CITY OF FREMANTLE

LOCAL PLANNING POLICY 2.6

PROCEDURE FOR AMENDING
THE MUNICIPAL HERITAGE INVENTORY (MHI) AND HERITAGE LIST

ADOPTION DATE: 23/09/2009
AUTHORITY: LOCAL PLANNING SCHEME NO.4

STATUTORY BACKGROUND

The *Heritage of Western Australia Act 1990* requires that local governments compile and maintain a Municipal Heritage Inventory (MHI) of places which in its opinion are, or may become, of cultural heritage significance, and that the inventory is updated annually, reviewed 4 years after compilation and is compiled with proper public consultation.

Part 7 of Local Planning Scheme No 4 establishes the process for adoption of the Heritage List and Heritage Areas. It provides that heritage considerations will be one of the primary planning considerations when making decisions in relation to a heritage listed place or area. Heritage Listing or inclusion in a Heritage Area also has implications for the type of approvals required for certain forms of development, and the ability for the Council to vary scheme provisions in certain cases.

Places and areas included on the Municipal Heritage Inventory at the time of gazettal of the Scheme are deemed to be included on the Heritage List or as Heritage Areas by virtue of Clauses 7.1.7 and 7.2.9 of the Scheme.

The existence of the Heritage List and Heritage Areas under Local Planning Scheme No 4 does not negate the statutory requirement or the need for the Council to maintain a Heritage Inventory under the Heritage of WA Act. This is still an essential part of the heritage planning framework, in that although it has no direct statutory implications, the Inventory provides a proper archival record and information on heritage places within the City which exists quite independently of the planning system.

POLICY OBJECTIVES

1) To clarify the meaning and implications of listing on the Municipal Heritage Inventory and Heritage List and the relationships between these documents.
2) To prescribe the process for inclusion of places on the Municipal Heritage Inventory and Heritage List and Heritage Area, where not specified in the relevant legislation.
POLICY

1. Clarification of the meaning of the various types of heritage listing.

Municipal Heritage Inventory (MHI)
The Municipal Heritage Inventory (MHI) comprises the inventory of places which in the opinion of Council are, or may become, of cultural heritage significance as required under section 45 of the *Heritage of Western Australia Act 1990*. The City of Fremantle’s MHI is a database that holds heritage assessment information which defines the heritage values, provides the statement of significance and the management category that establishes the extent of conservation required to retain these values for each identified place.

Heritage List
The Heritage List comprises a statutory list of places established under the City of Fremantle Local Planning Scheme 4 (LPS4) which are of cultural heritage significance and worthy of conservation under provisions of the scheme as adopted by Council. The list does not include any other data about the listed places.

Heritage Areas
Heritage Areas are areas which represent the identifiable heritage values as a whole. A heritage area may be a group of places that together form a precinct which is of cultural heritage significance notwithstanding that each place within the precinct does not itself have cultural heritage significance and which, in the opinion of Council, require special planning control to conserve and enhance the cultural heritage significance of the area under provisions of the City’s LPS4.

*Note: Some areas carry the title of precinct*
<table>
<thead>
<tr>
<th>Statutory authority</th>
<th>Municipal Heritage Inventory</th>
<th>Heritage List</th>
<th>Heritage Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Heritage of WA Act</td>
<td>Local Planning Scheme No 4</td>
<td>Local Planning Scheme No 4</td>
</tr>
<tr>
<td>Applies to</td>
<td>Buildings and features</td>
<td>Places (may or may not include buildings or objects)</td>
<td>Areas or precincts</td>
</tr>
</tbody>
</table>
| Direct statutory planning implications of inclusion | None | 1. Scheme states that the place is worthy of conservation  
2. Different levels of development permitted without approval  
3. obliges Council to consider heritage conservation as one of all other relevant planning considerations | 1. Scheme states that special planning control is needed to conserve and enhance the significance of the area  
2. Different levels of development permitted without approval |
| Indirect statutory planning implications of inclusion | 1. Establishes heritage values of all listed places  
2. Establishes database of heritage places and their significance.  
3. May be considered by Council when exercising discretionary planning powers | 1. Specific requirement to consult with the owner and occupier of the place. | Specific requirement to consult with each owner of land within the area and other consultation as determined by the Council. |
| Requirements and process of amendment | 1. The Act requires “proper public consultation” but is not specific about what this means  
2. by decision of Council  
3. MHI should be updated annually and reviewed every 4 | Specific requirement to consult with the owner and occupier of the place. | Specific requirement to consult with each owner of land within the area and other consultation as determined by the Council. |
2. Process for inclusion, removal or amendment of a place on the Municipal Heritage Inventory and Heritage List.

Any person or organisation may nominate a place to be added, removed or amended on the MHI, at any time. This shall be in the form of a written request to the Chief Executive Officer (CEO). The basis for inclusion/removal/amendments of places on the MHI shall be cultural heritage significance.

Cultural Heritage Significance
For the purpose of this policy, the “cultural heritage significance” of a place has the same meaning as defined by the Heritage of Western Australia Act 1990, the Burra Charter and also adopted by the Heritage Council of WA. The criteria for places are identified as being of historic, aesthetic, scientific, spiritual or social values for past present and future generations. The criteria for assessing the degree of significance include rarity and representativeness (authenticity, integrity) attributes.

Procedure for MHI
The decision to include/remove/amend places on MHI shall be made by Council on an annual basis in February to April and all nominations/amendments made during a year be reported to Council including those preliminary assessed by the CEO.
In considering the inclusion/deletion of a place on the MHI, the Council will ensure that:
1. the owner(s) of the nominated place/area has been notified in writing about the nomination to add/remove a place
2. it has been provided with and have regard to all available information of relevance to the cultural heritage significance of a place, including heritage assessment prepared in accordance with the “Preparing Heritage Assessment Policy” (L.P.P1.6), the Municipal Heritage Inventory Management Strategy (2000), its subsequent updates and any other heritage studies and/or conservation plans already in place.

In assessing nominations for amendment to the MHI, the Council may have regard to advice received from the Heritage and Special Places Advisory Committee.

Procedure for Heritage List
In determining whether a place should be included on the Heritage List the Council will follow the procedure outlined in Clauses 7.1.2, 7.1.3 and 7.1.4 of LPS4 respectively. Following the annual amendments of the MHI Council will consider which places of those adopted/deleted from the MHI should be considered for inclusion/deletion on the Heritage List.
Having determined which places should be added/deleted on the Heritage List the Council will consult its intention to amend the Heritage List with the relevant property owners as defined by Clause 7.1.3 of LPS4. If possible the consultation on the amendments to MHI and Heritage List should be carried out concurrently.
Procedure for Heritage Area
In determining whether an area or precinct should be included as a Heritage Area the Council will follow the procedure outlined in Clause 7.2.2 through to 7.2.6 of LPS4 respectively.

Council Decision
Following the heritage assessment and consultation procedures outlined above the Council may:
   1) adopt/not include/delete a place onto the MHI
   2) amend the existing MHI entry on a place
   3) adopt/not include/delete a place onto the Heritage List

The MHI database shall be publicly available as a community resource on heritage of Fremantle.
Council may in exceptional circumstances consider amendment to the Heritage List outside this period.