessway" on Annexure "A". This "Pedestrian Accessway" is subject to the following conditions and reservations.*

- 1) The "Pedestrian Accessway" and the rights of the public shall only continue until any redevelopment of the current strata plan.*
- 2) The strata company shall have the right to close the "Pedestrian Accessway" at least once in every year at such time as the strata company shall designate and if no such time is designated then on Good Friday between the hours of 3.00am and 6.00am.*
- 3) The amendment or repeal of this by-law cannot be effected without the consent of the City of Fremantle.*
- 4) The strata company shall at all times effect and maintain insurance over the "Pedestrian Accessway" in respect to damage to property, death or bodily injury for which proprietors of lots in the scheme could become liable in damages."*

In addition to the 'Pedestrian Accessway on Annexure "A"', two 'right of carriageway' easements are noted on Form 8 of the Strata Plan. The easements are related to the adjoining portions of the Strata Plan and have no connection to the subject matter of access from Doepel Street through to the North Fremantle Foreshore.

#### Policy Background

On 18 August 1987 the City adopted the Northbank Development Guidelines also known as policy D.G.N6. The purpose of the policy is to provide an overview of the planning framework for the Northbank area referencing a number of Council endorsed documents for the area including Development Plan No. 8, Concept Plan and Outline Development Plan. The policy outlines development criteria with clause 4.2 of the policy specifically referencing Lots 28-31 Doepel Street requiring:

*'Developments abutting the foreshore reserve should retain the level of accessibility indicated in the Concept Plan; so as to encourage public visibility and access to the foreshore reserve. Public open space is to provide vistas to the river from the north-south streets and to be retained as an integral part of the foreshore development'.*

On 17 November 1986 the City adopted the North Fremantle Foreshore Plan also known as policy D.G.N7. The purpose of the policy is to provide guidance on land use through a coordinated planning framework. The planning objectives of the policy highlighted the need to maintain public access and use of the foreshore are as and when development occurred on major sites in North Fremantle (between Queen Victoria Street and eastwards to the boundary of Fremantle and Mosman Park).

In September 1994 the City of Fremantle adopted the Northbank Concept Plan and Structure Plan which formed part of the "Northbank – Between the Bridges" document. The Concept Plan identified a central public open space area adjacent to the foreshore approximately where Lot 30 (No.10) Doepel Street public access way now exists. Subsequently, both D.G.N6 and D.G.N7 were amended to reflect these documents.

Concurrently with the development of the Concept Plan for Northbank the developer prepared a Northbank Foreshore Management Plan which was adopted by the City in 1997. This document provided greater detail with regard to use, management and indicated up to eight access points along the Sorrell Park Foreshore (see Attachment 3). Subsequently, the City's D.G.N6 and D.G.N7 policies were updated to specifically refer to Lot 30 Doepel Street: *"In addition the access way on lot 30 (York Apartments) is to continue to be an access way for public access between Doepel Street and the foreshore."*

On 22 August this year the City received a letter from the owners of York Apartments requesting the City's consent to repeal of clause 31 of the strata by-laws entitling the public to use the pedestrian access (see Attachment 1). The grounds for the request are that there have been incidents of "noisy, boisterous and belligerent" behaviour by users of the accessway who are not residents (particularly at night time and early morning), and this causes discomfort and a loss of security and amenity to residents of York Apartments. An example of such behaviour given in the letter is motorcycles being ridden from the foreshore through the accessway to Doepel Street.

## **COMMENT**

The planning framework for Northbank 'Between the Bridges' placed a heavy focus on the implementation of a permeable development area with numerous public access points and view vistas to the foreshore reserve. This objective was successfully implemented with five public access points and view corridors linking to the foreshore reserve via public and private land.

The City has no specific data on the level of public use of the access connection through York Apartments, but it is reasonable to assume that it is relatively well utilised, given the request by owners to remove the public access requirement. The references in the owners' letter to incidents of anti-social behaviour are noted, however the City's Community Safety business unit has advised that there is no record of any complaints being received by the City regarding such behaviour in this location, and City staff have also checked with the police who have advised that no such incidents have been reported.

There currently exists five pedestrian access points over a distance of 400 metres between the Stirling and Queen Victoria Street traffic bridges. If the public access was removed through Lot 30 (No.10) Doepel Street, the closest access points to the foreshore west and east would be approximately 80 metres westwards via Pensioner Guard Road and a similar distance eastwards via Burns Street. Although these alternative connections are in reasonably close proximity, high levels of connectivity and access to public places is a well established principle of good urban design, and the existing planning policy framework that guided the development of the Northbank area and still remains in place has contributed to achieving these outcomes.

## **CONCLUSION**

Officers consider that on balance the benefits to the wider community of maintaining rights of public access through this connection in addition to other public access connections to the Swan River foreshore in the Northbank area outweigh the justification

put forward by the owners to support the request for closure to the public, particularly bearing in mind the absence of reported incidents of anti-social behaviour to the City or the police. Accordingly officers recommend that Council does not agree to the request to rescind Schedule 1, By-Law clause 31 contained within the Strata Plan 38001 Management Statement (H445866) or to amend the City's Local Planning Policies D.G.N6 and D.G.N7 to remove related references to public access in this location.

#### **OFFICER'S RECOMMENDATION**

##### **MOVED: Cr R Pemberton**

That Council does not support the request by the owners of York Apartments, 10 Doepel Street, North Fremantle to rescind Schedule 1, By-Law 31 contained within the Strata Plan 38001 Management Statement (H445866) or to amend the City's Local Planning Policies D.G.N6 and D.G.N7 to remove related references to public access in this location.

#### **DEFERRAL**

##### **MOVED: Cr R Pemberton**

To defer the item to the next appropriate Planning Services Committee meeting to allow more time for property owners to prepare a submission to the council.

Lost: 0/7

#### **OFFICER'S RECOMMENDATION/COMMITTEE RECOMMENDATION**

That Council does not support the request by the owners of York Apartments, 10 Doepel Street, North Fremantle to rescind Schedule 1, By-Law 31 contained within the Strata Plan 38001 Management Statement (H445866) or to amend the City's Local Planning Policies D.G.N6 and D.G.N7 to remove related references to public access in this location.

##### **CARRIED: 7/0**

**Mayor, Brad Pettitt MOVED an amendment to include the Officer's Additional Comment as Part 2 of the Officer's/Committee Recommendation to include the following wording:**

**Since the resolution of the Planning Services Committee on 1 October to recommend that Council does not support the owners' request, the City has received a further letter from the owners of York Apartments (Strata Plan 38001) withdrawing their original request and asking the City to take no further action on the matter. Consequently it would be appropriate for Council to simply note that the owners have withdrawn their request.**

**That Council notes for information that the owners of York Apartments (Strata Plan 38001), 10 Doepel Street, North Fremantle have withdrawn their previous request for the City to support rescinding Schedule 1, By-Law 31 of the Strata Plan**

**Management Statement, and therefore no further action needs to be taken on this matter by the City.**

**SECONDED: Cr B Massie**

**CARRIED: 10/0**

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

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

To note the withdrawal of the application by the applicant.

**COUNCIL DECISION**

**MOVED: Cr R Pemberton**

1. That Council does not support the request by the owners of York Apartments, 10 Doepel Street, North Fremantle to rescind Schedule 1, By-Law 31 contained within the Strata Plan 38001 Management Statement (H445866) or to amend the City's Local Planning Policies D.G.N6 and D.G.N7 to remove related references to public access in this location.
2. *That Council notes for information that the owners of York Apartments (Strata Plan 38001), 10 Doepel Street, North Fremantle have withdrawn their previous request for the City to support rescinding Schedule 1, By-Law 31 of the Strata Plan Management Statement, and therefore no further action needs to be taken on this matter by the City.*



**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

**Cr R Pemberton MOVED en bloc recommendations numbered PSC1410-160, PSC1410-161 and PSC1410-162.**

**SECONDED: Cr D Hume**

**CARRIED: 10/0**

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

**The following item number PSC1410-160 was MOVED and carried en bloc.  
PSC1410-160 ITEM - HERITAGE LIST AND MHI ANNUAL UPDATE 2014**

**DataWorks Reference:** 215/004  
**Disclosure of Interest:** Nil  
**Responsible Officer:** Manager Projects and Policy  
**Actioning Officer:** Heritage Planner  
**Decision Making Authority:** Council

### **EXECUTIVE SUMMARY**

**The purpose of this report is for Council to consider the annual review of community nominations for deletion, inclusion or amendment of places on the Heritage List and Municipal Heritage Inventory (MHI) for 2014.**

**Consultation with owners and occupiers, and subsequent assessment of places, has been completed in accordance with the provisions of the Local Planning Scheme 4 (LPS4) and Local Planning Policy 2.6. A decision by Council as recommended below is now sought for the following places:**

**Places to be amended on the MHI to a Level 1A due inclusion on the State Register of Heritage Places as an Interim Listing:**

**Christian Brothers College Fremantle (St. Patrick's School, Christian Brothers College (CBC); Edmund Hall), 41-51 Ellen St, Fremantle**

**Places to be added to the MHI at Level 3:**

**House, 13 Daly Street South, Fremantle**

**Places to be removed from the Heritage List and retained on the MHI for historic purposes:**

**Commercial Building, 1 Beach Street, 8 Queen Victoria Street (also known as Fremantle Foundry & Engineering Co), Fremantle**  
**House, 2 Chester Street South, Fremantle**  
**House, 231 Hampton Rd, South Fremantle**  
**Commercial Building, 231a Hampton Road, South Fremantle**  
**Factory 10 Stack Street, Fremantle**  
**Factory 12 Stack Street, Fremantle**  
**Fremantle Malls, 27-45 William Street, Fremantle**

**Places to be removed from the Heritage List and the MHI:**  
**Limestone Feature (s) 147 South Terrace, Fremantle**  
**House, 26 Lilly Street, South Fremantle**

## **BACKGROUND**

The Heritage of Western Australia Act, 1990 obliges local governments to develop and maintain a municipal inventory (known as the Municipal Heritage Inventory or MHI) and, once established, to update it annually and review it every 5 years.

The City of Fremantle Local Planning Scheme No. 4 (LPS4) obliges Council to establish and maintain a Heritage List to identify those places within the Scheme which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme.

The City of Fremantle adopted the Municipal Heritage Inventory (MHI) for Fremantle in September 2000.

In addition in September 2009 the Council adopted Local Planning Policy 2.6 *Procedure for Amending the Municipal Heritage Inventory for Fremantle (MHI) and Heritage List* which provides the specific procedural and operational guidance for the process.

A major review of the Heritage List and MHI concluded in September 2011 with a Council resolution in respect of a comprehensive list of amendments and updates in respect of MHI Level 1 and Level 2 places (previous item PSC1109-167 refers). Subsequently the City has received one nomination request for heritage listing, four recommendations derived from an internal heritage assessment as part of the development approval process and five requests for removal of places from the heritage list. There is also one place that has been added to the State Register of Heritage Places on an Interim basis.

## **CONSULTATION**

In order to add, remove or amend places on the Heritage List, LPS4 (clause 7.1.3) requires that the owners and occupiers are notified and allowed 21 days in which to make a submission on the proposal. This has been undertaken in relation to all of the nominations referred to above. At the conclusion of the advertising period (8 September 2014) the City had received one submission as follows:

Fremantle Malls, 27-45 William Street; a submission concluded that the building was in poor condition, provided no stimulus for the public and did not have any heritage value.

There was no explicit comment regarding suggested removal from the Heritage List, although it is understood that support for removal was intended.

## **PLANNING COMMENT**

Heritage listing information is crucial for the effective understanding and management of the cultural heritage of Fremantle and is recognised as a valuable community resource. The MHI as defined under the Heritage Act does not have any statutory obligations and is an ongoing heritage survey/inventory of places of cultural heritage significance which continually needs updating and adding to with relevant information.

The Heritage List established under the provisions of the LPS4 is a statutory list of places which are of cultural heritage significance and worthy of conservation under provisions of the scheme. The list comprises only of names and addresses and does not include other data.

The Heritage of Western Australia Act of WA, 1990 specifies that the basis for inclusion or removal on the MHI or Heritage List shall be *cultural heritage significance* as defined by the Burra Charter. The criteria for assessing heritage value of places are identified as being of historic, aesthetic, scientific, spiritual or social values for present and future generations.

In determining the places to be included on the Heritage List the provisions of LPS4 state that Council is to: *Consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.*

While taking into consideration all views, Council should make a decision to include / delete a place from the MHI on the basis of its heritage value alone. Level 3 of significance is defined by the policy (and the MHI Management Strategy) as a threshold for inclusion of a place on the MHI in its own right (for its individual heritage worth).

The nominations/requests for deletions/additions which are the subject of this report and have been the subject of community consultation in accordance with the process prescribed in LPS4 and LPP2.6 have been assessed as follows:

### **Additions**

#### **Place/s to be added onto the MHI:**

##### **House, 13 Daly Street South Fremantle**

A request that included some historic information has been received from the owner of 13 Daly Street, South Fremantle for heritage listing. Following an assessment it was determined that the place is of historic value and is recommended for inclusion on the MHI with a Management Category of Level 3. At this stage it is considered that this place is below threshold to warrant inclusion on the Heritage List.

#### **Place/s to be amended on the MHI to a Level 1A due inclusion on the State Register of Heritage Places as an Interim Listing:**

**Christian Brothers College Fremantle (St. Patrick's School, Christian Brothers College (CBC); Edmund Hall), 41-51 Ellen St, Fremantle**

The Heritage Council of WA included CBC as an Interim listing on the Register of Heritage Places in December 2012 and then in February amended to an Interim Extension Indefinite which means that management category should be upgraded from a Level 1B to a Level 1A. Therefore it is recommended that the MHI be amended to be consistent with the Heritage Council's decision.

### **Removals**

#### **Places to be removed from the Heritage List and MHI:**

##### **Limestone Feature (s) 147 South Terrace:**

The owner has requested removal from heritage listing. Following a site inspection it was determined that there was no limestone feature on site extant. Therefore it is recommended that the place be removed from the HL and MHI.

##### **House, 26 Lilly Street South Fremantle:**

Derived from a development application and subsequent heritage assessment it was determined that there was an error in existing records and that this place was the incorrect address for listing.

#### **Places to be removed from the Heritage List and remain on the MHI for historic purposes only:**

##### **Commercial Building, 1 Beach Street, 8 Queen Victoria Street (also known as Fremantle Foundry & Engineering Co), Fremantle**

The buildings have been demolished and an archival report received in accordance with development approval for the site.

##### **House, 2 Chester Street South Fremantle**

The owner requested removal and the subsequent heritage assessment has determined the place is below threshold to warrant inclusion on the Heritage List.

##### **House, 231 Hampton Rd South Fremantle and Commercial Building, 231a Hampton Road South Fremantle**

The owner/manager requested removal and the subsequent assessment determined that there were no buildings of cultural heritage significance on site.

##### **Factory 10 Stack Street Fremantle**

The owner requested removal and the subsequent assessment determined the place to be below threshold to warrant inclusion on the Heritage List.

##### **Factory 12 Stack Street Fremantle**

It was determined that this place was also below threshold to warrant inclusion on the Heritage List.

##### **Fremantle Malls, 27-45 William Street**

Derived from a development application and subsequent assessment it was determined that the buildings were below threshold to warrant inclusion on the Heritage List.

### **CONCLUSION**

The inclusion/amendment/removal of places on the Heritage List and MHI as recommended above would conclude the annual update with due regard to the City's obligations under the Heritage Act of Western Australia 1990, the City's Local Planning Scheme 4 and Local Planning Policy 2.6. The process including the community consultation and subsequent heritage assessments and recommendations has been completed for Council determination.

## OFFICER'S RECOMMENDATION

### MOVED: Cr R Pemberton

1. That Council resolve, in accordance with Clause 7.1 of Local Planning Scheme No. 4, to amend the Heritage List and the Municipal Heritage Inventory (MHI) as follows:
  - (a) Places to be amended on the MHI to a Level 1A due inclusion on the State Register of Heritage Places as an Interim Listing:  
Christian Brothers College Fremantle (St. Patrick's School, Christian Brothers College (CBC); Edmund Hall), 41-51 Ellen St, Fremantle
  - (b) Places to be added to the MHI as a Level 3:  
House, 13 Daly Street, South Fremantle
  - (c) Places to be removed from the Heritage List and remain on the MHI for historic purposes:  
Commercial Building, 1 Beach Street, 8 Queen Victoria Street (also known as Fremantle Foundry & Engineering Co), Fremantle  
House, 2 Chester Street, South Fremantle  
House, 231 Hampton Rd, South Fremantle  
Commercial Building, 231a Hampton Road, South Fremantle  
Factory 10 Stack Street, Fremantle  
Factory 12 Stack Street, Fremantle  
Fremantle Malls, 27-45 William Street, Fremantle
  - (d) Places to be removed from the Heritage List and MHI:  
Limestone Feature (s) 147 South Terrace, Fremantle  
House, 26 Lilly Street, South Fremantle

**Cr R Pemberton MOVED an amendment to the Officer's Recommendation to include the following part 2:**

2. **That as part of the next annual review of the Heritage List and Municipal Heritage Inventory, officers identify and assess the cultural heritage significance of places that might merit inclusion on the Heritage List and/or MHI as representative examples of late twentieth century architecture, which have aesthetic, historic and social values as part of the post World War Two development of Fremantle, including the settlement in Fremantle of non-British migrants.**

**CARRIED: 7/0**

For	Against
Mayor, Brad Pettitt Cr Rachel Pemberton Cr Doug Thompson Cr Josh Wilson Cr Ingrid Waltham Cr Bill Massie Cr Jon Strachan	

**COMMITTEE RECOMMENDATION/COUNCIL DECISION**

**MOVED: Cr R Pemberton**

**1. That Council resolve, in accordance with Clause 7.1 of Local Planning Scheme No. 4, to amend the Heritage List and the Municipal Heritage Inventory (MHI) as follows:**

**(a) Places to be amended on the MHI to a Level 1A due inclusion on the State Register of Heritage Places as an Interim Listing:**

**Christian Brothers College Fremantle (St. Patrick's School, Christian Brothers College (CBC); Edmund Hall), 41-51 Ellen St, Fremantle**

**(b) Places to be added to the MHI as a Level 3:**  
**House, 13 Daly Street, South Fremantle**

**(c) Places to be removed from the Heritage List and remain on the MHI for historic purposes:**

**Commercial Building, 1 Beach Street, 8 Queen Victoria Street (also known as Fremantle Foundry & Engineering Co), Fremantle**

**House, 2 Chester Street, South Fremantle**

**House, 231 Hampton Rd, South Fremantle**

**Commercial Building, 231a Hampton Road, South Fremantle**

**Factory 10 Stack Street, Fremantle**

**Factory 12 Stack Street, Fremantle**

**Fremantle Malls, 27-45 William Street, Fremantle**

**(d) Places to be removed from the Heritage List and MHI:**

**Limestone Feature (s) 147 South Terrace, Fremantle**

**House, 26 Lilly Street, South Fremantle**

**2. *That as part of the next annual review of the Heritage List and Municipal Heritage Inventory, officers identify and assess the cultural heritage significance of places that might merit inclusion on the Heritage List and/or MHI as representative examples of late twentieth century architecture, which have aesthetic, historic and social values as part of the post World War Two development of Fremantle, including the settlement in Fremantle of non-British migrants.***

**SECONDED: Cr D Hume**

**CARRIED: 10/0**

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



The following item number PSC1410-161 was **MOVED** and carried en bloc.

**PSC1410-161 DRAFT LOCAL PLANNING POLICY 3.15 FORMER KIM BEAZLEY SCHOOL SITE - WHITE GUM VALLEY - ADOPTION FOR PUBLIC ADVERTISING**

**DataWorks Reference:** 115/106  
**Disclosure of Interest:** Nil  
**Meeting Date:** PSC 1 October 2014; Council 22 October 2014  
**Responsible Officer:** Acting Director Planning and Development  
**Actioning Officer:** Strategic Planning Officer  
**Decision Making Level:** Council  
**Previous Item Number/s:** None  
**Attachments:** 1. Applicant justification for proposed policy provisions



**EXECUTIVE SUMMARY**

On behalf of LandCorp, consultants Urbis drafted *Local Planning Policy 3.15 - Former Kim Beazley school site - White Gum Valley (LPP3.15)* in consultation with City officers. This LPP applies to the lots within the White Gum Valley Local Structure Plan (LSP) area; the area bounded by Stevens Street, Yalgoo Avenue, Hope Street and Nannine Avenue. The intent of the LPP is to guide residential development outcomes as generally set out within the LSP.

The purpose of the proposed LPP is to support residential development that is highly responsive to the site context and promotes energy efficient design that optimises use of the northern aspect. Accordingly, the policy proposes alternative 'deemed to comply' assessment criteria to those in the Residential Design Codes for different planning requirements on lots grouped by density coding in the LSP area including:

- Lots 4-10 and 12-28 (R35 & R40)  
Street Setbacks, lot boundary setback, setback of garages and carports, outdoor living areas, open space, visual privacy, solar access and solar access to adjoining sites.
- Lots 1-3 and 11 (R60 and R80)  
Street Setbacks, communal open space, outdoor living areas and building priority zones.
- LOT 7 (R40 "Gen – Y" House)  
Building height and parking.

In summary the LPP proposes reduced street setbacks, open space and visual privacy requirements, prescribed locations for boundary walls and garages, and permits greater overshadowing; but the LPP also promotes higher quality outdoor living areas with guaranteed solar access, communal open space, a strong street presence and a cohesive urban interface.

It is recommended that the draft *Local Planning Policy 3.15 - Former Kim Beazley school site - White Gum Valley* be approved for advertising for public comment in accordance with clause 2.4 of LPS4.

## BACKGROUND

The proposed *Local Planning Policy 3.15 - Former Kim Beazley school site - White Gum Valley (LPP3.15)* 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. The site is zoned Development Zone (Development Area 12) under the City's Local Planning Scheme No. 4 (LPS4) and on 12 August 2014 the Western Australian Planning Commission (WAPC) approved the *White Gum Valley former Kim Beazley school site Local Structure Plan (LSP)* over the site for final adoption. A subsequent subdivision approval for 28 lots, including 4 larger freehold lots for the purpose of facilitating future grouped dwellings, was given by the WAPC on 1 September 2014. A Local Planning Policy is a requirement of the LSP and is to be adopted over the site prior to an application for development being approved.

The LPP area 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 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 within a new public open space reserve created under the LSP and subdivision.

## **STATUTORY AND POLICY ASSESSMENT**

Part 2 of the City's Local Planning Scheme No. 4 gives the City a head of power to prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area, and specifies the procedures for making a local planning policy.

Clause 5.2.2 of Local Planning Scheme No. 4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes (R-codes) is to conform to the provisions of the R-codes.

Part 7 of the Residential Design Codes 2013 states that a Local Planning Policy may contain provisions that amend or replace certain deemed-to-comply provisions.

Those deemed-to-comply provisions of the Residential Design Codes that are varied or replaced by this policy are as follows:

- 5.1.2 C2.1 – Street setback
- 5.1.3 C3.1 – Lot boundary setback
- 5.1.4 C4 – Open space
- 5.1.6 C6 – Building height
- 5.2.1 C1.1-C1.5 – Setback of garages and carports
- 5.2.2 C2 – Garage width
- 5.3.1 C1.1 and C1.2 – Outdoor living areas
- 5.3.5 C5.1 – C5.3 – Vehicular access
- 5.4.1 C1.1 – Visual privacy
- 5.4.2 C2.1 and C2.2 – Solar access for adjoining sites
- 6.3.1 C1 – Outdoor living areas (multiple dwellings)
- 6.3.3 C3.1 – Parking (multiple dwellings)

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

The White Gum Valley Former Kim Beazley School Site Local Structure Plan requires a Local Planning Policy to be adopted for the area prior to an application for development being approved.

## **CONSULTATION**

If Council resolves to adopt the draft local planning policy recommended in this report, the policy will be advertised for public comment for a period of not less than 28 days in accordance with the requirements set out in clause 2.4.1 of LPS4 and *local planning policy 1.3 Public Notification of Planning Approvals*.

## **PLANNING COMMENT**

The proposed LPP seeks to support residential development that is highly responsive to the site and promotes energy efficient dwelling design that optimises use of the northern aspect. Urbis have provided the following statement as to the purpose and design intentions of the policy:

*The purpose of the Local Planning Policy is to further guide built form for residential development within the White Gum Valley Local Structure Plan area, prior to the preparation and lodgement of development applications to achieve appropriate and site responsive development outcomes. The LPP is to be read in conjunction with the Residential Design Codes (R-Codes), however as empowered under Clause 5.2.2 of the City's Local Planning Scheme No.4, the LPP has been prepared to replace/amend specific deemed-to-comply provisions of the R-Codes. The policy is also to be read in conjunction with the City's LPS4, the White Gum Valley LSP and any other Local Planning Policies adopted by the City. Where any discrepancies exist between policies, it is intended that the proposed LPP is to prevail.*

*LandCorp's approach to built form control within the LPP area has been primarily based on achieving high quality street frontages and built form outcomes that are responsive to sustainable design and climatic conditions, with a strong emphasis on achieving solar access to all dwellings within the area. The LPP defines three areas with specific provisions, each employing a range of controls that respond to different site and locational characteristics with specific design intentions for different frontages and lot layouts.*

The proposed policy provisions can be found in the officer's recommendation of this report. The reasons for the proposed provisions of the policy are outlined in the table below. For further information on this please refer to the full justification provided by the applicant in attachment 1.

**Table 1. Summary of the main provisions proposed in the policy**

<b>Proposed LPP provisions</b>	<b>Summary of applicant's justification for the proposed LPP provision – also refer to Attachment 1</b>
<b>LOTS CODED R35 &amp; R40 (LOTS 4-10 &amp; 12-28)</b>	
Reduced street setbacks	To assist in creating a strong street presence and a cohesive urban interface with greater opportunities for passive surveillance of the adjoining public realm.
Reduced side and rear setbacks	To make efficient use of natural resources and energy by appropriately orientating and setting back dwellings so as to optimise the northern aspect and increase accessibility to natural light. Further, reducing lot setbacks in particular locations affords greater flexibility in housing design and facilitates more compact streetscape outcomes where desirable.
Location of boundary walls prescribed	To allow for a more northern aspect to dwellings with solar access to liveable spaces and ensuring that all dwellings have the opportunity to optimise access to daylight.
Required and preferred locations for garages. Variation criteria provided for "preferred" garage location	To coordinate garage location with crossovers & services to those lots where garages are to be provided from the primary street or to lots located on corners. This coordination will result in improved streetscape outcomes by ensuring streets are not garage dominated.

<b>Proposed LPP provisions</b>	<b>Summary of applicant's justification for the proposed LPP provision – also refer to Attachment 1</b>
Increased minimum Outdoor Living Space to 25 sqm*	As a trade off to reduced open space requirements (detailed below) there is a greater focus on delivering outdoor living areas that are of sizes and configurations that are highly functional and well located.
Reduced Open Space*	<p>The reduced street and boundary setbacks, increased outdoor living area dimension and passive solar design requirements under the LPP essentially would result in strategically located building envelopes within lots that allow for outdoor living areas to be in locations that are better situated, achieve more useable and functional spaces and result in less open space areas that are impractical, overshadowed and inaccessible (i.e. setback areas).</p> <p>Accordingly, less open space on a lot is considered appropriate as it provides more flexibility in building design whilst ensuring sustainable and site responsive design outcomes.</p>
Reduced visual privacy requirements*	The building envelopes have been considered within the context of achieving effective and mutually beneficial outcomes in respect to reducing overlooking to adjacent habitable spaces through the application of good design. A lesser privacy setback requirement is considered appropriate in this instance due to the built form outcomes being sought and the narrow lot frontages which are not dissimilar to that being applied in higher-density areas
Solar access** (Require outdoor living areas and habitable living areas to have direct access to sunlight)	To encourage environmentally sustainable development, by optimising north-facing living spaces and prescribing access to natural light resulting in improved energy efficiency and amenity offered to residents.
Solar Access for Adjoining Lots	<p>The building envelopes resulting from setback, outdoor living area and garage location requirements result in a residential amenity and character that has regard to overshadowing, solar access, ventilation and visual bulk.</p> <p>CODA have undertaken significant modelling within the bounds of the LPP's provisions to ensure that lots can be developed to achieve a high level of solar access to developments without impeding on the ability for adjacent lots to meet the requirements of the LPP and achieve a high level of amenity.</p>
<b>LOTS CODED R60 &amp; R80 (LOTS 1-3 &amp; LOT 11)</b>	
Reduced street Setbacks (Setbacks vary between nil – 2 metres to the multiple dwelling and grouped housing lots)	Nil setbacks promoted at nominated street edges to create a vibrant and active urban edge that enhances the streetscape character and provides a level of continuity of street facades. The proposed setbacks are not considered to diverge greatly from that prescribed under the R-Codes for R60-R80 coded lots.

Proposed LPP provisions	Summary of applicant’s justification for the proposed LPP provision – also refer to Attachment 1
Communal Open Space**	To provide both passive and active recreational opportunities to residents within multiple dwelling developments to improve their access to open space areas and the level of amenity offered.
Outdoor Living Areas* (increase the minimum dimension to balconies/terraces)	To ensure they are commensurate in size and composition to a dwelling, provide private open space opportunities of useable dimensions and contribute to the amenity of the residents. The increased minimum dimensions will provide greater flexibility to cater for service equipment and clothes drying areas to balconies/ terraces without impacting on the functionality of the space.
Building Priority Zones**	This provision identifies key areas within the policy area where a higher level of built form articulation is to be required. These areas either have interface with external streets, front key internal streets or are in landmark locations on the site.
<b>LOT 7 (GEN Y DEVELOPMENT)</b>	
Building Height & Parking*	The provisions for Lot 7 have been applied to specifically cater for the Gen Y design for the site. The concept prepared for the site looks at providing affordable living opportunities to young home buyers through the provision of adaptable living spaces, sustainable water, waste and energy technologies and cost-effective design elements. The concept is considered to be a catalyst for the delivery of more innovative and adaptable living options to the City of Fremantle.

\*This requirement requires WAPC approval to vary the “deemed to comply” criteria of the R-codes

\*\*This requirement is additional to the planning requirements the R-codes cover.

The LPP uses the R-codes’ design elements to set out and format the policy provisions. Officers are comfortable with this layout and the requirements proposed as these provisions can easily be incorporated into the City’s current statutory processes. There are three requirements in the proposed policy, however, that are additional to the R-codes’ design elements. While a residential development is not usually assessed on these requirements (see below) officers consider the provisions to be key to achieving the anticipated outcomes for the site and therefore reasonable for the City to assess a development application in the LPP area on, where applicable. These requirements are:

- Solar access – This requirement would ensure direct sunlight to outdoor living areas and habitable rooms, improving energy efficiency and amenity offered to residents;
- Communal open space - This requirement for multiple dwellings would ensure 20% of any site is set aside for communal open space for all residents of the multiple dwelling to enjoy; and
- Building priority zones – This requirement would provide a higher level of built form articulation in areas that interface with external streets, front key internal streets or are in landmark locations on the site.

Additionally, there are a number of provisions within the proposed policy that can only be varied with the explicit approval of the WAPC (i.e. visual privacy, open space, outdoor living area and solar access for adjoining sites). The applicant acknowledges this and

has advised the City that discussions on this matter have commenced with the Department of Planning. Following final adoption of the LPP the policy will need to be forwarded to WAPC for approval to vary these deemed-to-comply provisions of the R-codes.

Concurrent to drafting the LPP, Landcorp have also prepared Design Guidelines in conjunction with architects CODA that Landcorp will administer, as landowner, over all lots within the LSP area but outside of the statutory planning process. The purpose of the design guidelines is to ensure the overall design intent for the estate is adhered to. The guidelines include a number of design elements that are not covered by the R-codes including materials, colours, landscaping, the requirement for two storey development etc. The guidelines will form the basis of an approval process that LandCorp will administer through a requirement in the contract of sale on each lot. This process is separate to the City's approval processes. The result of this would be anyone developing in this area would first require approval from Landcorp under their design guidelines for their development prior to a development application being lodged with the City.

## **CONCLUSION**

The proposed policy is intended to ensure that appropriate statutory planning control mechanisms exist to bring about a built form of development on individual lots that is appropriate to the particular local context of the site and consistent with the approved LSP. Officers consider certain policy provisions represent an innovative approach to trying to secure high quality design outcomes on relatively small lots that are unlikely to be achieved by reliance on 'standard' R Codes requirements.

It is therefore recommended that the draft policy be advertised for public comment, after which it will be reported back to Council for further consideration.

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

**MOVED: Cr R Pemberton**

**That Council adopt the following draft Local Planning Policy for the purpose of public advertising in accordance with the provisions of clause 2.4 of Local Planning Scheme No. 4:**

### **CITY OF FREMANTLE**

### **LOCAL PLANNING POLICY 3.15**

### **FORMER KIM BEAZLEY SCHOOL SITE - WHITE GUM VALLEY**

**ADOPTION DATE:                   ##**  
**AUTHORITY:                        LOCAL PLANNING SCHEME NO.4**

### **STATUTORY BACKGROUND**

Clause 5.2.2 of the City's Local Planning Scheme No. 4 states that unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes (R-codes) is to conform to the provisions of the R-codes.

Part 7 of the Residential Design Codes 2013 states that a Local Planning Policy may contain provisions that amend or replace deemed-to-comply provisions.

Those deemed-to-comply provisions of the Residential Design Codes that are varied or replaced by this policy are as follows:

- 5.1.2 C2.1 – Street setback
- 5.1.3 C3.1 – Lot boundary setback
- 5.1.4 C4 – Open space
- 5.1.6 C6 – Building height
- 5.2.1 C1.1-C1.5 – Setback of garages and carports
- 5.2.2 C2 – Garage width
- 5.3.1 C1.1 and C1.2 – Outdoor living areas
- 5.3.5 C5.1 – C5.3 – Vehicular access
- 5.4.1 C1.1 – Visual privacy
- 5.4.2 C2.1 and C2.2 – Solar access for adjoining sites
- 6.3.1 C1 – Outdoor living areas
- 6.3.3 C3.1. - Parking

Variations to this policy may be approved where the City is satisfied that the development application meets the design intent of this policy and the Design Principles of the R-Codes.

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

The White Gum Valley Former Kim Beazley School Site Local Structure Plan also requires a Local Planning Policy to be adopted for the area prior to an application for development being approved.

## **APPLICATION**

This policy applies to the land bound by Stevens Street, Yalgoo Avenue, Hope Street and Nannine Avenue (the former Kim Beazley Primary School site).

This policy is divided into three areas and specific provisions are provided for each. These policy areas are:

- Lots 4-10 & 12-28 - R35 and R40 density coding
- Lots 1,2 3 and 11 - R60 and R80 density coding
- Lot 7 - R40 density coding





**1.2 A portion of the main building line (including balconies) shall project towards the Primary Street a minimum of 0.5 metre from the main line of the garage setback.**

**2. Lot boundary Setback**

**2.1 Dwellings shall be setback from the lot boundaries in accordance with Figures 2 and 3 including walls built up to the lot boundary.**

**2.2 Boundary walls are permitted in locations as identified on Figures 2 and 3 to a maximum of 70 per cent of the length of the boundary.**

**2.3 Variations to the requirements of clause 2.1 or 2.2 above may be considered, at Council's discretion, subject to the proposed development meeting at least one of the following:**

- i. Lot boundary setbacks may be varied if Clauses 6, 7 and 8 of this policy are satisfied.**

**3. Setbacks of Garages and Carports**

**3.1 Garages shall be provided in locations where nominated designated or preferred garage location on Figures 2 and 3.**

**3.2 All garages shall be no greater than 6.0m in width (pillar to pillar).**

**3.3 Variations to the preferred garage location requirements of clause 3.1 may be considered at Council's discretion, subject to the proposed development meeting the following:**

- i. The alternative garage location has the same street frontage as the preferred garage location as nominated on Figures 2 and 3; and**
- ii. The proposed location ensures clear sight lines and does not detract from the streetscape or appearance of dwellings; and**
- iii. The garage location must be set back from the street or laneway in accordance with Figures 2 and 3.**

**4. Outdoor Living Areas**

**4.1 All developments shall provide an outdoor living area with a minimum area of 25m<sup>2</sup> and minimum dimensions of 5m x 5m.**

**4.2 The outdoor living area may be provided with permanent roof cover up to two-thirds of the area required under clause 4.1 provided the development achieves the solar access requirements of Clause 7 of this policy**

**4.3 Variations to the requirements of clause 4.1 above may be considered, at Council’s discretion subject to the proposed development meeting the following:**

- i. The minimum outdoor living area dimension may be reduced to 4m if the outdoor living area meets a minimum area of 28m<sup>2</sup>.**

**5. Open Space**

**5.1 The minimum open space provided as part of any development may be reduced to 30% of the total site area (no discretion to vary) if compliance with Clauses 6, 7 and 8 and Figures 2 and 3 of this policy is achieved.**

**5.2 Notwithstanding the Design Principles of the R-Codes, there is no ability to vary the minimum open space requirement under 5.1 of this policy.**

**6. Visual Privacy**

**6.1 The minimum visual privacy setbacks that apply to any development are as follows:**

<b>Type of habitable rooms/active habitable spaces</b>	<b>Setback distance (metres)</b>
<b>Major openings to bedrooms and studies</b>	<b>3.0</b>
<b>Major openings to habitable rooms other than bedrooms and studies</b>	<b>4.5</b>
<b>Unenclosed outdoor active habitable spaces</b>	<b>6.0</b>

**7. Solar Access**

**7.1 Notwithstanding the boundary setbacks prescribed on Figures 2 and 3, dwellings shall be designed to ensure effective solar access to key internal and external spaces. Accordingly, the following applies:**

- i. Development is to demonstrate that a minimum of 25% of the minimum outdoor living area (refer Clause 4) has direct access to sunlight at midday, 21 June. In undertaking this calculation, it is to be assumed that the adjoining dwellings are built to the full extent of the nominated building envelope identified on Figures 2 and 3.**
- ii. A minimum of 1 habitable living area is to receive direct access to sunlight at midday, 21 June.**

**8. Solar Access for Adjoining Sites**

**8.1 Development shall be so designed that its shadow cast at midday 21 June onto any other adjoining property does not exceed 50% of any adjoining property’s site area.**

## **Lots 1-3 and 11 (R60 and R80)**

### **9 Street Setbacks**

**9.1 Dwellings shall be setback from the primary street and secondary street(s) in accordance with Figures 2 and 3.**

### **10 Communal Open Space**

**10.1 A minimum of 20% of any site shall be set aside for communal open space purposes for the exclusive use of residents.**

**10.2 Variations to the requirements of clause 10.1 above may be considered, at Council's discretion, subject to the proposed development meeting the following criterion:**

- i. The requirement for communal open space may be reduced by up to 5% if recreational facilities (i.e. fixed BBQ, seating and shade structures, hard and soft landscaping) are provided within the designated communal open space.**

### **11 Outdoor Living Areas**

**11.1 Each dwelling shall be provided with at least one balcony or terrace accessed directly from a habitable room with a minimum area of 10m<sup>2</sup> and a minimum dimension of 3.0m.**

**11.2 Notwithstanding clause 11.1 above, 1 bedroom apartments or studios may provide a balcony or equivalent space with a minimum dimension of 2.4m.**

### **12 Building Priority Zones**

**12.1 Developments shall provide a contiguous and activated built form frontage to the boundaries identified as "Building Priority Zones" on Figures 2 and 3.**

**12.2 Design responses may include but are not limited to, the orientation of dwellings to the street, habitable rooms adjacent and overlooking the public realm and location of primary vehicle and pedestrian entrances for the streets.**

**12.3 No open car parking (carports or open at-grade car parking) is permitted within this zone.**

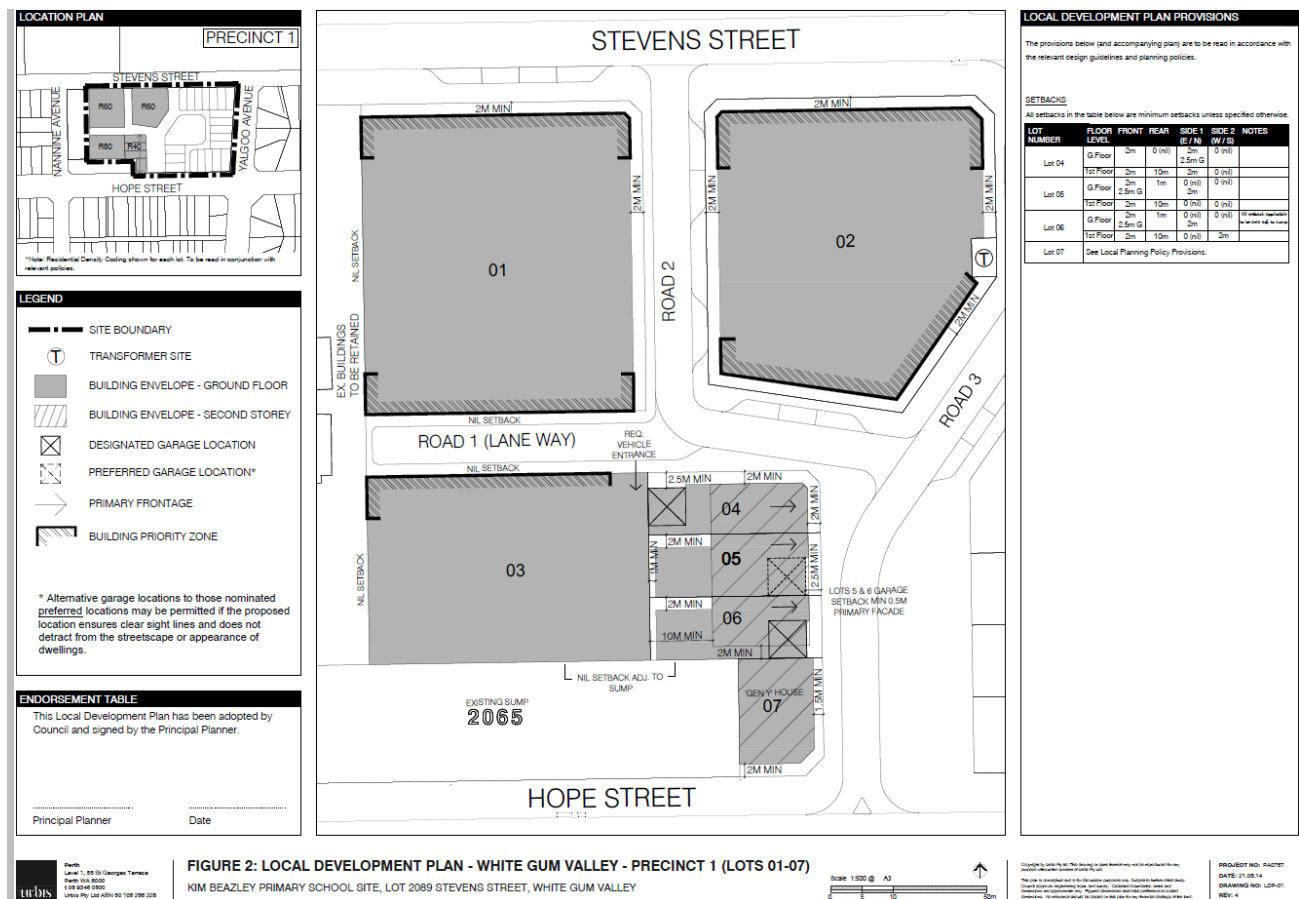
## **Lot 7 (Gen – Y House)**

### **13 Building Height**

**13.1 The maximum external wall height shall be no greater than 7.2m.**

### **14 Parking**





**SECONDED: Cr D Hume**

**CARRIED: 10/0**

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

The following item number psc1410-162 was **MOVED** and carried en bloc.

**PSC1410-162 CITY OF FREMANTLE ALFRESCO DINING LOCAL LAW 2014 NO.2**

<b>DataWorks Reference:</b>	010/006
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	1 October 2014
<b>Responsible Officer:</b>	Manager Health, Building and Compliance
<b>Actioning Officer:</b>	Policy Officer
<b>Decision Making Level:</b>	Planning Services Committee
<b>Previous Item Number/s:</b>	PSC1405-94; PSC1312-188
<b>Attachments:</b>	City of Fremantle Alfresco Dining Local Law 2014

**EXECUTIVE SUMMARY**

A number of minor amendments are required to be made to the City's newly gazetted *Alfresco Dining Local Law 2014* to satisfy the requirements of the Parliamentary Joint Standing Committee on Delegated Legislation.

The purpose of this Council report is to present to Council for consideration a number of amendments made by the City to the City's *Alfresco Dining Local Law 2014*; recommend adoption of the *City of Fremantle Alfresco Dining Local Law 2014 (No.2)* to embody the City's amendments; and recommence the local law adoption procedure prescribed by the *Local Government Act 1995*.

**BACKGROUND**

On 28 May 2014 the Council resolved to adopt the *City's Alfresco Dining Local Law 2014* (PSC1405-94). The local law was adopted to replace the *City of Fremantle Local Laws Relating to Outdoor Eating Areas* which was gazetted in 1998 (for more information refer to PSC PSC1312-188).

The newly created local law was published in the government gazette on 18 July 2014 and subsequently the City received correspondence from the Department of Local Government and Communities ('the Department') identifying a number of shortfalls in the published local law including -

1. Incorrect formatting (use of italics, capitalisation etc)
2. Incorrect enactment date;
3. Absence of the definition of 'nuisance';
4. Use of ambiguous terms; and
5. Reference to 'the City' rather than 'the local government';

These shortfalls should have ideally have been communicated to the City prior to gazettal of the local law; however these matters were not brought to the City's attention until after the gazettal date.

## **COMMENT**

The City considers that the shortfalls identified by the Department will almost certainly result in disallowance of the local law by the Parliamentary Joint Standing Committee on Delegated Legislation ('the Committee'). The City has therefore rectified the matters highlighted by the Department.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Nil.

### **Legal**

The City is required to follow the local law adoption procedure as prescribed in 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 law 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 *Alfresco Dining Local Law 2014 (No. 2)* 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 will advertise the draft local law in accordance with the requirements of the *Local Government Act 1995*.



## VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

## COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION

MOVED: Cr R Pemberton

1. That Council agree to adopt the *City of Fremantle Alfresco Dining Local Law 2014 (No. 2)* for advertising, as shown below, and repeal the *City of Fremantle Alfresco Dining Local Law 2014*.

### LOCAL GOVERNMENT ACT 1995

#### CITY OF FREMANTLE

#### ALFRESCO DINING LOCAL LAW 2014 (No. 2)

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 (No. 2) 2014*.

##### 1.2 Commencement

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

##### 1.3 Repeal

The *City of Fremantle Alfresco Dining Local Law 2014* as published in the *Government Gazette* on 18 July 2014 is repealed.

##### 1.4 Application

This local law applies throughout the district.

##### 1.5 Interpretation

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 local government 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 local government;

***Council*** means the Council of the local government;

***district*** means the district of the local government;

***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 local government 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 government*** means the City of Fremantle;

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

***month*** means calendar month;

***nuisance*** means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;

(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or

(c) interference which causes material damage to land or other property on the land affected by the interference;

*public place* means any thoroughfare, pedestrian mall or local government 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 local government 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 local government's discretion.**

**(3) An exemption in subclause (1) may be given subject to any conditions the local government sees fit.**

**(4) An exemption may apply to, or be in respect of –**

**(a) a particular event, street festival, carnival or activity approved by the Local government;**

**(b) particular goods or services; or**

**(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 local government;**

**(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 local government.**

**(3) The local government may require an applicant to provide additional information reasonably related to an application before determining the application.**

**(4) The local government may require an applicant to give local public notice of the application for a licence.**

**(5) The local government 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 local government is to have regard to –**

**(a) any relevant policies of the local government; and**

**(b) any other matters that it considers to be relevant.**

## 2.5 Decision on application for licence

- (1) The local government 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) The local Government may refuse an application for a license if it its opinion -**
  - (a) the proposed alfresco area does not conform with the requirements of this local law or any other relevant law;**
  - (b) the proposed alfresco area does not conform with the requirements of any relevant policies of the local government;**
  - (c) the use of the proposed alfresco area is likely to cause a nuisance; or**
  - (d) the proposed licensee has been convicted during the preceding 5 years of an offence against –**
    - (i) this local law;**
    - (ii) the Health Act;**
    - (iii) the Liquor Control Act; or**
    - (iv) any other written law that affects alfresco dining.**
- (3) If the local government approves an application for a licence, it is to issue to the applicant a licence in the form determined by the local government.**
- (4) If the local government 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) to 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 local government to impose other conditions on the licence under subclause (1)(a).**

## 2.6 Conditions which may be imposed on a licence

The local government 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 alfresco dining area not impeding or obstructing a public place used by either pedestrians or vehicles;**
- (f) the requirement to maintain clear sight lines for vehicles entering or leaving a thoroughfare or a vehicle crossing;**
- (g) the obtaining of public risk insurance in an amount and on the terms reasonably required by the local government;**
- (h) the grant of another approval, permit, licence or authorisation which may be required under any written law;**
- (i) the duration and commencement of the licence;**
- (j) the placement of advertising on furniture within the alfresco dining area;**
- (k) 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 local government 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 local government to amend any of the terms of conditions of the licence.**

- (2) The local government may, in respect of an application under subclause (1) –
- (a) amend the licence, either in accordance with the application or otherwise as it sees fit; or
  - (b) decline to amend the licence.
- (3) The local government may, at any time, amend any of the terms and conditions of the licence.
- (4) If the local government 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 local government 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 –
- (a) to give the licensee written notice of, and written reasons for, its decision to amend; and
  - (b) 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 renew the licence by paying the fee imposed and determined by the local government.
- (2) The provisions of the local law relevant to the licence 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 local government;
  - (b) provide the information required by the form;

- (c) be signed by the licensee and the proposed transferee of the licence: and
  - (d) be forwarded to the CEO together with any transfer fee imposed and determined by the local government.
- (2) The local government may refuse to consider or determine an application for the transfer of a licence, which is not in accordance with subclause (1).
- (3) The local government 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 local government 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; or
  - (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 local government may cancel or suspend a licence if the local government 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 local government cancels or suspends a license 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 local government.**

**(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 local government shall 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**

**A licensee shall produce to an authorised person his or her valid licence immediately on being required to do so by an authorised person.**

## **Part 3 – Enforcement**

### **3.1 Direction of authorised person to be obeyed**

**(1) A licensee who is given a lawful direction by an authorised person shall comply with that direction.**

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

### **3.2 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 local government may, by notice to the licensee, order the licensee to repair or replace that portion of the public place to the satisfaction of the local government.**

### **3.3 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 under regulation 29 of the Regulations by an authorised person.**

### **3.4 Public access**

**No person shall set up or conduct an alfresco dining area that prohibits public access to that area unless that area is located on private land.**

### 3.5 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 schedule 1 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 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.

### 3.6 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.

### 3.7 Offence description and Modified Penalty

The amount appearing in the final column of Schedule 1 directly opposite an offence described in that schedule is the modified penalty for that offence.

### 3.8 Authorised persons

Unless expressly state otherwise by the local government, a person appointed by the local government to be an authorised person for the purposes of this local law is taken to have also been appointed by the local government 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.

## Schedule 1

### City of Fremantle

#### Alfresco Dining Amendment Local Law 2014

#### Offences and Modified Penalties

Item No.	Clause No.	Nature of Offence	Modified Penalty \$
1	2.1(c)	Set up or conduct an alfresco dining area	300

		<b>without a valid licence</b>	
<b>2</b>	<b>2.7</b>	<b>Failure to comply with a condition of licence</b>	<b>100</b>
<b>3</b>	<b>2.13</b>	<b>Failure to produce to an authorised person a valid licence when requested to do so</b>	<b>100</b>
<b>4</b>		<b>Other offences not specified</b>	<b>100</b>

Dated ..... of [insert month]2014 .

The Common Seal of the City of Fremantle }  
was affixed by authority of a }  
resolution of the Council in the }  
presence of: }

**CHIEF EXECUTIVE OFFICER**

**MAYOR**

**SECONDED: Cr D Hume**

**CARRIED: 10/0**

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

Cr D Thompson vacated the chamber at 9.04 pm during the following item and returned at 9.06 pm prior to determination.

#### **SPECIAL PROJECTS COMMITTEE 8 OCTOBER 2014**

#### **SPC1410-01 VICTORIA QUAY COMMERCIAL PRECINCT, FREMANTLE STATION AND PIONEER PARK DRAFT PRECINCT PLANS**

<b>DataWorks Reference:</b>	115/005
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	Special Projects Committee 8 October 2014
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Acting Director Planning and Development Services
<b>Actioning Officer:</b>	Strategic Urban Designer
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	<ol style="list-style-type: none"><li>1. Integrated Indicative Development Plan - all precincts</li><li>2. Victoria Quay Commercial Precinct Plan -Executive Summary</li><li>3. Fremantle Station Precinct Plan -Executive Summary</li><li>4. Pioneer Park Precinct Plan -Executive Summary</li></ol>

#### **PROJECT BACKGROUND**

Preparation of draft precinct plans for the Victoria Quay Commercial Precinct, the Fremantle Station and Pioneer Park areas has been underway since 2012. The project has been coordinated by Fremantle Ports with input from the Public Transport Authority and the City of Fremantle and undertaken by a consultant team led by CODA.

Draft final plans for the Victoria Quay and Station precincts have now been submitted by Fremantle Ports and the Public Transport Authority to the Western Australian Planning Commission for approval. The Pioneer Park plan has been submitted for information as context for the other two precincts.

The Pioneer Park Precinct is within the City of Fremantle's area of planning responsibility and therefore will need to be addressed by the City and incorporated into the city centre Activity Centre Structure Plan that is currently in preparation before being submitted for approval to the WAPC.

It is expected that the City of Fremantle will be invited to provide comments on the draft precinct plans before they are considered for approval by the WAPC.

The following 'vision' has guided the preparation of the three plans:




*"To open the way for revitalising the Victoria Quay Commercial Precinct, the Fremantle Railway Station area and Pioneer Park as a vibrant and inviting quarter of Fremantle, embracing its heritage, achieving enhanced connections between the waterfront and the city centre and enabling sustainable economic, social and environmental outcomes."*

Officers will provide a briefing on the contents of the draft precinct plans at the Special Projects Committee meeting.

A copy of the Integrated Indicative Development Plan for all precincts is attached as well as the executive summaries from each of the three precinct plans. Hard copies of the three precinct plan documents and the background report on community consultation have been placed in the elected members lounge and can also be provided to individual elected members on request.



The three precincts included in the project. Not to scale.

-  Victoria Quay Commercial Precinct (Fremantle Ports) 3.75 ha
-  Fremantle Railway Station and adjoining PTA land (Public Transport Authority) 6.4 ha
-  Pioneer Park and surrounding public spaces (City of Fremantle) 2.6 ha

While the overall project area has been divided into three precincts to reflect the different 'landowner' for each area – Fremantle Ports, the Public Transport Authority and the City of Fremantle – the three plans have been developed simultaneously as development in each of these precincts impacts on adjacent precincts. It is important to facilitate an integrated and coordinated approach to future development in such an important urban node.

A precinct plan provides a clear assessment framework for future change. It outlines specific requirements in relation to land use, urban and architectural design, public open space, car parking, heights and setback, streetscapes and the public realm and will provide both the public and private sectors with greater certainty and therefore confidence in proceeding with proposals for these areas. Any subsequent development

applications will be subject to the required statutory approvals and consultation processes.

Actions to regenerate the west end of Victoria Quay commenced in the 1990s with the preparation of the Fremantle Waterfront Masterplan (2000). Implementation of the plan commenced with construction of the Maritime Museum (2002), followed by the O'Connor ferry landing, Peter Hughes Drive and the recent refurbishment of the B Shed.

A number of other studies have been undertaken on parts of the project area, including the Phillimore St Integrated Masterplan (2006), proposals to reconfigure the bus interchange and station forecourt layout (2009) and to connect the station to a future south-west region rapid transit network (2009-11). These studies are yet to be implemented.

Development approval for development of the commercial precinct by ING lapsed in March 2011 and subsequently Fremantle Ports appointed the Waterfront Working Group to review and consider new opportunities relating to the commercial precinct site. The working group's report (2012) also addressed the site in the context of the City of Fremantle's strategic planning and economic development directions.

In 2012, Fremantle Ports engaged Fremantle consultants CODA to provide planning and design services to prepare the three 'enabling' precinct plans for the area. In addition to representatives from the three project partners (Fremantle Ports, City and PTA), the planning process included regular engagement with relevant agencies and key community groups via the Waterfront Stakeholder Reference Group. Wider community involvement was organised through workshops, an urban design forum and community open days.

The final draft plans for the Victoria Quay Commercial precinct and the station precinct have now been submitted to the WAPC for approval. The Special Projects Committee is requested to consider the draft precinct plans and provide a recommendation to Council on their content for the purposes of providing a response to the WA Planning Commission. Officers envisage that following the Committee's preliminary consideration of the plans at this stage, a further report based on the Committee's recommendations will be prepared for the November round of Committee/Council meetings. This subsequent report will present the detailed wording of the City's proposed submission to the WAPC for final approval by Council prior to being sent to the Commission.

## **KEY ISSUES**

### Performance of the final draft plans against the City's key imperatives

At the commencement of the project the City indicated a set of key imperatives that should be met by the plans. These imperatives are listed in column one below.

Fremantle Ports and the consultant team provided elected members with a briefing on the draft plans in November 2013 prior to finalisation of the plans for the community open days in December 2013. Issues raised by elected members at the time are listed in column two against the relevant strategic imperative. An assessment by officers of how the final draft plans have responded to each of these issues is presented in column three.

It is suggested that the list of key imperatives could be used as a basis for consideration of the draft final plans by committee and council.

<b>The City's key imperatives</b>	<b>Issues raised by elected members on draft plans November 2013:</b>	<b>Officer comments on the final draft plans August 2014</b>
<b>INTEGRATION</b>		
Greatly enhanced integration and pedestrian connectivity between the waterfront, Fremantle Station and the city centre.	The central connection should be a minimum width of 15m within the commercial precinct to reinforce its legibility and enable views to the water and port from Market Street.	The width of the central connection varies and narrows to a minimum of approximately 10 metres between the retained Old Police Station and the CY O'Connor buildings, however the plans provide and maintain a clear view corridor from Market St at Pioneer Park to the waterfront. The sequence of different scaled spaces is an effective way to break up the long distance (approx. 300m) between the two locations.
	A minimum of at least 3 pedestrian rail crossings within the area (2 at ground level and one raised to the north of the station).	Ground level pedestrian crossings are proposed at Pakenham St and to the south of the railway station; and with an upper level connection to the north of the station. The existing pedestrian overpass to the passenger terminal from Beach St will be retained.
	A highly visible structure or building should be located to assist wayfinding to the waterfront.	One taller building is proposed in the commercial precinct, generally adjacent to the Queen St alignment, which will act as a key visual landmark in long range views to the city and waterfront. At the more immediate scale the visibility of ships and port infrastructure will act as a landmark of the waterfront at the end of the 'city axis' pedestrian link from the city centre.
	Improve the amenity of the Pakenham St pedestrian access in the vicinity of the rail crossing	The pedestrian route on the eastern side of the Pakenham St rail crossing will utilise shared street sections of Phillimore St and Peter Hughes Drive and a wide footpath between the two streets.

		A potential development site fronting Phillimore St could also provide shelter and activation along part of the route. A pedestrian only lane then connects directly across Victoria Quay to the main waterfront space.
Enhanced ability to facilitate use of Victoria Quay by cruise ship tourists.	Provision of a convenient and attractive connection between the passenger terminal, the precincts and the city centre for cruise ship tourists.	Not addressed in detail as it is outside the area of the precinct plans. Shade tree planting suggested along Peter Hughes Drive and Beach St. Improved access from the existing pedestrian overpass could be integrated into possible new development along Beach St.
Opportunities for shared parking provision with the City.	The majority of parking in the precincts should be on the city side of the rail line to reinforce integration between Victoria Quay and city centre.	The majority of potential parking is shown on the city side of the rail line with up to 1200 parking bays in the station precinct with access from Beach St and 380 to 650 bays in the commercial precinct.
<b>LAND USE</b>		
A mix of uses, including A Grade Office space, tourism and maritime related non-commercial uses, and retail that does not undermine the existing CBD retail core.		<p>The three precinct plans propose a wide mix of land uses, including retail, hospitality, cultural, community and service uses to provide an active and vibrant environment at ground level, and a significant amount of commercial office space at upper levels that could accommodate 2000-3000 new workers to the area.</p> <p>The commercial precinct proposes around 9,500sqm of retail/hospitality uses at ground level, predominantly focused along the main 'city axis' pedestrian spine as an extension of Market and Queen Streets. The City's Retail Model Plan (2010) supported major retail development on Victoria Quay, however this support was conditional on it coming after major retail development in the city</p>



		centre, particularly on the major sites around Kings Square and along Queen and Adelaide Streets.
<b>URBAN DESIGN</b>		
Maintain critical view corridors between the city centre and waterfront.	The eastern development site could be extended to the NE in order to reduce impact on the Market Street and Queen Street sightlines.	There was an expansion of the Commercial Precinct into the adjacent port operating area during preparation of the precinct plans, however the boundary of the eastern development site has not changed since the elected members briefing. Development on the site would frame the view along Market St while the Queen St sightline is not affected. The plan requires 3D view cone analysis as part of any development application.
Heritage must be adaptively re-used, retained and recognized.		All of the buildings and spaces of primary and secondary heritage significance in the 3 precincts are proposed to be retained and potential options for re-use are investigated. Opportunities for interpretation are reinforced as an important aspect of the character and attraction of these spaces.
Public spaces must be excellent quality and highly activated, and provide enhanced public access to the waterfront.	Further improvement in the quality of public spaces in the commercial precinct and particularly at the waterfront. Clearly define spaces between buildings as public spaces.	The public space adjacent to the waterfront is now defined as the 'primary urban space' in the sequence of spaces and connections between city centre and water edge. The precinct plans describe their proposed landscape character, the balance between pedestrian and vehicle access, and opportunities for activation, public art and heritage interpretation. The proposed arrangement of public spaces in the overall integrated plan and their description in the precinct plans should result in a hierarchy of high quality and activated spaces if carried through to their final designs and implementation.

	<p>The proposed development of part of the Pioneer Park reserve is only acceptable if the equivalent area of open space to be lost will be provided elsewhere in the precinct as green open space and to a higher quality and potential for use.</p>	<p>The relocation of the bus interchange entry to Queen St will enable a large area of new public open space, proposed to be called Station Square, to be provided in the railway station forecourt and by the shared street treatment of the adjacent sections of Phillimore St and Market St. However a major portion of this new space is likely to be hard landscaped rather than a 'green open space'.</p>
<b>TRANSPORT</b>		
<p>Train station forecourt to be upgraded as a focus of the city centre's pedestrian network with legible, attractive and comfortable pedestrian link(s) to the CBD and to the waterfront.</p>	<p>The Market St bus interchange option is not acceptable as it will limit integration between city centre and waterfront.</p>	<p>The precinct plans recommend the Queen St bus interchange entry option, although it is subject to road network redesign to minimise delays for buses travelling the extra distance from South Terrace. The PTA operationally prefers the Market St entry, although it is not opposed to the Queen St entry subject to detailed design to confirm its viability. Road network changes might include making Queen St bus only between Cantonment St and Elder Place, and giving priority to vehicle movements between Cantonment St and Market St at that intersection.</p>
<p>Fremantle station to be retained and reinvigorated as the key public transit hub within the city centre.</p>		<p>The station precinct will remain as the focus of bus and rail transit in Fremantle. The proposed relocation of the bus entry to Queen St creates opportunities for significant improvement to pedestrian access and amenity to and around the bus and rail stations that will enhance this focus. Rail access will remain to the south of the station which will retain the opportunity for a future rapid transit route along this corridor.</p>

ECONOMICS		
Development that is integrated with the economy of the Fremantle CBD and significantly contributes to its economic vibrancy.		<p>The commercial precinct plan proposes around 30,000sqm NLA of commercial office space which would enable a key anchor tenant and support services to be established with a mix of retail/hospitality uses (9,500sqm) at ground level. These yields would provide a significant % of the City's Economic Development Strategy growth targets to achieve Primary Centre status (70,000sqm office and 20,000sqm retail).</p> <p>The 3 precincts, and particularly the major office site in the commercial precinct, are well located to integrate with the City's 'strategic sites' (that were addressed by Amendment 49) to provide an expanded node of more intense retail, commercial and residential activity focused on Queen St and the city's major public transport station.</p>
Incorporation of a mix of land uses which, whilst ensuring consistency with the working port, can provide for public space activation outside of business hours.	In addition to commercial uses, a wide range of recreational opportunities and public attractions should be provided in the commercial precinct and at the waterfront.	Public seating immediately along the waterfront, public art and heritage interpretation are proposed for the major waterfront space, as well as opportunities for eating and drinking. A range of large and small interconnected spaces are proposed to accommodate different activities as well as to provide shelter. Publicly accessible gardens are also encouraged on podium roofs.
	Incorporate ESD requirements for new buildings that are at least equivalent to those in the city centre.	ESD requirements are similar to LPS4; 4 star Green Star would be standard and 5 star Green Star required where additional development may be permitted.
	Safeguards to ensure quality design of buildings and open	A Fremantle Ports Design Advisory Panel is proposed in the precinct plans, however details of the

	spaces being incorporated into the precinct plans and the process for their implementation.	design assessment process have not been provided.

#### Implementation of the precinct plans

At the elected members briefing in November 2013 it was concluded that the Council may be prepared to consider giving 'in principle' support to the draft precinct plans, but such consideration is subject to a whole of government agreement on, and commitment to, the coordinated implementation and funding of works contemplated by all three precinct plans, especially those involving the station precinct, which links Victoria Quay to the city centre and contains essential development elements with respect to transport infrastructure, public realm improvements and connectivity. It was considered that the implementation plan should be negotiated and agreed by the parties prior to commencement of development.

The final draft precinct plans do not include an implementation plan, but do outline the key actions, anticipated time frames and responsibilities that should be addressed in the preparation of an implementation plan across all 3 precincts.

The plans reinforce the need for the project partners (City of Fremantle, Fremantle Ports and Public Transport Authority) to continue with their partnership to identify funding opportunities and an appropriate delivery model to expedite implementation of the plans.

#### Community engagement

Throughout the project there have been regular meetings and communication with the project partners (Fremantle Ports, City of Fremantle and Public Transport Authority), the consultant team and the Victoria Quay Waterfront Stakeholder Reference Group. The reference group comprised representatives from:

- Relevant state agencies (planning, heritage)
- Business and interest groups (chamber of commerce, National Trust, Notre Dame University)
- Community groups (Fremantle Society, Fremantle History Society, FICRA)
- Victoria Quay stakeholders (Victoria Quay Taskforce, business operators).

In addition to members of the reference group, all interested community members and stakeholders were invited to attend a 2 day urban design forum which included presentation of preliminary concepts, development of specific precincts by focus groups and refining of the concepts into three scenarios for further feedback from participants.

Following the urban design forum the consultant team consolidated the outcomes of the planning and consultation process into one draft precinct plan for each of the precincts.

Two community consultation days open days were then held to enable the general public to review the draft plans and make comment before the final endorsement process was commenced by each respective landowner.

The current draft plans have not changed from those presented at the community open days, other for some minor input from the project partners on administration and implementation.

A Community Engagement Report has been prepared by Creating Communities Australia that documents in detail the engagement process and the input received at all stages of that process. The report has been incorporated into a background and reference document to the draft precinct plans. Responses to a survey at the open days showed significant support for the proposed plans.

It is therefore considered that no further community consultation on the draft precinct plans is necessary as there has been extensive community input throughout the preparation of the plans.

### **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

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

**MOVED: Cr R Pemberton**

**That:**

- 1. The draft final precinct plans for the Victoria Quay Commercial Precinct, the Fremantle Station Precinct and the Pioneer Park Precinct be considered for the purpose of preparing a report to a future council meeting that will provide a draft submission on the three precinct plans, for endorsement by Council prior to being sent to the Western Australian Planning Commission.**

**SECONDED: Cr B Massie**

**CARRIED: 9/1**

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

**SPC1410-02 DRAFT INTEGRATED TRANSPORT STRATEGY**

<b>DataWorks Reference:</b>	165/005
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	Special Projects Committee 8 October 2014
<b>Previous Item:</b>	PSC1402-31
<b>Responsible Officer:</b>	Acting Director Planning & Development Services
<b>Actioning Officer:</b>	Acting Director Planning & Development Services
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	1. Draft Integrated Transport Strategy version 3

**PROJECT BACKGROUND**

The development of an Integrated Transport Strategy (ITS) is one of the plans/projects identified in the Council's 2010-15 Strategic Plan under the Transport strategic imperative – "Lead in the provision of environmentally and economically sustainable transport solutions".

In February 2014 Council approved the preparation of an ITS in accordance with a project scope recommended by officers (see item PSC1402-31). At the meetings of the Special Projects Committee held on 13 August and 10 September 2014 the Committee provided comment on an initial draft version of the ITS but did not complete its consideration of the document. Council subsequently resolved at the Ordinary Meeting on 24 September 2014 that further consideration of the draft ITS be deferred to the next meeting of the Special Projects Committee. This report is presented to enable the Committee to continue its consideration of the draft ITS.

**KEY ISSUES**

An updated version (#3) of the draft ITS document is attached to this report. This version incorporates amendments that take account of comments made during consideration of the document at previous meetings of the Special Projects Committee. The amendments are shown as 'track changes'.

The Committee is requested to continue its consideration of the draft ITS, focusing particularly on sections 7 (Car Parking) and 8 (Freight) which were only briefly discussed at previous meetings.

As officers have previously advised, the ITS is not intended to address every detailed transportation issue, nor replace more operational level plans such as the Bicycle Plan, local area traffic management schemes or parking plans. It is however intended to inform the future preparation and review of such operational level plans. It is also intended to be a document that presents the justification for the City's position on different transport policy issues, and support advocacy action by the City.

The ITS is structured to clearly set out the Council's main policy positions on the transport topics dealt with in each of the main sections of the document. Each section includes:

- A discussion of the main issues regarding that topic;
- A 'key policy' statement that aims to summarise the Council's position on that topic;
- A set of 'Supporting Policies and Actions' which sit under the Key Policy, and highlight lower order priorities.

The Key Policies and Supporting Policies are repeated in a summary at the end of the document.

The Special Projects Committee is requested to further consider the draft ITS document and provide a recommendation to Council on its content, with the aim of Council adopting a final draft version of the ITS for the purposes of public consultation.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**MOVED: Cr R Pemberton**

That the content of the draft City of Fremantle Integrated Transport Strategy as attached to this item be considered.

**Cr R Pemberton MOVED an amendment to the Officer's Recommendation to state the following:**

That the content of the draft City of Fremantle Integrated Transport Strategy as attached to this item be recommended to Council for approval as a draft for the purposes of community consultation, subject to incorporation of additions and amendments as discussed and tabled at the Special Projects Committee meeting 8 October 2014.

**CARRIED: 9/1**

## **COUNCIL DECISION**

**MOVED: Cr R Pemberton**

**That the content of the draft City of Fremantle Integrated Transport Strategy as attached to this item be recommended to Council for approval as a draft for the purposes of community consultation, subject to incorporation of additions and amendments as discussed and tabled at the Special Projects Committee meeting 8 October 2014.**

**SECONDED: Cr S Wainwright**

**CARRIED: 9/1**

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



**SGS1410-4 COMMUNITY SAFETY AND CRIME PREVENTION PLAN 2011 - 2015  
REPORT**

**DataWorks Reference:** 023/021  
**Disclosure of Interest:** Nil  
**Meeting Date:** 15 October 2014  
**Previous Item:** SGS1111-1  
**Responsible Officer:** Glen Dougall, Director Corporate Services  
**Actioning Officer:** Cameron Bartkowski, Manager Community Safety and Parking  
**Decision Making Authority:** Council  
**Agenda Attachments:** Community Safety and Crime Prevention Plan 2011 – 2015

**EXECUTIVE SUMMARY**

**This report is to inform Council that the Community Safety and Crime Prevention Plan 2011 – 2015 is now complete and propose that a new plan be investigated and implemented to continue the City's commitment to community safety.**

**BACKGROUND**

On 23 November 2011, Council endorsed the second Community Safety and Crime Prevention Plan 2011 – 2015. This plan was implemented and actioned over the past 4 years with assistance from a range of external organisations including the Department of Education and Training, the WA Police, the Office of Crime Prevention, State and Federal Government, local Fremantle businesses to name a few.

It is with the assistance of the external organisations that this plan has been successful in achieving as many goals as possible.

**COMMENT**

Within the Community Safety and Crime Prevention Plan 2011 - 2015, there were a number of programs to be implemented to achieve a range of goals within the plan. Below is a summary of the outcomes from these programs;

*“Keep Our Kids in School” program*

The “Keep Our Kids in School” program had great support from most retailers and worked very well for a short time. Unfortunately due to a change of staff within the office of Crime Prevention (Community Engagement Branch) and the schools involved, the program seemed to have fallen by the way side over the past two years, however there have been fewer incidents reported involving school aged children within school hours.

### *The Nyoongar Patrol*

The Nyoongar Patrol is a program to assist people who may be in danger to themselves or may cause harm to others within public spaces. The Nyoongar Patrol personnel have been successful in achieving this outcome and the program has had positive feedback from the community even though the resources have been limited at times.

### *"Information and Community Education" and the "Safer Seniors" programs*

Brochures for these programs were created and have been well received by the community. Although some of the events held in relation to these programs have not been as successful as the City would have liked, the patrons in attendance gave positive feedback.

As a result of the 'Safer Seniors' program, all aged care homes within the municipality are now part of the Local Emergency Management Committee and their emergency and evacuation plans are audited and are part of the local emergency arrangements. This is a positive outcome for all parties involved.

### *"Eyes on the Street" and "Partnerships" programs*

The "Eyes on the Street" and "Partnerships" programs were successful and resulted in two home drug labs being closed down within the City of Fremantle. Our partnerships with all agencies continues to improve with our CCTV monitoring room operators and CBD safety and liaison officers being invited to morning police briefings and having more involvement in police operations within the City of Fremantle.

### *Community Safety Rangers*

The Community Safety Rangers have played a vital role in increasing community safety by providing an after hours "Eyes on the Street" service to help support the community and local business on a range of safety control issues throughout the municipality. They have also provided assistance to the Police and other external agencies with antisocial behavior.

### *People in Parks*

From feedback regarding the number of events run by the City and others, there has been a major improvement with regard to the sense of community ownership of local parks and the opportunity to interact with others.

### *CBD Safety and Liaison Officers*

The CBD Safety and Liaison Officers in 2012 attended 3 952 incidents taking 1 126 calls, of which 238 were for assistance and 135 were retail thefts leading to 32 incidents of multiple items returned and supplying information to Police that resulted in 87 on the spot arrests.

In 2013 they attended 3 204 incidents taking 928 calls. 302 were calls for assistance, of which 136 were retail thefts leading to 55 incidents of multiple items returned or paid for and supplying information to Police that resulted in 65 on the spot arrests.

It is also worth noting that since the start of this project the CBD officers attended 133 health related incidents ranging from car accidents, glassing, seizures, trips, fainting, drug over doses, heart attacks, strokes and suicide attempts.

### Transport

- *Taxi rank in South Terrace*

There has been continued support by Council for a secure taxi rank on South Terrace and as part of this, the Council made a decision to move the taxi rank on a trial basis, to the Henderson Street Mall. The reason for moving the taxi rank was to try and reduce the antisocial behavior within the area and improve the flow of traffic on South Terrace.

The move has proven to achieve the desired outcomes and we have received positive feedback in relation to the changes, however some taxi drivers are not using the taxi rank correctly by picking up patrons at other locations, which causes some negative reaction at times. In a result of this, new initiatives are being trialed to encourage the taxi drivers to use the rank correctly. Such initiatives include improved lighting and better communication between drivers, customers and security officers. However, the implementation of the secure taxi rank ID machine has been well received by all and is well supported by the WA Taxi Council.

- *Installation of a taxi rank to the northern end of the City*

The City has been investigating the possibility of installing another taxi rank to the northern end of the City. The Taxi Council and WA Police have been consulted as part of this process and the general consensus from both parties was that the movement of people crossing the City to get to another taxi rank could cause more harm than good.

- *Night Rider bus service*

The City has continued their support for the provision of a Night Rider bus service to take patrons out of Fremantle. This service has been well received by patrons and the community. Feedback given by patrons using the secure taxi rank noted they haven't used the Night Rider Bus service because it only goes to major bus hubs and doesn't supply a street or door drop off service.

### Code of Conduct for Party Buses

Feedback received from Accord Members and Police has been positive in regards to party buses in the City. The code of conduct that was implemented for party buses appears to be working well and there have been no reported issues or complaints received in relation to party buses.

### CCTV

This program has been very successful since beginning operation in October 2007 until December 2013. During this time we have supplied up to 823 of recorded incidents for

evident, which resulted in 100% conviction. The monitoring room operators are watching for antisocial behavior and criminal activity which has resulted in 994 on the spot arrest.

It is also worth noting that since the start of this project, the CCTV officers have arranged ambulance response to 160 health related issues ranging from fights, car accidents, glassing, seizures, trips, fainting, over dose drugs, heart attacks, strokes and suicide attempts.

### Freo Watch

The Freo Watch program has been a great success, with over 589 members of which the City supplies information regarding a range of different safety issues including break and enters, internet scams, personal safety, home scams and home protection.

As of 13 January 2014, the Fremantle Community Police Office closed, which ended the supply of this information. However, the City has advised all current members of the program that they can continue to receive the same information by joining the WA Police e-watch system. The e-watch system allows members to view all crime stats and the City will still be able to continue to send out its own information.

### Improved Lighting of CBD

This is an ongoing project and the City will continue to improve the lighting around the CBD area within budget allowances.

### Safer Street Watch

Unfortunately two of the major stakeholders withdrew from this project which has resulted in an undesirable outcome for the City, however in recent times there has been a change of heart by one of the stakeholders which may see this project trailed in late 2014. This is yet to be confirmed and will form part of the new plan if possible.

### Fremantle Liquor Accord

The Fremantle Liquor Accord is one of the oldest Accord groups in Western Australia. The group's main focus is to eliminate, where possible, the criminal and anti-social side effects of excessive alcohol consumption. The Accord meets every two months and provides a good platform for members to exchange information and work through issues together.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Nil

### **Legal**

Nil

### **Operational**

Nil

## **Organisational**

Nil

## **CONCLUSION**

The overall response to the Community Safety and Crime Prevention Plan has been very positive, even though some of the programs were not as successful as others. The community and external organisations have expressed a keen interest in the creation of a new plan for the future and with Council approval the officers will investigate this further.

As the City is committed to providing a safer community environment for all patrons visiting and living within the City's boundaries, it is felt that a new plan for the future is the best way forward to achieving this.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Community engagement will be form part of the process when forming a new plan.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**That Council;**

1. Accepts the report on the conclusion of the Community Safety and Crime Prevention Plan 2011-2015.
2. Requests that officers investigate a new Community Safety and Crime Prevention Plan to be presented to Council for consideration.

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

2. Requests that officers investigate a new Community Safety and Crime Prevention Plan to be presented to Council for consideration *for the 2015 year with a specific focus on;*
  - *street drinking*
  - *anti-social behaviour*
  - *street lighting*

- *violence*
  - *theft*
3. ***The CSCPP be focussed on measurable annual outcomes.***

**CARRIED: 6/1**

For	Against
Mayor, Brad Pettitt Cr Andrew Sullivan Cr David Hume Cr Rachel Pemberton Cr Dave Coggin Cr Doug Thompson	Cr Sam Wainwright

### COMMITTEE RECOMMENDATION

**MOVED: Cr A Sullivan**

1. Accepts the report on the conclusion of the Community Safety and Crime Prevention Plan 2011-2015.
2. Requests that officers investigate a new Community Safety and Crime Prevention Plan to be presented to Council for consideration for the 2015 year with a specific focus on;
  - street drinking
  - anti-social behaviour
  - street lighting
  - violence
  - theft
3. The CSCPP be focussed on measurable annual outcomes.

**CARRIED: 7/0**

**Cr S Wainwright MOVED an amendment to amend the introductory sentence to Part 2 of the Committee's recommendation as shown below in (bold and italics):**

2. Requests that officers investigate a new two part Community Safety and Crime Prevention Plan *that address issues specific to:*
  - a) *the CBD and*
  - b) *the general community and suburbs, to be presented to Council for consideration for the 2015 year. The CBD component to the plan will have a specific focus on;*

**SECONDED: Cr J Wilson**

**CARRIED: 10/0**

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

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

From the discussion at committee, it is unclear whether Elected Members wanted to keep it as a CBD focused plan, or that they had just assumed it. Now that our greater suburban boundaries seem to be clear I suggest we need a plan in two parts:

1. CBD specific
2. General community and suburbs.

**Cr S Wainwright MOVED an amendment to remove the dot point "street drinking" and replace it with the word "alcohol" of Part 2 of the Committee's recommendation as shown below in (bold and italics):**

2. Requests that officers investigate a new Community Safety and Crime Prevention Plan to be presented to Council for consideration for the 2015 year with a specific focus on;
  - ~~street drinking~~
  - ***alcohol***
  - **anti-social behaviour**
  - **street lighting**
  - **violence**
  - **theft**

**SECONDED: Cr J Wilson**

**Mayor, Brad Pettitt used his casting vote AGAINST the recommendation resulting in it being LOST.**

LOST: 5/6

<b>For</b>	<b>Against</b>
Cr Doug Thompson Cr Jon Strachan Cr Rachel Pemberton Cr Simon Naber Cr Sam Wainwright	Mayor, Brad Pettitt (lost by casting vote) Cr Josh Wilson Cr David Hume Cr Dave Coggin Cr Bill Massie

## **COUNCIL DECISION**

**MOVED: Cr D Hume**

- 1. Accepts the report on the conclusion of the Community Safety and Crime Prevention Plan 2011-2015.**
- 2. Requests that officers investigate a new two part Community Safety and Crime Prevention Plan *that address issues specific to:***
  - a) *the CBD and***
  - b) *the general community and suburbs, to be presented to Council for consideration for the 2015 year. The CBD component to the plan will have a specific focus on;***
    - street drinking**
    - anti-social behaviour**
    - street lighting**
    - violence**
    - theft**
- 3. The CSCPP be focussed on measurable annual outcomes.**



**SECONDED: Cr B Massie**

**CARRIED: 10/0**

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

**STRATEGIC AND GENERAL SERVICES COMMITTEE 15 OCTOBER 2014**

**Cr D Hume MOVED en bloc recommendations numbered SGS1410-5, SGS1410-7, SGS1410-8, and SGS1410-10.**

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

The following item number **SGS1410-5** was **MOVED** and carried en bloc.

**SGS1410-5 MONTHLY FINANCIAL REPORT - SEPTEMBER 2014**

<b>DataWorks Reference:</b>	087/002
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	15 October 2014
<b>Previous Item:</b>	SGS1408-12 of 27 August 2014
<b>Responsible Officer:</b>	Glen Dougall, Director Corporate Services
<b>Actioning Officer:</b>	Alan Carmichael, Manager Finance and Administration
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Statement of Financial Activity by Nature to 30 September 2014 Statement of Financial Position as at 30 September 2014 Determination of Closing Funds (Net Current Assets) as at 30 September 2014 Schedule of Accounts Paid September 2014 Investment Report to 30 September 2014 Debtors Outstanding as at 30 September 2014 Payment Report (EFT & Cheque) for September 2014 (viewed electronically)

## **EXECUTIVE SUMMARY**

The City adopted its Annual Budget for 2014/2015 on 2 July 2014 with an estimated municipal surplus brought forward from 30 June 2014 of \$1,969,947 and estimated municipal surplus at 30 June 2015 of \$100,000.

This report highlights any issues that may impact on the financial position to 30 June 2015 and the opening funds for the 2014/2015 Budget.

## **BACKGROUND**

The 2014/15 budget was adopted on 2 July 2014 with an estimated municipal surplus brought forward from 30 June 2014 of \$1,969,947 and estimated municipal surplus at 30 June 2015 of \$100,000.

At its meeting on 23 July 2013 (Item SGS1407-11 refers), Council adopted nature and type as the preferred reporting format with 2.5% and a threshold of \$300,000 as the level for explanation of variances.

## **COMMENT**

In finalising the 2014/2015 Budget it was estimated that we would have a closing municipal surplus at 30 June 2014 of \$1,969,947 which in turn became the opening municipal surplus in the 2014/2015 Budget. The external auditors are currently reviewing the draft financial statements to 30 June 2014 that reports a surplus of \$1,856,988.

Organisational Comment

The State Administrative Tribunal (SAT) has made orders to quash the differential rates imposed by the city on undeveloped properties in the 2012-2013 and 2013-2014 financial years. As the undeveloped differential rates were also imposed in 2011/2012 and 2014/2015 financial years the city has now applied to SAT to quash those rates. The total cost impact of the SAT decision over the four years is still being assessed but is currently estimated at approximately \$240,000.

At the end of the first quarter of the financial year there were no operating nature and type items that required comment because they did not exceed the reporting threshold. However items have been highlighted below for information or comment on trends that are being monitored:-

Rates. As already mentioned the decision of SAT will mean refunds being made to a limited number of properties. Rates are currently slightly ahead of their year to date budget therefore it is hoped to try and contain the refunds within the existing budget if possible.

Fees and Charges. Parking revenue is \$121,000 under YTD budget of \$2,773,000 and parking infringement revenue is \$123,000 under its YTD budget of \$509,000. With a quarter of the financial year elapsed there is still time for these areas to turn around but they are being monitored in case they might require variation at budget review.

Employee Costs. The existing City of Fremantle Officers Agreement concluded at 30 June 2014 and it is currently the subject of rollover discussions with the union. Until the new agreement is finalised and any back payments made we would expect year to date actual to be less than year to date budget.

Capital Program. Excluding the \$7,800,000 for the acquisition of 2 Jones Street O'Connor and with 25% of the financial year elapsed capital expenditure YTD of \$2,242,000 represents 13% against the annual revised budget. Based on the YTD budget the expenditure is half what was anticipated.

Due to officers not finalising the detail for September 2014 purchase card transactions before the agenda closed the Payment Report (Purchase Cards) for September 2014 will be tabled with the October 2014 financial report.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

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

### **Legal**

Local Government (Financial Management) Regulation 34 requires a monthly financial activity statement along with explanation of any material variances to be prepared and presented to an ordinary meeting of council.

Under section 6.10 of the Local Government Act 1995 and Local Government (Financial Management) Regulation 12(1) (a) council has delegated authority to the CEO under item 3.2, Accounts for Payment - Authorisation Of, to make payments from the municipal fund and trust fund The lists of accounts paid are presented in accordance with Local Government (Financial Management) Regulations 13(1) and (3).

## **Operational**

This report is provided to Council to keep track of the operational issues affecting the implementation of projects and activities provided for under the 2014/15 adopted budget by reporting actual revenue and expenditure against budget.

## **Organisational**

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

## **CONCLUSION**

The financial statements as attached for further review of payments made during August and cash deposits at the end of August. Also attached is the year to date statement of financial activity and balance sheet for information.

The financial statements for the twelve months to 30 June 2014 are currently unaudited therefore it possible that some balances may vary slightly prior to the completion of the audit which commences on 30 September 2014.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

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

**MOVED: Cr D Hume**

- 1. The City of Fremantle Financial Report including the Statement of Financial Activity, Statement of Financial Position and Statement of Closing position for the period ended 30 September 2014 is received,**
- 2. Council receives the payments authorised under delegated authority and detailed in the list of invoices for August, 2014, presented as per the summaries set out in the attached schedules and include creditors that have been paid in accordance with the Local Government (Financial Management) Regulations 1996.**

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

**SGS1410-6 INSTRUMENT OF APPOINTMENT - CANTONMENT HILL  
ACTIVATION WORKING GROUP**

<b>DataWorks Reference:</b>	039/068
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	10 September 2014
<b>Previous Item:</b>	SGS1202-8, SGS1310-4
<b>Responsible Officer:</b>	Glen Dougall, Director Corporate Services
<b>Actioning Officer:</b>	Nadine Hume, Property Services Administrator
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Instrument of Appointment and Delegation Expression of Interest – Establishment and Activation of Cantonment Hill Signal Station and surrounding area.

**EXECUTIVE SUMMARY**

**The intent of this item is to adopt the attached Instrument of Appointment for the Cantonment Hill Activation Working Group and appoint the members of this working group.**

**BACKGROUND**

At the Ordinary Council Meeting 16 October 2013, Council resolved the following;

*That Council:*

- 1. Endorses calling for expressions of interest through an EOI with input from the Cantonment Hill Working Group in relation to public and or commercial activities at the Cantonment Hill site, including the signal station, that could provide activation and a degree of caretaker presence in the short to medium term without obstructing the larger master planning and implementation process.*
- 2. Authorises interim actions including reconnection of services at the signal station, the up-lighting of the building and mural artwork*
- 3. Authorises additional funds of \$150 000 to be transferred from the Cantonment Hill Reserve for the interim actions and to support the activation of the ground floor of the signal station and naval store*
- 4. Lists progression of the implementation of the Cantonment Hill Master Plan as a high priority in future budgets.*
- 5. Delays changing the Cantonment Hill Working Group project scope, pending the Expression of Interest process outcomes.*

An expression of interest calling for submissions to activate the Cantonment Hill Reserve was advertised, closing on Monday 26 May 2014.

The City received four submissions in line with the advertised scope to activate the reserve with interest shown to all available buildings and some of the open space.

The applicants cover a broad range of concepts including;

- Proposed reactivation of the signal station for a volunteer purpose
- Nature of business that allows 24 hour, 7 day a week passive surveillance
- An indoor rock climbing facility
- Creative community hub
- Convertible venue space
- Circus School
- Entrepreneurship
- Learning facilities
- Organic garden café

It is possible for more than one applicant to activate the large space of Navel Stores, however a leasing structure will need to be developed to allow multiple users to what is essential a warehouse.

Submissions received are all in line with the advertised scope of the expression of interest with varying levels of financial input by individual investment or grant application.

It would need to be determined what leasing structure would work at the reserve to ensure the best use of the facilities in accordance with the objectives of the master plan and if applicants are financially viable to work towards their vision without City assistance.

Selected applicants will also be required to be flexible to allow the City to progress with the planned concept landscape design and future works in the vicinity.

The working group would be required to make recommendations to Council on the essential terms of lease agreements with selected candidates.

## **COMMENT**

As the objectives of this working group are based on the selection of tenant candidates, the membership includes only City officers and Elected Members in line with City's current leasing process.

Any approved lease arrangement will be subject to the process of land disposal under the *Local Government Act 1995* where the details of the agreement are advertised publically allowing community members to comment in writing within 14 days of advertisement.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Lease / licence rental will be determined by independent market valuation during the negotiation process with the selected applicant/s.

### **Legal**

Working Groups are appointed under the *Local Government Act 1995* and are established under the terms of an instrument of appointment by the City of Fremantle. The working group being appointed under this report will have no delegation.



## **Operational**

The working group will assist the City to formulate recommendations and forward information to Council under the objectives of the instrument of appointment.

## **Organisational**

As defined by the attached instrument of appointment.

## **CONCLUSION**

Vandalism (including graffiti) is an ongoing issue due to the lack of activity at the site. The implementation of selected tenants will ensure passive surveillance with the possibility of long term activation whilst the master plan continues to be implemented at the reserve.

The working group will focus on activating the Cantonment Hill area and work through the objectives outlined in the instrument of appointment to make recommendations to Council to achieve the best possible outcome for the Community.

## **STRATEGIC AND POLICY IMPLICATIONS**

### *Strategic Imperative - Character*

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

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

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

### **MOVED: Cr A Sullivan**

That Council;

1. Adopts the attached Instrument of Appointment for the Cantonment Hill Activation Working Group.
2. Appoint the following members to the Cantonment Hill Activation Working Group as per the instrument of appointment:
  - a) Three Elected Members
    - Cr \_\_\_\_\_
    - Cr \_\_\_\_\_
    - Cr \_\_\_\_\_

- b) Director Corporate Services
- c) Property Services Administrator
- d) Heritage Coordinator
- e) Manager Economic Development and Marketing
- f) Manager City Assets

**CARRIED: 7/0**

**COUNCIL DECISION**

**MOVED: Cr D Hume**

**That Council;**

1. **Adopts the attached Instrument of Appointment for the Cantonment Hill Activation Working Group.**
2. **Appoint the following members to the Cantonment Hill Activation Working Group as per the instrument of appointment:**

a) **Four Elected Members**

**Cr Andrew Sullivan**  
**Cr Robert Fittock**  
**Cr Bill Massie**  
**Cr Josh Wilson**

- b) Director Corporate Services
- c) Property Services Administrator
- d) Heritage Coordinator
- e) Manager Economic Development and Marketing
- f) Manager City Assets

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

The following item number **SGS1410-7** was **MOVED** and carried en bloc.

**SGS1410-7 KIDOGO ART HOUSE - LEASE AND DEVELOPMENT PROPOSAL**

<b>DataWorks Reference:</b>	049/008
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	15 October 2014
<b>Previous Item:</b>	SGS1308-2; SGS1311-12; SGS1407-3
<b>Responsible Officer:</b>	Glen Dougall, Director Corporate Services
<b>Actioning Officer:</b>	Nadine Hume, Property Services Administrator
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Proposed development plan – northern side of Kidogo Architect Letter – Paul Burnham New lease survey

## **EXECUTIVE SUMMARY**

**The purpose of this item is to request Council to revisit the possibility of approving submission of a development application for the development of toilets externally to the Shipwrights Building at 49 Mews Road, Fremantle. This is based on a new concept proposed by the tenant and approve Delegated Authority to the Chief Executive Officer to finalise the lease negotiations.**

## **BACKGROUND**

The City entered into a lease with Joanna Robertson for a term of five years effective 1 July 2003 with a further term of five years, effective 30 June 2013 for the 'Shipwrights Building' (also known as the Kerosene Shed) located at 49 Mews Road at Bathers Beach, Fremantle.

Due to negotiations regarding the implementation of a bar at the premise, Council resolved to extend her last term to 31 December 2015.

The City manages this reserve under a vesting order from the Minister of Lands giving the City the power to lease / licence any portion of the reserve for a period not exceeding 21 years and subject to Ministerial Approval. The vesting order states that a building or portion of the land can be leased subject to the condition that the income derived from all leases shall be used solely for the purpose of the care maintenance and development of the reserve. Ultimately it is the City's decision on how best to use the land and buildings to the greatest interest of the reserve.

The property is currently being utilised for the purposes of a teaching studio, gallery, venue and pop-up bar within the summer months. The tenant proposed development of toilets to either the northern or southern side of the buildings so that new lease negotiations could include a permitted use of small bar.

An item was presented to Committee on 13 November 2013 and did not gain support as the proposed development of an additional structure next to the Shipwright building would not be in line with the *Old Port of Arthur Head, Fremantle upgrade: Location Plan*.

The aim of this plan is to create a new public space connecting the West End to the Indian Ocean. The scheme has been partly implemented. Central to this proposal is the creation of the view corridor between the Old Kerosene Store and the Fishermans' Co-op Building that will provide views from Cliff Street to the ocean. The proposed extension to the south of the Old Kerosene Store would have projected into the space making it a prominent element within the view corridor and impinge on the ocean view / connection, and in doing so would undermine the design intention of the landscaping scheme.

City officers determined that should toilets be installed within the lean-to part of the current building there is the capacity to allow three toilets in addition to the one currently in this location. The four toilets would allow a small bar with the capacity of 100 persons, including staff. The City's Heritage Coordinator felt that this concept wouldn't negatively impact on the heritage of the building. The tenant has maintained that should the toilets be within the lean-to that a bar within the same space would not be viable.

At the Strategic and General Services Committee meeting on 9 July 2014, the following resolution was made;

1. *The Strategic and General Services Committee acting under delegation 1.1 provide 'in-principle' approval for the City and Joanna Robertson to enter into negotiations for a new lease of up to ten years for Kerosene State, Bathers Beach, based on the following essential term;*
  - *ten year maximum term,*
  - *permitted uses being, gallery, teaching studio, venue for hire, small bar and alfresco.*
  - *Market valuation based on permitted use to determine commercial rent,*
  - *requirements of small bar to be contained within the current building footprint.*
2. *Draft lease be brought back to committee for consideration and authority to sign.*

The tenant has since hired the services of architect Paul Burnham who has offered an alternate plan for developing toilets outside of the buildings footprint on the northern side as not to impede on the view corridor between the Old Kerosene Store (Shipwrights Building) and Fishermans' Co-op Building. The tenant has also requested the addition of a second further term within the new lease.

## **COMMENT**

The tenant approached the City in June 2014 with an alternate plan for additional toilets which ultimately flipped the concept submitted for the southern side of the building in November 2013 to the northern side of the building. The tenant spoke with all stakeholders regarding the heritage building (being National Trust, Heritage Council and City of Fremantle Heritage Officers) when submitting the original concept as a development application and has based her plans on their advice. The tenant's new architect has now minimised that development concept to create the lowest impact possible to the heritage premises.

The tenant has hired the services of Paul Burnham, the architect who created Little Creatures design and the recent Clancy's Fish Pub redevelopment at Princess May Park. His original brief from the tenant was to work within the confines of the Strategic

and General Services Committee resolution and design a concept whereby toilets and a bar could be developed in the lean-to on the western side of the building.

Mr Burnham has advised the tenant of the following;

1. *that the enclosed lean-to must function commercially as a small bar on its own merits, separate to any possible outdoor area or use of other Kidogo internal spaces.*
2. *wc's inside lean-to would make remaining existing internal lean-to space unviable as a small bar.*
3. *proposed wc block would be as low impact as possible, no windows and all light & ventilation through the roof, external walls to read as a high fence, translucent sheet covering to walkway which does not require fixing to original building.*

Further details as to the proposal can be found in the attachments to this item including a draft plan. The proposed infrastructure is low impact visually with no attachment or modification to the heritage building. The development would include toilets only with no storage or cool room facility and the high fence design could be easily be covered in appropriate cladding or climbing plants to be visually aesthetic.

A survey of the new leased area has been completed using the edge of the paving as a border with the exception of the eastern side where the scrub and drainage area has created a natural boundary for the alfresco. The tenants proposed plan fits within the boundary of the new leased footprint.

An independent market valuation has determined the rent to be \$33 000 pa + GST. This valuation took into account the new leased area and the proposed permitted uses of Gallery, Art Centre, Teaching Studio, Small Bar, Venue for Hire (private functions and exhibitions) and alfresco.

Additionally, the tenant has requested that the City reconsider the maximum term of ten (10) years in the previous resolution and is requesting a second further option of five (5) years bringing the lease to a total of fifteen (15) years.

The following are the proposed lease essential terms and conditions;

*Land Description.*

Lot 2051 on Deposited Plan 217075 being the whole of the land in Crown Land Certificate of Title Volume LR3037 Folio 511

*Property Description*

Building: Shipwrights Building

*Registered Proprietor*

City of Fremantle CO/- Minister for Lands

*Site Area*

49 Mews Road, Bathers Beach, Fremantle

*Lease Commencement Date*

1 January 2015

*Lease Term*  
Five (5) years

*First Further Term*  
Five (5) years effective 1 January 2020

*Second Further Term*  
Five (5) years effective 1 January 2025

*Rent*  
\$33 000 per annum + GST

*Permitted Use*  
Gallery, Art Centre, Teaching Studio, Small Bar, Venue for Hire (private functions and exhibitions) and alfresco.

*Outgoings and Statutory Charges*  
Tenant's responsibility on demand.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The estimated cost for sewer connection and decommission of septic tank is approximately \$70 000.

### **Legal**

This proposal has implications under the *Local Government Act 1995* and *Commercial Tenancies Act*.

### **Operational**

Lease documentation on the basis of the Council resolution.

### **Organisational**

Nil

## **CONCLUSION**

Should the outcome of this item be to continue to confine the toilets within the lean-to on the western side of the building, lease negotiations will still continue on the basis of proposed lease essential terms and conditions.

During the upgrade of the Bathers Beach area, a sewer connection pipe was laid under the new cement area for possible future expansion in the area. The existing toilet was connected to an alternative treatment tank that was installed on the northern side of the building. This tank currently does not have the capacity to handle added plumbing infrastructure and will need to be decommissioned if the tenant proceeds with installing additional toilets.

A lease has recently been finalised with the lease holder of the Fishermans Co-Op building for a small portion of the Arthur Head Reserve to allow for a veranda and balcony of this building to impede on the reserve. The condition of this lease was to allow the City to connect to sewer through the Fishermans Co-Op building without charge from the lessee.

It is worth recognising that any additional toilets to Kidogo Art House, regardless of their location, will not be public toilets and not accessible to the general public for use. As the toilets will be of a benefit only to the Kidogo Art House, the cost of sewer connection should be the responsibility of the tenant although City officers will assist in liaising with the lessee of the Fishermans Co-Op Building.

The City will remain responsible for the de-commission of the current treatment tank onsite.

### **STRATEGIC AND POLICY IMPLICATIONS**

Nil

### **COMMUNITY ENGAGEMENT**

Nil

### **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

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

**MOVED: Cr D Hume**

- 1. Council approves Joanna Robertson to proceed with formal process of the development application at the Shipwrights Building at 49 Mews Road, Fremantle for the development of toilets on the northern side of the Shipwrights Building based on the proposed plans submitted by Paul Burnham.**
- 2. That the City will not be responsible for any cost of infrastructure in association to any development undertaken by Joanna Robertson at the Shipwrights Building at 49 Mews Road, Fremantle including the connection to sewer.**
- 3. Delegated Authority be granted to the Chief Executive Officer to finalise lease negotiations based on the essential terms and conditions as follows;**

#### **Land Description.**

**Lot 2051 on Deposited Plan 217075 being the whole of the land in Crown Land Certificate of Title Volume LR3037 Folio 511**

#### **Property Description**

**Building: Shipwright Building**

**Registered Proprietor**  
City of Fremantle CO/- Minister for Lands

**Site Area.**  
49 Mews Road, Bathers Beach, Fremantle

**Lease Commencement Date**  
1 January 2015

**Lease Term**  
Five (5) years

**First Further Term**  
Five (5) years effective 1 January 2020

**Second Further Term**  
Five (5) years effective 1 January 2025

**Rent**  
\$33 000 per annum + GST

**Permitted Use**  
Gallery, Art Centre, Teaching Studio, Small Bar, Venue for Hire (private functions and exhibitions) and alfresco.

**Outgoings and Statutory Charges**  
Tenant's responsibility on demand.

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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



The following item number **SGS1410-8** was **MOVED** and carried en bloc.

**SGS1410-8 MARK HOWLETT FOUNDATION GRANT**

**DataWorks Reference:** 196/002, 025/003, 102/008  
**Disclosure of Interest:** Nil  
**Meeting Date:** 15 October 2014  
**Previous Item:** Nil  
**Responsible Officer:** Marisa Spaziani, Director Community Development  
**Actioning Officer:** Jim Cathcart, Fremantle Arts Centre Director  
**Decision Making Authority:** Council  
**Agenda Attachments:** Nil

**EXECUTIVE SUMMARY**

The City has been offered a grant of \$25 000 from the Mark Howlett Foundation towards the presentation of a substantial exhibition by a Western Australian artist at the Fremantle Arts Centre.

**BACKGROUND**

The Mark Howlett Foundation, a well known community based organisation that supports Western Australian artists, has ceased operating. In winding up its affairs, the foundation is dispersing its remaining cash assets. The foundation has chosen to support a proposal for a substantial exhibition by a mid-career Western Australian artist at the Fremantle Arts Centre and has offered a grant of \$25 000. The exhibition is scheduled for 2015/2016.

**COMMENT**

The funding is an opportunity for the Fremantle Arts Centre to present a style of exhibition which is not normally possible. It is a well resourced, substantial solo exhibition of a mid-career Western Australian artist. The exhibition will attract popular and critical interest and provide a substantial opportunity and career development for the artist.

The grant also enables the Fremantle Arts Centre to increase and diversify its sources of funding as required under the triennial funding agreement with the Western Australian State Government and Department of Culture and the Arts.

**RISK AND OTHER IMPLICATIONS**

**Financial**

The Fremantle Arts Centre budget will increase by \$25 000.

**Legal**

Nil

**Operational**

The Fremantle Arts Centre will manage all aspects of the project as a matter of routine.

**Organisational**

Nil

**CONCLUSION**

The extra funding will enable the presentation of a well resourced, well received exhibition by a Western Australian artist.

**STRATEGIC AND POLICY IMPLICATIONS**

Supports the City's Strategic Plan 2010 – 2015. Outcome: a City that attracts diverse original arts and artists, culture and events.

**COMMUNITY ENGAGEMENT**

Nil

**VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

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

**MOVED: Cr D Hume**

**1. Council accepts the receipt of \$25 000 from the Mark Howlett Foundation to support the presentation of a substantial exhibition by a Western Australian artist.**

**2. The budget is amended as follows:**

Budget Category/Sub Category	Existing Budget	Variation to Budget	Revised Budget	Account String
	Expenditure / (Revenue)	Expenditure /(Revenue)	Expenditure /(Revenue)	(Budget amount refers to this account))
Revenue				
Non Operating Contributions	(\$17 000)	(\$25 000)	(\$42 000)	34.34500.4387.00.18028

<b>Total Funding</b>		<b>(\$25,000)</b>		<b>34.34500.4387.00 .00.18028</b>
<b>Expenditure</b>				
<b>Artists Fee</b>	<b>\$40 000</b>	<b>\$13 000</b>	<b>\$53 000</b>	<b>34.34500.6822.00 .00.18028</b>
<b>Contracted Services</b>	<b>\$45 000</b>	<b>\$7 000</b>	<b>\$52 000</b>	<b>34.34500.6823.00 .00.18028</b>
<b>Sundry Materials</b>	<b>\$23 000</b>	<b>\$5 000</b>	<b>\$28 000</b>	<b>34.34500.6865.00 .00.18028</b>
<b>Total Expenditure</b>		<b>\$25 000</b>		
<b>Net Variation to Budget – Deficit/(Surplus)</b>		<b>\$0</b>		

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

**SGS1410-9 PERTH BICYCLE NETWORK (PBN) 2014-15 PROJECTS AND GRANTS (CARRINGTON STREET)**

<b>DataWorks Reference:</b>	091/016, 106/052
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	15 October 2014
<b>Previous Item:</b>	SGS1408-6
<b>Responsible Officer:</b>	Peter Pikor, Director Technical Services
<b>Actioning Officer:</b>	Philip Adams, Manager Infrastructure Projects
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Nil

**EXECUTIVE SUMMARY**

The City's Bike Program was amended at the August 2014 Council meeting to take advantage of the funding offered through the PBN grant scheme from the Department of Transport (DoT). This program did not include the Hampton Road project. Advice had just been received from by DoT on the lack of suitability of the proposed Hampton Road shared use path (SUP) in terms of the potential clash with the proposed works for future implementation of a bus rapid transit route, therefore the Hampton Road project was not removed from its original quarantine status within the City's adopted budget, pending further advice.

Following further discussions and review with DoT, it has agreed to transfer the grant that was allocated to the Hampton Road SUP project to the Carrington Street SUP project. This project was initially put forward in the grant applications process but was not offered funding by DoT.

This transfer of funds allows the City to reinstate the project works for Carrington Street.

However, costs associated with the Carrington Street SUP works are significantly higher than the Hampton Road SUP project. The DoT will not offer any funding beyond the equivalent funds previously designated for Hampton Road. Following a review of works, it is proposed to make budget changes to other works in the Bike Program in order to source the extra municipal funding for Carrington Street. Council's approval of these proposed changes is required to allow the City to accept the grant offered and progress with the amended program.

**BACKGROUND**

After the amendment of the Bike Program through item SGS1408-6 of August 2014, the revised overall budgets are noted in the following table;

Current approved bike projects	Project no.	Budget		Net municipal
		Cost	Grant	
Queen Vic St shared path Tydeman Rd	RC0000327	22,290		22,290
Lefroy/Rennie Intersection bike upgd wks	RC0000328	15,000		15,000
Elder Plc-upgd lining Parry & Queen Victoria	RC0000334	45,000		45,000
Hampton Rd - Wray to South Bike Lanes	RC0000378	50,000		50,000
Winterfold Rd - Crossing Stock Rd	RC0000379	175,000	-87,500	87,500
Carrington St SUP	RC0000380	0		0
Northern Corridor Bike study	RC0000382	50,000	-25,000	25,000
Hampton Rd SUP - Douro Rd to Clontarf Rd	RC0000383	223,730	-111,730	112,000
Bike Parking	RC0000384	40,000		40,000
Green Bike Lanes	RC0000385	20,000		20,000
Perm Bike Counters	RC0000386	20,000		20,000
General Bike Works	RC0000387	76,565		76,565
South Beach - path upgrade	RC0000394	202,600	-101,300	101,300
John Curtin and WGV connecting schools	RC0000395	13,600	-6,800	6,800
		953,785	-332,330	621,455

## COMMENT

### Carrington Street SUP

As noted, this project did not originally attract PBN grant funding (and was deleted as a project through the August 2014 Council item). Following confirmation from DoT, the funding directed to the Hampton Road SUP project can now be redirected to Carrington Street. However, an extra \$114 870 in municipal funding is required for this project after the deletion of the Hampton Road SUP project.

#### Justification for the SUP:

Through enquiries from the community, the City has identified that there is an issue with universal access in the area. The proposed shared path will address the needs of all users which will provide a good connection for pedestrians, school children and disability access for the recreation area, on road bicycle facilities, bus stop, schools, shops, connect in a recently upgraded universally accessible crossing and generally improve the facilities of the area.

Following a review of the projects and to source extra funds required, it is proposed to amend the program as noted in the table below;

Proposed budgets for bike projects	Current	Revised		Revised
	budget (cost)	budget (cost)	Grant	Net municipal
Queen Vic St shared path Tydeman Rd	22,290	7,290		7,290
Lefroy/Rennie Intersection bike upgd wks	15,000	5,000		5,000
Elder Plc-upgd lining Parry & Queen Victoria St	45,000	35,000		35,000
Hampton Rd - Wray to South Bike Lanes	50,000	15,000		15,000
Winterfold Rd - Crossing Stock Rd	175,000	175,000	-87,500	87,500
Carrington St SUP	0	338,600	-111,730	226,870
Northern Corridor Bike study	50,000	50,000	-25,000	25,000
Hampton Rd SUP - Douro Rd to Clontarf Rd	223,730	0		0
Bike Parking	40,000	40,000		40,000
Green Bike Lanes	20,000	20,000		20,000
Perm Bike Counters	20,000	10,000		10,000
General Bike Works	76,565	41,695		41,695
South Beach - path upgrade	202,600	202,600	-101,300	101,300
John Curtin and WGV connecting schools	13,600	13,600	-6,800	6,800
	953,785	953,785	-332,330	621,455

The comments on the proposed budget changes are as follows;

Queen Victoria Street shared path Tydeman Road

It has now been confirmed that only land leasing costs will be associated with this project and these are expected to fall well below the approved budget; producing a net saving of around \$15 000.

Lefroy Road, Elder Place and permanent bike counters

Based on current estimates of cost related to these two projects and a reduced number of bike counter requirements it is expected to be able to reduce the budgets by \$10 000 each project (\$30 000 in total).

Hampton Road – Wray to South Street bike lanes

With this project, it is anticipated that the works for the on road bike lanes can be completed in conjunction with the Main Roads WA / municipal funded projects involving resurfacing treatments at this location of Hampton Road. This should produce savings in traffic control and contractor mobilisation etc to allow the budget for these project works to be reduced by around \$35 000. A balance of \$15 000 in budget will be retained to allow for charges which relate specifically to the bike lanes that can be segregated from the general resurfacing works to be completed (bike lane works are needed for island removal, cut backs to central islands, realigning crossover and kerbs and signing/lining for the bike lanes). This should allow the integrity of costs to be maintained for the joint funded works so that external funding sources are not compromised.

General bike works

Based on adopting the recommendations for each project as noted, this project budget will effectively represent a net figure to balance the funding reduction required to meet the extra municipal budget required for the Carrington Street works. A final reduction of \$34 870 in the current approved budget of \$75 565 is required to match the extra municipal funds of \$114 870 noted as required for the Carrington Street works.

Consequently, a revised budget of \$41 695 is proposed to be approved within the program of works.

While this is a large reduction in the current budget, it is noted that the original budget was set at \$50 000. City officers will work within the new budget parameters for these works.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

There is no financial impact on the latest reallocation of budgets / adoption of new budget as both cost and grant income remain at the same levels.

### **Legal**

The City will have to comply with the grant conditions.

### **Operational**

The City will arrange for the works to be undertaken.

### **Organisational**

Council has approved its Local Bicycle Plan 2014-18.

## **CONCLUSION**

Based on the latest offer of grant available for Carrington Street works (through the PBN grant scheme), it is proposed to reinstate the Carrington Street SUP project and amend other budgets to source the extra municipal funding required. Following a review of works, it is considered that budget changes can be made to other projects in the Bike Program in order to source the extra municipal funding for Carrington Street.

This proposed shared path will address the needs of all users which will provide a universally accessible connection for the area.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

### **That Council;**

1. Accepts the Perth Bicycle Network grant of \$111 870 offered for the Carrington Street shared use path project.
2. Approves the deletion of the Hampton Road shared use path (Douro Road to Clontarf Road) project.
3. Approves amended project funding in the 2014/15 budgets as follows:
  - Queen Victoria Street (shared path Tydeman Road) \$7 290
  - Lefroy Road / Rennie Crescent (intersection bike upgrade works) \$5 000
  - Elder Place (upgrade lining Parry Street and Queen Victoria Street) \$35 000
  - Permanent bike counters \$10 000
  - Hampton Road (Wray Avenue to South Street bike lanes) \$15 000
  - Carrington Street shared use path \$338 600 (\$111 870 grant funded) and
  - General bike works \$41 695.

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

4. In approving the Carrington Street project and associated budget amendments in this resolution, Council affirms its in-principle support for on-road bike lanes for the entire length of Carrington Street in the medium to long term.

**CARRIED: 7/0**

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

To indicate Council's in-principle support for on-road bike lanes for the entire length of Carrington Street

## **COMMITTEE RECOMMENDATION**

MOVED: Cr A Sullivan

1. Accepts the Perth Bicycle Network grant of \$111 870 offered for the Carrington Street shared use path project.
4. In approving the Carrington Street project and associated budget amendments in this resolution, Council affirms its in-principle support for on-road bike lanes for the entire length of Carrington Street in the medium to long term.

**CARRIED: 5/2**

2. Approves the deletion of the Hampton Road shared use path (Douro Road to Clontarf Road) project.
3. Approves amended project funding in the 2014/15 budgets as follows:
  - Queen Victoria Street (shared path Tydeman Road) \$7 290



- Lefroy Road / Rennie Crescent (intersection bike upgrade works) \$5 000
- Elder Place (upgrade lining Parry Street and Queen Victoria Street) \$35 000
- Permanent bike counters \$10 000
- Hampton Road (Wray Avenue to South Street bike lanes) \$15 000
- Carrington Street shared use path \$338 600 (\$111 870 grant funded) and
- General bike works \$41 695.

**CARRIED: 7/0**

**COMMITTEE RECOMMENDATION/COUNCIL DECISION**

**MOVED: Cr D Hume**

1. Accepts the Perth Bicycle Network grant of \$111 870 offered for the Carrington Street shared use path project.
2. Approves the deletion of the Hampton Road shared use path (Douro Road to Clontarf Road) project.
3. Approves amended project funding in the 2014/15 budgets as follows:
  - Queen Victoria Street (shared path Tydeman Road) \$7 290
  - Lefroy Road / Rennie Crescent (intersection bike upgrade works) \$5 000
  - Elder Place (upgrade lining Parry Street and Queen Victoria Street) \$35 000
  - Permanent bike counters \$10 000
  - Hampton Road (Wray Avenue to South Street bike lanes) \$15 000
  - Carrington Street shared use path \$338 600 (\$111 870 grant funded) and
  - General bike works \$41 695.
4. In approving the Carrington Street project and associated budget amendments in this resolution, Council affirms its in-principle support for on-road bike lanes for the entire length of Carrington Street in the medium to long term.

**SECONDED: Cr S Wainwright**

**CARRIED: 9/1**

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

The following item number **SGS1410-10** was **MOVED** and carried en bloc.

**SGS1410-10 REQUEST FOR FENCING OF SOUTH BEACH - THE FIG GROUP -  
THE FIG SKINNY DIP 2015**

**DataWorks Reference:** 042/006  
**Disclosure of Interest:** Nil  
**Meeting Date:** 15 October 2014  
**Previous Item:** Nil  
**Responsible Officer:** Tom Griffiths, Manager Economic Development and Marketing  
**Actioning Officer:** Vida Barrett, Events Officer  
**Decision Making Authority:** Council  
**Agenda Attachments:** Site Map

**EXECUTIVE SUMMARY**

Event organiser 'Fig Group' has requested that Council support the first Fremantle-based 'Fig Skinny Dip' by allowing South Beach to be fenced for the event on

8 March 2015 from 4.00 am – 3.00 pm. Public access to the beach will still be possible during most of the event (by passing through gaps in the fence, or around it), except for the one hour of the 'skinny dip' from 12.00 pm – 1.00 pm when it will be completely closed to the public and the fences will be manned by security personnel.

The event organisers expect up to 1 000 registered participants in the 'skinny dip' and each participant will pay a registration fee and seek their own sponsorship. The revenue raised from sponsorship is expected to cover the costs of the event for the organiser including fencing, promotional material, fees and other infrastructure. Any net revenue the organiser generates from the event will be donated to charity (Butterfly Foundation).

Free parking for cars will be coordinated at Wilson Park and managed by a dedicated group of volunteers. This is an alcohol free event.

**BACKGROUND**

The Fig Skinny Dip is an attempt at breaking the Guinness Book of Records for the most people skinny-dipping (swimming naked) in the water at the same time in the same place. The record is currently 743. The Fig Group attempted this event last year at Swanbourne Beach but was just short of the record, attracting 671 'skinny dippers' and raising \$10 000 for the Butterfly Foundation. The Fig Group is confident that in 2015 they will break the world record and intend to hold the event on 8 March 2015 at South Beach.

**COMMENT**

The Fig Skinny Dip aims to raise money for the Butterfly Foundation, an organisation that provides support for Australians who suffer from eating disorders and negative body image disorders. The event will provide the opportunity to discard concerns of body image, to connect with nature and celebrate as a community promoting the message of 'be comfortable in your own skin'.

The whole event is scheduled to take place on Sunday 8 March 2015 from 9.00 am to 2.00 pm.

The running order is as follows:

<b>Start</b>	<b>Finish</b>	<b>Details</b>
4.00 am	9.00 am	Bump-in: Set up of security fences at both ends of the event space. For risk management purposes and to ensure privacy for participants during the actual 'skinny dip', the Fig Group is requesting to fence the beach stretching from groyne to groyne (as per site map).  Beach is still accessible to the general public who can pass through or around the security fences during this time.
9.00 am	12.00 pm	Festival activities: Social activities including a barbeque.  Beach is still accessible to the general public who can pass through or around the security fences during this time.
12.00 pm	1.00 pm	'Skinny dip': Fences are secured and beach is completely closed to the general public during this time. For the actual 'skinny dip', teams will gather at the south end of South Beach reserve near the Pickled Fig and move to the main beach to line up and enter the water together for a period of five minutes.
1.00 pm	2.00 pm	Festival activities and general pack up: Beach is still accessible to the general public who can pass through or around the security fences during this time.
2.00 pm	3.00 pm	Bump out: Fences are removed. Beach is still accessible to the general public who can pass through or around the security fences during this time.
3.00 pm	Onwards	Beach access resumes as per usual.

The Fig Group has requested the Council support the first Fremantle based Fig Skinny Dip by allowing the group to:

- fence off the main swimming area of South Beach on 8 March 2015 from 4.00 am to 3.00 pm while still retaining public access, from 4.00 am to 12.00 pm, and 1.00 pm to 3.00 pm.
- completely restrict access to the general public for one hour from 12.00 pm to 1.00 pm for the Guinness Book of Records attempt.

The Fig Group has requested the following support from the City of Fremantle:

- Charitable fees charged (not commercial)

- Permission to fence South Beach as shown on site map and completely restrict public access for one hour.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Fees to be charged for the event total \$620 and include:

<b>Type</b>	<b>Fee</b>
Booking fee	\$90
Full Day Reserve Hire fees (charitable)	\$170
Waste management fees (\$18 x 20 bins)	\$360
<b>Total</b>	<b>\$620</b>

Additionally, a bond of \$2 000 will be required. Fees for beach raking (estimated to be \$400) will be taken from the bond if required.

### **Legal**

Nil

### **Operational**

The Fig Group will provide the City with a safety / risk management plan, parking management plan, site plan with clear indication of the first aid areas, clear indication of emergency exit for the sites and the event's public liability insurance.

### **Organisational**

Environmental Health will require the following permits and certificates at least one month prior to the event:

- Public building certificate, structural engineer's certificate (stage / structures), certificate of electrical compliance.
- Food permits (eg - sausage sizzle).

## **CONCLUSION**

The Fig Skinny Dip is a charity event run by community members for a philanthropic cause. By supporting this event, the City will be encouraging charitable community events and this should lead to more community members feeling empowered to initiate their own events of similar nature.

<b>Question</b>	<b>Answer</b>
Is it a free or paid event?	Participants are charged to participate in the swim and also raise money through sponsorship.
Will there be alcohol served?	No
Will there be amplified music?	Yes, a small stage with one musician
What is the target market?	People who have been affected by body issues. Expected numbers are up to 1 000 people over the event.
Comparable Event?	The event was held at Swanbourne Beach in

	March 2014 and attracted 671 participants.
Is the area going to be fenced?	Yes, the organisers believe this will be necessary to ensure the privacy of the participants and the event is not interfered with.
What are the event dates and times?	9.00 am – 2.00 pm on 8 March 2015 plus bump in from 4.00 am-9.00 am, and bump out from 2.00 pm-3.00 pm.

## STRATEGIC AND POLICY IMPLICATIONS

1.4.1 Develop plans and initiate events and bring members of the community together.

1.1.1 Plan, facilitate and provide services and facilities that address Fremantle's diverse social and cultural needs.

## COMMUNITY ENGAGEMENT

Consultation with local residents in the area surrounding the beach will take place once approved by Council.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

## COMMITTEE AND OFFICER'S RECOMMENDATION/COUNCIL DECISION

**MOVED: Cr D Hume**

**Council support the Fig Skinny Dip on 8 March 2015 and;**

- 1. Charge a charitable use hire fee of \$170.00 and a booking fee of \$90.00.**
- 2. Allow the free use of Wilson Park for parking.**
- 3. Allow the fencing of South Beach and restriction of access to the beach for the public for the one hour that the 'skinny dip' occurs.**
- 4. A bond of \$2 000 to be paid 10 days prior to the event.**

**CARRIED: 7/0**

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

<b>For</b>	<b>Against</b>
Mayor, Brad Pettitt Cr Doug Thompson Cr Jon Strachan Cr Rachel Pemberton Cr Simon Naber Cr Josh Wilson Cr David Hume	

Cr Dave Coggin Cr Sam Wainwright Cr Bill Massie	
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**MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

Nil.

**REPORTS BY THE MAYOR OR OFFICERS OF COUNCIL**

**STATUTORY COUNCIL ITEMS**

Nil.

**COUNCIL ITEMS**

**Mayor, Brad Pettitt MOVED en bloc recommendations numbered C1410-2 and C1410-4.**

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

**The following item number C1410-2 was MOVED and carried en bloc.**

**C1410-2 INFORMATION REPORT OCTOBER 2014**

**ACCEPTANCE OF TENDER FCC425/14 FOR URGENT & ESSENTIAL CONSERVATION WORK TO FREMANTLE MARKETS**

**DataWorks Reference: 39/073**

**Author: Glen Dougall Director Corporate Services**

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Urgent & Essential Conservation Work to Fremantle Markets to be awarded to PRC Building Services for the sum of \$397,644.75 excluding GST.

The MPAP is comprised of the Director Corporate Services, the Director Community Development, the Director Technical Services and the Director Planning and

Development Services or their delegate (the delegate must be an operational manager not involved as a requestor or evaluator), and one operational manager or coordinator who is independent to the area from which the contract or tender relates

### **ACCEPTANCE OF TENDER FCC428/14 FOR SPECIALISED CLEANING OF ROADS AND FOOTPATHS**

**DataWorks Reference: 39/073**

**Author: Glen Dougall Director Corporate Services**

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Specialised Cleaning of Roads and Footpaths to be awarded to Enviropath Pty Ltd for the approx sum of \$406,000.00 excluding GST for the period 1 November 2014 to 31 October 2016.

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

### **ACCEPTANCE OF TENDER FCC424/14 FOR ELECTRICAL UPGRADE TO VARIOUS CITY OF FREMANTLE BUILDINGS**

**DataWorks Reference: 39/073**

**Author: Glen Dougall Director Corporate Services**

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Electrical Upgrade to Various City of Fremantle Buildings to be awarded to Freedom WA Electrical Pty Ltd for the sum of \$60,335.00 including GST.

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

### **ACCEPTANCE OF TENDER W16/14 FOR SUPPLY OF ONE NEW REAR LOADING REFUSE COMPACTOR**

**DataWorks Reference: 39/073**

**Author: Glen Dougall Director Corporate Services**

The CEO accepted a recommendation from the Major Procurement Approval Panel (MPAP) for Supply of One New Rear Loading Refuse Compactor to be awarded to Volvo Group Australia Pty Ltd for the sum of \$331,457.00 excluding GST.

The MPAP is comprised of the Director Corporate Services, the Director Community Development, the Director Technical Services and the Director Planning and

Development Services or their delegate (the delegate must be an operational manager not involved as a requestor or evaluator), and one operational manager or coordinator who is independent to the area from which the contract or tender relates

**COUNCIL DECISION**

**MOVED: Mayor, Brad Pettitt**

That the information report for October 2014 be received.

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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



**C1410-4 CAPITAL WORKS QUARTERLY INFORMATION REPORT OCTOBER 2014**

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

As part of reporting on the progress of capital works approved in the 2014/15 budget, a quarterly report is provided for information. The detailed schedule of the program and progress of works to the end of September 2014 is shown on Attachment 1 and the following summary is provided on the status of key projects:

### Bike projects

The following bike projects have been completed:

- Elder Place bike upgrade
- Lefroy/Rennie intersection bike upgrade

Detailed design for all other bike projects has been completed and they are scheduled in to be constructed in the coming months. PBN funding has been confirmed with the exception for Hampton Road. A future bus rapid transit route proposed by the PTA makes the Hampton Road shared use path project not suitable. Some alterations are proposed to the bike program and these will be presented to the October Council meeting.

### Infrastructure Roads

#### *Local Roads Program*

The following projects have been completed:

- Harvest Road streetscape improvements
- Vale Street resurfacing
- Beard Street resurfacing

Detailed design for all of the road rehabilitation projects has been completed. They are scheduled for construction in the coming months.

#### *MGRR Roads Program*

Construction of the Hampton Road project is due to start on 24 November 2014 and will run for 12 days. The construction phase of the following projects will be completed in the second quarter:

- South Street
- Garling Street
- High Street
- Ord Street

### Infrastructure Footpaths

The following paths have been completed:

- Holland Street (both sides) – Onslow to Chudleigh
- Forrest Street (south side) – Montreal to cul-de-sac
- The Hilton Community Centre garden path was completed on 30 September 2014.

Footpaths to be installed in parks such as the Esplanade Park, Davis Park and the play spaces programs which although in the initiation phase have been scheduled for construction in the fourth quarter after the community engagement has occurred.

### Infrastructure Drainage

The drainage program has been scheduled to commence after the winter season. The progress of works is as follows:

#### *73 Hampton Road*

The works on this property is scheduled to commence in October / November 2014. This property has a shared a driveway with the adjacent property. Liaison on reshaping the driveway to control stormwater overflow is being undertaken with the adjacent owner.

#### *Miscellaneous soak wells*

80% of the intended works have been completed.

### Streets Vision

Stage 4 of the South Terrace street lighting project is currently in progress to incorporate LED fittings and streetlights on both sides of South Terrace from Parry Street to Wray Avenue.

### Infrastructure Parks

#### *Cantonment Hill Master Plan Stage 1*

Consultants finalising detail concept design.

#### *South Beach Basketball Court*

Consultation plan in progress

#### *Davis Park Project*

Consultations occurring towards development of concept plan.

#### *Esplanade Reserve master plan and path installation*

The Esplanade Park master plan is under review and works including footpath to be completed by fourth quarter.

#### *Playspace Program - Fremantle Primary School Park*

Community consultation plan being implemented.

#### *Booyeembara Park Working Group recommendations*

Landscape upgrade completed. Lighting improvements are awaiting supply of poles. Fitness equipment design is in progress.

*North Fremantle Bowls Club - fence replacement*  
Works are complete.

*Alfred Park barbecue*  
The barbecue replacement is complete.

*Sculpture Trail at the Bathers Beach Art Precinct.*  
Art plinths will be installed by February.

*Playspace Program - Valley Park*  
First stage works complete.

*Monument Hill ANZAC Centenary preparation*  
The torpedo monument rebuild is completed. Power upgrade for the ANZAC Commemoration services are under design.

*Nairn Street flood mitigation*  
Plans in progress to rectify permeable paving and bollard issues for street trees.

#### Infrastructure Buildings

*Fremantle Arts Centre - upgrade main distribution boards*  
This project is completed.

*Leighton Beach change rooms / toilets*  
Tenders have been received.

*Film and Television Institute (Old Fremantle Boys School) building repairs*  
Tenders are in progress.

*Fremantle Markets*  
A contract has been awarded to Perth Roofing Company (PRC) with site establishment being towards latter part of October 2014.

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

**MOVED: Mayor, Brad Pettitt**

**That the capital works quarterly information report for October 2014 be received.**

**SECONDED: Cr D Coggin**

**CARRIED: 10/0**

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

At 9.37pm Mayor, Brad Pettitt **MOVED** that item number C1410-3 be closed to members of the public in accordance with Section 5.23(2) (e) of the Local Government Act.

**RESOLUTION FOR CONFIDENTIALITY**

**MOVED:** Mayor, Brad Pettitt

That item C1410-3 be closed to members of the public in accordance with Section 5.23(2) (e) of the *Local Government Act 1995*.

**SECONDED:** Cr D Coggin

**CARRIED:** 10/0

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

**CONFIDENTIAL MATTERS**

**C1410-3 NO'S. 48-68 CANTONMENT STREET AND 1 GOLDSBOROUGH STREET - MMAGS HOLDINGS PTY LTD AND CAMELLIA HOLDINGS PTY LTD**

**DataWorks Reference:** 059/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 22 October 2014  
**Responsible Officer:** Acting Director Planning and Development  
**Actioning Officer:** Acting Director Planning and Development  
**Decision Making Level:** Council  
**Previous Item Number/s:** C1306-4  
**Attachments:** Letter from Lavan Legal dated 15 September 2014  
**Owner Name:** Camellia Holdings Pty Ltd and MMAGS Holdings Pty Ltd  
**Zoning:** Central City Zone (MRS)  
 City Centre Zone (LPS 4)  
**Heritage Listing:** State Register of Heritage Places and Heritage List of LPS4  
**Existing Landuse:** Vacant buildings

**REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

- (e) a matter that if disclosed, would reveal -
  - (ii) information that has a commercial value to a person; or
  - (iii) information about the business, professional, commercial or financial affairs of a person

**Mayor, Brad Pettitt MOVED an amendment to amend Part 1 (ii) of the Officer's Recommendation:**

1. That the Chief Executive Officer be granted delegated authority to enter into a written agreement in an appropriate form with MMAGS Holdings Pty Ltd and Camellia Pty Ltd to undertake the following action, broadly in accordance with principles previously set out in a Heads of Agreement between the City and the property owners, in relation to property at 1 Goldsborough Street and 48-68 Cantonment Street, Fremantle:
  - i. To further evaluate conservation and development scenarios, including but not limited to consideration of alternative land uses for an adaptive re-use of No. 1 Goldsborough Street, with the objective of facilitating re-use/development of the whole property as one parcel irrespective of property title boundaries;
  - ii. *For the City to commission appropriate consultants as necessary to carry out the work referred to in (i) above, and for the cost of consultants' fees incurred to be shared on a 50-50 basis between the two parties, up to a maximum amount to be agreed in advance of work commencing.*
2. That subject to the agreement referred to in (1) above being entered into, the Chief Executive Officer be authorised to withdraw the currently adjourned legal action regarding a previous breach of the Local Planning Scheme relating to the property.

**SECONDED: Cr R Pemberton**

**CARRIED: 10/0**

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

**C1410-5 GREEN BEAN CAFE**

**DataWorks Reference:** L039  
**Disclosure of Interest:** Nil  
**Meeting Date:** 22 October 2014  
**Previous Item:** Nil  
**Responsible Officer:** Glen Dougall, Director Corporate Services  
**Actioning Officer:** Nadine Hume, Property Services Administrator  
**Decision Making Authority:** Council  
**Agenda Attachments:** Green Bean Café Business Value Letter  
 GMO Independent Business Valuation

**REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

- (e) a matter that if disclosed, would reveal -
  - (ii) information that has a commercial value to a person; or
  - (iii) information about the business, professional, commercial or financial affairs of a person

**Cr D Coggin MOVED to defer the item to the next appropriate Ordinary Meeting of Council to negotiate with Sirona.**

**SECONDED: Cr D Thompson**

**CARRIED: 10/0**

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

**CLOSURE OF MEETING**

**THE MAYOR, B PETTITT DECLARED THE MEETING CLOSED AT 10.08 PM.**



## SUMMARY GUIDE TO CITIZEN PARTICIPATION & CONSULTATION

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

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

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

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

<b>How consultative processes work at the City of Fremantle</b>	
	limitations associated with the issue.
<b>Decisions made for the overall good of Fremantle</b>	8 The Local Government Act requires decision-makers to make decisions in the interests of “the good government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
<b>Diversity of view on most issues</b>	9 The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
<b>City officers must be impartial</b>	10 City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
<b>City officers must follow policy and procedures</b>	11 The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.

**How consultative processes work at the City of Fremantle**

<p><b>Community engagement processes have cut-off dates that will be adhered to.</b></p>	<p>1 As City officers have the responsibility to provide 2 objective, professional advice to decision-makers, 3 they are entitled to an appropriate period of time 4 and resource base to undertake the analysis 5 required and to prepare reports. As a 6 consequence, community engagement processes 7 need to have defined and rigorously observed cut- 8 off dates, after which date officers will not include 9 'late' input in their analysis. In such 10 circumstances, the existence of 'late' input will be 11 made known to decision-makers. In most cases 12 where community input is involved, the Council is 13 the decision-maker and this affords community 14 members the opportunity to make input after the 15 cut-off date via personal representations to 16 individual Elected Members and via presentations 17 to Committee and Council Meetings.</p>
<p><b>Citizens need to check for any changes to decision making arrangements made</b></p>	<p>1 The City will take initial responsibility for making 2 citizens aware of expected time-frames and 3 decision making processes, including dates of 4 Standing Committee and Council Meetings if 5 relevant. However, as these details can change, 6 it is the citizens responsibility to check for any 7 changes by visiting the City's website, checking 8 the Fremantle News in the Fremantle Gazette or 9 inquiring at the Customer Service Centre by 10 phone, email or in-person.</p>
<p><b>Citizens are entitled to know how their input has been assessed</b></p>	<p>1 In reporting to decision-makers, City officers will in 2 all cases produce a community engagement 3 outcomes report that summarises comment and 4 recommends whether it should be taken on board, 5 with reasons.</p>
<p><b>Reasons for decisions must be transparent</b></p>	<p>1 Decision-makers must provide the reasons for 2 their decisions.</p>
<p><b>Decisions posted on the City's website</b></p>	<p>1 Decisions of the City need to be transparent and 2 easily accessed. For reasons of cost, citizens 3 making input on an issue will not be individually 4 notified of the outcome, but can access the 5 decision at the City's website under 'community 6 engagement' or at the City Library or Service and 7 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.





# MINUTES ATTACHMENTS

## Ordinary Meeting of Council

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Wednesday, 22 October 2014, 6.00 pm

