

12.1 Residential Character Study Area Character Incentives and Heritage Areas

Location	Town-wide
Reporting officer	Michael Hancock
Responsible officer	Robert Cruickshank
Voting requirement	Simple majority
Attachments	1. Recommendations Report [12.1.1 - 94 pages] 2. Planning and Development Regulations 2015 Extract [12.1.2 - 6 pages]

Recommendation

1. That Council notes the report outlining a process for community nomination of heritage areas and possible incentives to encourage the retention of original dwellings.
2. That the CEO be requested to provide a further report to Council within three months of the adoption of a heritage list, with the report to provide a draft policy dealing with heritage areas including the ability for the community to nominate areas, as well as further considering the incentives for the retention of original dwellings outlined in this report.

Purpose

At the Ordinary Council Meeting held 19 May 2020, Council resolved to require a report to be presented no later than the December 2020 Ordinary Council Meeting to provide:

- A process for community nomination of Heritage Areas
- Investigate incentives to encourage the retention of original dwellings.

In brief

- The Town is proceeding with a local planning framework that seeks to maintain and improve the character of identified areas.
- To support the changing local planning framework, the appointed consultant, Element, recommended that the Town considers measures to encourage the retention and restoration of dwellings, and opportunities for the community to nominate areas for consideration as a heritage area.
- Opportunities to support the character of the district include community nominated heritage areas, and financial and non-financial assistance.
- This report outlines possible mechanisms for Council to consider. The implementation of measures in this report will require further investigation and possible budgetary commitments.

Background

1. At the Ordinary Council Meeting held September 2017, Council resolved to seek expressions of interest for an independent consultant(s) to undertake a community engagement project, review of Local Planning Policy 25 – Streetscape, and evaluate and recommend potential mechanisms for the retention of original dwellings and the protection of character streetscapes within the Residential Character Study Area.
2. Council subsequently appointed Element to undertake the project. The work undertaken by Element included consultation with the community on their views and aspirations for the Residential Character Study Area. The overwhelming response was a supportive position of measures to protect and retain the character prevalent in the Residential Character Study Area (RCSA).

3. Based on the community sentiment, Element prepared a Recommendations Report (Attachment 1) and draft Local Planning Policy – Character Retention Guidelines.
4. The Recommendations Report made the following recommendations:
 - o *Introduce a Special Control Area Character Retention Area over the RCSA requiring development approval for demolition of original dwellings and development visible from the street (recommend review by a planning lawyer to ensure no unintended consequences);*
 - o *Revoke existing LPP 25 'Streetscape' and adopt new draft Character Retention Guidelines applicable to development within the SCA; a condensed version of LPP 25 focusing only on key design elements that affect streetscape character and encouraging sustainable and innovative design outcomes with an element of character education;*
 - o *Further investigate and facilitate a discussion regarding community-nominated Heritage Areas;*
 - o *Consider implementing incentives to encourage the retention of original dwellings; and*
 - o *Invest in public domain improvements to enhance the natural beauty and character of the area.*
5. At the 19 May 2020 Ordinary Council Meeting, Council received the Recommendations Report from Element, and resolved as follows:

"Requests the Chief Executive Officer for future reports to be presented to Council for further consideration as follows:

 - a) *A Town Planning Scheme Amendment to identify the Residential Character Area as a Special Control Area – by no later than the July 2020 Ordinary Council Meeting.*
 - b) *A new Local Planning Policy 'Character Retention Guidelines' to apply to the Residential Character Study Area – by no later than the August 2020 Ordinary Council Meeting.*
 - c) *A process for community nomination of Heritage Areas – by no later than the December 2020 Ordinary Council Meeting.*
 - d) *Investigating incentives to encourage the retention of original dwellings – by no later than the December 2020 Ordinary Council Meeting."*
6. Reports have previously been considered by Council to address part (a) and (b) of the May 2020 Council resolution.

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	The recommendations contained in the Recommendations Report were significantly informed by the community engagement undertaken by Element.
CL06 - Finances are managed appropriately, sustainably and transparently for the benefit of the community.	Possible financial incentives have the potential to impact the Town's budget.
CL09 - Appropriate devolution of decision-making and service provision to an empowered community.	Community nominated heritage areas could be a community decision-making exercise.

Environment	
Strategic outcome	Intended public value outcome or impact

EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing need and enhances the Town's character.	The development of community nominated heritage areas and incentives will potentially assist owners of heritage and character buildings in maintaining and preserving the Town's character.
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Engagement

Internal engagement

Stakeholder	Comments
Finance	Some of the recommendations from the Recommendations Report prepared by Element have implications for the Town's budget. In this regard, the Urban Planning Service Area have liaised with the Finance Service Area to determine the possible financial impact. Comments to this effect have been provided in the table contained as part of paragraph 26 of this report.

Legal compliance

Legislation	<ul style="list-style-type: none"> • Planning and Development Act 2005 • Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) • Town Planning Scheme No.1 (TPS1)
State Government policies, bulletins or guidelines	<ul style="list-style-type: none"> • State Planning Policy 7.3 – Residential Design Codes Volume 1 • State Planning Policy 7.3 – Residential Design Codes Volume 2 • State Planning Policy 3.5 – Historic Heritage Conservation
Local planning policies	Nil
Other	Nil

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	This report presents no current financial risk, however if Council decides to further investigate any of the items outlined in the report the possible financial risk would need to be considered at that	Minor	Possible	Medium	Low	Treat risk by undertaking detailed investigation prior to implementing any items outlined in this report.

	time.					
Environmental	This report does not present any immediate environmental impacts. Each item listed may present their own environmental impact, such impact would need to be investigated prior to implementation.	Minor	Possible	Medium	Medium	Treat risk by undertaking detailed investigation prior to implementing any items outlined in this report.
Health and safety	Nil	Nil	Nil	Nil	Low	Nil
Infrastructure/ ICT systems/ utilities	Nil	Nil	Nil	Nil	Medium	Nil
Legislative compliance	Appropriate consideration to the relevant legislation and adoption processes will be given in the event any items require further investigation.	Minor	Possible	Medium	Low	Treat risk by further considering legal implications prior to the implementation of any items outlined in this report.
Reputation	The Town is encouraging owners of character dwellings to retain their buildings. The community may have an expectation for assistance in their maintenance. Further, the community may determine community nominated heritage areas are a desirable outcome for locations both	Moderate	Likely	High	Low	Treat risk by undertaking further investigation into various incentives for landowners to maintain their property.

	inside and outside of the RCSA SCA.					
Service delivery	Nil	Nil	Nil	Nil	Medium	Nil

Financial implications

Current budget impact	Nil.
Future budget impact	This report does not recommend further work to be undertaken at this stage, instead, this report is providing information on possible areas for consideration for Council. It is noted that some of the recommendations may have future budget impacts should Council decide to proceed with items in this report.

Analysis

Existing and Proposed Framework

- The Town is currently undertaking several projects relating to the heritage and character of the Town's built form, these are:

Document	Outcome	Status
Local Heritage Survey (LHS) – previously known as the Municipal Heritage Inventory (MHI)	The Town is currently reviewing the LHS. The LHS is a non-statutory document that identifies individual buildings within the Town that have cultural heritage significance and their various levels of importance. The LHS offers no statutory protection for buildings.	The Town's MHI, which was adopted in 2000, is now under review. A draft revised MHI, now called a LHS, will be the subject of community consultation in early 2021.
Heritage List	Those buildings on the LHS having the greatest heritage significance will be recommended for inclusion on the Heritage List. The Heritage List offer statutory protection to buildings contained on the list.	Not yet commenced. To be progressed following adoption of the LHS.
Scheme Amendment 88 – Special Control Area	To establish a Special Control Area over the Residential Character Study Area which requires development approval for all development that is	Initiated by the Council. Consultation to commence in early 2021.

	<p>visible from the street and development approval for the demolition of dwellings constructed prior to 1 January 1946.</p> <p>Properties within the SCA are not afforded direct protection by being within the SCA, but rather development approval will be required in certain instances therefore allowing an assessment of the streetscape contribution to be made.</p>	
<p>Character Retention Guidelines</p>	<p>To provide a policy framework in support of the Special Control Area. The guidelines will provide a framework for determining the acceptability of any works proposed to a building within the Special Control Area. The guidelines are a non-statutory document which are designed to be read supplementary to the Special Control Area.</p>	<p>Draft accepted by Council, to be consulted in conjunction with Scheme Amendment 88.</p>

8. The above table outlines the Town's current and proposed framework for character and heritage retention. The framework outlined provides recognition and increased protection for individual buildings (Heritage List) and broad character areas (Special Control Area).
9. The rationale for considering heritage areas in addition to other measures proposed is that a heritage area: (a) identifies areas of significance, not isolated buildings; and (b) provides statutory protection of buildings within the area. Conversely properties on a heritage list are afforded statutory protection, but the protection relates to individual buildings rather than buildings within a defined area, while a Special Control Area relates to an area of significance but does not provide statutory protection.
10. It is important to note that areas outside of the RCSA may also exhibit character worthy of retention. Currently, there is no formal process to recognise these in the planning framework, other than in the LHS, which does not provide any statutory protection to buildings. Further, the planning framework does not enable the Town to tailor guidelines to reflect the unique character of these areas.
11. It is anticipated that areas designated as heritage areas would be areas containing a concentration of buildings that have a distinct or identifiable character that warrants their protection (eg. Buildings within a particular street block). Accordingly it would be proposed that a set of specific guidelines/controls would be prepared to reflect the characteristics of the area, in addition to any more generalised guidelines that would apply.

Designation of Heritage Areas

12. The process for formally designating an area as a heritage area is outlined at Schedule 2, Part 3, Clause 9 of the Regulations, which is contained at Attachment 3. The process can be summarised as follows:



Community Nomination of Heritage Areas

13. As part the Recommendations Report, Element provided the following commentary relating to the community nomination of heritage areas:

Community Nomination of 'Heritage Area(s)'

Aims and Rationale

Given the community sentiment to retain original dwellings and acknowledging other feedback to the contrary, the Town could consider community-nominated character streets as smaller Heritage Areas, in place of Town-led Heritage Areas (refer below).

Implementation

Similar to the process adopted by the City of Vincent, residents would have the opportunity to gather neighbour support for nominating their street for character protection (Vincent use a nominal 40 per cent of landowners of a street or portion of a street being happy to proceed). Once nominated, the Town would then work with the landowners of the nominated area to develop draft 'guidelines' (LPP) on character retention from a heritage perspective prior to following the due planning process of advertising and adoption. The guidelines would apply in addition to any policy covering the RCSA and prevail in the event of inconsistency.

Potential Implications

Positive:

Is a bottom-up partnership in influencing built form and character outcomes. It has the opportunity to create policy that has 'shared ownership' of both the local government and select residents that take great pride in, and respect, their character homes and streetscape.

Negative

The possible negative implications of this approach include:

- The potential for there be no statutory protection of valued character or heritage should no streets be nominated;
- The preparation of potentially vastly different or conflicting guidelines for streets within an area considered to share a collective character; and
- The sheer number of guidelines all focusing on similar intents and objectives and the time lag it may take for all to come into operation.

It is recommended that a draft revised streetscape policy be advertised for both wider community comment and targeted consultation to those residents that have expressed a genuine desire for the original dwellings in their street to be retained (garnered from confidential street address information in the survey). The idea of community-nominated Heritage Areas can then be explained further to these residents. Seeking assistance from a specialist heritage consultant and community engagement facilitator could help bring residents and the Town together to work constructively on the task at hand.

14. It should be noted that for designated heritage areas, provisions exist in the Regulations relating to:
 - (a) varying any site or development requirements to enhance or preserve heritage values in a heritage area; and
 - (b) the ability to issue a heritage conservation notice.

Use of Heritage Areas in the City of Vincent

15. Since the Regulations were gazetted, few local governments have completed the process of designating an area as a heritage area. The City of Vincent is one example.
16. In September 2015 the City of Vincent adopted local planning policy 7.5.15 – Character Retention Areas (LPP 7.5.15).
17. The policy makes provision for both character retention areas (CRA) and designated heritage areas. A character retention area is a defined area which has a particular characteristic and cohesiveness worthy

of retention. A CRA will be considered a heritage area where satisfied through a Heritage assessment, prepared by a Heritage Architect, that it has particular qualities worthy of a higher level of protection.

18. Through work undertaken by heritage consultants, 20 streets within the City have been identified as potential character retention areas.
19. A CRA or heritage area may be nominated in writing by the City or a member of the public, however the City will only consider a nomination where at least 40% of owners of affected properties support the nomination.
20. Once an area is nominated, the City facilitates workshops with landowners to develop draft guidelines prior to following due processes.

Process for Designated Heritage Areas Town of Victoria Park

21. Having regard to the process adopted by the City of Vincent and the requirements of the Regulations it is suggested that a basic process for the Town’s consideration of heritage areas would be:

- (a) a nomination is put forward by the Town or a member of the community. A minimum of 40% of owners of affected properties must agree to the nomination for it to proceed.
- (b) the Town appoints a Heritage Consultant to undertaken an assessment to assess the heritage significance of the area and determine whether the area warrants consideration as a heritage area.
- (c) then following the requirements of the Regulations including formally community consultation and consideration of public submissions.

Incentives for Retention of Original Dwellings

22. A further recommendation of the Recommendations Report prepared by Element for the RCSA is to investigate opportunities for incentives to encourage the retention of original dwellings.
23. It is important to note, the Recommendations Report was prepared and received by the Town prior to the full impact of COVID-19 being understood. In this regard, some incentives may not be considered as financially viable as they may otherwise have been.
24. To consider the opportunity to encourage the retention of original dwellings through the use of incentives this report will categorise incentives into two main categories, being financial and regulatory (non-financial). It is possible a combination of these incentives may be considered by Council.

Financial Incentives for Original Dwellings

25. An approach taken by several local governments in Western Australia is to provide heritage grants and heritage rates concessions. Comparable local governments which have taken this approach include the Cities of Subiaco, Vincent and Bayswater.
26. Four main financial incentives are suggested for consideration in the Recommendations Report. These are described in the table below, as well as including preliminary comments from the Town’s Finance Team:

Recommendation	Element Comments	Finance Comments
Waiver/refund	of Planning fees could be waived in whole or part	This could be managed by

<p>development application fees</p>	<p>where the streetscape contribution of an original dwelling is retained as part of development.</p> <p>Last financial year approximately 112 development applications were received that involved an original dwelling.</p> <p>Based on an approximate average development application fee of \$480 per application the potential budget impact is approximately \$53,760 per annum.</p>	<p>the Planning team. Financial Impact will be loss of revenue from applications and internal resourcing cost.</p>
<p>Maintenance grants</p>	<p>Local government financial assistance for maintenance of original dwellings (e.g. dollar for dollar up to an agreed cap) (typically used for places on a Heritage List).</p> <p>Other comparable local government areas maintain an annual budget of \$20,000 - \$50,000 per annum for the allocation of maintenance grants.</p>	<p>An option for implementation of this recommendation would be to initiate grant funding programs for maintenance of heritage buildings. Financial impact will be increased operational expenditure and internal resourcing cost.</p>
<p>Rate Concession</p>	<p>Owners of properties containing original dwellings could apply for a conditional rates concession to assist with the maintenance of their property (typically used for places on a Heritage List).</p> <p>Given the large number of properties in the RCSA, any meaningful reduction in rates would have a significant financial implication for the Town.</p> <p>As the Town currently does not have an endorsed Heritage List or any designated heritage areas, the budget implication for this option remains unknown. Once the Heritage list has been endorsed a budget impact could be estimated.</p>	<p>This could be managed by the Finance rates team. Consideration would need to be given around the Local Government Act and regulations and the Town's ability to implement rates discounts or concessions. Financial impact will be decreased rate revenue which will impact overall revenue from rates available for annual budget and internal resourcing cost.</p>
<p>Sustainability retrofit package</p>	<p>A number of environmentally sustainable products offered at discounted value (e.g. solar panels, rain water tanks, high performance glazing) where an application retains an original dwelling and demonstrates it achieves exceptional character contribution in line with</p>	<p>This could be managed within the Environment service area by implementing a program to allow for subsidies or grants, similar to the</p>

policy objectives.

Security Incentive Scheme currently offered. Financial impact will be increased operational expenditure and internal resourcing cost.

- 27. As outlined above, a number of local governments in metropolitan Perth offer some form of financial assistance for the retention and preservation of heritage/character. Typically, the comparable local governments provide a variety of financial support for heritage buildings.
- 28. The below table demonstrates the financial assistance offered (green) and not offered (red) at the Cities of Subiaco, Vincent and Bayswater.

Type of assistance	Subiaco	Vincent	Bayswater
Funding for restoration work/urgent conservation work			
Heritage loan subsidy			
Heritage grant scheme for works			
Waiver of planning/building fees			

- 29. As demonstrated above, the most common funding arrangement is direct heritage grants. The funds available vary between the local government areas, though range from \$4,000 to \$5,000 maximum available grants per building project.
- 30. Although criteria vary between each local government areas, general trends observed include:
 - a) A 50% contribution up to the maximum grant available.
 - b) The building must:
 - (i) Be listed on the State Register of Heritage Places; or
 - (ii) On a Heritage List; or
 - (iii) On the local government’s Municipal Heritage Inventory; or
 - (iv) Identified by the local government as having a heritage significance; or
 - (v) Not received funding previously, or not within a specified timeframe; or
 - c) Works must be restorative in nature and reflect the character of the building/area.
 - d) Completed within a specified timeframe.
- 31. The recommendations report from Element includes a suggestion to investigate financial assistance in regard to sustainability and retrofit packages for original dwellings. An example of this was not observed in other local governments.

32. It is possible sustainability retrofit packages could be included in a heritage grants package should Council proceed with such incentives.

Regulatory Non-Financial Incentives for Original Dwellings

33. The Recommendations Report prepared by Element identifies a number of opportunities to provide non-financial support to owners of original dwellings, being:

Relaxation provision	The express ability for the local government to relax any standard within the policy where an original dwelling is retained (similar to existing heritage provision within the Regulations);
Transferrable development rights	Bonuses in density or similar to other property within the Town for proposals that retain Original dwellings;
Technical advice	The provision of subsidised pre-lodgement professional advice for properties containing Original dwellings to assist with design solutions;
Smaller infill development	Similar to City of Fremantle's recent Amendment 63 where smaller site areas are permitted for certain lots, in return for retaining an Original dwelling (can be further investigated following community consultation).

34. Several local government areas provide a variety of non-financial regulatory incentives to the owners of heritage/character dwellings. Of the above recommended possible incentives, two are somewhat more achievable in the short to medium term, being the provision of technical advice and the relaxing of provisions.

35. As mentioned previously, the Regulations, schedule 2, part 3, clause 12 permits the local government to vary any site or development requirements of the Scheme to:

- (a) Facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or list in the heritage list
- (b) Enhance or preserve heritage values in a heritage area.

36. The Town currently has a limited number of buildings included on the Register of Heritage Places, however no heritage list adopted under the Town Planning Scheme.

37. The current review of the MHI/LHS is intended to then result in the preparation and adoption of a heritage list. Furthermore, in the event the Town proceeds with creating heritage areas the Regulations provide inbuilt capacity to apply scheme provisions in a flexible manner.

38. The City of Subiaco provide a heritage advisory service where owners of buildings which meet a certain criteria can access the services of a professional Heritage Architect. The City of Subiaco have established this as a free service for owners of relevant buildings with the City covering the costs. This service operates in a similar capacity to the Town's Design Review Panel. The City of Subiaco allocates \$10,000 per year to cover this service.

39. Of the recommendations, transferrable development rights and smaller infill development are more complex in nature.

40. Based on the desktop survey undertaken for this report, in Western Australia only the City of Perth maintains a policy to transfer plot ratio from one site to another.
41. Plot ratio is the calculation that determines how large a building can be compared to the size of a parcel of land. For example:
42. A plot ratio of 1:1 means for every 1m² of land area, 1m² of building area is permitted. Further, a plot ratio of 3:1 would mean for every 1m² of land area, 3m² of building area is permitted. Therefore, a lot with a plot ratio of 3:1 that is 1,000m² could have a building with 3,000m² in area.
43. The City of Perth local planning policy relating to plot ratio applies to heritage buildings or buildings located within a heritage area. The policy allows up to 90% of a possible plot ratio to be transferred from one building to another, subject to City of Perth approval.
44. The City of Perth policy allows the owners of the donor site and the transfer site to negotiate the terms of the transfer from one site to another, this may include a monetary amount.
45. The City of Perth have advised the policy received substantial interest when first adopted in 2004, however interest is less common more recently. This could indicate that many of the buildings of heritage significance have already transferred their plot ratio to another site.
46. The City of Perth indicated the availability of other development bonuses diminishes the effect of the transfer of plot ratio.
47. The Town maintains a number of existing policies that assist decision making for plot ratio and height variations.
48. There is the potential that developers may not be willing to pay for transferred plot ratio where other avenues for increased plot ratio exist, such as through the delivery of exception design outcomes.
49. Further, the purchase of plot ratio may diminish the incentive for developments to demonstrate exceptional design where discretion for bonuses is no longer being sought.
50. The City of Fremantle recently completed Amendment 63 to their Local Planning Scheme No. 4.
51. The scheme amendment allows lots to be subdivided at a higher density than ordinarily permitted under the designated density coding, subject to specified provisions. The scheme amendment takes the form of a Special Control Area over a number of areas within the district.
52. The Special Control Area stipulates provisions which cannot be varied and is supported by a dedicated local planning policy.
53. A similar approach could be implemented by the Town to encourage the retention of original dwellings, whilst providing a variety of housing options within the district.
54. Such an approach would require a scheme amendment, with the final decision maker being the Minister for Planning.
55. Town staff consider a combination of incentives to maintain the character and heritage of the area should be given further consideration. These are:

Incentive	Reason
Heritage grants	Heritage grants could be applicable to dwellings only contained on a heritage list or within a designated area. This is considered a preferable financial incentive as a fixed amount can be set and budgeted for, and not be variable in nature such as rates concessions or waiving development application fees.

Heritage advisor	Professional advice from a Heritage Architect would assist landowners in preparing sympathetic designs. The advice could be provided by a Heritage Architect engaged by the Town in the same manner as the Design Review Panel. This service could be only made available to landowners whose buildings are listed on a heritage list or within a designated heritage area, or even any property in the RCSA if additional funding was available.
Relaxed provisions	A revised LPP 25 or new local planning policy could outline circumstances where development standards can be varied in order to enable the retention and improvement of the retained original dwelling.

56. It is considered that each of these incentives most appropriately relates to properties on a heritage list or in a heritage area. It is recommended that these incentives be further considered at the time that Council considers adopting a heritage list, likely to be in the 2021/22 financial year.

Relevant documents

Not applicable.