



AGENDA

Strategic Planning and Transport Committee

Wednesday, 21 February 2018, 7.00pm

CITY OF FREMANTLE
NOTICE OF A STRATEGIC PLANNING AND TRANSPORT
COMMITTEE MEETING

Elected Members

A Strategic Planning and Transport Committee meeting of the City of Fremantle will be held on **Wednesday, 21 February 2018** in the Fremantle Town Hall, located at 8 William Street, Fremantle commencing at 7.00 pm.

A handwritten signature in black ink, appearing to read 'Paul Garbett', with a long horizontal stroke extending to the right.

Paul Garbett
DIRECTOR OF STRATEGIC PLANNING AND PROJECTS

16 March 2018

STRATEGIC PLANNING AND PROJECTS COMMITTEE

AGENDA

DECLARATION OF OPENING

NYOONGAR ACKNOWLEDGEMENT STATEMENT

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

ATTENDANCE

DISCLOSURES OF INTEREST BY MEMBERS

ELECTION OF PRESIDING MEMBER

ELECTION OF DEPUTY PRESIDING MEMBER

DEPUTATIONS / PRESENTATIONS

LATE ITEMS NOTED

TABLED DOCUMENTS

TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
	REPORTS BY OFFICERS (COMMITTEE DECISION)	1
	REPORTS BY OFFICERS (COUNCIL DECISION)	1
SPT1802 -1	KINGS SQUARE PROJECT - PUBLIC REALM CONCEPT DESIGN	1
SPT1802 -2	DRAFT LOCAL PLANNING POLICY 2.21 - R60 DEVELOPMENT UNDER CLAUSE 4.2.5 OF LPS4 - ADOPT FOR ADVERTISING	6
	CONFIDENTIAL MATTERS	20
	SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION	21
	AGENDA ATTACHMENTS	1
SPT1802 -1	KINGS SQUARE PROJECT - PUBLIC REALM CONCEPT DESIGN	3
SPT1802 -2	DRAFT LOCAL PLANNING POLICY 2.21 - R60 DEVELOPMENT UNDER CLAUSE 4.2.5 OF LPS4 - ADOPT FOR ADVERTISING	6

REPORTS BY OFFICERS (COMMITTEE DECISION)

Nil.

REPORTS BY OFFICERS (COUNCIL DECISION)

SPT1802 -1 KINGS SQUARE PROJECT - PUBLIC REALM CONCEPT DESIGN

Meeting Date:	21 February 2018
Responsible Officer:	Kings Square Project Director
Decision Making Authority:	Council
Electronic Attachments:	<ol style="list-style-type: none">1. Kings Square public realm concept design.2. Kings Square playscape schematic design.3. Project consultation report.

SUMMARY

The purpose of this report is to present the Kings Square Public Realm Concept Design to the council for approval, following the community and stakeholder’s consultation, and the subsequent refinement of various aspects of the design.

A presentation will be made to Strategic Planning and Transport Committee, summarising the key aspects of community feedback and an update on the design.

This report represents a milestone for the Kings Square project, reaching completion of:

- **community engagement regarding public spaces**
- **refinement of the public realm concept plan**
- **the playscape schematic design**
- **archaeological investigations.**

The next stage of the project will be to produce a sequencing plan for project budgeting, phasing and delivery. Design development will also commence - including various referrals, reviews and design audits.

It is considered that this concept design provides a comprehensive base to now commence detailed work on its various parts, by providing an overarching and well-considered approach to the future enhancement of the public realm.

BACKGROUND

The draft Kings Square Public Realm Concept Design was received in September 2017 by council for the purpose of releasing the plan for community engagement.

It was noted that the results of the consultation would be presented back to council as part of finalising the concept plan. The engagement and consultation period ended with the community briefing forum in the Town Hall held on the 23 January 2018.

The feedback received from the community, stakeholders and the technical reference group has assisted with the refinement of the Kings Square concept plan. In addition, the design for the playscape has been developed, following community consultation that occurred in mid-2017 and the feedback received from children and carers.

OFFICER COMMENT

The Kings Square Public Realm Concept Design, including the playscape, is attached to this report and has been prepared as a comprehensive document that will supersede the draft version released for consultation. A presentation will be made to Strategic Planning and Transport Committee regarding community feedback and changes to the draft concept design. The fundamental aim of the concept design is to:

- Re-energise Kings Square and create a destination for people.
- Respect the history and cultural significance of the place.
- Integrate the various projects that are currently underway.
- Create a place that is welcoming, safe and attractive to all.
- Deliver a high quality urban space that is civic, resilient and sustainable.
- Ensure the project remains strategically aligned with other plans and strategies for the city.

Changes to Draft Plan

In response to feedback on the draft plan, the following changes/proposals have been made to the Kings Square Public Realm Concept Plan:

1. **URBAN FOREST:** Addition of one extra shade tree in the main Civic Space to provide improved amenity and further reinforce the mini 'urban forest' concept. This will be achieved through the relocation of an additional mature tree from within Kings Square.
2. **NEWMAN COURT:** Set-down/pick-up bays in Newman Court have been removed from draft concept to enable full pedestrianisation to occur in Newman Court for specific times of day/week (yet to be determined). A loading zone remains in the concept – this may be time restricted to occur 'out of hours' to minimise impact on the future pedestrianised character of the street.
3. **KERBSIDE USES:** Minor adjustments have been made to the draft plan to improve the overall functionality and balance between competing needs in the square:
 - new coach/tourist set-down/pick-up bays in William and Queen Streets;
 - CAT bus stop introduced to Queen Street;
 - a loading zone in Queen Street moved around the corner into Adelaide Street;
 - 3 ACROD bays (instead of 5 general bays for people with mobility needs);
 - 4 general parking bays in Queen Street converted to set-down/pick-up bays;
 - Minor adjustments to locations for motorcycle parking.
4. **STREET TREES:** Two additional street trees have been included in Queen Street, near the proposed CAT bus stop. The preferred tree species for planting around the perimeter of the square is the Jacaranda, subject to availability of suitable stock.

5. **ROUNDABOUTS:** Replacement of the two mini-roundabouts in Queen Street with pedestrian-friendly raised road platforms – extending the urban design detailing of Kings Square. (These elements are still subject to further traffic modelling and confirmation that bicycle route integration will be legible, convenient and safe.)
6. **CHILDRENS PLAYSPACE:** Development and integration of the schematic playspace design into the overall concept for the square, noting that further refinement will be guided by safety audits (especially with regard to the close proximity of Queen Street).

Place Management

As part of the in-house technical consultation, the issue of future place management became a recurring topic. It is therefore proposed to commence the development of future place management plan to ensure that the future public spaces – both within the new civic building and in Kings Square itself – are adequately and proactively curated / managed. This was also a recurring theme highlighted in community feedback, the need for a vibrant place that is ‘constantly changing’.

Archaeological Investigations – ‘Windows to the Past’

Archaeological investigations in Kings Square have recently been completed – attracting significant interest from the community and media. The purpose of this work is twofold:

- To take this opportunity to seek evidence and understanding of previous development, culture and activities on the proposed new civic building site – prior to the new building being constructed;
- To seek evidence and understanding of the former church site in High Street – with the idea of revealing the layers of history (including exposing former limestone footings of the church) in the final upgrading works to the public realm.

With regard to the second point, the design team is proposing a concept of ‘Windows to the Past’ to be integrated into the urban design of the square. This would consist of re-excavating specific locations to reveal the former church as well as other layers of history that have been found and displaying them through a glass floor window. These interpretative elements could potentially include in-ground lighting that would also create points of interest in the evening/night-time. It is considered that this approach would be a significant improvement to the existing interpretation (grey pavers) of the former church as well as being of historical and educational interest.

FINANCIAL IMPLICATIONS

The overall project budget for improvements to the public realm in Kings Square is estimated to be in the order of \$8m. This is captured in the City’s 10 year financial plan.

Approximately \$2.2m of this estimate was anticipated as part of the Kings Square Business Plan, 2013, and will be used to fund upgrading works to Newman Court and High Street upon completion of the major building projects.

The remainder of works to the broader public realm will be subject to future Council funding, phasing and programme decisions.

The City has a budget provision in the current financial year to undertake preliminary work around preserving and relocating selected mature trees in Kings Square, in advance of the major works program.

CONSULTATION

Various activities around consultation and communication have occurred for the Kings Square public realm project including the playscape:

- Workshops with 5 primary schools
- Online consultation: survey and interactive map
- Face-to-face engagement with reference and user groups
- Kings Square business forum with traders around Kings Square
- Community briefing in Town Hall
- Ongoing consultation with St John's Anglican Church
- Initial consultation with Heritage Council
- In-house technical reference group – multiple workshops

The Kings Square project is scheduled to be presented to the Whadjuk Working Group at its meeting in March 2018, at the South West Aboriginal Land and Sea Council. The purpose is to seek guidance regarding how to establish a process for ongoing consultation with Whadjuk Noongar representatives – to ensure culturally appropriate interpretation of the place is integrated into the design. Once an agreed process is established, ideas around potential public art and cultural interpretation in the public realm will be investigated.

For more detail and information the project consultation report has been attached to this report and a summary included in the Kings Square public realm concept design.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

- 1. Receives the Project Consultation Report, noting a high level of community support for the project.**
- 2. Approves the Kings Square Public Realm Concept Design, including the playscape, noting the following will be actioned during the design development and detailed design stages:**
 - Formal referral to the Heritage Council**

- Ongoing coordination with St John’s Anglican Church
 - Further traffic modelling and road safety design audit
 - Play safety and accessibility audits
 - Consultation with Whadjuk Working Group
 - Public artwork, cultural and heritage interpretation plan
 - Material palette trial (on site)
 - Commencement of a future place management plan
 - Refinement of overall project sequencing / phasing and cash-flow
3. Approves the concept ‘Windows to the Past’ to interpret the former church and other archaeological material, noting that this idea will be further refined following the detailed findings and recommendations of the archaeological report.
4. Notes that a forward package of works involving the relocation of 7 London Planes and 1 Canary Island Date Palm is scheduled to take place in April/May 2018, noting that the tree roots have been prepared and monitored since February 2017.

**SPT1802 -2 DRAFT LOCAL PLANNING POLICY 2.21 - R60 DEVELOPMENT
UNDER CLAUSE 4.2.5 OF LPS4 - ADOPT FOR ADVERTISING**

Meeting Date: 21 February 2018
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: 1. R-Code – A-Code Comparison Matrix (Summary)
2. Draft LPP2.21

SUMMARY

Under clause 4.2.5 of the City’s Local Planning Scheme No. 4 (LPS4), the residential density of sites in the Local Centre, Neighbourhood Centre and Mixed Use zones may be increased up to R60 where the development application:

1. Proposes ‘mixed use development’ as defined in the City’s Scheme.
2. Would not be detrimental to the amenity of an area.

A policy has been prepared to provide guidance on the criteria against which impact on amenity will be assessed under Clause 4.2.5 of LPS4 in order to provide greater certainty and consistency of decision-making, and promote better built form and community outcomes. The draft policy has the following key elements:

- Recognise that mixed use zones and local/neighbourhood centres have potential to accommodate higher density and intensity, but within which new development should acknowledge and be respectful of existing / traditional development as part of a responsible evolution.
- Stipulate that the deemed-to-comply standards (excluding site area) of the base density are acceptable as a starting point for R60 development.
- Where the base code deemed-to-comply standards are not met, consider variations up to the R60 coding only where assessed to not be detrimental to the surrounding area based on a series of considerations as set out in the policy relating to the impact on amenity; including impact on streetscape, heritage character, neighbour amenity, traffic and safety, impact on trees and quality of the built environment.
 - Stipulate some specific requirements / expectations in regards to commonly contested aspects including that plot ratio in excess of the deemed-to-comply standard for R60 will not be supported.
 - Require a site context assessment to accompany any proposal seeking an increase in density beyond the base coding.

This report recommends council adopt draft local planning policy 2.21 – R60 Development under clause 4.2.5 of LPS4 (LPP2.21) for public comment.

BACKGROUND

Residential density codes are statutory planning controls which relate to the density (number of dwellings or floorspace per hectare) at which residential development may occur within a given area. As well as controlling the number / density of dwellings permissible on a site, varying development standards (relating to building height, setbacks and the like) apply to each coding.

Clause 4.2.3 of the City's Local Planning Scheme No. 4 (LPS4 or Scheme) defines the density codes which apply to land within its boundaries. The density codings vary from area to area. In general, Residential, Local/Neighbourhood Centre and Mixed Use zones outside of the city centre have densities of R20, R25, R30 and R35.

Clause 4.2.5 of the Scheme states that:

“Notwithstanding the requirements of Clause 4.2.3 residential density in the Local Centre, Neighbourhood Centre and Mixed Use zones may be increased up to R60, where residential development is part of a mixed use development, where, in the opinion of Council the proposal is not detrimental to the amenity of the area.”

The clause was included in the scheme in order to encourage greater diversity and density of development in areas with good access to shops, services and transport, as usually applies within Mixed Use and Centre zones. The clause seeks to accommodate inclusion of a mixing of land uses on sites in order to both increase the residential presence within commercial areas, and to maintain high levels of activity at street level (via mandatory inclusion of non-residential uses) while balancing this change against the existing amenity of an area.

To achieve the higher R60 density under clause 4.2.5, a development application must meet two criteria:

1. Propose 'mixed use development' which is defined by the scheme as meaning development proposing at least 25% Gross Lettable Area of residential development and 25% Gross Lettable Area of commercial development.
2. Be deemed not detrimental to the amenity of an area.

Amenity is defined within the Planning and Development (Local Planning Schemes) Regulations 2015 as:

“those factors which combine to form the character of an area and include the present and likely future amenity”.

Several recent development applications reliant upon clause 4.2.5 to obtain approval have demonstrated the challenges associated in determining whether a proposal is detrimental to the amenity of an area, this involving a subjective assessment. Of particular concern has been the assessment of impact on adjoining properties, the owners of which often object to aspects of higher density development and for whom the requirement that proposals be 'not detrimental' generates a very different expectation than that interpreted by proponents. Further direction is therefore desirable on the exercise of discretion under this part of clause 4.2.5, including guidance on the amenity considerations, in order to allow consistent assessment of proposals and communication of expectation to all stakeholders.

It should be noted that the clause seeks to avoid detrimental amenity to the area rather than to specific individual lots, which requires Council to take a broader view of impact than solely that of the neighbour/s. Similarly, the definition of amenity in the Planning Regulations defines this in relation to the character of an area. This does not, of course, preclude neighbour impacts from forming a key consideration in assessing amenity impacts. The reference to ‘future amenity’ allows for application of the definition in new development areas or areas subject to revitalisation schemes and the like.

State Planning Policy

In considering assessment of residential proposals, regard must be given to relevant state planning policies. These include the State Planning Policy 3.1 Residential Design Codes (or ‘R-Codes’) which specify the uniform standards against which residential development is required to be assessed across the state. The R-Codes apply a series of ‘deemed-to-comply’ provisions for each residential density code which, if met, ensure approval (as being deemed to achieve the policy objectives). The Codes also specify ‘design principles’ against which proposals can be assessed (typically where they do not meet the deemed-to-comply provisions). The R-Codes can be supplemented by local planning policies (LPPs) in certain circumstances including to “augment the R-codes by providing local housing objectives to guide judgements about the merits of proposals for any aspect of residential development that does not meet the requirement or is not provided for, under the R-codes...” (7.3.1). However the Western Australia Planning Commission (WAPC) and all recent state governments have been strongly advocating for reduced variation between local governments, and the R-Codes seek to stipulate restrictions on what factors may be addressed by LPPs and under what circumstances these may be applied.

In relation to areas subject to the density bonus offered by clause 4.2.5 of the scheme, the City’s planning officers take the view that the base density is that applicable by default and therefore the deemed-to-comply and design criteria of that base (lower) density are the default standard applicable. It is not, in the view of staff, appropriate or reasonable to take the position (as a number of recent applicants seem to have) that compliance with R60 standards demonstrates no detrimental amenity impact given that:

- The applicable areas are not coded R60
- The scheme explicitly states a requirement to assess and determine no detrimental amenity impact and
- The R-codes do not suggest that compliance translates to no amenity impacts: rather they specify standards which will be deemed acceptable, irrespective of impact.

In addition to the above, there has been considerable concern raised since the introduction of Part 6 of the Codes (relating to multiple dwellings including mixed use) that poor design outcomes are being realised. This has resulted in a review of design policy and this component of the R-codes through the Design WA initiative.

Design WA

In late 2016 the WAPC advertised State Planning Policy 7 - Design of the Built Environment (SPP7) and three accompanying documents for public comment. Ultimately, a suite of four design policies, a design review guide, and one discussion document (design skills) are proposed under SPP7. These documents relate to the promotion of good design in new development and are collectively referred to as Design WA. They include 'Apartment design', a proposed replacement for the section of the current Residential Design Codes dealing with multiple dwelling developments (and of key concern here).

The Design WA documents that have undergone a community comment process but have yet to be finalised. However, given the anticipated adoption (according to advice received) of the Apartment Design code in the first half of 2018, it would be prudent for Council to consider the approach this document will take to considering and assessing amenity impacts and development context under Clause 4.2.5.

Apartment Design

The proposed draft Apartment Design document (often referred to as the A-codes) moves away from the current approach of the current R-codes and instead offers a wider and more comprehensive range of performance based controls. Instead of 'deem-to-comply' and 'design principles', the terms 'objective', 'design criteria' (applicable only in some instances) and 'design guidance' are used.

The draft Apartment Design guide is in five parts:

1. Introduction
2. Primary controls
3. Siting the development
4. Designing the building
5. Appendices

Under part 2 of the document, building height, scale and bulk are controlled through 'primary controls' which includes a table specifying plot ratio, setbacks and height limits. These are summarised against existing R60 R-Code provisions in Attachment 1 and, for the default 'detached streetscape' class of development, are broadly similar, though depend heavily on the supplementary design guidance provided in Parts 3 and 4.

Part 3 of the Apartment Design policy relates to 'Siting of Development' and so considers factors affecting the area within which a proposal is placed. Individual design considerations within this section include:

- Site analysis and design response: requiring the preparation of these to inform any proposal
- Orientation: requiring proposals to "respond to the streetscape and site while optimising solar access within the development" and building form and orientation which "minimises overshadowing on neighbouring properties"
- Existing tree retention: requiring mature trees on site (or are clearly identifiable on site through aerial images from the last 5 years) for retention or replacement or offset

- Deep soil areas (12% of site where no trees retained): to support healthy plant and tree growth, and provision of trees proportionate to the size of the site
- Communal and public open space: where more than 10 dwellings are proposed
- Visual privacy: including a ‘cone of vision’ similar to that specified under the R-Codes (albeit lesser) and a minimum of 25% of the perimeter of balconies unscreened, and a requirement to site and design development to “increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space”
- Public domain interface: considering CEPTED principles and promoting a functional and pleasing interface with the street which makes provision for services, landscaping of terraces and excludes parking
- Pedestrian access and entries: which requires safe and ‘legible’ entries to buildings
- Vehicle access points: requiring these to be designed and located to minimise streetscape impacts whilst avoiding conflicts between pedestrians and vehicles
- Car and bicycle parking: to be provided at specified rates and designed to be functional but minimise visual impact

Part 4 of the Apartment Design document deals with the internal design of buildings. Whilst an intrinsic part of the design process and achieving good design quality overall, the majority of the requirements under part four have lesser impact on area amenity (as opposed to internal or residents amenity) and so are less relevant to the point in question (being how to assess whether a proposal has a detrimental impact on the amenity of an area). Exceptions to this include the requirements relating to:

- Landscape design: which is required to contribute to the streetscape and amenity
- Mixed Use: which essentially require an active interface with the street, consistent with existing requirements of the City.

The City’s policy may need to operate in isolation for a period (depending on actual finalisation dates for Design WA) so needs to address all key criteria independently.

OFFICER COMMENT

Base policy position - options

There are a number of base policy positions council could take in determining how to assess the amenity impacts of development proposed under clause 4.2.5, based on its intent for these areas which influence expectations of amenity. These include:

1. Pro-Change: A position that the mixed use and centre locations should accommodate urban consolidation at higher densities on the basis of the access they provide to services (and often transport) and so the area’s amenity should therefore be considered in the context of this future ambition (e.g. as per the R-codes R60 standards). If this is the preferred approach, it would be appropriate to up-code these areas to R60 and delete the scheme provision relating to amenity and so provide clarity of expectation and assessment criteria.

2. Pro-Status Quo: A position that protection of the current status quo has priority over other planning imperatives, so any increase in density can only be supported where it is generally consistent with the lower base code standards.
3. Defer decision: A position that Design WA will provide more sophisticated standards against which to assess proposals and, in the interests of a more streamlined planning process, adoption of a Council position ahead of finalisation of this policy is premature.
4. A position that additional guidance is required on the exercise of discretion (pending Design WA, when it may require review), that this needs to be responsive to both existing context and an anticipated transition / evolution towards higher density development in centres, and that adoption of a policy to guide this is desirable.

The preferred approach is largely dependent on Council's priorities and the urgency attached to this issue. Whilst any of the above could be entertained, it is assumed that neither options 1 or 2 strike the balance that Council is seeking to achieve. Deferral of the position pending advancement of Design WA is a viable option and could avoid potential for duplication and/or the need to review the policy upon the finalisation of the Apartment code. However, whilst the Design WA may go some way towards resolving the situation, it is unlikely to fully resolve it, providing relatively little firm direction in relation to neighbour interfaces at zoning boundaries. A draft policy has consequently been prepared which seeks to complement Design WA (on the assumption of its impending finalisation) without being dependent upon it to operate.

A number of different approaches are possible within the policy, from very broad, generalised guidance on amenity considerations and objectives to much more detailed area-specific design guidance, based on individual precincts.

Whilst a precinct-based approach would provide the most comprehensive guidance, it would also be extremely resource intensive. A generalised approach, with specific guidance on several key issues of recurrent debate has therefore been proposed which:

1. Clarifies the coding status of lots (i.e. that the base code applies but can be increased up to R60 where it has no detrimental impact on the amenity of the area).
2. Outlines the key considerations against which amenity impacts will be assessed;
3. Confirms that proposals compliant with the base coding standards (even if involving a higher number of units up to the deemed-to-comply plot ratio area for R60) will be supported.
4. Provides some specific guidance on interpretation and application on commonly queried aspects.

The proposal also includes a recommendation that applications seeking a higher density provide a site context assessment. This reflects a proposed requirement of the Design WA Apartment Design code and can perform the dual role of assisting assessment of proposals and ensuring that applicants have been through some process of considering context.

Proposed Policy Provisions

Key considerations in assessment of amenity

In considering ‘those factors’ (as per the Regulations definition of amenity) which contribute to the character of an area, officers concluded that they could be tangible e.g. built environment and trees or non-tangible factors e.g. a feeling or experience. For the purposes of this policy, it is suggested that assessment focus on the tangible effect of the additional residential density, and take into account:

- Impact on streetscape
- Impact on heritage character and fabric
- Impact on neighbour amenity in terms of bulk and scale, overshadowing, overlooking, noise, privacy and outlook
- Traffic and traffic safety
- General quality of the built environment being created.

Application of base code standards in first instance

The policy proposes to clarify that development that meets the deemed-to-comply requirements of the base density code will be considered to be adequate to meet the requirements of clause 4.2.5 of LPS4. This helps establish parameters for the assessment of impact as it is acknowledged that even proposals which comply with base code R-Code standards can affect amenity. However, it is not considered reasonable to refuse proposals which comply with the base code standards, even where the dwelling yield has increased.

Examples of the base density code (R20, R25, R30 and R35) requirements and for comparison the Part 6 multiple dwelling requirements for R60 are provided below in table 1 for information.

Table 1. Current R-codes requirements from Part 5 (Single houses and grouped and multiple dwellings) and Part 6 (Multiple dwellings)

Design Element	R-codes Part 5 provisions		R-codes Part 6
	R20 and R25	R30 and R35	R60
Primary Street setback	6m Corresponding to the average of the setback of existing dwellings on each adjacent property fronting the same street	4m Corresponding to the average of the setback of existing dwellings on each adjacent property fronting the same street	2m
Secondary Street setback	1.5m	1.5m	2m
Boundary Setbacks	Table 2 Single storey Boundary walls allowed for <u>one</u> third of the length of the property	Table 2 Single storey Boundary walls allowed for <u>two</u> thirds of the length of the property	Table 2 Single storey Boundary walls allowed for <u>two</u> thirds of the length of the property

Design Element	R-codes Part 5 provisions		R-codes Part 6
	R20 and R25	R30 and R35	R60
Open Space	50%	45%	45%
Building height	Assessed under LPS4 sch8 provisions; R-codes irrelevant to this requirement		
Outdoor living areas	30 sqm behind the street setback area directly accessible from a habitable room of the dwelling with a minimum length and width dimension of 4m to have at least two-thirds of the required area without permanent roof cover	24 sqm	10 sqm – minimum 2.4m dimension

Design WA is broader than the current R-code’s apartment design provisions of Part 6 and includes requirements that would ensure the internal amenity of places is of a higher standard. When these requirements are operational, they will apply to R60 mixed use development under clause 4.2.5 of the Scheme in place of the R-codes.

Assessment of variations to base code standards

Where a proposal seeks to vary the base code standards in order to achieve additional density (as applications of this type nearly always do), the draft policy indicates that assessment against the design principles applicable to the base coding (outlined in attachment 1) and the key amenity criteria previously identified will occur. Under each of the criteria, some additional guidance is provided. In some cases, this is general in nature (such as those relating to traffic impact) but in others, more definitive direction is proposed to address some of the more common issues which have arisen in recent applications. A key one is to clarify that whilst proposals incorporating plot ratio up to the deemed-to-comply provisions of the R-Codes for R60 can be entertained, additional plot ratio on top of this will not be supported. This clarification is necessary because the R-Codes (now) allow increases in plot ratio based on achievement of performance criteria which, in relation to plot ratio, are somewhat vague. The impact of additional plot ratio is most commonly felt through the overall increase in mass, reduction in setbacks etc. Given that the increase in density to R60 plot ratio represents at least a doubling in the base yield in most cases, increases beyond this could be seen to be a bonus on a bonus. In order to remove uncertainty, it is recommended that the policy clarify that the upper limit for increase in density under Clause 4.2.5 will be deemed to be the deemed-to-comply plot ratio for R60. There may be some limited circumstances in which this position might be varied (for example, if all adjoining properties were developed at a greater plot ratio, or comprised entirely non-residential development). However, these circumstances are expected to be so limited that it is preferable to deal with them as variations to the policy, than to flag them and thus introduce an expectation of flexibility on this point for other proposals.

Other specific provisions proposed include:

1. Clarification that assessment of impacts on neighbour light and privacy should focus on primary living areas. This assists informing placement of building mass and windows where multiple outdoor living areas exist.
2. Requirements that the placement of bin stores, service areas and plant should be away from neighbours outdoor living areas and habitable rooms or treated to address noise and nuisance.
3. Recommended retention of substantial trees on site. Whilst tree removal is not currently well regulated, and poses a number of challenges, the policy acknowledges the impact of trees on area amenity and promotes their retention as a factor in assessing amenity impacts.
4. Inclusion of deep planting areas to promote better landscape provision is proposed. This reflects a requirement from the draft Design WA Apartment Design code and strong feedback from the community received during recent consultation exercises including those relating to the Freo Alternative.
5. Clarification that where balconies are proposed, their complete enclosure by screening will not be deemed an acceptable response to protecting neighbour privacy. Whilst potentially achieving the privacy objectives for neighbours, such balconies can rarely represent amenable outdoor space for future apartment residents and so do not contribute to the overall quality of the area. This accords with the direction of Design WA .
6. Indication that fully internalised habitable rooms will not be supported, as these are not conducive to a truly amenable environment. It would be arguable that this consideration is marginal to assessment of impacts on area amenity however the contrary view is that the quality of apartments being delivered collectively contribute to overall area amenity. The requirement reflects one in Design WA which, now advertised, can be considered a ‘seriously entertained planning proposal’, adding weight to its inclusion here.

More specific guidance on setbacks and bulk, in particular, would be desirable but because these vary so considerably from site to site, it is difficult to achieve this in a generic city-wide policy. More general provisions requiring consideration of these is therefore proposed, still requiring the exercise of judgement in application but nevertheless providing some additional guidance.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Local governments are authorised to prepare and / or amend local planning policies under the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). The WAPC have been seeking to minimise variations to R-Codes standards through policies such as this however given the discretion provided for Clause 4.2.5 of the scheme, it is the view of officers that it is open to Council to adopt a policy of this nature.

CONSULTATION

Subject to approval by council, community consultation on the draft content of local planning policy 2.21 will be carried out in accordance with the requirements of clause 4 of Schedule 2 Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) and the City's Local Planning Policy 1.3 Public Notification of Planning Proposals.

Officers anticipate that during the advertising period on the policy Design WA may come into effect. If this happens the policy can be reviewed in light of the finalised Design WA document and changes can be made as required.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required.

OFFICER'S RECOMMENDATION

Council:

- 1. Approve the following draft Local Planning Policy 2.21- local planning policy 2.21 – R60 Development under clause 4.2.5 of LPS4 for the purposes of advertising in accordance with the procedures set out in clause 4 of the Deemed Provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Fremantle Local Planning Policy 1.3 Public Notification of Planning Proposals:**

**CITY OF FREMANTLE
LOCAL PLANNING POLICY 2
R60 DEVELOPMENT UNDER CLAUSE 4.2.5 OF LPS4**

**ADOPTION DATE: ##/##/2018
AUTHORITY: LOCAL PLANNING SCHEME NO.4**

STATUTORY BACKGROUND

Planning and Development (Local Planning Schemes) Regulations 2015

- Schedule 2, Deemed Provisions for local planning schemes, Part 9, Clause 67 - requires the Local Government to consider a broad range of matters when determining an application.**
- Schedule 2, Deemed Provisions for local planning schemes, Part 2 - provide the making of a local planning policy.**

City of Fremantle's Local Planning Scheme No 4 (LPS4 or Scheme)

- Clause 4.2.2 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 Residential Design Codes.**

- **Clause 4.2.5 states that Notwithstanding the requirements of Clause 4.2.3 residential density in the Local Centre, Neighbourhood Centre and Mixed Use zones may be increased up to R60, where residential development is part of a mixed use development, where, in the opinion of Council the proposal is not detrimental to the amenity of the area.**
- **Definition of mixed use:**
means, when used in relation to a Planning Application, a combination of one or more of the residential use classes specified in Table 1 - Zoning and any other land use or uses, and where the residential use class and any other one use class each comprise a minimum of 25 per cent of the gross lettable area of the development.

State Planning Policy 3.1 - Residential Design Codes (R-codes)

- **Part 7 - 7.3.1 states that a local planning policy may contain provisions that:**
(b) **augment the R-codes by providing local housing objectives to guide judgements about the merits of proposals for any aspect of residential development that does not meet the requirement or is not provided for, under the R-codes.**

APPLICATION

This policy applies to land in the Local Centre, Neighbourhood Centre and Mixed Use zones and development applications within these that seek an increased residential density beyond the 'base density' shown on the scheme map, up to R60, under clause 4.2.5 of LPS4.

In the event that there is a conflict between this policy, and a provision contained within a Local Area Planning Policy, the most specific policy provision shall prevail.

OBJECTIVE

The local housing objective for residential development in the Local Centre, Neighbourhood Centre and Mixed Use zones is to accommodate higher density residential development within these zones where this is compatible with the existing scale, character and amenity of development in the area, as part of an orderly and well-mannered evolution. Where the increase in density is deemed to result in a detrimental impact on amenity, it will not be supported.

PURPOSE

The purpose of this policy is to provide guidance on the criteria against which impact on amenity will be assessed under Clause 4.2.5 of LPS4 in order to provide greater certainty and consistency of decision-making, and promote better built form and community outcomes. Because the LPS4 provides for a discretionary

increase in residential density only where not detrimental to the amenity of the area, it is incumbent on the Council to consider this in its broader sense. As such, compliance with the provisions of the R-Codes for the higher density will not be deemed to demonstrate no detrimental impact. Conversely, definition of an area's amenity extends beyond immediately adjoining neighbours so a decision on whether a proposal impacts negatively on an area needs to amortise those felt by neighbours with the general standard of amenity experienced within the immediately surrounding street block/s.

POLICY

- 1. Assessment of the impact on the amenity of the surrounding area of development seeking an increase in residential density under clause 4.2.5 of LPS4 will focus on the effect of the additional density and will take into account:**
 - **Impact on streetscape**
 - **Impact on heritage character and fabric**
 - **Impact on neighbour amenity in terms of bulk and scale, overshadowing, overlooking, noise and privacy**
 - **Traffic and traffic safety,**
 - **Impact on existing trees and**
 - **General quality of the built environment being created.**

- 2. Assessment of applications will be undertaken in the first case against the provisions of the site's base residential density code (i.e. that shown on the scheme map), excepting those relating to site area. Applications compliant with the deemed-to-comply development standards (other than site area) applicable to the base code under Part 5 of the R-codes and all other applicable policy and scheme requirements will be deemed acceptable.**

- 3. Where the development application seeks a variation to the deemed-to-comply development standards of the base density in order to achieve additional density under Clause 4.2.5, the development is to demonstrate compliance with the design principles applicable to the base coding and the following criteria. These matters will be considered collectively in forming an opinion on whether or not the proposal is detrimental to the amenity of the area in the context of clause 4.2.5:**
 - 3.1 Impact on streetscape**
 - 3.1.1 Consistent with the scale of development in the area**
 - 3.1.2 Consistent with the form and rhythm of development in the streetscape**
 - 3.1.3 Positive interface with the street, including activation of the ground floor frontage. Blank walls to the street will not be supported. Where development up to the street (ie nil or minimal setback) is proposed, weather protection for pedestrians should be included in the design.**

 - 3.2 Impact on heritage character and fabric**

- 3.2.1 Conserves elements of heritage value where deemed appropriate following assessment of this in accordance with the City’s heritage requirements.**
- 3.3 Impact on neighbour amenity in terms of bulk and scale, overshadowing, overlooking, noise and privacy**
 - 3.3.1 Provides a respectful interface, including sufficient sunlight to outdoor living areas and major openings (including those which, on older buildings, may have been built closer to the boundary than is currently permissible).**
 - 3.3.2 Where adjoining properties enjoy multiple living areas, highest priority should be placed on maintaining light and privacy to the primary living areas (namely any existing screened courtyard or outdoor living area, and living room areas).**
 - 3.3.3 Bin stores, service areas and plant are to be located away from the primary outdoor living areas and openings to habitable rooms of adjoining dwellings, or otherwise treated to minimise noise, odour and nuisance.**
- 3.4 Traffic and traffic safety**
 - 3.4.1 Traffic management and safety should comply with the City’s standards.**
 - 3.4.2 Parking provision for residential dwellings shall be in accordance with the provisions of the R-Codes for the density of development sought, including visitor parking.**
 - 3.4.3 Parking provision for non-residential uses shall be assessed on their merits against provisions of LPS4**
- 3.5 Impact on existing trees**
 - 3.5.1 Substantial trees on site should be retained or replaced with suitable species providing similar or greater levels of canopy cover and greening.**
- 3.6 General quality of the built environment being created.**
 - 3.6.1 Open space areas should be usable and accessible to all residents of the development, and incorporate landscaping to create amenable spaces.**
 - 3.6.2 A Deep Planting Zone is to be incorporated into the development at a minimum size of 12% of the development site area.**
 - 3.6.3 Outdoor living areas cannot be reduced by more than half the deemed-to-comply requirement for the base code.**
 - 3.6.4 Achievement of privacy requirements through the full screening of balconies will not be supported: a minimum of 25% of the perimeter of each balcony must remain unscreened.**
 - 3.6.5 Fully internalised habitable rooms will not be supported.**
- 4 Increases in plot ratio beyond the deemed-to-comply requirement of the R-codes for R60 will not be supported.**

DEFINITIONS

- a. **Deep Planting Zone (DPZ):** means an area of the lot for the exclusive use of supporting plant life. The deep planting zone shall be a minimum length and width dimension of 4.5 metres and water permeable, unpaved and uncovered and landscaped**. The deep planting zone shall not be used for vehicle parking or access and contain no buildings, structures, or pergolas.
- b. **Residential Density:** For the purposes of this policy residential density referred to in clause 4.2.5 of LPS4 refers to the site area per dwelling or plot ratio requirements of State Planning Policy 3.1 - Residential Design Codes, only.
- c. **Base Density:** means the density code allocated to the site on the scheme map prior to application of clause 4.2.5.
- d. **All other definitions** are as defined in the State Planning Policy 3.1 - Residential Design Codes and the City's Local Planning Scheme No.4.

Procedure

In addition to normal submission requirements, development applications seeking additional density under Clause 4.2.5 of the scheme must provide a site context assessment* to demonstrate how the proposal would integrate into the local context. The site context assessment is to include, but is not limited to, the following:

- Site location and wider context plan
- Aerial photograph
- Local context plan
- Site context and survey plan
- Streetscape elevations and sections
- Overshadowing diagram
- Visual privacy diagram
- Traffic impact statement
- An assessment of the development undertaken by the applicant on the relevant state and local planning policies and schemes.

*Draft Apartment Design - Volume Two of State Planning Policy No. 7.3 Residential Design Codes Guidance for multiple-dwelling and mixed-use developments provides guidance on what is required for a site context assessment.

CONFIDENTIAL MATTERS

Nil.

SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION

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

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

How consultative processes work at the City of Fremantle	
The City's decision makers	1. The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
Various participation opportunities	2. The City provides opportunities for participation in the decision-making process by citizens via its council appointed working groups, its community precinct system, and targeted community engagement processes in relation to specific issues or decisions.
Objective processes also used	3. The City also seeks to understand the needs and views of the community via scientific and objective processes such as its bi-ennial community survey.
All decisions are made by Council or the CEO	4. These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
Precinct focus is primarily local, but also city-wide	5. The community precinct system establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
All input is of equal value	6. No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
Decisions will not necessarily reflect the majority view received	7. Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes. Decisions must also be made in accordance with any statute that applies or within the parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.

How consultative processes work at the City of Fremantle	
Decisions made for the overall good of Fremantle	8. The Local Government Act requires decision-makers to make decisions in the interests of “the good government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
Diversity of view on most issues	9. The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
City officers must be impartial	10. City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
City officers must follow policy and procedures	11. The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.
Community engagement processes have cut-off dates that will be adhered to.	12. As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, community engagement processes need to have defined and rigorously observed cut-off dates, after which date officers will not include ‘late’ input in their analysis. In such circumstances, the existence of ‘late’ input will be made known to decision-makers. In most cases where community input is involved, the Council is the decision-maker and this affords community members the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.

How consultative processes work at the City of Fremantle	
Citizens need to check for any changes to decision making arrangements made	13. The City will take initial responsibility for making citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting the City’s website, checking the Fremantle News in the Fremantle Gazette or inquiring at the Customer Service Centre by phone, email or in-person.
Citizens are entitled to know how their input has been assessed	14. In reporting to decision-makers, City officers will in all cases produce a community engagement outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.
Reasons for decisions must be transparent	15. Decision-makers must provide the reasons for their decisions.
Decisions posted on the City’s website	16. Decisions of the City need to be transparent and easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at the City’s website under ‘community engagement’ or at the City Library or Service and Information Centre.

Issues that Council May Treat as Confidential

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
 - a) all council meetings; and
 - b) all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:
 - a) a matter affecting an employee or employees;
 - b) the personal affairs of any person;
 - c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - e) a matter that if disclosed, would reveal –
 - i) a trade secret;
 - ii) information that has a commercial value to a person; or
 - iii) information about the business, professional, commercial or financial affairs of a person.Where the trade secret or information is held by, or is about, a person other than the local government.
 - f) a matter that if disclosed, could be reasonably expected to -
 - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - ii) endanger the security of the local government's property; or
 - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
 - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
 - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.