

12.1.2 Local Planning Scheme No. 3 - Heritage List and Municipal Heritage Inventory 2015 – Proposed Removal of 19 (Lot 18) Canning Highway, East Fremantle

Applicant	Town of East Fremantle
File ref	HHC2; P/CAN19
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	15 September 2020
Voting requirements:	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Location Plan – Lots 14 – 19 Canning Highway2. 2006 Municipal Heritage Inventory – Place Record Form – 19 (Lot 18) Canning Highway – Category B3. Draft Local Planning Strategy extract – Investigation Area 94. MRS Other Regional Road Reserve

Purpose

The purpose of this report is to consider the formal removal of 19 (Lot 18) Canning Highway, East Fremantle from the Local Heritage Survey (formerly the Municipal Heritage Inventory) and the Local Planning Scheme No. 3 Heritage List.

Executive Summary

The consideration of removal of 19 Canning Highway from the Local Heritage Survey (LHS) and the Planning Scheme Heritage List has been prompted by Main Roads WA (MRWA) and the WAPC's intention to sell surplus land which includes this lot, on the southern side of Canning Highway between East and Glyde Street (refer to Attachment 1 – Location Plan). A planning consultant has been engaged by MRWA to initiate discussions with the Town in relation to the consideration of a Scheme Amendment to suitably reclassify the land prior to its disposal.

No. 19 Canning Highway, was the subject of an administrative oversight during the review of the LHS in 2014/15 which resulted in the lot being omitted from the LHS and the Scheme's Heritage List. An updated Place Record Form was not prepared, so it was not possible to determine whether the consultant intended to recommend removal from the heritage lists or to change the heritage category classification. Whatever the intention the outcome was that the site was not included in the heritage lists with the only explanation being an inadvertent omission.

Notwithstanding the current status of the site it should be noted that discussions had taken place with the State Heritage Office (SHO) in 2007 and the WAPC in 2012 requesting comments on the property's inclusion in the LHS. The SHO did not believe the site was worthy of registration on the State heritage register and the Commission stated that "...given that any measures to widen the road will require the ultimate demolition of the house, it appears illogical to list the property on the Town's heritage list for conservation purposes". Following these exchanges a demolition permit was issued for the property, some years prior to the LHS review commencing, but was never actioned. Please see attachment 4 relating to the road reserve and the location of the property. Clearly the dwelling sits within the road reserve and therefore will require the demolition of the dwelling.

Following the recent demolition of the Kennard's buildings (on the corner of East Street) and the adjoining dwelling, 19 Canning Highway is one of two remaining houses on this section of the Highway. Both houses are in a habitable condition and leased to tenants but the integrity and

heritage value of the subject site has been depreciating. This situation alone is not necessarily a reason for recommending removal of the place from the heritage lists, however changing circumstances and strategic planning considerations now need to be taken into account.

The site is zoned R20 but is also within the 'Additional Use – A9' area under LPS 3 (i.e. development to R40 and consulting rooms/home business on ground floor subject to Council approval). This same area has been identified as 'Investigation Area 9' under the Draft Local Planning Strategy; being an area with strategic significance with the potential for increased density to be considered for these lots. The Draft Strategy identifies the land as a key location for medium to high density apartments which could contribute to the Town's 2050 dwelling target set by the State government. The strategic approach of identifying and facilitating higher density development on large unencumbered amalgamated parcels of land, with good access to public transport, supports the underlying objective of the Town to facilitate higher density development in these locations; thereby reducing development pressure on the Town's low density heritage precincts. The comprehensive development of this section of the Highway as an unencumbered land parcel will allow for more design and planning options to be explored and the residential interface issues to be addressed in an orderly and proper manner.

In light of the above circumstances the removal of the property from the heritage lists is recommended. Due to the incorrect omission of the property from the heritage lists it is considered necessary for Council to follow the correct procedures for removal of the property from both lists. This will clarify and formalise the heritage status of the property and enable any upcoming Scheme Amendment procedures to be undertaken correctly.

It is recommended that Council resolve to propose to remove 19 Canning Highway from the LHS and the Planning Scheme's Heritage List and undertake advertising as required under the Local Planning Schemes Regulations, 2015. Following the 21 day consultation period (during which time submissions may be received) a further report to Council will be drafted to enable Council to consider retention or removal of the place from the heritage lists.

Background

Following the December 2014 Council meeting, owners and occupiers of LHS properties categorised as A and B were advised in writing of the revised heritage assessments and of the intention to consider these properties for inclusion on the Scheme's Heritage List. With the exception of properties that were the subject of owners' submissions and/or further consideration by the heritage consultants the B category properties were adopted as a single group by Council for inclusion in the Scheme's Heritage List.

During the process of finalising and checking the place record forms for over 600 category B properties on the LHS and in preparing the list of properties to be included it appears an updated Place Record Form was not prepared. This resulted in no formal Council consideration of the property's status following the review process.

Consultation

If Council resolves to consider the removal of a property from a heritage list or LHS the Local Planning Schemes Regulations, 2015 requires the following consultation process be followed.

Consultation Process under Local Planning Schemes Regulation, 2015

- The Town must —
 - notify each owner of land affected and provide them with a copy of the proposal to remove the property; and
 - advertise the proposed removal by —
 - a notice in a local newspaper; and
 - erecting a sign in a prominent location; and
 - a notice on the Town’s website; and
 - any other consultation the Town considers appropriate.
- The period for making submissions must not be less than 21 days commencing on the same day as the notice is published.
- After the advertising/submission period ends the Town must —
 - review the proposal to remove the property in the light of any submissions made; and
 - resolve —
 - to adopt the recommendation for removal without modification; or
 - to adopt the recommendation for removal with modification; or
 - not to proceed with removal of the property.
- If the Council resolves to remove the property from the LHS and the Planning Scheme Heritage List then it must advise —
 - the Heritage Council of WA; and
 - each land owner affected.

Statutory Environment

Heritage Act, 2018

Planning and Development (Local Planning Schemes) Regulations, 2015

Heritage Regulations, 2019

Local Planning Scheme No. 3 (LPS 3)

LPS 3 - Heritage List

Policy Implications

Local Heritage Survey (formerly Municipal Heritage Inventory) 2015

Guidelines for Local Heritage Surveys 2019

Fremantle Port Buffer Zone – Area 2

Financial Implications

Nil

Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

Built Environment

Accessible, well planned built landscapes which are in balance with the Town’s unique heritage and open spaces.

3.1 Facilitate sustainable growth with housing options to meet future community needs.

- 3.1.1 *Advocate for a desirable planning and community outcome for all major strategic development sites.*
- 3.1.2 *Plan for a mix of inclusive diversified housing options.*
- 3.2 *Maintaining and enhancing the Town's character.*
 - 3.2.1 *Ensure appropriate planning policies to protect the Town's existing built form.*
- 3.3 *Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.*
 - 3.3.1 *Continue to improve asset management practices.*
 - 3.3.2 *Optimal management of assets within resource capabilities.*
 - 3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
 - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
 - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
 - 4.2.1 *Reduce waste through sustainable waste management practices.*
- 4.3 *Acknowledge the change in our climate and understand the impact of those changes.*
 - 4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not adopt the proposed Recommendation and correct statutory procedures are not followed.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Statutory impact of non-compliance with State planning legislation.	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Likelihood	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)	
2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)	
1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)	

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection June 2020

Details

2014/15 Review of Municipal Inventory (now Local Heritage Survey)

The 2006 LHS recorded the property as a category B (refer to Attachment 2). However, without explanation this was not carried forward to the 2014/15 LHS. The Town has no record of any formal discussions with, or any recent submissions from government agencies in regard to this property. Furthermore, the Council Minutes do not record any discussion of the matter. It appears that the property has been omitted from the Heritage List and the LHS due to an oversight with no formal Council resolution for its removal from either list. Whilst it is not clear why this occurred there is some evidence that the Town's Officers may have been considering the removal of the place from both heritage lists.

A demolition permit was issued for the property some years prior to the review of the LHS. However, the property was not demolished and the dwelling remains occupied. Also, in 2012 the Town wrote to the WAPC requesting comments on the potential inclusion of the site in the upcoming review of the LHS. This was prior to the Council formally notifying land owners that category B properties were proposed to be included on the LPS 3 Heritage List.

The response from the WAPC in 2012 stated as follows:

"The WAPC wishes to express its objection to the Town including the property on its heritage list.

The WAPC position arises from the fact that the improvements at the property are affected by the Other Regional Roads Reservation for the future widening of Canning Hwy. Given

that any measures to widen the road will require the ultimate demolition of the house, it appears illogical to list the property on the Town's heritage list for conservation purposes.

The WAPC also intends to redevelop the site in line with the infill objectives contained within the Directions 2031 strategy. It is envisaged that the unreserved portions of the WAPC's Lots 16 and 18 will be amalgamated with Main Roads WA's Lot 17 in order to create a development site. It is envisaged that as part of this process the dwellings on both Lot 16 and 18 will be demolished."

Please see attachment 4 relating to the road reserve and the location of the property.

The site history and previous correspondence points to the Town's Officers and the heritage consultant giving serious consideration to the property being removed from the heritage lists. However, an updated Place Record Form was not prepared and the correct procedures for formal removal were not followed. It is now considered necessary that Council undertake the correct statutory procedures so the heritage status of the property is clarified by a formal Council resolution.

Government land disposal

The need to consider formal removal of the site from the heritage lists was prompted by MRWA's intention to pursue a reclassification of the government owned land between Glyde and East Street through a Scheme Amendment process. MRWA is eager to pursue a reclassification of the land that will allow for increased development potential (increased density zoning) prior to disposing of the properties. Administration is currently in progressed discussions with the MRWA and their consultants regarding the up zoning of these properties along Canning Highway.

With the exception of this property and one other residential dwelling (at 15 Canning Highway), the remaining government owned land along the highway comprises vacant lots. The planning consultants are progressing the proposed Scheme Amendment and it is anticipated this will be submitted for Council's consideration within coming weeks.

The Scheme Amendment will also include a vacant privately owned lot on the corner of Glyde Street. This property is owned by a deregistered company and is administered by the Australian Security and Investment Commission.

Comment

Heritage considerations

In 2007 when the WAPC and MRWA were considering the disposal of these properties on Canning Highway, the Heritage Council of WA was consulted. It was confirmed at the time that 19 Canning Highway was not considered to be of State significance and was unlikely to meet the threshold for entry into the State Register of Heritage Places.

From the 2014/15 review of the LHS it is not possible to determine whether the consultant intended to recommend the property be removed from the heritage lists or downgraded to a category C. The dwelling is now one of two houses remaining on this section of the Highway, following the recent demolition of the Kennard's buildings (on the corner of East Street) and the adjoining residence. Over past years basic maintenance work has been undertaken to maintain residential use of the property which is leased to tenants. However, its heritage integrity has continued to depreciate and the property is considered to have limited and diminishing value as an individual property and as part of the Plympton group.

In general terms removal of properties from the Town's heritage lists is never considered lightly because of the importance placed on their retention and their high value in maintaining and contributing to the unique character of the Town. In most circumstances category B properties are considered worthy of a high level of protection. However, in respect to 19 Canning Highway the removal of the property from the heritage lists and its likely eventual demolition is not considered to diminish the heritage significance of the Plympton Precinct or the heritage character of the Town.

Given the background of the site in relation to previous heritage assessments it is considered unnecessary for the Town to engage a heritage consultant to provide a Heritage Impact Statement assessing the proposal for removal from the lists.

Planning considerations

The above circumstance would not necessarily be a reason for recommending removal of the place from the heritage lists in itself, however there are now other circumstances and strategic planning considerations which need to be taken into account.

The site is zoned R20 and is within the 'Additional Use – A9' area under LPS 3 which applies to Lots 14 – 19 fronting Canning Highway. The 'Additional Use' allows the lots between East and Glyde Street to be developed to a density code of R40, with ground floor use for consulting rooms and/or a home business, subject to Council approval. An R40 density code allows for apartments to be developed. This same area has been identified as a potential 'Investigation Area' under the Draft Local Planning Strategy because it is viewed as having strategic significance and the potential for development at a density higher than R40. Also, the location of this strip of land is at an entry point to the Town and therefore development is expected to demonstrate a high quality design outcome. Attachment 3 is an extract from the draft Local Planning Strategy which outlines the strategic approach to this area endorsed by Council for advertising at its meeting in November 2019.

Notwithstanding the likelihood that the dwelling would be demolished without the Council's consent if the road widening reserve was required, the Town is of the view that the potential strategic planning outcomes and the benefits of this land being developed as an amalgamated parcel of vacant land is an option which should be pursued. The approach of identifying and facilitating development on sites where a greater number of dwellings, developed on larger amalgamated parcels of land with good access to public transport, supports the underlying objective of the Town to concentrate higher densities in these locations, thereby reducing development pressure on the Town's low density heritage precincts. Investigation Area 9 is viewed as a site which has the potential to contribute to the 2050 State government dwelling target for the Town of 890 dwellings.

The comprehensive development of this section of the Highway will allow for more design and planning options to be explored and the residential interface development issues to be addressed in an orderly and proper manner. Appropriate amenity and urban design controls, inclusive of noise mitigation measures, protection of nearby heritage sites and access to Canning Highway would be considered, most likely through the formulation of a 'local development plan'. This is considered the soundest planning approach and would be considered at the Scheme Amendment stage.

Conclusion

The comprehensive planning and development of this strip of land is viewed as an extremely good opportunity, subject to suitable development controls, to facilitate the development of additional appropriately designed dwellings in a cohesive manner. A vacant land parcel is the ideal starting point in this planning process. It is assumed it is for these reasons that 19 Canning Highway was being considered for likely removal from the heritage lists in the early stages of the review of the LHS. Notwithstanding, if the road widening reserve was taken, then demolition would result. It appears it was the consultant's and the Council Officer's intention at the time to recommend removal of this property from the heritage lists, however this inadvertently did not occur.

In addition to these comments the heritage integrity of the property has continued to depreciate and the place is considered to have limited and diminishing value as an individual property and as part of the Plympton group. The removal of the property from the heritage lists is not considered to diminish the heritage significance of the Plympton Precinct or the heritage character of the Town. It is noted that the proposed removal of this dwelling from the heritage list and possible increase density does not constitute an approach that will be undertaken throughout the whole of Canning Highway and future proposal will be considered on their own merits. Given the background of the site in relation to previous heritage assessments a Heritage Impact Statement assessing the proposal for removal from the lists is not considered necessary.

In light of the above comments it is recommended that Council resolve to propose to remove 19 Canning Highway from the LHS and the Planning Scheme's Heritage List and undertake the correct statutory processes, including advertising, as required under the Local Planning Schemes Regulations, 2015. In this case the advertising will require a letter advising the WAPC (i.e. the land owner) of the Council's intentions, an advertisement in the local newspaper, a sign on the site and a notice on the Town's website. Following the 21 day consultation period (during which time submissions may be received) a further report to Council will be required to enable Council to consider retention or removal of the place from the heritage lists.

12.1.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 030920

Moved Cr M McPhail, seconded Cr Watkins

That Council in accordance with Schedule 2, Part 3, Clause 8 (3) of the Planning and Development (Local Planning Schemes) Regulations, 2015 proposes to remove No. 19 (Lot 18) Canning Highway from the Local Planning Scheme No. 3 Heritage List and Local Heritage Survey (formerly Municipal Inventory).

(CARRIED 7:2)

Cr Collinson & Cr Harrington requested that their votes against the motion be recorded.