



# Additional documents

## Ordinary Meeting of Council

Wednesday 13 March 2024 6pm



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**C2403-1 AMHERST STREET, NO. 30, 34, 36 AND 38 (LOTS 1196, 1823, 1209, 1212, 1217) AND STACK STREET, NO. 2-4 (LOTS 1222 AND 1223), FREMANTLE – 56 LOT SURVEY STRATA SUBDIVISION - (JL WAPC59-23 AND WAPC164400)**

**Proposed Amendment by Cr Andrew Sullivan**

Amend Part B) of the officer's recommendation, to delete conditions 10, 14, 15, 16 and add new condition to be numbered as 18, as follows;

- ~~10. The whole of the Public Open Space being shown on the survey strata plan as common property.~~
- ~~14. The landowner/applicant shall make payment to the local government for the sum equivalent to the value of 7.5 per cent of the land, being that portion of the land that would otherwise be provided as open space, in accordance with Section 153 and 155 of the *Planning and Development Act 2005*. (Local Government).~~
- ~~15. Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Fremantle and Public at Large are to be placed on the certificate(s) of title of the proposed lot(s) 350sqm area of the Common as demonstrated in attached diagram) specifying access rights. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement(s) are to state as follows:~~
- ~~a. The obligation of maintenance, repair and service of the POS and any costs associated, remains with the Strata Company. In the event of a failure of the strata company to maintain the easement area, the City of Fremantle may enter on to the easement area to carry out maintenance with costs being borne by the strata company.~~
  - ~~b. The POS is accessible and available to use of the residents of the strata complex and public at large.~~
- ~~(Local Government)~~
- ~~16. Scheme by laws being prepared and submitted for the City and Western Australian Planning Commissions consideration and written confirmation in accordance with the Strata Titles Act 1985 (as amended) to include the following addition to the by laws contained in Schedules 1 and 2 of that Act:~~
- ~~A. All lot owners within the scheme to pay a contribution by way of strata levy for the ongoing repair and maintenance of the Common Property comprising the Open Space (Public Access) Easement area.~~



~~B. Amendment to or repeal of the above provision cannot be effected without the Western Australian Planning Commission and City of Fremantle's agreement.~~

~~The subdivider shall enter into a deed, secured by absolute caveat over the parent lots, with the City of Fremantle to ensure the creation of the specific scheme by law to be lodged as part of all scheme documents. On creation of the scheme by law the caveat may be withdrawn.~~

**18. (NEW CONDITION) - Arrangements being made for the proposed public open space to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan providing for the development and maintenance of the proposed public open space in accordance with the requirements of Liveable Neighbourhoods and/or dark sky principles and to the specifications of the local government (Local Government)**

**Reason for amendment:**

- The proposed subdivision represents a significant improvement on the previously approved subdivision, albeit on a larger site now. Accepting the improvements in good faith will result in the wholly unsatisfactory subdivision not proceeding on a strata-lot by strata-lot basis.
- The two structure plans for the area do envisage east-west linkages to quality open space at the top of the hill along Swanbourne Street and at the bottom of the hill at Booyembara Park. At the time of developing the two structure plans, mid-block open space connections were considered highly desirable. The proposal for the larger area of POS provides an opportunity for a mid-block east-west linkage that could be reciprocated when the land to the east is redeveloped. While there is concern whether that reciprocation will eventuate noting the challenging but not impassable topography to the east, there will be no opportunity for mid-block POS connectivity if the first developer doesn't initiate it. It is also noted that the alignment of the mid-block POS connectivity would coincide with the City's depot site and a similar connection could be provided on or near the southern boundary of the depot site.
- It is noted that the design work associated with the Swanbourne Street Structure Plan also envisaged a similar linkage leading from Amherst Street up to Swanbourne Hill.
- The opportunity to require cash-in-lieu payments instead of POS land contributions will logically be imposed on larger sites nearer to Knutsford Street, from government owned sites, and from all the smaller lots. Hence, the aims of the KSELSP in relation to POS cash-in-lieu will still largely be satisfied and generate significant income for areas like Booyembara Park.
- Some of the projects in Booyembara Park that could have been funded by cash-in-lieu have already been funded through grant funds and Main Roads



funding. The need for cash-in-lieu funds is not as critical as it may have been when the KSELSP was developed.



**C2403-1 AMHERST STREET, NO. 30, 34, 36 AND 38 (LOTS 1196, 1823, 1209, 1212, 1217) AND STACK STREET, NO. 2-4 (LOTS 1222 AND 1223), FREMANTLE – 56 LOT SURVEY STRATA SUBDIVISION - (JL WAPC59-23 AND WAPC164400)**

**Officer Comment**

As an alternative to ceding the entire area shown on the subdivision plan as Public Open Space, the applicant has indicated an option to retain ownership of the space as Common Property, with public access over the area. This would mean that Council waive the request for a Public Open Space contribution as ceded land or cash in lieu, however could secure public access and use of the space. The strata of the development would then be responsible for maintenance to the City's standards in perpetuity. Proposed amendments are listed for council consideration below.

Officers position on the Public Open Space requirements are set out in the Officers report and recommendation, with the preference as assessed against the planning framework being a predominantly cash in lieu contribution as per the Local Structure Plan.

**Proposed Amendment by Officers:**

**Remove condition 14, amend condition 15 and a new condition as follows:**

- ~~14. The landowner/applicant shall make payment to the local government for the sum equivalent to the value of 7.5 per cent of the land, being that portion of the land that would otherwise be provided as open space, in accordance with Section 153 and 155 of the Planning and Development Act 2005. (Local Government).~~
15. Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Fremantle and Public at Large are to be placed on the certificate(s) of title of the proposed ~~lot(s) 350sqm~~ **area of the** Common Property (**currently shown as Public Open Space**) as demonstrated in attached diagram) specifying access rights. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement(s) are to state as follows:
  - a. The obligation of maintenance, repair and service of the POS and any costs associated, remains with the Strata Company. In the event of a failure of the strata company to maintain the easement area, the City of Fremantle may enter on to the easement area to carry out maintenance with costs being borne by the strata company.



- b. The POS is accessible and available to use of the residents of the strata complex and public at large.**

**(Local Government)**

**18.(NEW CONDITION) Arrangements being made for the proposed common property (public open space) to be developed by the landowner/applicant to a minimum standard in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the City of Fremantle. (Local Government)**



**C2403-2 LOTS 1196, 1201, 1823, 1209, 1212, 1217 (NO. 30 – 40) AMHERST STREET AND LOTS 1223, 1222 (NO. 2 – 4) STACK STREET, FREMANTLE – 57 GROUPED DWELLINGS, 24 MULTIPLE DWELLINGS, 7 COMMERCIAL TENANCIES, AND ASSOCIATED COMMON PROPERTY (AM DAP008/23)**

**Proposed amendments by Cr Andrew Sullivan**

Amend clause 21 and add in an additional condition as shown below.

**Council:**

**SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Lots 1196, 1201, 1823, 1209, 1212, 1217 (No. 30 – 40) Amherst Street and Lots 1223, 1222 (No. 2 – 4) Stack street, Fremantle – 57 Grouped Dwellings, 24 Multiple Dwellings, 7 Commercial Tenancies, and Associated Common Property, subject to conditions, for the reasons outlined in the Responsible Authority Report (RAR), *with the following amendments:***

***Amended condition 21:***

**Detailed landscaping plans for the subject site, *inclusive of the verge*, which include:**

- a. specifications for the planter boxes;
- b. a plant legend which includes botanical and common names and plant quantities;
- c. reticulation;
- d. details of existing vegetation to be retained;
- e. treatment of landscaped surfaces (i.e. mulch, lawn, etc); and
- f. confirmation of mulch details

***Additional condition:***

***Scheme by-laws being prepared and submitted for the City's consideration and written confirmation in accordance with the Strata Titles Act 1985 (as amended) to include the following addition to the by-laws contained in Schedules 1 and 2 of that Act:***

- a. *All lot owners within the scheme to pay a contribution by way of strata levy for the ongoing repair and maintenance of the verge landscaping.*
- b. *Amendment to or repeal of the above provision cannot be affected without the City of Fremantle's agreement.*

**Reason for amendment:**

To ensure the quality landscaping proposed by the applicant in the public verges is maintained in perpetuity for the benefit of residents and community.



**C2403-3 HERBERT STREET, NO. 21 (LOT 23), NORTH FREMANTLE -  
DEMOLITION OF EXISTING SINGLE HOUSE AND PROPOSED  
TWO STOREY SINGLE HOUSE (ED DA0127/23 and  
DA0353/23)**

**Proposed Alternative Recommendation by Cr Jennifer Archibald**

**Council:**

**A) Reconsider its decision dated 23 August 2023 and APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Demolition of Existing Single House at No.21 (Lot 23) Herbert Street, North Fremantle, as detailed on the plans dated 20 April 2023, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 20 April 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:**
  - a. A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.**
  - b. Digital photographs taken of the building (once vacated) to include:**
    - i. a general/overall photo of the building to be demolished;**
    - ii. photos of each of the four elevations;**
    - iii. internal photos of all rooms; and photos of any special architectural features.**

**Advice note:**

- i. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
- ii. Any removal of asbestos is to comply with the following –**

**Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for**



**asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];**

**Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce.**

**<http://www.docep.wa.gov.au>**

- iii. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.**

**B) APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Demolition of Existing Single House and Proposed Two Storey Single House at No. 21 (Lot 23) Herbert Street, North Fremantle, subject to the following conditions:**

- 3. This approval relates only to the development as indicated on the approved plans, dated 16 February 2024. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 4. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:**
  - a. A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.**
  - b. Digital photographs taken of the building (once vacated) to include:**
    - iv. a general/overall photo of the building to be demolished;**
    - v. photos of each of the four elevations;**
    - vi. internal photos of all rooms; and photos of any special architectural features.**
- 5. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 6. Prior to lodgement of a Building Permit for the development hereby approved, a detailed drawing showing how the balcony**



and terrace located on the northern elevation, are to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:

- a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or
- b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or
- c) a minimum sill height of 1.60 metres above the internal floor level,

Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.

- 7. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
- 8. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.
- 9. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
- 10. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

**Advice note:**

- iii. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- iv. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered



**Building Surveyor Contractor in the private sector) must be submitted with the BA1.**

- v. Any removal of asbestos is to comply with the following –**

**Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];**

**Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce.**

**<http://www.docep.wa.gov.au>**

- iv. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.**
- v. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**

**The applicant is advised that the new crossover shall be separated from any verge infrastructure by:**

- a minimum of 2.0 metres in the case of verge trees**
- a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment's or street furniture), and**
- a minimum of 1.0 metre in the case of power poles, road name and directional signs.**



**Reason for alternative recommendation:**

The existing house at 231 (Lot 23) Herbert St was constructed around the early 1940s or prior but is now in a dilapidated condition. While it is considered by Council staff to be of "some heritage significance", its restoration would require a considerable amount of reinstatement of material to match the original removed during "upgrades". It would also require demolition and replacement of a substantial amount of the remaining building given its poor condition.

The proposed replacement residence meets many of the guidelines for develop in this area. In contrast to the existing house, it has a setback that is in line with the overall streetscape and its proposed height would provide an improved setting between the 3 storey building at 23 Herbert St and the gracious limestone dwelling at 19 Herbert St.



**C2403-5 WATKINS STREET, NO. 18 (LOT 1289), WHITE GUM VALLEY  
- VARIATION TO PREVIOUS DEVELOPMENT APPROVAL  
DA0249/23 (SINGLE STOREY SINGLE HOUSE) – (JD  
VA0004/24)**

**Proposed Alternative Recommendation by Cr Andrew Sullivan**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Variation to Previous Development Approval DA0249/23 (Single Storey Single House) at No. 18 Watkins Street (Lot 1289), White Gum Valley subject to the following conditions:**

**Condition(s) No. 1 of the Development Approval dated 6 December 2023, be deleted and replaced with the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans dated 15 January 2024. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the original decision letter, being 6 December 2023. If the subject development is not substantially commenced within a 4 year period of the original decision letter, the approval shall lapse and be of no further effect.**

**Additional Condition:**

- 10. Prior to occupation, at the cost of the applicant and/or owner, the street tree shall be removed to facilitate the crossover, and two replacement trees planted on the verge to the satisfaction of the City of Fremantle.**

**Advice note(s):**

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.**
- iii. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site. The applicant is advised that the /The new/ modified vehicle crossover shall be separated from any verge infrastructure by:**



- a minimum of 2.0 metres in the case of verge trees
  - a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment's or street furniture), and
  - a minimum of 1.0 metre in the case of power poles, road name and directional signs.
- iv. Any works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, requires a separate approval from the City of Fremantle's Infrastructure Business Services department who can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.
- v. The applicant is advised that the existing verge tree is to be protected during the construction process with a minimum 2.8 x 2.8m fencing enclosure.
- vi. Any removal of asbestos is to comply with the following –
- Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a Class B asbestos removal licence holder for. All asbestos removal is to be carried out in accordance with the Work Health and Safety Act 2020 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];
- Note: Removal of any amount of friable asbestos must be done by a Class A asbestos removal licence holder and an application submitted to WorkSafe, Department of Commerce.  
<https://www.commerce.wa.gov.au/worksafe/>.
- vii. If construction works involve the emission of noise above the assigned levels in the Environmental Protection (Noise) Regulations 1997, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an Application for Approval of a Noise Management Plan must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.
- Note: Construction work includes, but is not limited to, Hammering, Bricklaying, Roofing, use of Power Tools and radios etc.



- viii. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.**
- ix. The applicant is advised that where contamination is detected, the site is required to be reported to the Department of Water and Environmental Regulation and remediated in accordance with the requirements of that Department. For further information, please see the Department fact sheet on Identifying and Reporting Contaminated sites available online at [https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact\\_sheets\\_tech\\_advice/Fact\\_sheet\\_1.pdf](https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact_sheets_tech_advice/Fact_sheet_1.pdf).**
- x. The removal of the street tree is required to facilitate the crossover. As per the condition of approval, the tree is to be removed at the owners cost (Helliwell value estimated at \$4, 350.24), with an additional two trees planted in the following season on the verge. All works relating to street trees (removal and planting) must be completed with the approval of the City of Fremantle. The applicant should contact the City's Parks and Landscape team to ensure all requirements are met per the City's Verge Policy.**

**Reason for amendment:**

The amended proposal makes significantly better use of the site and does not have a detrimental impact on the streetscape.



## **C2403-14 'FRIENDS OF' GROUPS POLICY**

### **Proposed Amendments by Cr Adin Lang**

Amend the Policy Scope of the 'Friends of' Groups Policy provided in Attachment 1, to read as follows:

#### **Policy scope**

This policy applies to 'Friends of' groups that carry out conservation activities, ~~focussed on urban bushland and coastal and river foreshore regeneration and management,~~ within ~~natural areas in~~ the City of Fremantle.

This policy defines 'Friends of' groups and outlines how the City will support them in the delivery of their activities.

This policy establishes a framework to enable and support the conservation activities of 'Friends of' groups within ~~the bushlands, river foreshore and coastal dunes of~~ the City of Fremantle. The intent is to decrease the administrative burden on groups to allow them to focus on their core activities.

'Friends of' groups are either incorporated or unincorporated groups who get together to carry out conservation activities in ~~natural~~ areas managed by the City or other publicly owned ~~natural~~ areas with written approval from the landowner.

The focus of 'Friends of' groups is to conduct conservation activities in partnership with the City and aligned with the management plan/s for their chosen ~~natural~~ area. These partnerships are formalised through an approved Annual Work Plan.

The City also encourages and supports residents and community groups to undertake urban greening activities on other areas of urban open space through the Verge Garden Policy.

#### **Reason for alternative amendment:**

There are multiple areas across the City of Fremantle that are not 'Natural Areas' however they have potential to contribute equally positive biodiversity and conservation outcomes as those in 'Natural Areas'. The City has declared a biodiversity crisis at a time of decreasing urban canopy and increasing impacts from the urban heat island effect, we should support and recognise any 'Friends of Groups' who wish to carry out conservation activities anywhere in Fremantle.

Furthermore, the changes better capture Friends of Clontarf Hill and Friends of Hollis Park as one site (Clontarf) is a road reserve and the other (Hollis) is multiple housing blocks.