

### **Minutes**

# **Strategic Planning and Transport Committee**

Wednesday, 20 March 2019, 6.00pm



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#### STRATEGIC PLANNING AND TRANSPORT COMMITTEE

Minutes of the Strategic Planning and Transport Committee Meeting held in the North Fremantle Community Hall on **20 March 2019** at 6.00 pm.

#### 1. OFFICIAL OPENING, WELCOME AND ACKNOWLEDGEMENT

The Presiding Member declared the meeting open at 6.01pm.

#### 2.1. ATTENDANCE

Dr Brad Pettitt Mayor (entered at 6.06pm)

Cr David Hume Beaconsfield Ward / Presiding Member

Cr Adin Lang City Ward
Cr Bryn Jones North Ward
Cr Jeff McDonald Hilton Ward
Cr Jon Strachan South Ward
Cr Jenny Archibald East Ward

Cr Ingrid Waltham East Ward (observing)

Mr Paul Garbett Director Planning and Strategic Projects

Ms Phillida Rodic Manager Strategic Planning
Mr Sam Moss Acting Senior Strategic Planner

Mrs Michelle Gibson Meeting Support Officer

There were approximately 5 members of the public and no members of the press in attendance.

#### 2.2. APOLOGIES

Cr Rachel Pemberton City Ward / Deputy Presiding Member

#### 2.3. LEAVE OF ABSENCE

Nil

#### 3. DISCLOSURES OF INTERESTS

Nil

#### 4. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

#### 5. PUBLIC QUESTION TIME

Nil



#### 6. PETITIONS

Nil

#### 7. **DEPUTATIONS**

The following members of the public spoke in relation to item SPT1903-1.

Nayeen Satar Diana Prada

#### 8. CONFIRMATION OF MINUTES

#### **COMMITTEE DECISION**

Moved: Cr Dave Hume Seconded: Cr Jeff McDonald

That the minutes of the Strategic Planning and Transport Committee dated 20 February 2019 as listed in the Council agenda dated 27 February 2019 be confirmed as a true and accurate record.

Carried: 6/0
Cr Jon Strachan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

#### 9. ELECTED MEMBER COMMUNICATION

Nil

Mayor, Brad Pettitt arrived at 6.06pm prior to consideration of the following item.

- 10. REPORTS AND RECOMMENDATIONS
- 10.1 COMMITTEE DELEGATION

Nil



#### **10.2 COUNCIL DECISION**

SPT1903-1 HILTON HERITAGE AREA LOCAL PLANNING POLICY (LPP 3.7) - REVIEW OF FENCING PROVISIONS

Meeting Date: 20 March 2019

Responsible Officer: Manager Strategic Planning

**Decision Making Authority:** Council

**Agenda Attachments:** 1. Site Photos - Examples of Hilton Fence Styles

#### **SUMMARY**

At its Ordinary Meeting on 12 December 2018, Council resolved to request a review of the current provisions for street fencing outlined in Local Planning Policy 3.7: 'Hilton Garden Suburb Precinct' Heritage Area Local Planning Policy (LPP 3.7). This was sought in light of a number of recent compliance actions relating to street fencing within the Hilton Heritage Area, and objections received from the affected owners.

Following on from the compliance action, community concern has been raised in relation to the maximum (1.2m) street fencing height stipulations within the policy via a petition lodged with Council.

This report outlines the background to the current policy, the issues presented through recent applications, and options to amend the policy. It recommends that the fundamental requirements of the policy be maintained but that greater flexibility be introduced to allow variations to this under a broader than currently (but still limited) set of circumstances, and that community consultation on this be undertaken.

#### **BACKGROUND**

The suburb of Hilton, and in particular the area which comprises of the 'Hilton Heritage Area' where LPP 3.7 is applied, was originally planned as a 'garden suburb' and to this day still displays a number of characteristics which typify those planning principles. These include an open, green and permeable interface between streets and dwellings to create an open 'park-like' setting and semi-radial street layout design around parks and amenities. This retained character, still quite discernible in the present day, is one of the key reasons why the suburb of Hilton is recognised as a 'heritage area' under the Local Planning Scheme.

In the 1990s, a number of studies were carried out by the City on the heritage significance and 'garden suburb' characteristics of Hilton. These studies were triggered in part due to concerns surrounding significant redevelopment plans by the then-Department of Housing (Homeswest), and resulted in a set of design guidelines being prepared with the objective of protecting the 1940s-60s character of Hilton. When the City's Municipal Heritage Inventory was adopted in 2000, approximately 600 individual dwellings in Hilton were included on the list as separate entries. It was later concluded that the heritage significance of Hilton related to the collective appearance and presentation of the suburb, and not specific properties or dwellings, and that the suburb would be more appropriately classified as a 'heritage area'.



A major review of the Municipal Inventory (involving considerable community consultation) was undertaken by independent consultants *Heritage and Conservation Professionals* in 2003. The documents produced in this review became a key resource for the establishment of the Hilton Heritage Area as well as subsequent design guidelines and local planning policy provisions for the suburb. In regard to fencing, the 2003 review noted that 'front fences are predominantly low and were traditionally timber framed with woven wire...' noting that many properties traditionally had no fencing. This characteristic reflected the 'garden suburb' planning principles employed during the suburb's original design as well as contemporary building practices of the day.

In March 2005, a set of design guidelines for Hilton were adopted by Council in response to the designation of the suburb as a Heritage Area and the above-mentioned review in 2003. In relation to street fencing, the guidelines stated that fences should achieve a maximum height of 1.2 metres and be entirely visually permeable i.e. no 'solid' component to the fence was permitted.

In 2010, after extensive community consultation, the current local planning policy was adopted by Council – Local Planning Policy 3.7 (LPP 3.7) – which introduced the fencing provisions as they currently stand. These stipulate a maximum solid wall height of 300 millimetres, with the remainder of the fencing up to 1.2 metres to be 'visually permeable'. It is noted that the term 'visually permeable' in the context of LPP 3.7 refers to the relevant definition in the Residential Design Codes of WA (R-Codes). Unlike the 2005 design guidelines, the policy allows for a low section of 'solid' fencing and also gives the ability to vary these provisions through consideration of other fences in the 'prevailing streetscape'.

In December 2018, Council considered two retrospective development applications for non-compliant street fencing within the Hilton Heritage Area. The constructed fences were seeking discretion for variations to the policy in regard to the overall height and/or visual permeability criteria. Whilst recommended for refusal by officers due to non-compliance with LPP 3.7 provisions, Council opted to defer making a decision on both proposals and resolved to request that staff review the current fencing requirements, citing resident discontent with the current height restrictions (often seeking higher fences for privacy/security reasons) as well as the number of non-compliant fences within the Hilton Heritage area and resulting compliance concerns.

Council was also presented at that same meeting with a petition from one of the affected landowners containing 89 signatures from approximately 70 properties which read:

To the Mayor and Councillors of the City of Fremantle, we the undersigned, do respectfully request that the Council perform a review of the Local Planning Policy (LPP 3.7) for the suburb of Hilton. We believe the policy should be amended to allow for higher, visually permeable fences on the primary street to provide improved crime deterrence and security for young children and pets. The policy should also make consideration for homes with the primary green space forward of the building line, as well as site topology and dwelling ground clearance.



The following report considers the concerns raised with the current fencing provisions, options for revision and recommended modifications to the policy.

#### CONSULTATION

The 'deemed provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* outline the preparation and consultation requirements for local planning policies, including requirements for public consultation in the preparation and review of policies. No consultation has been undertaken in the preparation of the report though the issues raised in the submitted petition have been considered.

#### OFFICER COMMENT

#### **Current Provisions**

As outlined in the background section of this report, the current fencing provisions were adopted in 2010 as part of the introduction of LPP 3.7. They originated in early design guidelines prepared for the Hilton Garden Suburb heritage area, but with the 2010 policy softening these to introduce a permissible solid wall component to the fencing, as well as establishing a variation clause to consider applications seeking discretion.

The current policy provisions are summarised as follows:

- For properties on South Street between Stock Road and Lee Avenue, the maximum overall fencing height is 1.8 metres, with a maximum height of 1.2 metres of solid wall permitted (consistent with the provisions in LPP 2.8: Fences Policy);
- For fences abutting Stock Road, solid rear fencing is permitted up to 2.0 metres in height;
- For fencing in all other areas, maximum solid wall height of 300mm and maximum overall height of 1.2 metres, with the portion of fencing above 300mm 'visually permeable';
- Variations are only permitted where consistent with prevailing streetscape and where surveillance is maintained.

This report considers the requirements for street fencing within the Hilton Heritage Area, however it does not include fencing located on a major road, given the greater flexibility in height and materials these already enjoy, and the absence of concern raised in relation to these. The primary focus of the review relates to the maximum 1.2m height, the proportion and degree of permeability and the provisions for performance based relaxation.

#### Permeability

The R-Codes definition for visual permeability, as used in the context of assessing street fencing in Hilton, is as follows:

In reference to a wall, gate, door or fence that the vertical surface has:

• continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;



- continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or
- a surface offering equal or lesser obstruction to view;

as viewed directly from the street.

There are essentially two components to the first part of this definition. Where gaps of 50 mm or greater are proposed in the fencing material, the gaps must occupy at least one-third (or 33%) of the total face of the fence. The assumed logic behind this provision is that a gap of 50 mm alone will allow a clear line of sight and therefore a fence with a third of the total surface with gaps greater than 50 mm is sufficient to provide a suitable level of visual permeability.

Where gaps of less than 50 mm are proposed, then the gaps in the fence need to occupy half (or 50%) of the total face of the fence. It is assumed that gaps of less than 50 mm do not in themselves allow a clear line of sight and therefore a greater overall requirement of gaps (or *openness*) in the fence is required to achieve a suitable level of visual 'permeability'.

It should be noted that under both scenarios, solid pillars could be permitted with the fence still meeting the overall definition of visually permeable.

The second part of the R-Codes' definition is interpreted to allow different materials or designs, aside from slats, that will offer an equivalent level of visual permeability as the first part of the definition. An example may be for the fence to contain some tinted glass or mesh which would allow persons/objects to be seen from the street.

#### Variations Clause

Whilst the current policy provides some flexibility for variation to the general requirements, it stipulates that this is only to occur where consistent with the prevailing streetscape, and defines prevailing streetscape as follows:

Means the characteristics (generally limited to the setback and orientation of buildings including garages and carports from the primary or secondary street, front walls and fencing, building height, building/roof form and proportion) of the 3 properties, where appropriate, adjoining either side of the subject site, fronting the same street and in the same street block.

In the case of a corner lot where the dwelling is orientated to the splay, the characteristics of the adjoining three properties, where appropriate, facing both streets shall be considered.

Greater weight may be given to the characteristics of the two immediately adjoining properties on either side of the subject site fronting the same street(s).

For the purpose of this definition, properties separated by a street shall not be considered 'adjoining'.



This is a very clear cut but relatively restrictive definition of streetscape which sometimes baffles applicants referring to numerous nearby precedents. However it was specifically included to avoid the subjective assessments and debates which more open ended definitions often result in.

#### **Existing Fencing Characteristics**

As part of this review, existing street fences within the Hilton Heritage area have been reviewed through a site visit. It was noted that a significant number of fences involve some deviation from the policy, either in relation to height or, more commonly, in relation to the 'visual permeability' requirements. This is mostly due to the spacing of pickets, or other materials, not satisfying the required spacing as detailed above. Many, however, satisfy the intent of the policy in respect to materials, height and surveillance, and/or would only represent minor deviations from the policy. Fencing styles in Hilton can be roughly attributed to the following categories:

- Lower-style 'Hilton' fencing: these fences are what most would consider being the typical style of the Hilton heritage area, comprising of low height and traditional materials (e.g. wire, timber, pickets). This style of fence remains common (although no longer dominant).
- 2. 'Hybrid' fences: these fences typically combine a traditional picket fence with a low solid wall and higher solid piers. They are usually constructed to 1.2 metres in height however some marginally exceed this, particularly in relation to the piers. These are reasonably common.
- 3. Higher R-Code Compliant Fences: these are fences which typically comply with the generic fencing standards in the Residential Design Codes, generally constructed of brick or limestone and comprising of 1.2 metres of solid wall, with higher piers and infill panels/slats. They remain relatively rare.
- **4. Solid walls:** there are a number of different solid wall styles evident on some properties, comprising of various heights and materials, and typically do not permit surveillance to and from dwellings. They remain relatively rare.

A number of fences combine types (e.g. incorporating a solid taller component with portions of open style).

Whilst the survey was not comprehensive and did not formally audit compliance or proportions, it confirms the reasonably high incidence of non-compliance but also the continuing predominance of lower and more open fencing styles overall.

#### <u>Issues</u>

The key issues relating to front fencing in Hilton relate to:

- 1. Heritage considerations which prompt the continued pursuit of low, lightweight fencing consistent with that traditional to the area and consistent with garden suburb principles.
- 2. Security considerations which prompt taller fencing, in particular, to limit unauthorised entry.
- 3. Freedom of expression considerations which might prompt greater flexibility for more creative fencing types than those either traditional to the area, or routinely produced through R-Codes.



- 4. Efficiency and affordability considerations, which might prompt greater capacity for 'standard' (and so very easily acquired) fencing types to be permitted.
- 5. Contemporary lifestyle expectations, which might prompt greater flexibility for fencing of front setback areas where this comprises the primary or sole outdoor living area available to residents.
- 6. Practical considerations, which requires consideration of the suitability of particular fencing types to contemporary situations, their availability and affordability, and the appetite and capacity of the City to enforce standards which either are not well supported and / or are commonly varied. Clarity and simplicity of standards also falls under this category to allow ease of comprehension for the community and ease of administration for the City.

The tension between heritage and security / lifestyle expectations represents the key challenge.

#### **Options Forward**

Basic options going forward include to:

- 1. Maintain the current policy requirements on the basis that these represent a reasonable balance between the heritage character of the area and more contemporary standards and expectations. This will require that non-compliant fences be addressed as they arise.
- 2. Maintain current policy requirements, but with refinement to height and / or visual permeability requirements to allow some greater flexibility on these points (and reduce the extent of existing non-compliance). This represents a compromise, potentially increasing security available, but also moving a step further away from the character of the area its heritage designation has sought to protect.
- 3. Maintain current policy requirements but with greater capacity to consider minor variations based on performance criteria. This represents an alternative compromise option which allows variation in circumstances where, for example, a high degree of openness and surveillance is still achieved and the open character of the streetscape maintained. The advantage of this approach is that it doesn't simply wind back streetscape protections as of right, and it's potentially more context responsive, but its disadvantage is that it provides less definitive parameters, and requires more subjective assessment.
- 4. Increase the permissible height (e.g. to 1.5m or 1.8m) where visually permeable (to either align or come closer to the default R-Code provisions).

These options were discussed at an informal meeting of Elected Members at which the third option was, in general terms, preferred. Some Elected Members present also expressed a desire for more proactive communication of the policy within the community to occur as part of or following consultation to increase awareness of it. Inclusion of clearer explanations and diagrams was also suggested.

Whilst this option has merit, the challenges with it relate to consistent application and administrative efficiency, with subjective assessments having the potential to generate a disproportionately high workload and level of Council referral. Option 2 is consequently recommended by officers, with policy revisions proposed which:



- Allow consideration of a greater number of dwellings than the current definition of prevailing streetscape (which limits this to the three dwellings on either side of the property).
- 2. Provides a clear path for more routine variation to fences up to 1.5m in height with a very (minimum 80% visually permeable) open style.

This will provide some greater flexibility but within boundaries that can be easily communicated to the public and administered by officers without a requirement to refer high volumes of applications to Council. This approach will not resolve all the examples of non-compliance and is unlikely to be satisfactory to either those seeking a high degree of security (e.g. 1.8 m fencing) or those preferring a more purist heritage or design based approach. However, given the high demands discretionary assessment of fencing applications can potentially place on the City at both administrative and elected member level, it is preferred to a more subjective performance-based assessment.

Should council prefer a more flexible (but subjective) approach, various options which give more open ended consideration to streetscape and character are available; however the staff preference remains for the approach recommended.

In considering the modifications proposed, Council may like to note that the recommended 80% visual permeability variation essentially prompts a very open style fence. It does not provide for the 300m solid component permissible as of right for a fence of 1.2m, seeking to achieve a higher degree of permeability to counter balance the increased height (and being close to the traditional fencing of the area).

#### FINANCIAL IMPLICATIONS

Nil. The fee applicable to fencing applications is currently capped at \$147.

#### LEGAL IMPLICATIONS

The process for local planning policy revocations is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as previously outlined in the 'Consultation' section of this report.

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

Simple Majority Required



#### OFFICER'S RECOMMENDATION

Moved: Cr Dave Hume Seconded: Cr Jon Strachan

#### Council:

1. Resolves to endorse the following modification to Clause 1.5 of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 for the purposes of community consultation:

#### 1.5 Street Walls and Fences

- 1.5.1 Street walls and fencing forward of the building line shall be a maximum height of 1.2 metres and shall be visually permeable above 300 millimetres.
- 1.5.2 For properties located on South Street, between Stock Road and Lee Avenue, front fencing shall be visually permeable above 1.2 metres to a maximum height of 1.8 metres, with piers no higher than 2.0 metres.
- Solid masonry (brick) rear fencing shall be permitted for those properties backing onto Stock Road to a maximum height of 2.0 metres.

Council may, at its discretion, vary the requirements of clause 1.5.1 where it is satisfied that the proposed street wall and/or fence:

- a. Is consistent with character of the prevailing streetscape (including, in relation to this clause only, the house directly across the street and the three houses on either side of that opposing house, where these are located within the Hilton Heritage Areas) AND maintains clear surveillance between the street and the dwelling; or
- b. is a maximum of 1.5m in height and a minimum of 80% visually permeable.
- Request the preparation of community engagement material including clear explanations and diagrams and undertake consultation on the proposed changes to Clause 1.5 of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 in accordance with Local Planning Policy 1.3 and the Planning and Development (Local Planning Schemes) Regulations 2015.
- Notes that the conduct of the review of the fencing provisions of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 responds to the review requested in the petition presented to Council on 12 December 2018.



#### **AMENDMENT**

Moved: Cr Jeff McDonald Seconded: Cr Jenny Archibald

To amend part 1.5.1 and part b of the policy within the officer's recommendation, as shown in italics below:

- 1.5.1 Street walls and fencing forward of the building line shall be a maximum height of 1.2 metres and shall be a minimum of 30 % visually permeable above 300 millimetres.
- b. <u>is a maximum of 1.5m in height and a minimum of 80% 50% visually permeable.</u>

Amendment carried: 6/1

For:

Mayor, Brad Pettitt, Cr Jenny Archibald, Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

Against:

Cr Jon Strachan

#### **COMMITTEE RECOMMENDATION SPT 1903-1**

(Amended officer's recommendation)

Moved: Cr Dave Hume Seconded: Cr Jon Strachan

#### Council:

1. Resolves to endorse the following modification to Clause 1.5 of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 for the purposes of community consultation:

#### 1.5 Street Walls and Fences

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- 1.5.2 For properties located on South Street, between Stock Road and Lee Avenue, front fencing shall be visually permeable above 1.2 metres to a maximum height of 1.8 metres, with piers no higher than 2.0 metres.
- 1.5.3 Solid masonry (brick) rear fencing shall be permitted for those properties backing onto Stock Road to a maximum height of 2.0 metres.

Council may, at its discretion, vary the requirements of clause 1.5.1 where it is satisfied that the proposed street wall and/or fence:



- a. Is consistent with character of the prevailing streetscape (including, in relation to this clause only, the house directly across the street and the three houses on either side of that opposing house, where these are located within the Hilton Heritage Areas) AND maintains clear surveillance between the street and the dwelling; or
- b. is a maximum of 1.5m in height and a minimum of 50% visually permeable.
- 2. Request the preparation of community engagement material including clear explanations and diagrams and undertake consultation on the proposed changes to Clause 1.5 of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 in accordance with Local Planning Policy 1.3 and the Planning and Development (Local Planning Schemes) Regulations 2015.
- 3. Notes that the conduct of the review of the fencing provisions of the Hilton Garden Suburbs Precinct Heritage Area Local Planning Policy 3.7 responds to the review requested in the petition presented to Council on 12 December 2018.

Carried: 6/1
For:
Mayor, Brad Pettitt, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume
Against:
Cr Jon Strachan



### SPT1903-2 USE OF CASH IN LIEU OF PUBLIC OPEN SPACE - LOT 1819 BLINCO STREET, FREMANTLE

Meeting Date: 20 March 2019

Responsible Officer: Director Planning and Strategic Projects

**Decision Making Authority:** Council

Agenda Attachments: 1. Correspondence from LandCorp

#### **SUMMARY**

The purpose of this report is for Council to consider the most appropriate use of a cash in lieu of public open space contribution that will be paid to the City in the near future in compliance with a condition of subdivision approval relating to land at lot 1819 Blinco Street, Fremantle.

Two independent valuations procured by the developer (LandCorp) and the City have concluded that an appropriate value for the cash in lieu contribution is \$404,075 exc GST (based on the market value of the site).

The City has been requested by LandCorp to consider allowing the developer to use the cash in lieu amount to cover the cost of an enhanced landscaping treatment to the road reserve verge on the northern side of Knutsford Street between Montreal and Wood Streets (i.e. the Knutsford Street frontage of the subdivision site) to create the first stage of what might ultimately become a 'linear park' along Knutsford Street. This would be an unconventional use of cash in lieu funds and whilst officers consider a linear park is an innovative concept which has merit, it needs to be considered alongside other options for use of the funds on established public open space reserves managed by the City – particularly Booyeembara Park, which is in close proximity to the subject site and is in need of further improvement works to implement stages of the Booyeembara Park master plan. Ultimately the approval of the Minister for Planning is required for any proposed use of cash in lieu of open space funds, but from the available options in this case officers consider that using the funds to implement further improvements to Booyeembara Park would best align with WA Planning Commission policy on the use of cash in lieu funds and offer substantial community benefits overall to residents within the park's catchment area (including future residents of the LandCorp development).

This report recommends that Council resolves to support using the cash in lieu payment to implement improvement works to Booyeembara Park, and to seek final approval for this use of the payment from the Minister for Planning.

#### **BACKGROUND**

Lot 1819 Blinco Street, Fremantle (former Reserve 23558 Montreal Street) is a 1.52 hectare parcel of land within the Knutsford Street East local structure plan area, bounded



by Blinco Street, Montreal Street, Knutsford Street and Wood Street. The site is owned by LandCorp and has been cleared of all previous buildings and remediated in readiness for redevelopment (see aerial photo below – Figure 1). In November 2018 the Western Australian Planning Commission (WAPC) granted conditional approval to two applications for subdivision of the land as follows:

- Subdivision of the original lot 1819 into three freehold green title lots one approximately 1.15ha in area, and two smaller lots of 1764 sq m and 1894 sq m.
- A further subdivision of the largest lot into 36 survey-strata lots plus common property intended for development with grouped dwellings.

The survey-strata plan approval is subject to a condition requiring 10% land to be provided as public open space, and an advice note stating that the WAPC agrees to the condition being fulfilled by a cash in lieu contribution in accordance with section 153 of the *Planning and Development Act 2005*. In accordance with normal WAPC procedures, the local government has a role in clearing this condition of approval. LandCorp is in agreement with the condition being fulfilled by means of a cash-in-lieu contribution, rather than providing open space on the site itself. The purpose of this report is to enable Council to confirm the City's agreement to accepting a cash in lieu payment and to consider the most appropriate application of the cash in lieu funds, particularly in light of an unusual request by LandCorp regarding use of the funds.



Figure 1 – Lot 1819 Blinco Street



#### OFFICER COMMENT

The circumstances in which public open space requirements associated with subdivision of land may be fulfilled by cash in lieu payments, and the procedure for determining the value of a payment and what it may be spent on, are prescribed in sections 153 to 155 of the *Planning and Development Act 2005* (P&D Act).

Section 153 requires the WAPC, the landowner and the local government to agree to payment of a cash in lieu sum to the local government rather than the provision of public open space as part of the subdivision. As stated above, the WAPC and LandCorp have already indicated their agreement. Officers consider that in the case of this site, given its proximity to existing large public open space reserves (notably Booyeembara Park) and the fact that if open space was provided on site it would only be approximately 1150 sq m in area and therefore of limited utility, the City should agree to a cash in lieu payment to enhance open space on existing public land rather than the creation of further public open space. Council is therefore recommended to formally approve the City's agreement to accept a cash in lieu payment.

The P&D Act states that the value of a cash in lieu payment should be the market value (as determined by a licensed valuer) of the area of land that would otherwise have to be set aside as public open space as part of the subdivision. In this instance LandCorp and the City commissioned independent valuations from two different licensed valuers. The advice from both valuers (after some discussion to reconcile slight differences in valuation methodology) was that the market value of the land area in question is \$404,075 (excluding GST). LandCorp has confirmed its acceptance of this figure as the cash in lieu amount payable, and officers recommend that the City should also accept this as the applicable cash in lieu amount.

Section 154 of the P&D Act specifies the purposes for which money paid in lieu of the provision of open space may be used. In summary, these purposes are:

- Purchase of land by the local government for use as parks/open space in the locality.
- Repaying any loans raised by the local government to cover the cost of purchasing land for use as parks/open space.
- With the approval of the Minister for Planning, expenditure on improvement or development of parks, recreation grounds or open spaces on land in the locality vested in or administered by the local government for such purposes.

'In the locality' refers to the locality of the land subject to the subdivision approval which has triggered the cash in lieu payment. The P&D Act does not prescribe a maximum distance from the subdivision site which constitutes the locality, and in practice local governments exercise a degree of judgement over where cash in lieu funds may be spent.

Further guidance on acceptable uses for expenditure of cash in lieu funds is provided in WAPC Policy No. DC 2.3 *Public Open Space in Residential Areas*, and Planning Bulletin No. 21 *Cash-in-Lieu of Public Open Space*. Both policy documents list acceptable expenditure for cash in lieu funds on improvements to open space/recreation reserves as including works such as clearing/earthworks, landscaping and planting, reticulation, lighting, play equipment, pathways, fencing and walk trails. The policy documents



expressly state that use of cash in lieu funds would not normally be acceptable for expenditure on community halls or indoor recreation centres, enclosed tennis courts, bowling greens or other facilities for private clubs.

Any request to the Minster to approve expenditure of cash in lieu funds on development or improvement of public open space would be considered in the light of this policy guidance.

#### LandCorp's request

LandCorp has made a written request for the City to consider an alternative proposal to payment of the full cash in lieu amount to the City (see Attachment 1). The proposal is to use some or the entire amount to cover the cost of an enhanced landscaping treatment to the road reserve verge on the northern side of Knutsford Street between Montreal and Wood Streets (i.e. the Knutsford Street frontage of the subdivision site) to create the first stage of what might ultimately become a 'linear park' along Knutsford Street. This concept was developed informally by the Australian Urban Design Research Centre (AUDRC) as part of some analysis work on the Knutsford precinct commissioned by LandCorp.

LandCorp has stated that it would undertake a 'standard' developer upgrade treatment of the verge areas adjacent to the site in any event, but the very wide verges in the Knutsford Street road reserve present an opportunity to carry out a higher specification treatment to create part of a green link along Knutsford Street. This could potentially include active and passive recreational spaces similar to pocket/verge parks the City has recently created in Hines Rd/Clarke St, Hilton and Minilya Ave, White Gum Valley, and/or features such as community gardens, public seating, etc. LandCorp's landscape architecture consultants have costed the additional cost of the higher specification verge works (over and above the cost of the standard works) at \$343,012. This includes maintenance costs for an initial 2 year period in accordance with standard developer requirements, but thereafter the City would become responsible for ongoing maintenance. LandCorp's cost estimate was provided before the agreed valuation of the cash in lieu amount (\$404,075 exc GST) was established.

#### Other options for expenditure of cash in lieu

Lot 1819 is within the 400 metre walkable catchment area of Booyeembara Park (200m away from the nearest entry to the park on Montreal Street). The City's *Greening Fremantle: Strategy 2020* sets a target of all residents and workers having access to public open space within a 400m (approx. 5 minute) walkable distance.

Booyeembara Park is one of the City's largest and most strategically important areas of public open space. Together with Fremantle Public Golf Course, it occupies Reserve Number 6638, an 'A' Class Reserve vested in the City of Fremantle for management for the purpose of recreation.

A master plan was first adopted by Council in 1998 following extensive community consultation. The park's design was based on Fremantle's landform, environment and culture. The park was used as an opportunity to support and embrace the reconciliation process that the City of Fremantle had embarked on and the masterplan stated "the new park offers a suitable site for incorporation of ephemeral and permanent actions to support the ongoing processes of reconciliation and park development".



Full implementation of the master plan has been constrained by resource limitations and, in recent years, the need to address asbestos contamination issues. In 2018 Council approved the establishment of a CEO Reference Group, including elected members and local community representatives. The terms of reference of the Reference Group include reviewing and updating the master plan including a revised Stage 4, and providing feedback to the City on planning, design and staging of further implementation of the master plan.

Detailed costings for next stages of work have not yet been prepared, but advice from the Manager Parks and Landscape indicates that application of the approx. \$400,000 cash in lieu sum to works in Booyeembara Park would be likely to enable significant further work to be carried out; particularly improvements to the entrance from Montreal Street and the Olive Grove area through to the story telling circle (an important part of the reconciliation theme of the park), including groundworks, landscaping, pathways, etc.

Apart from Booyeembarra Park, the next nearest areas of existing public open space to lot 1819 are Horrie Long Reserve on Amherst Street (approx. 400m away but on the northern side of High Street, which presents a significant barrier to a walkable catchment) and Stevens Reserve (approximately 600m away). Whilst these open space reserves might be regarded as being 'in the locality' of lot 1819 they are significantly less accessible to future residents of the Knutsford East precinct and officers consider they would be less appropriate locations for the expenditure of the cash in lieu funds from the lot 1819 development than Booyeembara Park.

#### Other comments

As stated above, the P&D Act requires the approval of the Minister for Planning to be obtained for any proposal to spend cash in lieu funds on improvement or development of public open space, whatever Council's preferred use of the contribution may be.

Without pre-empting Council's or the Minister's decision, officers consider it is reasonable to presume that the Minister would approve a request for expenditure of the funds on improvement works at Booyeembara Park, given the purpose of the reserve (recreation), the proximity of the site to Booyeembara Park and the existence of an established master plan identifying a clear program of improvement works to the reserve. The nature of works proposed in the master plan align well with the types of works identified in the WAPC's policy documents (referred to above) as acceptable uses of cash in lieu funds.

With regard to the LandCorp proposal to spend the funds on verge enhancement works, given the unusual nature of the proposal and the fact that the land is vested in the City for the purposes of a road reserve rather than open space/recreation, officers have sought informal advice from staff at the Department of Planning, Lands and Heritage (DPLH) who would advise the Minister on any request for approval of the use of cash in lieu funds. The advice received states, in summary, that the concept of cash-in-lieu of providing POS being spent on landscape works within a wide verge to improve local amenity has merit in principle. However, in this particular situation, the proposed subdivision layout would result in four fragmented small areas of open space rather than a continuous linear park due to the three laneways/roads proposed between Wood and Montreal Streets. The cash-in-lieu money may be better spent on improving existing local POS. If Booyeembara Park does not require the expenditure of cash-in lieu funds, there may be other nearby parks. The Department does not have any precedent for this type of



concept and should the City wish to pursue the proposal further, legal clarification on whether section 154 of the P&D Act provides discretion to use funds for this purpose would be required.

Officers consider that the LandCorp 'linear park' concept is innovative and has merit as a means of improving the public realm in part of the Knutsford Street precinct. However, even assuming the Minister for Planning would approve funding these works through the cash in lieu contribution (which is questionable given the informal advice received from DPLH officers) it would represent substantial expenditure on a limited area of road verge. To realise maximum benefit from the 'linear park' concept, it would need to be progressively implemented along the full length of Knutsford Street, linking Booyeembara Park and the golf course at the eastern end with Monument Hill Reserve to the west. The likelihood of most other land parcels along Knutsford Street undergoing redevelopment and contributing funding to implement other stages of a linear park within the road verge within the reasonably short term future currently appear low.

Weighed against these considerations, officers consider that use of the cash in lieu funds to implement further improvements to Booyeembara Park in accordance with the master plan would offer greater community benefits overall to a larger number of residents within the park's catchment area (including future residents of the LandCorp development). On this basis officers recommend that Council resolve to use the cash in lieu payment for this purpose, seek final approval for this use of the payment from the Minister for Planning, and advise LandCorp accordingly.

#### FINANCIAL IMPLICATIONS

The cash in lieu contribution from the subdivision of lot 1819 has only recently been determined and therefore at this time it is not included in the City's budget. WAPC policy requires cash in lieu contributions, when paid to the local government, to be held in a separate account identified for the purpose for which the funds are intended to be used.

#### LEGAL IMPLICATIONS

Nil

#### CONSULTATION

The informal advice of officers of the Department of Planning, Lands and Heritage on the potential use of cash in lieu funds in accordance with legislative requirements has been obtained, as described above.

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

Simple Majority Required



#### OFFICER'S RECOMMENDATION

Moved: Cr Dave Hume Seconded: Cr Jon Strachan

#### Council:

- 1. Approve the acceptance by the City of Fremantle of a sum of \$404,075 (exc GST) as cash in lieu of the provision of public open space as the means of complying with a condition of approval of the subdivision of land at lot 1819 Blinco Street, Fremantle.
- 2. Support the future expenditure of the cash in lieu payment referred to in 1 above (when received) on public open space improvement works to Booyeembara Park consistent with acceptable uses of cash in lieu funds specified in WAPC Policy DC 2.3 (subject to formal budget approval at the appropriate time), and authorise officers to request the approval of the Minster of Planning for this use of the cash in lieu payment, in accordance with the requirements of section 154(2)(c) of the Planning and Development Act 2005.
- Advise LandCorp of Council's resolution in relation to items 1 and 2 above, and also acknowledge the merits of the concept design for a high specification landscaping treatment of part of the Knutsford Street road reserve verge adjoining lot 1819 Blinco Street.

#### **AMENDMENT**

Moved: Mayor, Brad Pettitt Seconded: Cr Jon Strachan

Amendment to point 3 of the recommendation, to delete words 'and also acknowledge the merits of the concept design for a high specification landscaping treatment of part of the Knutsford Street road reserve verge adjoining lot 1819 Blinco Street.' and add point 4, as follows:

4. Acknowledge the merits of the concept design for a high specification landscaping treatment of part of the Knutsford Street road reserve verge including that section adjoining lot 1819 Blinco Street.

The City of Fremantle to work with Landcorp, and other land owners along Knutsford Street to develop draft guidelines for a pedestrian and cycle friendly green spine to enable a consistent verge and street treatments along Knutsford Street between Montreal and Swanbourne Street. These guidelines are to be bought back to Council for public advertising and endorsement.

Amendment carried: 7/0
Mayor, Brad Pettitt Cr Jon Strachan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume



#### **COMMITTEE RECOMMENDATION SPT 1903-2**

(Amended officer's recommendation)

Moved: Cr Dave Hume Seconded: Cr Jon Strachan

#### Council:

- 1. Approve the acceptance by the City of Fremantle of a sum of \$404,075 (exc GST) as cash in lieu of the provision of public open space as the means of complying with a condition of approval of the subdivision of land at lot 1819 Blinco Street, Fremantle.
- 2. Support the future expenditure of the cash in lieu payment referred to in 1 above (when received) on public open space improvement works to Booyeembara Park consistent with acceptable uses of cash in lieu funds specified in WAPC Policy DC 2.3 (subject to formal budget approval at the appropriate time), and authorise officers to request the approval of the Minster of Planning for this use of the cash in lieu payment, in accordance with the requirements of section 154(2)(c) of the *Planning and Development Act 2005*.
- 3. Advise LandCorp of Council's resolution in relation to items 1 and 2 above.
- 4. Acknowledge the merits of the concept design for a high specification landscaping treatment of part of the Knutsford Street road reserve verge including that section adjoining lot 1819 Blinco Street.

  The City of Fremantle to work with Landcorp, and other land owners along Knutsford Street to develop draft guidelines for a pedestrian and cycle friendly green spine to enable a consistent verge and street treatments along Knutsford Street between Montreal and Swanbourne Street. These guidelines are to be bought back to Council for public advertising and endorsement.

Carried: 7/0

Mayor, Brad Pettitt Cr Jon Strachan, Cr Jenny Archibald, Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume



### SPT1903-3 REVIEW OF SPECIFIC LOCAL PLANNING POLICIES RELATING TO THE CITY CENTRE ZONE

Meeting Date: 20 March 2019

Responsible Officer: Manager Strategic Planning

**Decision Making Authority:** Council

Agenda Attachments: 1. D.E.1 – Landscaping Policy for Central Fremantle

and Main Approaches to the City;

2. D.G.F7 - Beach Street Ferry Terminal;

3. D.G.F13 – Fremantle Railway Station Weather

Shelters - Elder Place;

4. D.G.F19 - Pioneer Park - 1 Short Street and 7

Market Street, Fremantle; and

5. D.G.F22 - Sadliers Building - 36 Henry Street,

Fremantle.

#### **SUMMARY**

As part of routine maintenance of the City's Local Planning Policy manual, officers have undertaken a review of the local planning policies which specifically apply to the City Centre Zone and its immediate vicinity. A number of older policies have been identified as out of date. Whilst some would benefit from review and update, a number are of little value to the City, are no longer relevant and / or are addressed through separate means and so are recommended for revocation. These are:

- D.E.1 Landscaping Policy for Central Fremantle and Main Approaches to the City:
- D.G.F7 Beach Street Ferry Terminal;
- D.G.F13 Fremantle Railway Station Weather Shelters Elder Place;
- D.G.F19 Pioneer Park 1 Short Street and 7 Market Street, Fremantle; and
- D.G.F22 Sadliers Building 36 Henry Street, Fremantle.

Removal of these policies will reduce potential confusion and conflict with more up-to-date documents and approaches and so is recommended.

There is no requirement for the City to undertake formal consultation prior to the revocation of a local planning policy however publication of the revocation is required under the *Planning & Development (Local Planning Schemes)*Regulations 2015 and so is included in the recommendation.

#### BACKGROUND

As part of the City's maintenance of the local planning scheme and associated instruments, periodic review is conducted of local planning policies. The City has 104 local planning policies and so reviews tend to be conducted in stages, or as specific issues necessitating individual review arise. In recent months, policies relating to the



'City Centre Zone' and its immediate vicinity have been selected for review due to the high number of policies which apply to this area, its strategic significance and the identification of a number of policies which have clearly become obsolete.

A total of 20 policies have been considered in this review. A significant number pre-date the current local planning scheme which came into force in March 2007. Indeed, many were in place when the *Fremantle Planning Strategy* was prepared in 2001. Whilst a number of policies have also been identified as requiring revision, these will require detailed assessment and individual reports. This report focusses on those considered to be significantly out-of-date with no contemporary statutory planning use, and/or are superseded by other newer planning policies, scheme provisions or other City-prepared documents, and so suitable for revocation rather than amendment.

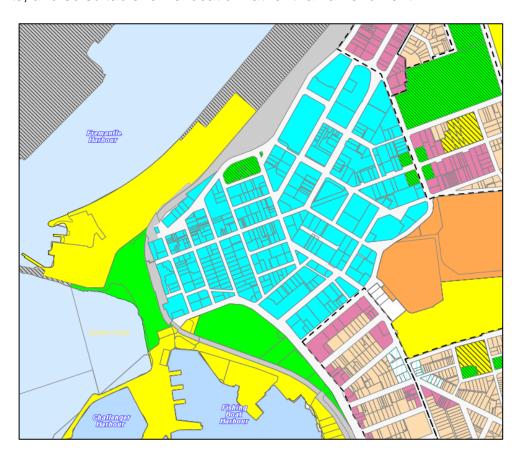


Figure 1: LPS4 map showing the City Centre Zone (in light blue).

#### CONSULTATION

The 'deemed provisions' of the *Planning and Development (Local Planning Schemes)* Regulations 2015 outline the preparation and consultation requirements for local planning policies. Clause 6 of the 'deemed provisions' states that a local planning policy may be revoked through a notice prepared by the local government, and that the revocation notice should be published in the newspaper circulating in the scheme area. This requirement is reflected in the report recommendation, and additionally, to include a notification of the decision on the City's website. Given the nature of the policies and the rationale for their revocation, consultation on this decision is considered unnecessary.



#### **OFFICER COMMENT**

As stated, of the 20 policies which have been reviewed, 5 have been recommended for revocation. Each of these policies is discussed in further detail below including reasons for the recommendation. Commentary on some of these polices was provided within 2001's *Fremantle Planning Strategy*, and excerpts from this document are also provided where relevant.

Policy No.	D.E.1	
Policy Title	Landscaping Policy for Central Fremantle and Main	
	Approaches to the City	
Date Adopted	December 1992	
Last Reviewed or	N/A	
Amended		

Prepared in the early-90s, this policy contains recommendations for landscaping within 'Central Fremantle' (effectively the City Centre Zone) and includes information relating to species, scale of vegetation, tree/plant spacing as well as the function of trees. Planting requirements for specific streets and parks are outlined, and a map is provided within the policy which shows recommended species and planting locations. (refer to Attachment 1)

The Fremantle Planning Strategy states the following on this policy:-

This policy was written in 1992. The policy does not deal with land use and development, rather it is an urban design policy and should be transferred to an urban design manual.

As this policy generally relates to planting and vegetation areas in the public realm and not on land zoned under the local planning scheme, it has little if no relevance as a statutory planning assessment tool.

Whilst there may be merit in developing and articulating an area-specific landscaping policy / plan for the City Centre public realm (perhaps as part of broader public realm planning and design), the policy as it currently stands is of little value because many of the recommended works have been implemented and / or are superseded by more contemporary requirements set by the City's Infrastructure Parks Department (such as the *Tree Planting and Preservation Policy*), the City Design team (e.g. Kings Square) and broader strategy documents (e.g. the Urban Forest Plan). Revocation is consequently recommended to avoid potential future conflict and confusion with the City's present strategic approaches in this space.

Policy No.	D.G.F7
Policy Title	Beach Street Ferry Terminal
Date Adopted	July 1993
Last Reviewed or	N/A
Amended	

This policy is split up into three key focus areas to the east of the Fremantle Traffic Bridge, and mostly covers general land use and management considerations concerning a small ferry terminal on Beach Street. Specifically, the policy objective is to ensure that



the use of the jetty for ferry operations be prioritised, and to provide general direction on the use of adjoining areas (including accommodating some small scale commercial uses, parking and the maintenance of continuous public access to the foreshore). (Refer to Attachment 2)

The cessation of use of the Beach Street jetty by ferry operators renders a component of the policy obsolete. The adoption of *Freo 2029: Transformational Moves* also outlines a broader vision for this area as part of a 'Northern Gateway' precinct. As with previously discussed policies, the principles and intent of the policy are generally sound but content requires significant updating, and is of lower strategic priority at this time. As such, its revocation is recommended.

Policy No.	D.G.F13
Policy Title	Fremantle Railway Station Weather Shelters, Elder
	Place
Date Adopted	October 1987
Last Reviewed or	N/A
Amended	

Whilst not stated explicitly, it is presumed that this policy was formulated in response to heritage concerns in the mid-1980s; however it has not been reviewed since. It provides detail on the location of existing and proposed new shelters adjacent to the Fremantle railway station. (Refer to Attachment 3).

On this policy, the Fremantle Planning Strategy states the following:-

This policy was written in 1987 detailing the Council's requirements for weather shelters at the Fremantle railway station. The policy does not relate to land use or development and should be transferred to an urban design policy (the policy can probably be deleted).

Given the age of the policy, the fact that it relates to a very specific element on land under the control of the Public Transport Authority (and zoned under the MRS not LPS4), and that subsequent infrastructure development has made parts of its content obsolete, it is recommended that it be revoked. Furthermore, the station forecourt concept planning outlined in the *Freo 2029* document supersedes and expands upon the policy provisions in a more contemporary and holistic manner.

Policy No.	D.G.F19
Policy Title	Pioneer Park - 1 Short Street and 7 Market Street,
	Fremantle
Date Adopted	March 1988
Last Reviewed or	N/A
Amended	

The objective of this policy is 'to facilitate the integrated development of a children's theatre in a children's park' – known today as the *Spare Parts Puppet Theatre*. The policy discusses the objectives for the development of the Pioneer Park with a children's theatre land use. It also outlines the general intended function of the park, as well as the specifics behind the development of the children's theatre and how it should be integrated with the existing landscaped setting. (Refer to Attachment 4)

The Fremantle Planning Strategy gives the following statement on this policy:-



This policy was written in 1988 in order to facilitate development of a children's theatre in the park. This policy only deals with the urban design of the park and is not a land use or development policy. The policy requires review and only useful land use/development provisions of the policy should be transferred to CPS4 provisions and design guidelines. The remainder of the policy should be transferred to an urban design policy manual.

The primary objective of the policy is considered obsolete, given that the theatre has been long established in the park, is a State Government asset, with the building itself being State Heritage-listed. This means any future physical changes to the building itself will be strictly scrutinised through a detailed heritage assessment. The policy also covers areas relating to a public park which are outdated, have been partially superseded by the joint master planning project with the WAPC for Pioneer Park and Victoria Quay, and design work currently being done on the Station Forecourt under the *Freo 2029* banner. Given these factors, the policy is recommended for revocation.

Policy No.	D.G.F22
Policy Title	Sadliers Building - 36 Henry Street, Fremantle
Date Adopted	December 1984
Last Reviewed or	January 1988
Amended	

The policy contains a description of the site's history and a physical analysis of the building (external and internal). It also outlines potential land uses which could be considered for its future use, taking into account historical context. (Refer to Attachment 5). It appears that it may have been prepared directly in response to proposals to demolish the property, though this is speculative.

The Fremantle Planning Strategy makes the following comment on this policy:

This policy was written in 1984 (amended 1988) and sets out the heritage value of the site and broad parameters for development. This policy can be deleted as redevelopment of the site into residential units has been completed.

The commentary above is considered to still be applicable; the policy provisions are redundant given that conversion of the building into commercial and residential strata units has long since completed. Other aspects of the policy are addressed through other heritage or legal mechanisms.

This policy has already been identified for revocation as part of the principles endorsed by Council in June 2018 relating to the West End local planning policy review, however, given its nature, will not benefit from completion of that review exercise and so can safely be revoked now, without further delay.

#### FINANCIAL IMPLICATIONS

Nil



#### **LEGAL IMPLICATIONS**

The process for local planning policy revocations is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as outlined in the 'Consultation' section of this report.

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

Simple Majority Required

#### **COMMITTEE RECOMMENDATION ITEM SPT1903-3**

(Officer's recommendation)

Moved: Cr Dave Hume Seconded: Cr Jon Strachan

#### Council:

- 1. Pursuant to Schedule 2, Part 2, Clause 6(b) of the Planning and Development (Local Planning Schemes) Regulations 2015, revokes the following local planning policies;
  - a. D.E.1 Landscaping Policy for Central Fremantle and Main Approaches to the City;
  - b. D.G.F7 Beach Street Ferry Terminal;
  - c. D.G.F13 Railway Station Weather Shelters Elder Place, Fremantle;
  - d. D.G.F19 Pioneer Park 1 Short Street and 7 Market Street, Fremantle; and
  - e. D.G.F22 Sadliers Building 36 Henry Street, Fremantle.
- 2. Publishes a public notice in a local newspaper and on the City's website notifying of the revocation of the above local planning policies.

Carried: 7/0

Mayor, Brad Pettitt Cr Jon Strachan, Cr Jenny Archibald, Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume



11	MOTIONS	OF WHICH	PREVIOUS	NOTICE HAS	BEEN GIVEN
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Nil

12. URGENT BUSINESS

Nil

13. LATE ITEMS

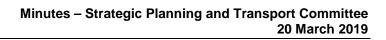
Nil

14. CONFIDENTIAL BUSINESS

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 7.03 pm.







## **MINUTES ATTACHMENTS**

Strategic Planning and Transport Committee

Wednesday, 20 March 2019, 6.00 pm



