

## CITY OF FREMANTLE

### LOCAL PLANNING POLICY 3.11

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

**ADOPTION DATE:** 22 April 2009

**AMENDED DATE:** 5 September 2015 – Adopted by Council 26 August 2015

**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:

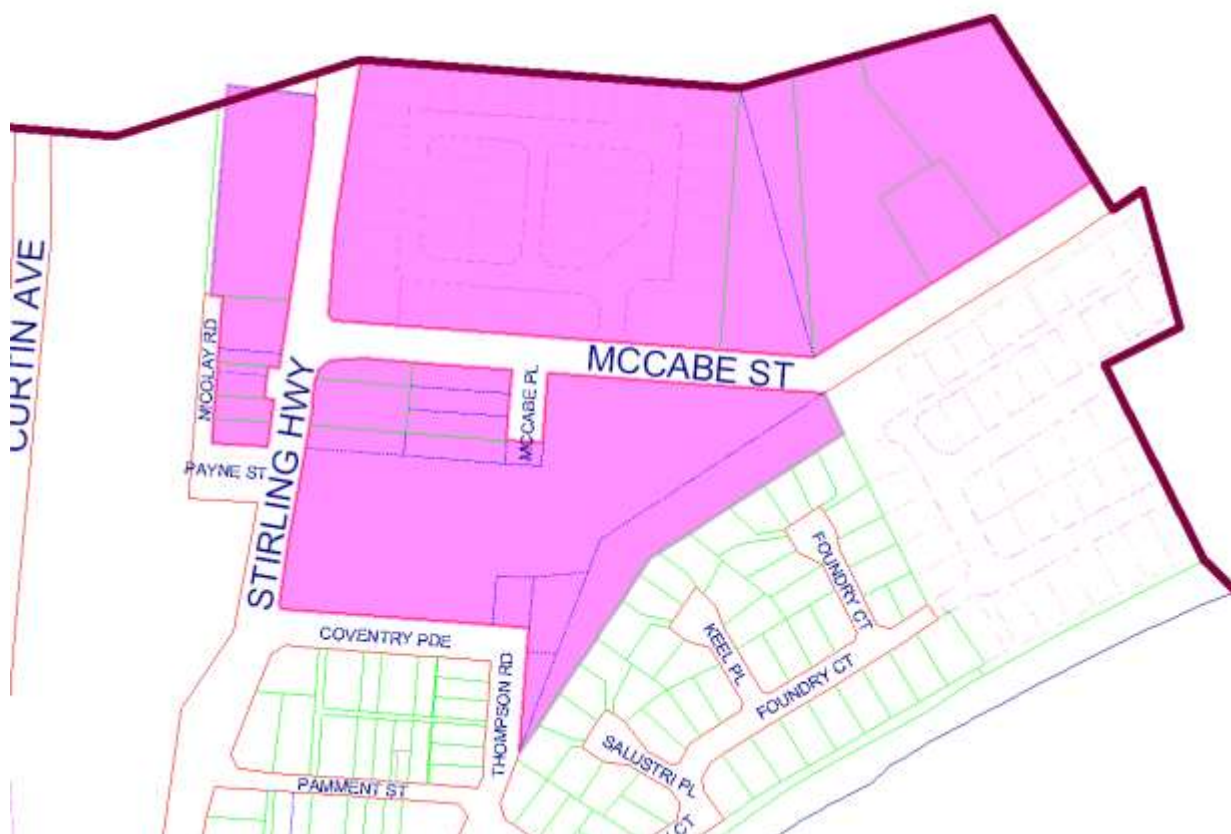


Figure 1. Plan No. 1

- 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) as development zone (development area 18), 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 (figure 2 below) 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) The development must incorporate works to conserve the heritage significance of the heritage building;

(c) 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;

(d) 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;

(e) The aggregate footprint of the portions of the development 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;

(f) The development is to include non-residential ground floor uses that contribute to the function of the locality with a minimum commercial floor area of 500 square metres to serve the existing and future residential population living within walking distance of the precinct; and

g) Notwithstanding any overall public open space requirements the development is to include no less than 15 percent of the zone H2 and H3 area to be public open space.

Council can consider locating the 15 percent public open space requirement outside of zone H2 and H3 zones where it can be demonstrated that this would overall result in a better public open space outcome for the development and the community than locating the space in zone H2 and H3.

h) A minimum of 15% of the total floor space proposed for residential use in the development shall be provided for affordable housing as defined in the City of Fremantle Local Planning Scheme No. 4 (Schedule 1).

- 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.

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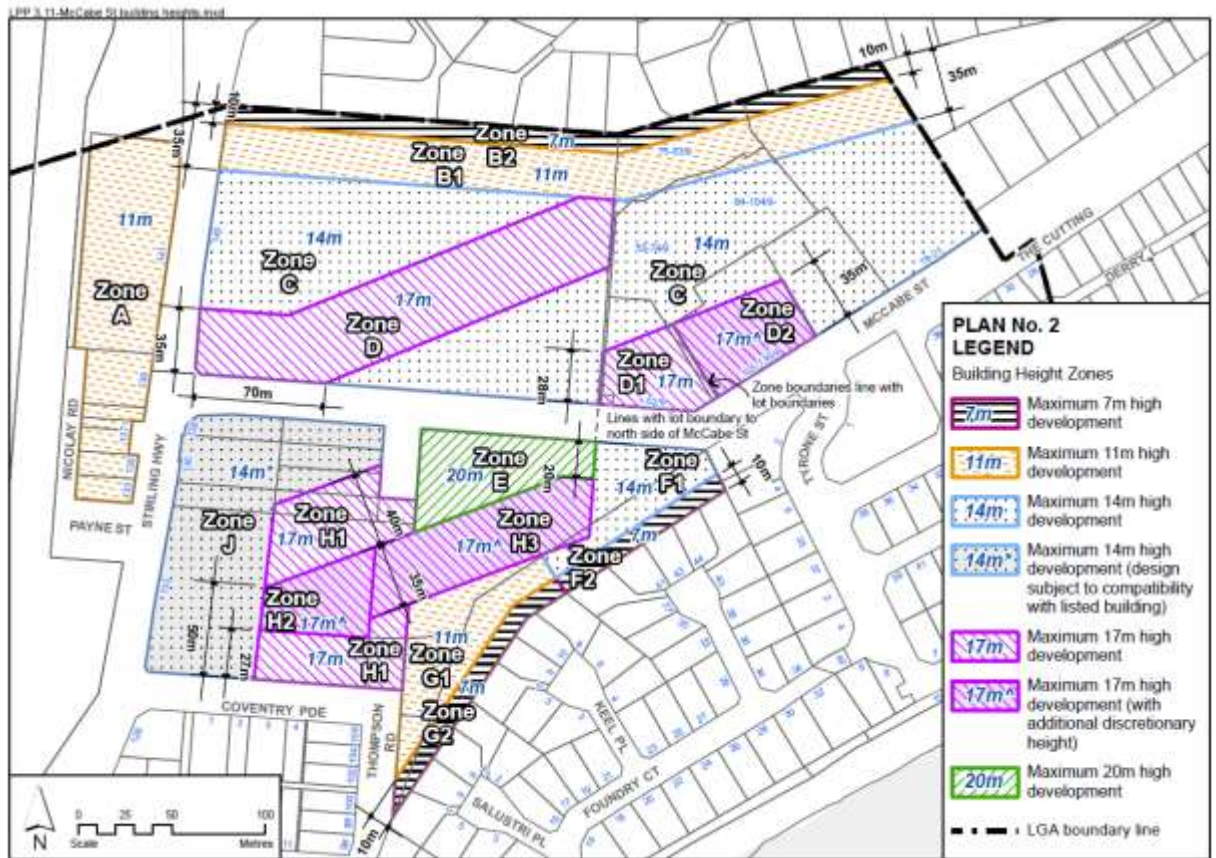


Figure 2. Plan No. 2