CITY OF Fremantle

Agenda

Ordinary Meeting of Council

Wednesday 13 March 2024 6pm

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Notice of an Ordinary Meeting of Council

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday 13 March 2024** in the Council Chamber at the Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

Matthew Hammond
A/Chief Executive Officer

7 March 2024

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1. Official opening, welcome and acknowledgement

Ngala kaaditj Whadjuk moort keyen kaadak nidja Walyalup boodja wer djinang Whadjuk kaaditjin wer nyiting boola yeye.

We acknowledge the Whadjuk people as the traditional owners of the greater Fremantle/Walyalup area and we recognise that their cultural and heritage beliefs are still important today.

2. Attendance, apologies and leave of absence

There are no previously received apologies or approved leave of absence.

3. Applications for leave of absence

Elected members may request leave of absence.

4. Disclosures of interest by members

Elected members must disclose any interests that may affect their decision-making. They may do this in a written notice given to the CEO; or at the meeting.

5. Responses to previous public questions taken on notice

Questions taken on notice at the Ordinary Meeting of Council held on 28 February 2024 will be answered within the Minutes of the meeting.

6. Public question time

Members of the public have the opportunity to ask a question or make a statement at council and committee meetings during public question time. Further guidance on public question time can be viewed here, or upon entering the meeting.

7. Petitions

Petitions may be tabled at the meeting with agreement of the presiding member.

8. Deputations

8.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy.

There are no special deputation requests.

8.2 Presentations

Elected members and members of the public may make presentations to the meeting in accordance with the City of Fremantle Meeting Procedures Policy.

9. Confirmation of minutes

OFFICER'S RECOMMENDATION

Council confirm the minutes of the Ordinary Meeting of Council dated 28 February 2024.

10. Elected member communication

Elected members may ask questions or make personal explanations on matters not included on the agenda.

11. Reports and recommendations from officers

11.1 Planning reports

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)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Subdivision Plans WAPC164400 2. Survey Strata Plan WAPC59-24 3. Applicants Planning Report 4. DAC Minutes February 2024 5. Site Photos

SUMMARY

The City has been referred two subdivision applications to facilitate redevelopment of Amherst Street 30, 34, 36 and 38 (Lots 1196, 1823, 1209, 1212, 1217) and Stack Street, No. 2 and 4 (Lots 1222 and 1223), Fremantle. The applicant is seeking approval to amalgamate and subdivide into three lots (WAPC164400) and a survey strata application (WAPC59-24) to subdivide the larger created Lot 2 as shown in WAPC164400, into 57 strata lots. The proposal is inclusive of internal, common property roads and two open space reserves.

The proposal is referred to Council due to the scale and significance of this proposal and for Council's position on the applicants proposed public open space (POS) contribution. The application seeks discretionary assessments against the Residential Design Codes Volume 1 and Knutsford Street East Structure Plan.

The City of Fremantle (the City) is not the decision maker for the subdivision, with comments on the proposal to be provided to the Western Australian Planning Commission (WAPC) to inform their decision. Both applications are recommended for conditional approval.

PROPOSAL

Detail
Comment is sought by the WAPC for two subdivision applications:

<u>Referral 1: WAPC Reference Number 164400</u>

Consists of a three freehold lot subdivision with the future lots being:

- Lot 1 (Apartment Dwelling Lot)- 1,417.5m^2
- Lot 2 (Grouped Dwelling Lot)- 12127.74m^2
- Lot 3 (Commercial Tenancies Lot)– 455.81m^2

This subdivision is effectively step one, to enable the final lot layout. See Attachment 1 below for copy of the proposed subdivision plan.

Referral 2: WAPC Reference Number 59-24

Consists of 57 lot survey strata subdivision of future Lot 2 (being 12,127m^2 as detailed in WAPC164400 above) with these future lots being:

- Lots ranging in size from 70m^2 to 160m^2;
- A common property for vehicular access;
- Two private laneways and two private roads and two private pedestrian access links (running east west through the site); and
- Two portions of public open space (being 394.73m^2 and 1093.21m^2).

See Attachment 2 below for a copy of survey strata subdivision plan.

It is noted that while proposed by the same developer, these applications are an entirely new proposal than that considered last year.

Site/application information

Date received:	20 December 2023 = WAPC164400 and 30 January 2024 – WAPC59-24
Owner name:	Latenza 3 Pty Ltd
Submitted by:	Urbis
Scheme:	Development Zone - (R60 – R100)
Heritage listing:	No Heritage Area / Not Listed
Existing land use:	Industry
Use class:	Vacant Land
Use permissibility:	N/A

CONSULTATION

External referrals

To be undertaken by officers at the Department of Planning, Lands and Heritage.

Internal referrals

- Design Advisory Committee (DAC)

The City's Design Advisory Committee reviewed the application on a number of occasions. The merits of the design will be detailed specifically in the Responsible Authority Report for the development of the site (also included in this agenda). However, the City's Design Advisory Committee was also specifically asked to comment on the applicants proposal to cede land for Public Open Space and whether the spaces were designed appropriately for this purpose. The DAC meeting minutes can be found at Attachment 4, and its concluding comments are as follows:

The DAC's preference for an optimum outcome for the community and for residents is for the westernmost and regular shaped portion of POS 2 to be Public Open Space vested in the City, and for POS 1 and the 'apartment gardens' to be communal open space managed by the strata body and with easements in place to secure public accessibility.

Other recommendations:

- *Consider the spatial requirements for additional trees with generous canopy to enhance and further shade 'Strata Road C and D'.*
- *Consider appropriate tree species that will provide more extensive shade of the hard paving generally in the streets.*
- *Consider a more passive use for the 'apartment gardens'.*
- *Consider the DNA of the site and cultural associations and embed appropriate references in the development.*
- *Consider relocating the street furniture and shade structure away from the POS 2's entry at Amherst Street.*
- *The DAC looks forward to reviewing the remaining comments from DR3 on the Context and Character, Built Form and Sustainability*

The public open space requirement is detailed further in this report.

<u>Parks and Landscapes</u>

The subdivision plan indicates areas for public open space and common property. The City provided detailed comments on the proposed landscaping plan and required further improvements which can be controlled through appropriate conditions of approval and recommendations to the WAPC.

In relation to the proposed on site POS:

- Small, micro parks are not typically supported and contradict the Structure Plan for this site, which seeks cash in lieu to contribute to existing POS.
- This proposal could set a precedent through the Knutsford precinct, resulting with a number of micro parks in various developments. Ad-hoc placement of POS is not aligned with strategy or need.
- The POS Strategy shows this area is well catered for in terms of POS access.
- Cash in lieu can be used to implement stages of the existing Booyeembara Park concept plan which will increase usability for the community, including residents of this development.
- The location does not feel inclusive or inviting to the broader public, it has a distinct, private courtyard feel.
- The selected location has a lot of topography and the functionality and usability is questionable, with a number of stairs connecting it internally.
- There are concerns that the required level of maintenance will be an issue for the City and disruptive to residents abutting the park as they have

limited separation. The maintenance considerations for a small park like this with proximity to dwellings include noise, dust, chemical use, access for service vehicles and access for maintenance equipment.
- The proposal is a high intensity design with retaining walls, BBQ, furniture and detailed planting which may result in an ongoing maintenance burden for the City if delivered as designed. This is more related to a private apartment development's courtyard as opposed to POS.
- Irrigation is likely to be potable water which is high cost and has restrictions on use.

Detailed assessment of the proposed public open space is included below.

Engineering Infrastructure

The proposed development plans and subdivision layout were reviewed by the City. The traffic report provided to support the proposed development and private road layout network systems meet minimum standards. Standard advice regarding road design and construction, crossover permit requirements, stormwater discharge and other works in the road reservations will require appropriate permits and approval form the City. Relevant conditions of approval are recommended to ensure the construction is implemented to the required specifications.

Noting the substantial work required for this site, a condition is also recommended to require a Construction Management Plan to be submitted to the City prior to lodgement of a building permit for any earthworks.

Community

The proposed subdivision and the DAP application were advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal seeks discretion to the deemed-to-comply requirements of the R-Codes and the City's policies. The advertising period concluded on 10 February 2024. In response, the City received a total of 4 submissions; 2 raised concerns/objections to the proposals and 2 were in support of the development

A copy of these comments will be forwarded to the WAPC for consideration.

Issue Raised	**Officer comments**
Concerns were raised regarding the lack of trees on site.	The proposed development is accompanied with a landscaping plan which identifies areas for public and communal open spaces. Detailed landscaping works will be dealt with via the development application, with relevant

	conditions provided regarding the POS contribution and public access.
Concerns were raised regarding the type of dwellings proposed which does not accommodate for people with disabilities.	The subdivision deals with lot layout only. It does however provide a range of lot sizes, with the dwelling designs being considered through the DA.
Concerns were raised regarding details on the proposed retaining wall along the common boundary (eastern boundary of the subject site)	The proposed retaining wall is required to stabilize the land for development and will be subject to appropriate building approvals.
Supportive comments were provided advising that the proposed design incorporates greater diversity of housing typology across the multiple and grouped dwellings. The configuration will allow for greater access to natural light and ventilation, opportunities for quality landscaping and socialisation, and foster a relationship with both streetscapes.	The supportive comments are noted by Officers.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of Development Control Policy 2.2 (DCP 2.2), Development Control Policy 2.3 (DCP 2.3), City of Fremantle Local Planning Scheme No. 4 (LPS 4), the Knutsford Street East Local Structure Plan (KSELSP), the Residential Design Codes Volume 1 (R-Codes) and any relevant local planning policies. The application is deemed to comply against all relevant R-Codes provisions, with the exception of minimum site area requirements.

The density being sought for the subdivision is consistent with that associated under KSELSP with the provisions for R100 under the R-Codes. With regards to minimum internal road widths and the provision of public open space, the proposal meets the minimum standards. However, there are some minimum lot sizes less than that specified in Table 1 of the R-Codes, as well as the provision of public open space instead of payment in lieu. Further discussion associated with these aspects of the survey strata will be included in the Officers discussion below.

The KSELSP specifies that any application for subdivision to include sufficient information to facilitate the ultimate coordinated development of the subject land. Subdivision should be consistent with the vision, objective, principles and requirements of the structure plan.

Background

The subject site is bound to the north by Knutsford Street, east by Wood Street, west by Amherst Street and south by Stack Street. The site is currently vacant and has an unusual undulating topography.

The KSELSP was adopted by Council in February 2008. Council recommended amendments to the structure plan in September 2017. The Structure Plan as amended was approved by the WAPC on 10 April 2018.

The development site is zoned Development Zone and is within the Development Area 1 (DA1) - the KSELSP under LPS4. Under DA1 the site (Precinct 5) is identified to be Mixed Use / Residential (R60/100).

On 15 December 2023, the City received a Joint Development Assessment Panel (JDAP) application for 57 two storey Grouped Dwellings on future Lot 2, 24 Multiple Dwellings within a four-storey building on future Lot 1 (as identified in the subdivision application WAPC164400 the subject of this report) and single storey commercial tenancies (Industry-Light) to future Lot 3. The layout of the development proposal is consistent with these subdivisions. The application is currently being assessed, with a report to Council being presented in this agenda and will be determined by the Metro Inner Joint Development Assessment Panel in due course.

Knutsford Street East Local Structure Plan (KSELSP)

The KSELSP specifies the following vision for the structure plan area:

> *To redevelop an aging underutilised industrial area through the introduction of a mix of residential and commercial uses including small scale convenience retail to serve the local area and integrated with the existing surrounding community via the application of sustainable planning principles which retain the historic character of its former industrial use without compromising the amenity of the existing and future residents, workers and businesses.*

In order to achieve the above vision, development should adhere to the planning principles of, Integration, Permeability, Green Links, Community, Diversity, Efficiency, Environment, Economic Development, Amenity, Innovation, Urban Design, Adaptability, and Sustainability.

<u>Referral 1: WAPC Reference Number 164400</u>
It is proposed to amalgamate the 8 existing lots and subdivide into three Freehold lots. The proposed three lot subdivision is considered to be generally

consistent with the KSELSP, in that it facilitates the future coordinated development of the lot consistent with desired R60 to R100 densities.

Referral 2: WAPC Reference Number 59-24
The City is also in receipt of a referral for the survey strata subdivision of the proposed lot 2 (WAPC Ref 164400) which has been assessed concurrently. The application proposes the creation of 57 smaller strata lots ranging in size from 70m^2 to 160m^2.

The structure plan seeks to achieve diversity in housing choice by providing for a range of lot sizes, including a larger lot to enable multiple dwellings (studios and apartments). The diversity of housing types is targeted through the allocation of a range of medium densities over the subject land (R60 / R100). The maximum residential density code applicable is R100.

The KSELSP anticipates a population of 1,459 persons (based on 1.6 persons per dwelling for multiple dwelling and mixed-use development) for the entire structure plan area if it was developed at a density of R60. Based on the expected dwelling delivery of the proposed subdivision, in addition to the development of the multiple dwelling lot as part of the three freehold lot subdivision, the expected population from the development could be considered to be consistent with the projections for this specific lot in accordance with the structure plan, i.e. a total of 81 dwellings (mix of grouped and multiple dwellings) would equate to 130 persons based on an average of 1.6 persons per dwelling. As such, it is considered that the proposal achieves the housing targets of the structure plan.

In regard to the future built form outcome for the subject survey strata subdivision, it is noted that the City is in receipt of a JDAP application, 24 Multiple Dwellings, 57 two-three storey Grouped Dwellings, and 7 Industry-Light tenancies which is currently under assessment. The coordinated approach to the subdivision and the development proposal for construction of the dwellings would assist to secure the most appropriate built form outcome that has regard to the potential impacts on the amenity of each individual lot and the immediate locality. In this regard it is recommended the City's support for the survey strata subdivision is conditional upon an approved development being constructed to plate height.

Public Open Space Contribution
The proposed subdivision applications are to amalgamate the subject site into lots 1, 2 and 3 being 1417.5m^2, 12127.7m^2, and 455.8m^2 in area, respectively and to create survey strata lots to cater for the proposed development lodged to the City as part of a DAP application.

In accordance with section 153 of the *Planning and Development Act 2005*, the Commission may under section 143(1)(c) impose either of the following conditions on the approval of plan of subdivision of land

(a) A requirement that a specified portion of the land be set aside and vested in the Crown for parks, recreation grounds or open spaces generally;
(b) A requirement that the owner of the land make payment to the local government in whose district the land is situated of a sum that represents the value of a specified portion of the land in lieu of a requirement to set aside and vest in the Crown that portion of the land for parks, recreation grounds or open spaces generally.

Under DCP 2.3 - Planning for Public Open Space in Residential Areas, the Commission's normal requirement in residential areas is that, where practicable, 10% of the gross subdivisible area be given up free of cost by the subdivider and vested in the Crown under the provisions of the Act as a Reserve for Recreation.

Considering the above, the applicant proposes to cede the required 10% of the development area (being, 1488m^2) through provision of two linear POS identified in the subdivision plan (available as attachments 1 and 2) instead of payment of cash-in-lieu. There is no formal justification or assessment put forward in their application documents. The provision of POS instead of payment in lieu is contrary to the requirements of DCP 2.3, the KSELSP, and the City's adopted POS Strategy as explained below.

The DCP 2.3 outlines that the *Act* contain provisions which a cash payment can be made by the subdivider in lieu of providing land for open space. The Commission recognises that in certain circumstance the use of these provisions should be encouraged. These circumstances include subdivisions where:

- the land area is such that a 10 percent contribution would be too small to be of practical use;
- there may be sufficient public open space already in the locality;
- public open space is planned in another location by way of a town planning scheme or local structure plan.

Further to this, the City's adopted POS strategy identifies that four of the City's eight suburbs currently meet or exceed space required for POS. As outlined in the adopted POS strategy, the assessment of POS provision on a suburb-by-suburb basis shows that Fremantle and Beaconsfield benefit most, with the largest provision in terms of total hectares and number of spaces. Spaces in the immediate locality include Booyembara Park, Monument Hill, Stevens Reserve, Fremantle Golf Course and allocated space within the Swanbourne Street Local Structure Plan.

Part 2.4 of the KSELSP relates to public open space contributions. It notes that the provision of land for public open space may not be suitable in all instances, as it may be too small for practical use, and that sufficient public open space exists and is planned in the locality. As such, the WAPC allows for POS contributions to be provided through financial contributions (cash-in-lieu). As outlined within

the KSELSP, it is considered appropriate to provide cash-in-lieu of the provision of land for public open space within the structure plan area on the following basis:

- *The immediate area is provided with abundant passive and active open space areas, most particularly:*
    - *Booyeembarra Park to the east – active and passive recreation, including parkland and a skate park;*
    - *Stevens Reserve to the west – active and passive recreation, including sporting and playground facilities, and;*
    - *Monument Hill to the west – passive recreation, including seating and shade trees.*
- *Additional open space is planned and allocated in the adjoining SSSP area. The public open space areas are intended for passive and active use, with some areas proposed to retain parcels of established agonis flexuosa (WA peppermint) and Acacia Cyclops (wattle). An area of generally flat, cleared land will also be provided for the enjoyment of new and existing residents in this area.*
- *The structure plan also identifies the potential for a "green pathway" which will serve to link the existing and proposed open space and residential development areas. This "green pathway", incorporating streetscape improvements could be established within the wide road reserve of Knutsford Street, providing a safe, usable and attractive area for pedestrians to travel to and from community and shopping facilities.*

Considering the above, the structure plan provides for the public open space requirement to be met principally through the provision of cash-in-lieu to be used for a green pathway along Knutsford Street, streetscaping and enhancing existing POS. Precedent also exists with the WAPC imposing cash in lieu conditions on Development WA's subdivision in the north eastern portion of the structure plan area, and the recent Monument Terraces subdivision.

While the framework clearly sets out the intention for the area, given the due regard status of the Structure Plan and discretion available in state planning documents, an assessment of the suitability of the POS proposed by the applicant is provided below. In undertaking this assessment, officers engaged with the City's DAC.

In summary, the DAC considered that a small component of POS2 may be suitable for a public park, but that broadly, the design approach was not suitable for all areas designated by the applicant to be ceded. They have advised:

- While proposing 12.1% of the site as POS, much of this space is narrow and linear and appears as exclusively for residents use.
- Additional trees throughout the entire development may address community desires for more greening.
- While not part of this subdivision application, the proposed apartment building will overshadow large portions of POS2 reducing its amenity. One

benefit of the apartment building will be passive surveillance of the space however.

- POS 1 will function well as communal space for the apartments.
- POS 2, at its western most end, could be a small pocket park, but suggest relocating the street furniture and shade structure to improve the accessibility and legibility of the space. Specifically, POS from Amherst Street to the eastern wall of the apartment building and before the steps to the apartment gardens, may be suitable for public park.
- It is fair and reasonable for POS cash in lieu funds from this development to contribute to the upkeep of existing parks in the locality.

Open Space should balance aspirations for the broader community and residents of this development. In accordance with the DAC's suggestion, and the applicants intent to cede the space, balanced with the City's concerns regarding maintenance of the site, Officers suggest that a small area be allocated as being for public access. The area that is considered of an appropriate size or design for practical use as POS equates to approximately a 350m^2 area which is located at the Amherst Street interface being truly public. The POS area considered sufficient to be classified as POS equates to 2.5% of the required 10% land area (see image 1).

Image 1 – POS and appropriate area provided shown in red.

The remaining elements of POS are considered more as green linkages throughout the strata complex which provide minimal benefits for the greater Fremantle community, rather there is key benefits to the immediate strata owner/ occupier. To this effect, a condition on the survey strata application is recommended that requires a reduced cash-in-lieu payment of 7.5% area be provided with the smaller area identified in red (350m^2 – 2.5%), being available for public use. It is recommend that this smaller area be serviced with an easement for public at large and ongoing maintenance commitment from the strata.

It is noted that under the current provisions of the R-Codes there is no requirement to provide communal open space for the enjoyment of residents,

however the structure plan includes focuses on provision of green links within the area to link future residents and workers within the structure plan area to established parks and recreational nodes to the east and west, as well as local shopping facilities. The recently announced amendment to the state planning policy 7.3 (Medium Density Codes) are likely include requirements for provision of Communal Open Space for developments of this scale, however at the time of writing this report in time for Council agendas, the document had not been released so was unable to be used in the assessment.

State and development control policies

- SPP 7.3 Residential Design Codes Vol 1

5.1.1 Site area

Table 1 of the R-Codes Vol 1 provides general minimum and average site area. The grouped dwellings component of the proposal is assessed against the R80 requirements of the R-Codes Vol 1 which prescribes minimum and an average site area of 100m^2 and 120m^2, respectively. The proposed grouped dwellings area are generally compliant in site area provisions expect the following topologies which are to be developed on lots less than 100m^2 in area (micro-lots):

- Type I1 Typology (Lots 47, 48, 51, and 57), being minimum 88m^2 in area;
- Type I2 Typology (Lots 40, 41, 45, 46, and 50), being minimum 70m^2 in area; and
- Type G1 (under-croft) Typology (Lots 26 – 34), being 96m^2 in area.

The proposed lot size for the above-mentioned dwelling typologies is acceptable for the following reasons:

- The proposed development is in accordance with the provisions of the KSELSP which seeks to achieve diversity in housing choice by providing a range housing types that are provided through the allocation of a range of medium densities over the subject land – from R60 to R100. The various dwelling typologies within the development site ensures that the needs of a wide range of the community are met, in accordance with the objective and principles of the structure plan.
- There is a concurrent application for development of the site which demonstrates these lots are capable of suitable development. A condition of approval is recommended that requires the site is developed to plate height prior to release of the lots.
- The proposed subdivision meets average site area requirements, meaning that the number of dwellings proposed across the site meets that intended by the Structure Plan.

- SPP 7.3 –Medium Density Codes

The State Government recently introduced an amendment to draft State Planning Policy 7.3 to minimise change to popular R30-40 single house product while

retaining some of the greater flexibility and design improvements to maintain opportunities for greater housing diversity. It is noted that the Medium Density Codes will be publicly available on 8 March 2024 and will become operational following gazettal in the week starting 8 April 2024. At the time of writing this report, the document had not been released for review.

- DCP 2.2 Residential Subdivision

The proposed subdivision layout, access arrangements and service provisions, lot sizes and shapes are considered to address the objectives of DCP 2.2.

Other subdivision works

The subdivision also will require further site works including the construction of two private laneways and a private road (common property). Due to previous required remediation works which have occurred onsite, additional site works will also be required to facilitate even levels for future lots. In addition to the above matters, other relevant standard conditions are recommended relating to sightlines from the new vehicle access roads and laneways, the provision for POS (or cash in lieu of), the provision of adequate footpaths, pathways, street lighting and the upgrading the existing surrounding verge and street infrastructure.

CONCLUSION

As discussed above, the main issue of contention for the survey strata application, is the provision of Public Open Space. City officers propose a compromise that reduces the cash in lieu contribution to 7.5%, on the condition that the remaining 2.5% be provided on site via an easement over a small common property park (that remains in the ownership and maintenance of the strata). This is in contrast to the applicant's proposal for the entire balance to be provided on site.

Notwithstanding this, the proposed layout meets the objectives of the KSELSP. It is recommended that the City advise the WAPC that the freehold subdivision and survey strata applications are supported subject to the imposition of appropriate conditions.

STRATEGIC IMPLICATIONS

<u>Strategic Community Plan 2015-25</u>

- Increase the number of people living in Fremantle
- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

A) That the WAPC be advised that the City supports the three lot freehold subdivision application at 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, subject to the following condition(s):

1. **The subdivision being in accordance with the plan dated 18 December 2023 (Department of Planning Date), including any amendments placed thereon by Council, other than any modifications that may be required by the conditions that follow.**

2. **Prior to the Western Australian Planning Commission's endorsement of a diagram or plan of survey (deposited plan) for the creation of the lots proposed by this application, the Public Open Space being allocated as Common Property on the diagram or plan of survey.**

3. **All dwelling(s) on (LOT 1– Apartment Building) being constructed to plate height prior to the submission of the diagram or plan of survey (deposited plan).**

4. **Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on all lots at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)**

5. **The land being filled, stabilised, drained and/or graded as required to ensure that:**

   a) lots can accommodate their intended development; and
   b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and
   c) stormwater is contained on-site. (Local Government)

6. **Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots and access**

way(s) shown on the approved plan of subdivision. (Local Government)

7. Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government.

8. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)

9. A notification, pursuant to Section 165A of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

    a. *"This lot is located in an area historically and currently comprising industrial and similar type uses which may continue operation in accordance with relevant approvals and legal allowances." (Western Australian Planning Commission)*

10. Prior to lodgement of a Building Permit or Demolition Permit for the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:

    a) Use of City car parking bays for construction related activities;
    b) Protection of infrastructure and street trees within the road reserve;
    c) Security fencing around construction sites;
    d) Gantries;
    e) Access to site by construction vehicles;
    g) Site offices;
    h) Noise - Construction work and deliveries;
    i) Sand drift and dust management;
    j) Waste management;

k) Dewatering management plan;
l) Traffic management; and
m) Works affecting pedestrian areas.

The approved Demolition and Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

ADVICE NOTES

i. A demolition permit may be required to be obtained from the local government prior to the commencement of demolition works.

ii. Pedestrian safety should also be observed at the access points and the property boundary. Guidance on this can be found in AS 2890.1, minimum sight lines for pedestrian safety.

iii. The landowner/applicant is advised that no street verge trees are to be removed. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the City of Fremantle prior to commencement of subdivision works.

iv. The existing trees within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here: https://www.fremantle.wa.gov.au/residents/trees-and-verges.

v. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the City's Technical Officer, Parks and Landscape via info@fremantle.wa.gov.au or 9432 9999.

vi. The applicant is advised that the new vehicle crossovers shall be separated from any verge infrastructure by:
- 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.

vii. 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

viii. 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.

ix. 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.

x. 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.

B) That the WAPC be advised that the City supports the fifty seven (57) lot survey strata application at 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, subject to the following condition(s):

1. **The subdivision being in accordance with the plan dated 25 January 2024 (Department of Planning Date), including any**

amendments placed thereon by Council, other than any modifications that may be required by the conditions that follow.

2. **All Grouped dwelling(s) on all fifty-seven (57) lots being constructed to plate height prior to the submission of the diagram or plan of survey (deposited plan).**

3. **Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost. As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)**

4. **Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site. Engineering drawings and specifications are to be in accordance with an approved Urban Water Management Plan (UWMP) for the site, or where no UWMP exists, to the satisfaction of the Western Australian Planning Commission. (Local Government).**

5. **Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development; and In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government)**

6. **All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be**

provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)

7. **The land being filled, stabilised, drained and/or graded as required to ensure that:**

   a) lots can accommodate their intended development; and
   b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and
   c) stormwater is contained on-site. (Local Government)

8. **Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lots and access way(s) shown on the approved plan of subdivision. (Local Government)**

9. **The whole of the access way to the rear lot (s), including truncations and vehicle manoeuvring areas, being shown on the survey strata plan as common property. (Local Government).**

10. **The whole of the Public Open Space being shown on the survey strata plan as common property.**

11. **The proposed access way (s) being constructed and drained at the landowner/applicant cost to the specifications of the local government.**

12. **Uniform fencing/ walls being constructed along the boundaries of all the proposed lots abutting Public Open Space to the specification of the City of Fremantle. (Local Government)**

13. **Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the Western Australian Planning Commission and to the specifications of the local government.**

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.

17. **A notification, pursuant to Section 165A of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed strata lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:**

"This lot is located in an area historically and currently comprising industrial and similar type uses which may continue operation in accordance with relevant approvals and legal allowances."
(Western Australian Planning Commission)

ADVICE NOTES

i. **The landowner/applicant is advised that no street verge trees are to be removed. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the City of Fremantle prior to commencement of subdivision works.**

ii. **The existing trees within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here: https://www.fremantle.wa.gov.au/residents/trees-and-verges.**

iii. **The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the City's Technical Officer, Parks and Landscape via info@fremantle.wa.gov.au or 9432 9999.**

iv. **The applicant is advised that the new vehicle crossovers shall be separated from any verge infrastructure by:**
- **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.**

v. **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.

vi. **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.**

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)

Meeting Date: 13 March 2024
Responsible Officer: Manager, Development Approvals
Voting requirements: Simple Majority
Attachments:
1. Site Survey
2. Grouped Dwelling Development Plans (including commercial tenancies)
3. Multiple Dwelling Development Plans
4. Planning Report (without appendices)
5. Landscaping Concept Package
6. Sustainability Report
7. Transport Impact Statement
8. Waste Management Plan
9. DAC Minutes Combined (DR3 – DR4)
10. Public submission schedule with applicant Responses
11. Interim Engagement Report
12. DWER Decontamination Report
13. Multiple Dwelling Assessment Table
14. Response to RFI from applicant
15. Site Photos

SUMMARY

Approval is sought to construct 57 Grouped Dwellings, 24 Multiple Dwellings, 7 commercial tenancies, and associated common property at Lots 1196, 1201, 1823, 1209, 1212, 1217 (No. 30 – 40) Amherst Street and Lots 1223, 1222 (No. 2 – 4) Stack Street, Fremantle

As the proposed development value exceeds $2 million, the application is opting to have the application determined by the Metro Inner Joint Development Assessment Panel (JDAP). The City's Responsible Authority Report (RAR) is referred to Council for endorsement of the recommendation.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought to demolish all the existing structures and materials onsite and construct the following;

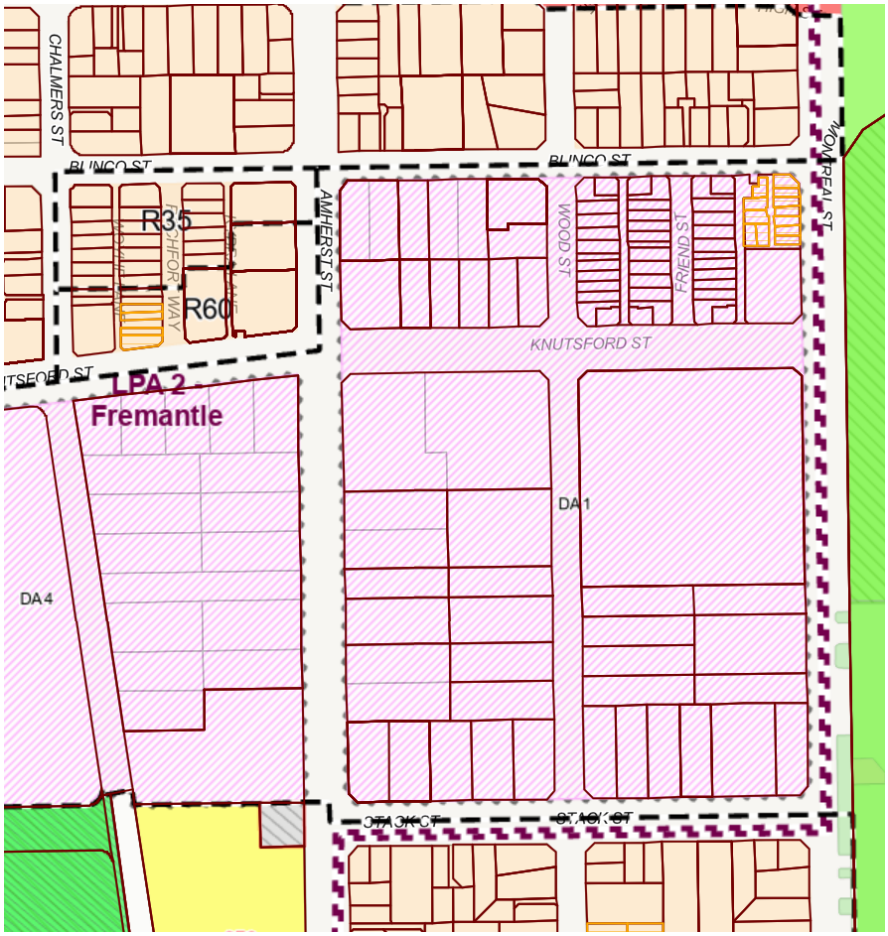
- 57 two-storey Grouped Dwellings;
    - 5 x four-bedroom townhouses
    - 43 x three-bedroom townhouses
    - 9 x two-bedroom townhouses
    - On-site parking provisions (across ground level)

- 24 Multiple Dwellings and associated parking across four storeys;
    - 15 x two-bedroom apartments
    - 9 x one-bedroom apartments
    - On-site parking provisions (across basement levels):
        1. 39 total car bays:
            - 36 residential parking bays; and
            - 3 on-site visitor parking bays.
    - Bicycle parking:
        - 16 resident bicycle bays in ground floor.
    - Storage, utilities and services infrastructure across ground level
        2.
- 7 Commercial tenancies;
- Consolidated two-way vehicle access (strata roads A – G) resulting in 4 crossovers onto Amherst Street;
- 11 visitor on-street parallel carbays Amherst Street;
- 10 on-street perpendicular carbays on Stack Street;
- New footpath configurations adjacent to Amherst Street; and
- Earthworks and retaining walls to support associated development

Development plans are included as **Attachment 1, 2 and 3**.

Site/application information

Date received:	19 December 2023
Owner name:	Latenza 3
Submitted by:	Locus Development Group C/- Urbis
Scheme:	Development Zone (Residential/Mixed Use R60/R100)
Heritage listing:	Not Listed
Existing land use:	Vacant
Use class:	Grouped Dwellings, Multiple Dwellings, Commercial Tenancies (Industry-Light)
Use permissibility:	P, P, D



OFFICER'S RECOMMENDATION

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).

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

Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Metro Inner JDAP
Local Government Area:	City of Fremantle
Applicant:	Locus Development Group C/- Urbis
Owner:	Latenza 3 Pty Ltd
Value of Development:	$38 million
Responsible Authority:	City of Fremantle
Authorising Officer:	Chloe Johnston, Manager Development Approvals
LG Reference:	DAP008/23
DAP File No:	DAP/23/02615
Application Received Date:	13 December 2023
Report Due Date:	18 March 2024
Application Statutory Process Timeframe:	90 Days (plus additional 10 days agreed)
Attachment(s):	1. Site Survey 2. Grouped Dwelling Development Plans (including commercial tenancies) 3. Multiple Dwelling Development Plans 4. Planning Report (without appendices) 5. Landscaping Concept Package 6. Sustainability Report 7. Transport Impact Statement 8. Waste Management Plan 9. DAC Minutes Combined (DR3 – DR4) 10. Public submission schedule with applicant responses 11. Interim Engagement Report 12. DWER Decontamination Report 13. Multiple dwelling assessment table 14. Response to RFI from applicant 15. Site Photos

Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☐ Yes ☐ N/A	Complete Responsible Authority Recommendation section (To be completed post Council meeting)
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02615 is appropriate for consideration as a "Grouped Dwelling", "Multiple Dwelling" and "Industry-Light" land use and compatible with the objectives of the zoning table in the City of Fremantle Local Planning Scheme No. 4.

2. **Approve** DAP Application reference DAP/23/02615 and accompanying plans *(DA.APT.01, DA.APT.02, DA.APT.03, DA.APT.04, DA.APT.05, DA.APT.06 DA.APT.07, DA.APT.08, DA.APT.09, DA.APT.10, DA.APT.11, DA.APT.12, DA.APT.13, DA.APT.14, DA100,DA101, DA102, DA103, DA104, DA200, DA201, DA202, DA300, DA400, DA401, DA402, DA403, DA600, UD004, UD005, UD006, UD007, UD008, DA.A1.104, DA.A1.105, DA.A2C.01, DA.A2T.01, DA.A3.01, DA.A3.02, DA.B.01, DA.G1.01, DA.GIS.01, DA.G2.01, DA.G3.1, DA.H.01, DA.I1.01, DA.I2.01, DA.T.COMM*) dated 13 December 2023, in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Local Planning Scheme No. 4, subject to the following conditions:

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.

2. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.

4. Any proposed works that may impact existing street trees within the adjacent road reserves and/or any proposal to remove or prune existing

trees or provide new trees within the adjacent reserves will subject to separate applications and approval from the City of Fremantle.

5. Prior to the lodgement of a Building Permit application for the development hereby approved, design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle. All piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters, other plant and bin storage areas must be integrated into the design of the building and located to minimise any visual and/or noise impact on the occupants of nearby properties and screened from view from the street.

6. Prior to lodgement of a Building Permit application, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.

7. 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.

8. Prior to the occupation of the development, the approved landscaping plans shall be completed in accordance with the approved plans or any approved modifications thereto and be maintained for the life of the development, to the satisfaction of the City of Fremantle.

9. Prior to the lodgement of a Building Permit application for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.

10. 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 for the life of the development.

11. 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.

12. Prior to the lodgement of a Building Permit for the development hereby approved, the applicant is to submit, and have approved to the satisfaction of the City of Fremantle, a detailed parking plan design which complies with the Australian Standard AS/NZS 2890 and AS/NZS 1428, including parking bay/s (comprising visitor bays, loading bays, disabled bays, motorcycle / scooter bays), aisle widths, circulation areas, driveway/s and points of ingress and egress.

13. Prior to occupation of the development hereby approved, all bicycle parking/racks shown on the approved plans shall be provided to the satisfaction of the City of Fremantle and must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

14. Prior to the occupation of the development hereby approved, all car parking, bicycle parking, motorcycle/scooter parking and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.

15. Prior to the issue of a building permit or Demolition Permit, a Construction and Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:

    a) Use of City car parking bays for construction related activities;
    b) Protection of infrastructure and street trees within the road reserve;
    c) Security fencing around construction sites;
    d) Gantries;
    e) Access to site by construction vehicles;
    f) Contact details;
    g) Site offices;
    h) Noise - Construction work and deliveries;
    i) Sand drift and dust management;
    j) Waste management;
    k) Dewatering management plan;
    h) Tree protection zone to be established for trees identified to be retained in the approved landscaping plan (including any verge trees) where applicable;
    l) Traffic management; and
    m) Works affecting pedestrian areas.

    The approved Demolition and Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

16. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to existing Industrial, Commercial, and Warehouse uses and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.

17. Department of Water and Environmental Regulation (DWER) recommended Condition

    a) Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.
    b) If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the commencement of construction works to the satisfaction of the City of Fremantle on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.

    Investigations and remediation are to be carried out in compliance with the *Contaminated Sites Act 2003* and current Department of Water and Environmental Regulation contaminated sites guidelines. (Department of Water and Environmental Regulation)

18. Prior to the lodgement of a building permit application, a Green Star 'Designed' assessment from the Green Building Council of Australia (GBCA) demonstrating that the building's design has been assessed and is on track to achieve a minimum 4 Star Green Star Certified rating, or a Sustainable Design Assessment Report prepared by a practicing Green Star Accredited Professional (GSAP) as 'equivalence', is to be submitted to the satisfaction of the City of Fremantle.

19. Prior to occupation, a Green Star 'Certified' rating with certification from the Green Building Council of Australia (GBCA) confirming the building's design and construction achieved a minimum 4 Star (Best Practice) Green Star Certified rating, or a Sustainable Design Assessment Report prepared by a practicing Green Star Accredited Professional (GSAP) as equivalence, is to be submitted to the satisfaction of the City of Fremantle.

20. Detailed civil engineering drawings and specifications for works within the road reserve (Amherst Street and Stack Street) for the construction of the on-street parking, must be lodged for approval to the City prior to commencement of construction works. Construction works are to be undertaken in accordance with the approved development application, engineering drawings and specifications to the satisfaction of the City of Fremantle.

21. Detailed landscaping plans for the subject site 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

must be lodged for approval by the City prior to lodging a building permit. Planting and installation must be in accordance with the approved landscaping and reticulation plans and completed prior to occupation of the development and maintained thereafter, to the satisfaction of the City.

22. 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 Notes

1. 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.

2. 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.

3. The applicant is advised of the requirement to prepare a 'Planning Condition Schedule' that outlines how each of the above conditions have been addressed, with specific reference to plans and/or other supporting documentation where relevant and share this with officers to assist City officers in the process of clearance of relevant conditions.

   The applicant will need to submit an application for request for condition clearance and the pay the requisite fee to commence this process.

4. The applicant is advised that the placement of some laundries *(Apartment Type 2B and Apartment Type 1A & 2C*) is non-compliant with the City's Health Local Laws 1997 and the *Health Act (Laundries and Bathrooms) Regulations (WA)*. Amended plans will be required with laundries separated from kitchens in a separate room or removed entirely.

   For clarification, the *Health Local Laws 1997* require a laundry that:

   1. has a minimum floor area of 3 square metres and is constructed of concrete or other approved impervious material of an approved thickness and the minimum width of the room shall be not less than 1.5 metres;
   2. is properly surfaced, with an even fall to a floor waste, suitably trapped and discharging to –
      a. the sewer of a licensed water service operator; or

b. a proper discharge pipe with flap valve fitted and, where necessary, protected by an approved sump; and

3. is not a room in which food is stored, prepared, served or consumed.

Further to this:

4. Where, in any building, a laundry is situated adjacent to a kitchen or a room where food is stored or consumed, the laundry shall be separated from the kitchen by a wall extending from the floor to the roof or ceiling.
5. Where there is an opening between a laundry and a kitchen or other room where food is stored or consumed, the opening shall –
   a. not be more than 1220 millimetres wide; and
   b. have a door which when closed shall completely fill the opening.

5. 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.

6. The applicant is encouraged to maintain the adjacent verge in accordance with the City's Verge Garden Policy which can be found on the City website at: https://www.fremantle.wa.gov.au/resident-perks

7. If the development utilises an air-handling system as defined in AS 3666, which uses water or other liquids to operate, humidify, clean, maintain, heat or cool the air, the system must apply for, and obtain, approval for the air-handling system, water system or cooling tower, from the City of Fremantle as required under the *Health (Air-handling and Water Systems) Regulations 1994*. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

8. 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.

9. 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.

10. All noise from the proposed development must comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended), such as:

    1. mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;
    2. vehicles;
    3. amplified acoustic systems; and
    4. patron noise.

    It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.

11. 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

12. The applicant/owner is advised that a verge bond deposit fee must be paid prior to the issue of a demolition permit or building permit. Details in regard to the verge bond can be found on the City's website at: https://www.fremantle.wa.gov.au/residents/trees-and-verges#Verge Bonds

13. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the C Parks and Landscape via info@fremantle.wa.gov.au or 9432 9999.

14. The applicant is advised that any signage may be subject to a separate application for planning approval.

15. 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 or 9432 9999.

16. The existing tree(s) within the road reserve shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction.

    Additional information with regard to the tree protection zone requirements can be found here: https://www.fremantle.wa.gov.au/residents/trees-and-verges

17. In relation to the site contamination condition and in accordance with regulation 31(1)(c) of the *Contaminated Sites Regulations 2006*, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with the condition. A current list of accredited auditors is available from www.dwer.wa.gov.au.

18. In regards to sustainability, the GBCA Green Star project registration and design assessment is an interim step towards certification to demonstrate sustainable built design requirements in accordance with Local Planning Policy 2.13. The Green Star project registration details are to be submitted.

    A Green Star self-assessment as 'equivalence' requires a Sustainable Design Assessment Report, to be prepared by a practicing Green Star Accredited Professional (GSAP) and aligned to the current GBCA Green Star Buildings rating tool, that includes, but is not limited to:

    - Statement of compliance that the building's design will achieve the expected performance requirements of a 4 Star Green Star building using the current GBCA Green Star Buildings rating tool.
    - A comprehensive report detailing the sustainability initiatives incorporated in the building design described in full with references to supporting documentation.
    - A Green Star Scorecard matrix showing targeted credit points with detailed comments documenting how the credit is satisfied with references to supporting documentation.
    - Supporting documentation as evidence to substantiate each credit claim and demonstrate the expected level of performance as per the Green Star Buildings rating tool Submission Guidelines, such as calculators, modelling, specifications, contracts, brief requirements, client instructions, reports, or working drawings.

    Note: A Green Star self-assessment does not allow the building to be marketed or promoted as a Green Star building nor use the Green Star logo or trademark.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban
Local Planning Scheme	City of Fremantle Local Planning Scheme No.4
Local Planning Scheme - Zone/Reserve	Development Zone
Structure Plan/Precinct Plan	Knutsford Street East Local Structure Plan

Structure Plan/Precinct Plan - Land Use Designation	Mixed Use/Residential
Use Class and permissibility:	Grouped Dwelling – Permitted Multiple Dwelling – Permitted Industry-Light – Discretionary
Lot Size:	1.4 hectares
Existing Land Use:	Industrial Development
State Heritage Register	No
Local Heritage	☒ N/A ☐ Heritage List ☐ Heritage Area
Design Review	☐ N/A ☒ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

Approval is sought to demolish all the existing structures and materials onsite and construct the following:

- 57 two or three storey Grouped Dwellings;
  - 5 x four-bedroom townhouses
  - 43 x three-bedroom townhouses
  - 9 x two-bedroom townhouses
  - On-site parking provisions (across ground level)

- 24 Multiple Dwellings and associated parking across four storeys;
  - 15 x two-bedroom apartments
  - 9 x one-bedroom apartments
  - On-site parking provisions (across basement levels):
    3. 39 total car bays:
       - 36 residential parking bays; and
       - 3 on-site visitor parking bays.
  - Bicycle parking:
    - 16 resident bicycle bays in ground floor.
  - Storage, utilities and services infrastructure across ground level

- 7 Commercial tenancies (Industry – Light);
- Consolidated two-way vehicle access (strata roads A – G) resulting in 4 crossovers onto Amherst Street;
- 11 visitor on-street parallel car bays Amherst Street;
- 10 on-street perpendicular car bays on Stack Street;
- New footpath configurations adjacent to Amherst Street; and

- Earthworks and retaining walls to support associated development

Background:

The subject site comprises of eight lots that are being amalgamated into three lots thorough a separate subdivision application to the WAPC. The development site is approximately 14,000m^2 in area and is bound and had frontage to Amherst Street to the west, Stack Street to the south.

The adjacent sites and immediate locality are characterised by a mix of building types, varying between 2 to 3 storey industrial and/or commercial land uses (storage, café, lunch bar and offices) to the east and northern boundaries, residential dwellings to the south of Stack Street and industrial development and undeveloped land to the west.

The development site is located within a development zone and is subject to the requirements of the Knutsford East Local Structure Plan.

Planning history relevant to the subject site is outlined as follows:

- At its meeting held on 23 November 2023 the Metro Inner-South Joint Development Assessment Panel (JDAP) re-considered a refused application for planning approval for 56 Grouped Dwellings at the subject site. The application was refused for the following reasons:

  1. *The overall development and built form is not consistent with the vision, objectives and principles of the Knutsford East Local Structure Plan and does not contribute to the overall mixed-use character or the desired amenity of the area.*
  2. *The proposed development does not contain adequate landscaping, deep planting and open space within the site for the amenity and benefit of residents*
  3. *The proposed development does not contain adequate visitor parking across the site to meet the needs of residents and their visitors.*
  4. *The majority of homes do not have winter solar access to living areas*
  5. *Development inconsistent with SPP7 in following areas - context and character, landscape quality, sustainability, amenity, community and aesthetics.*

  The applicant appealed JDAP's decision to the State Administrative Tribunal (SAT) in accordance with the Planning and Development Act 2005 Part 14. Subsequently, the applicant withdrew their application with SAT and did not proceed with the appeal.

On 19 December 2023, the City received a DAP application for 56 Grouped Dwellings, 24 Multiple Dwellings, 7 Commercial Tenancies (Industry Light) and associated common property. This application is an entirely new proposal than that previously considered by JDAP. After lodgement of the DAP application,

the proponent lodged two separate subdivision applications to the Western Australian Planning Commission (WAPC), one of which is to amalgamate the property into lots 1, 2 and 3 being 1417.5m^2, 12127.7m^2, and 455.8m^2 in area, respectively. The second subdivision application was then lodged to the WAPC to create 63 survey strata lots to cater for the proposed development.

The development plans can be found at **Attachment 2 and 3**.

Legislation and Policy:

Legislation

The legislative framework and policy base providing for the assessment and determination of the subject application is as follows:

1. Metropolitan Region Scheme (MRS);
2. *Planning and Development (Local Planning Schemes) Regulation 2015* (WA) (the Regulations); and
3. City of Fremantle Local Planning Scheme No. 4 (LPS4).

Planning and Development (Local Planning Schemes) Regulation 2015 (WA):

- Schedule 2, Part 8, Clause 64 – Advertising applications
- Schedule 2, Part 9, Clause 66 – Consultation with other authorities
- Schedule 2, Part 9, Clause 67 – Matters to be considered by local government
- Schedule 2, Part 9, Clause 68 – Determination of applications
- Schedule 2, Part 9, Clause 70 – Form and date of determination

State Government Policies

- State Planning Policy 7.3: Residential Design Codes – Volume 1
- State Planning Policy 7.3: Residential Design Codes – Volume 2
- Development Control Policy 2.3 - Planning for Public Open Space in Residential Areas

Structure Plans

- Knutsford Street East Local Structure Plan (Precinct 5)

Local Planning Scheme No. 4:

- Table 1 – Zoning
- Table 2 – Vehicle Parking requirements
- Clause 5.2 – Development Areas
- Schedule 1 – Dictionary of Defined Words and Expressions
- Schedule A – Clause 78B Advisory Committees

Local Planning Policies

- Local Planning Policy 1.3: Public Notification of Planning Proposals (LPP 1.3)
- Local Planning Policy 1.9: Design Advisory Committee and Principles Of Design (LPP 1.9)
- Local Planning Policy 2.9: Residential Streetscape Policy (LPP 2.9)
- Local Planning Policy 2.10: Landscaping of Development and Existing Vegetation on Development Sites

Consultation:

Public Consultation

The application was advertised to the public from the 11 January 2024 until 10 February 2024 by means of letters to owners/occupiers of properties within a 200m radius of the site, a sign on the site frontage, the City's MySay webpage and notices in the press. A 'Talk to a Planner' session was also held on the 1 February 2024 at the City's library.

In response, the City received a total of 4 submissions; 2 raised concerns/objections to the proposals and 2 were in support of the development. Full details and a schedule of the public submissions can be found at **Attachment 11** that also includes the applicant's responses to these comments.

The matters raised in the submissions (summarised) are discussed below and/or elsewhere in this report as indicated in the following table:

Issue Raised	**Officer Comments**
Concerns were raised regarding the lack of trees on site.	The proposed development is accompanied with a landscaping plan which identifies areas for public and communal open spaces. A development approval condition is recommended to required a detailed landscaping plan to be submitted to the City prior to the submission of the building permit, to identify the type and density of vegetation on site.
Concerns were raised regarding the type of dwellings proposed which does not accommodate for people with disabilities.	The development includes 24 dwellings in the apartment building that are connected to the ground floor via a lift. Also, a number of the grouped dwellings have ground level bedroom, living and kitchen which allows for the inhabitants to live on a single ground floor level, with the upper available to guest and carers. Matters relating to universal access is supported by the DAC.

Concerns were raised regarding details on the proposed retaining wall along the common boundary (eastern boundary of the subject site)	The proposed retaining wall is required to stabilize the land for development. This is further discussed in the body of the report.
Supportive comments were provided advising that the proposed design incorporates greater diversity of housing typology across the multiple and grouped dwellings. The configuration will allow for greater access to natural light and ventilation, opportunities for quality landscaping and socialisation, and foster a relationship with both streetscapes.	The supportive comments are noted by Officers.

<u>Referrals/consultation with Government/Service Agencies</u>

- *Department of Water and Environmental Regulation (DWER)*

Due to the proximity of the development site to a potentially contaminated site, the application was referred to DWER for comment. DWER advised that they cannot comment of the suitability of the site for the proposed development as it involves a change of land use from commercial/industrial to residential, which is considered to be a more sensitive land use. Given the proposed changes in land use, the DWER recommended the following Condition and advice notes to be included to any approval granted by the JDAP.

Condition

a) Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.
b) If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the

commencement of construction works to the satisfaction of the City of Fremantle on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.

Investigations and remediation are to be carried out in compliance with the *Contaminated Sites Act 2003* and current Department of Water and Environmental Regulation contaminated sites guidelines. (Department of Water and Environmental Regulation)

Advice

In relation to Condition [X] and in accordance with regulation 31(1)(c) of the *Contaminated Sites Regulations 2006*, a Mandatory Auditor's Report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with Condition [X]. A current list of accredited auditors is available from www.dwer.wa.gov.au.

The above condition and advice note was included in the City's recommendation letter to the WAPC as part of the subdivision application referral. A copy of DWER comments and decontamination report is included as **Attachment 12**.

<u>Internal comments</u>

- *Waste*

The City provided commentary on the Waste Management Plan submitted with the application initially and the applicant responded to these comments with the preparation of a revised Waste Management Plan (**Attachment 8).** The proposed plan appropriately addresses the City's policy.

- *Sustainability*

The applicant has submitted a Sustainability Report to address the requirements of the R-Codes and Structure Plan (**Attachment 6**). The report shows sufficient intent to address these principles and will be conditioned to be submitted with detailed working drawings and compliance demonstrated upon completion.

- *Environmental Health*

The City reviewed the proposal and recommended a standard conditions and advice note should the application be approved.

There is non-compliance in Apartment Type 2B due to undersized and no door between laundry and kitchen as well as noncompliant laundry in Apartment Type 1A & 2C. Laundry in kitchen. Furthermore, the placement of some laundries is non-compliant with the City's *Health Local Laws 1997* and the *Health Act (Laundries and Bathrooms) Regulations (WA)*.

To address this, an appropriate advice note is recommended in relation to amended plans being required to address the placement of some laundries in kitchen areas in accordance with City's *Health Local Laws 1997* and the *Health Act (Laundries and Bathrooms) Regulations* (WA).

- *Infrastructure Engineering*

A number of conditions and advice notes in relation to demolition/construction management, works within and or impacting road reserves, crossovers, car parking layout/manoeuvrability, obstruction and stormwater are recommended.

These recommended conditions and advice notes are included in the officers recommendation.

- *Parks and Landscape*

The landscaping package was reviewed by the City. This plan indicated areas for public open space and communal spaces. The City provided detailed comments on the proposed landscaping plan and required further improvements which can be controlled through appropriate conditions of approval.

<u>Design Review Panel Advice</u>

The applicant has engaged with the City's Design Advisory Committee (DAC) both during the design phase and after lodgement.

The DAC, as part of their DR3 comments, provided recommendations on the proposal against the design generally as well as against each of the 10 Design Principles and advised that the proponents incorporated many of the recommendations from each of the previous DAC meetings. The current design is again largely supported, however the Applicant was advised to provide further information and improve the design by considering a set of recommendations.

As part of the DR 4, the proponent provided responses to the DAC's comments from DR3 principally on the landscape quality, with the discussion focusing on an assessment of the suitability of the public open space being proposed by the applicant. The DAC's preference for an optimum outcome for the community and for residents is for the westernmost and regular shaped portion of POS 2 to be Public Open Space vested in the City, and for POS 1 and the 'apartment gardens' to be communal open space managed by the strata body and with easements in place to secure public accessibility. The matter of the public open space contribution can be found in the subdivision application assessment.

The DAC's assessment also talks to a broader assessment against SPP 7.0 Design of the Built Environment, noting the proposal is largely supported against the design principles.

Full details of all the DAC meeting minutes (DR3 – DR4) can be found at **(Attachment 9)** to this report.

Planning Assessment:

The proposal has been assessed against all relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy Section of this report. The following matters have been identified as key considerations in the assessment of this application:

- Zone Objectives and Land Use;
- Schedule 7: Local Planning Area 2 (Fremantle) Development Requirements;
- Knutsford Street East Local Structure Plan (KSELSP);
- Local Planning Policy 2.9 – Residential Streetscape Policy (LPP 2.9);
- On-site Parking;
- R-Code Vol. 1 Elements; and
- R-Code Vol. 2 Elements;

<u>Zone Objectives and Land Use</u>

The objectives for the Development zone are set out in Clause 3.2.1(h) of the City's LPS4, which are stated as follows:

- *The purpose of the Development Zone is to provide for future residential, industrial, commercial or other uses in accordance with a comprehensive structure plan or Local Development Plan prepared in accordance with the provisions of the Scheme.*

The proposal is considered to address the objectives of LPS4 for Development zone, as the development would provide residential and commercial uses which is in accordance with the KSELSP. The development site is zoned Residential/Mixed Use under the KSELSP with a goal to achieve diversity in housing choice by providing for a range of housing types as well as non-residential land uses in the structure plan area. As such, the proposed development is consistent with, and appropriate within the precinct.

LPS4 Table 1 – Zoning within the Development zone refers to the KSELSP for land use permissibility outlined as follows:

- Multiple Dwelling ('P' – permitted);
- Grouped Dwelling ('P' – permitted); and
- Industry Light ('D' – discretionary).

On the basis of the above, the proposal is considered to satisfy the purpose of the Development zone and the land uses are considered acceptable in principle, subject to compliance with other policy provisions.

Knutsford Street East Local Structure Plan (KSELSP)

The redevelopment opportunity inherent in the structure plan is required by designating the subject site as 'Development zone' under the LSP4, with a corresponding Development Area No. 1 reference. The subject site is located within Precinct 5 of the KSELSP area.

The following table includes assessment against the objectives and principles of the structure plan.

Objective and Principles *To create a sustainable residential and mixed use area by adhering to the following principles:*	**Compliance**
Integration: Ensure the new community is integrated with the existing residential community and the proposed new adjoining communities, with particular attention to the interface.	The key location requiring a sensitive and appropriate interface is with the existing detached dwellings located on the southern side of Stack Street. The proposed interface in this location complements the existing development and delivers an appropriate built form and land use outcome.
Green Links Promote accessibility between Booyeembarra Park and the proposed green spaces within and adjacent to the Swanbourne Street Structure Plan area.	The development results in green linkages which aligns with the objectives of Swanbourne Street Local Structure Plan which identifies how the public space may be developed and the relationship of the public/private interface between the public spaces and new residential areas
Community: Enhance and support existing public open space areas and provide for Knutsford Street to act as a community focal point and to foster social interaction by linking Monument Hill Park to the Golf course and Booyeembarra Park	The proposed development results in 350m^2 of POS area which is available to public at large and establishes a link amongst the other spaces within proximity of the development site. This matter is further discussed below.
Diversity: Promote a mix of land uses and a range of housing types to meet the housing needs of a wide range of the community.	The proposed development will deliver high quality infill development to support Fremantle's growing population, by providing a wide range of dwelling typologies to accommodate a diverse and cohesive community.
Efficiency: Take advantage of the site's proximity to existing urban areas and	The proposed residential density is R80. Although development at a greater

established community and service infrastructure by providing for development at a range of residential densities.	density (R100) can be considered, development at the proposed density ensures the site is not over developed and that the functionality of the existing road network is not impacted.
Environment: Remediate the site to where it is suitable for residential and community use.	Appropriate measures undertaken to ensure decontamination are to be made prior to residential development. This includes, where required, the preparation of a Preliminary or Detailed Site Assessment
Identity: Endeavour to instil a 'Fremantle identity' with some relationship to the site's history and its industrial character.	The development contributes to the emerging identity for the greater Knutsford Street East area through the proposed materiality reflecting the historical land uses of the area.
Economic Development: Provide opportunities for existing and new local commerce, shops, light industry and home based employment which expand upon the exiting employment opportunities in the area.	The development provides a commercial edge to Stack Street, as this is considered to be a more appropriate form of mixed-use development whereby the commercial uses are located on the edged in a consolidated manner, which will preserve the amenity for future residents within the internal areas of the master planned area.
Amenity: Create an urban environment which satisfies the lifestyle, aesthetic and security aspirations of its residents and workers.	The development endeavours to improve the amenity of the locality by providing a range of suitable built form typologies designed to accommodate a diverse and coherent community.
Innovation: Promote flexible land use solutions for residential, mixed use and home based employment opportunities.	The development results in various different land uses and housing typologies to respond to a variety of needs.
Urban Design: Adopt appropriate urban design principles, including from the WAPC's Liveable Neighbourhoods approach, and the Design WA suite of documents which strive to achieve a built form that promotes the preceding principles.	The development is considered to address the 10 Design Principles under the R-Codes Vol 2 for Apartment Design. This is further discussed in the section below.
Adaptability: Encourage the retention of existing buildings and businesses and the introduction of new business and	The existing surrounding locale is light industrial and residential area. The area is now undergoing a transition to be more residential in nature with several

built form which is able to adapt to a range of land uses over time to meet the changing needs of the community.	medium density developments contributing to the evolving public and private realm character. There is a strong character associated with its industrial heritage that is an important part of the local vernacular. As such the development proposed Industry-Light land uses in the commercial tenancies to respond to the community's current and future needs.
Sustainability: Achieve a balance between social, economic and environmental considerations and lead by example in the adoption of environmental best practice with a focus on sustainability in built form and land use and services	The development is considered to maintain a balance between social, economic and environmental considerations by ensuring the development is development to a high standard of sustainability a condition is also recommended to ensure development as constructed achieves a Green Star rating of at least 4 Stars or equivalent.

The table below includes an assessment against the key requirements of the KSELSP:

Provision	**Compliance**
Interface Any proposed development must ensure a sensitive and appropriate interface with the surrounding existing residential	The key location requiring a sensitive and appropriate interface is with the existing detached dwellings located on the southern side of Stack Street. The proposed interface in this location complements the existing development and delivers an appropriate built form and land use outcome.
Land Use Permitted land uses include, but not limited to: Grouped Dwellings Multiple Dwellings Discretionary land uses include, but not limited to: Commercial (Industry – Light)	The proposed development seeks approval for grouped dwellings, multiple dwellings, and commercial tenancies. The proposed land uses are consistent with the KSELSP.
Density	The proposed residential density is R80.

The intended level of density proposed is a minimum of R60 and maximum of R100.	
Movement Systems Any proposed development is not to result in an overdevelopment of the site that greatly impacts the functionality of the existing road network.	The proposed residential density is R80. Although development at a greater density (R100) can be considered, development at the proposed density ensures the site is not over developed and that the functionality of the existing road network is not impacted. Accordingly, no changes to the public road network are proposed nor required.
Build Form Height Maximum building height - 4 storeys. Minimum building height – 2 storeys when fronting Stack Street. Adaptable Ground Floor All ground floors to be designed in the form of adaptable buildings with 4.2m ground level floor to-ceiling height minimum with front door access.	Height Maximum overall building height of 4 storeys is proposed. 2 storeys are proposed when fronting Stack Street. Adaptable Ground Floor The development provides a commercial edge to Stack Street, as this is considered to be a more appropriate form of mixed use development whereby the commercial uses are located on the edged in a consolidated manner, which will preserve the amenity for future residents within the internal areas of the master planned area.

The structure plan requires specific considerations to be given to the interface between the structure plan area and any new proposed development or land uses on adjoining land. The development site has an interface with the vacant land to the west, which is likely to contain future residential development (with a density code of R60-R100) and potential public open spaces as required under a separate structure plan. On the southern side of the development site, there are a number of established lower density single houses and grouped dwellings, and to the north and east, the predominant development comprises non-residential warehouse, commercial, and industrial uses. The properties in proximity of the development site are also subject to the KSELSP provisions, as such, any future development will be subject to the same development requirements however, may remain in a state of transition for a period given the properties are all privately owned.

Residential Density

The structure plan seeks to achieve diversity in housing choice by providing for a range of housing types, including multiple dwellings and mixed-use development. This will ensure that the needs of a wide range of the community are met, in accordance with the objective and principles of the structure plan. The proposed development is considered to address the aims and objectives of the structure plan by providing a range of residential dwellings such as grouped and multiple dwellings which are "Permitted" land uses under Table 1 of the KSELSP. The intended level of density within the structure plan area is a minimum of R60 and maximum of R100. The proposed residential density is R80. Although development at a greater density of R100 can be considered, development at the proposed density ensures the site is not over developed and that the functionality of the existing road network is not impacted. Accordingly, no changes to the public road network are proposed nor required.

Non-Residential Land Uses

The structure plan does not envisage any large-scale non-residential uses to occur within its borders due to its proximity to the Fremantle City Centre. However, there is opportunity for non-residential land uses to be established in the area and the structure plan does have a built form requirement for an adaptable ground floor. As such, the proposed development provides a commercial edge to Stack Street.

Table 1 of the KSELSP provides a list of land uses which are permitted and/or discretionary within the structure plan area. The applicant has nominated Light Industry land use to be established within the proposed commercial tenancies facing Stack Street. In accordance with Table 1 of the KSELSP, Industry Light is a Discretionary Land Use in the Mixed Use/Residential zone. The proposed Industry Light land use provides an appropriate mix of uses which are sympathetic to each other and cohesive within the structure plan area, and mirrors existing uses within the surrounding area. Further, in accordance with Table 1 of the KSELSP, development towards Stack should be generally 2 storeys at the street interface with any additional storeys set well back from the street. The proposed commercial tenancies are maximum 2 storeys when fronting Stack Street. It is also noted that the proposed development will not impact on the amenity of surrounding areas with respect to overlooking and overshadowing, as Stack Street provides a great separation between the proposed commercial tenancies and the existing residential dwellings to the south of the subject site.

<u>Local Planning Policy 2.9 – Residential Streetscape Policy</u>
LPP 2.9 provides design guidance for residential building form within the City of Fremantle. The following table evaluates the proposals' compliance with relevant provisions of the City's LPP 2.9:

LPP 2.9 – Residential Streetscape Policy	
Provision	**Comment**
Setbacks Min setback of 7m. Variation permitted subject to the following relevant parameters: • Setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; • Setback of the building does not result in a projecting element into an established streetscape; and • Where there is no prevailing streetscape	The proposed grouped dwellings have Nil to 1 metre setback to the internal commercial streets. Given, there is no prevailing streetscape, as the area is in transition from the historical industrial use, and the site resolution has been informed by the more specific guidance of the prevailing structure plan, community consultation and the City's DAC. **Supported.**
Garage and Carports Garages, carports and outbuildings, except as provided for below, are to be setback in line with, or behind the front wall of the dwelling.	All garages and parking structures have been designed so as to be located in a manner that they are concealed from the street and do not dominate the appearance of the buildings. **Supported.**
Building height	Building height is superseded by the KSELSP. Not Applicable
Building Orientation Buildings shall be orientated parallel with the front boundary of the property with front doors and windows facing and clearly visible from the street.	**Supported.**

Vehicular Access Access where possible from a non-public road or secondary street. Additional requirements being: • No closer than 0.5m from side boundary or street pole • No closer than 6m to a street corner • Aligned at right angles to the street, tapered at angles 1:5 to each side. • Located so as to avoid street trees, or, where this is unavoidable, the street trees replaced at the applicant's expense. • Adequately paved and drained.	All dwellings are provided with access from a private road, with the exception of the multiple dwellings which have single consolidated crossover onto Amherst Street, which is visually minimised by the building design above. **Supported.**

On the basis of the above, the proposal is considered satisfactory pursuant to LPP 2.9 provisions.

<u>On-Site Parking</u>

The following tables and discussion evaluate the proposals acceptability with respect to car and bicycle parking as well as end-of trip facilities and any other relevant parking requirement(s) for the residential and non-residential components of the development.

Residential Car Parking (24 Multiple Dwellings) *R-Codes Vol.2 Assessment*			
Item	**Acceptable Outcome**	**Provided**	**Shortfall**
1-bedroom dwellings (No. 9)	1 bay per dwelling (9) = 9 bays required		Nil
2+ bedroom dwellings (No. 15)	1.25 bay per dwelling (15) = 18.75 bays required Total of 27.75 (28) bays required		Nil
TOTAL	**27.75 (28) bays required**	**36**	**Complies**
Visitor Parking	1 bay per four dwellings up to 12 dwellings; 1 bay per eight dwellings for the 13th dwelling and above. = (3 + 2) = 5 bays required	3	2 visitor bays shortfall
Residential Bicycle Parking			
Item	**Acceptable Outcome**	**Provided**	**Shortfall**
Resident	0.5 bays per dwelling (24) = 12 bays	16	Nil
Residential Visitor	1 space per 10 dwellings = 3 bays	16 bike bays available within residential bike store	Nil

Motorcycle / Scooter Parking			
Item	**Required**	**Provided**	**Shortfall**
Resident	Developments exceeding 20 dwellings provide 1 motorcycle/scooter space for every 10 car bays. (2)	Nil	2 bay shortfall

With the exception of the visitor bay and on-site motorcycle/scooter provisions, the residential parking provisions for multiple dwellings comply with the requirements of the R-Codes Vol. 2. The multiple dwelling site provides an oversupply of residential parking bays (8 additional bays), including tandem parking arrangements for some dwellings which will provide for flexibility to accommodate a range of vehicle types within such parking spaces.

Residential Car Parking (57 Grouped Dwellings) *R-Codes Vol.1 Assessment*			
Item	**Deemed-to-Comply**	**Provided**	**Shortfall**
2 + bedroom dwellings (No. 57)	2 bays per dwelling (57) = 114 bays required	Type A1& A1 Gable: 2 bays in garage Type A2: 2 bays in carport and tandem Type A3 and A3 Gable: 2 bays in garage Type B: 2 bays in garage Type G1: 2 bays in carport Type G1 under croft: 2 bays in garage Type G2: 2 bays in garage	Total of 9 bays shortfall for Types L 1 & L2 (1 bay per dwelling provided)

		Type G3: 2 bays in garage Type H: 2 bays in carport Type L1 & L2: 1 bay carport	
TOTAL	**114 bays required**	**105**	**Non-Compliant**
Visitor Parking 17+	1 additional bay for every 4 dwellings or part thereof. 57 dwellings = 14 bays required	11 visitor bays on Amherst Street	3 visitor bays shortfall

The proposed parking shortfall is acceptable for the following reasons:

- The subject area is serviced by public transport with an existing bus route (No. 502) scheduled along Amherst Street which connects directly to the Fremantle Train Station. Bus stops are located in Amherst Street just to the north of the intersection with Stack Street, meaning all but a small section at the north-east corner of the structure plan area is within a close distance of the bus stop. This will help sustain the residential redevelopment of the locality by providing direct and regular public transport access to the Fremantle City Centre and wider Metropolitan transport network.
- 1 bay per dwelling for Types L 1 & L2 are relatively small in size, in considered sufficient given the size of these dwellings, being 1 to 2 bedroom townhouses.
- Knutsford Street currently provides a direct link between open space and recreational areas to the west and east. Pedestrian access to the subject site is available via the existing external footpath network comprising paved footpaths on Stack Street and partially completed footpath on Amherst Street. However, as part of the proposal, the missing section of the Amherst Street footpath, along the site frontage, will be constructed to integrate with the reminder of the path on this road and Stack Street.
- Whist provision of visitor parking for the grouped dwellings remain a non-compliance, it is noted that a total of 11 visitor parking bays are to be accommodated through verge parking at four locations off Amherst Street.

Non-Residential Car Parking – 7 Commercial Tenancies (Industry – Light) *Table 2 — Vehicle Parking LPS 4 Assessment*			
Item	**Required**	**Provided**	**Shortfall**
Industry - Light 1: 50 m^2 GLA	355 of m^2 GLA = 7 bays	10 on-street bays on Stack Street Complies	7 on-site bays
Delivery Bays	1: service/storage area	No service area or storage is proposed – N/A	N/A
Bicycle bays	class 1 or 2: 1 per 1000m^2 GLA	Less than 1000m^2 GLA proposed – N/A	N/A

With regards to the 7 on-site bays shortfall of non-residential parking bays on the subject site, Clause 4.7.3 of LPS4 outlines circumstances may waive or reduce the standard parking requirement specified in Table 3, and states:

Council may—

(a) Subject to the requirements of Schedule 7, waive or reduce the standard parking requirement specified in Table 2 subject to the applicant satisfactorily justifying a reduction due to one or more of the following—*

(i) the availability of car parking in the locality including street parking,

(ii) the availability of public transport in the locality,

(iii) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,

(iv) any car parking deficiency or surplus associated with the existing use of the land,

(v) legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,

(vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,

(vi) the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,

(viii) any other relevant considerations.

*Note: *In some sub areas identified in Schedule 7 reduction of parking bays is not permitted. The requirements of Schedule 7 prevail over this clause.*

(b) Council may require an applicant to submit a report completed by a suitably qualified person or persons justifying any of the points cited above.

Note: Provides greater flexibility to vary car-parking requirements based upon alternative transport opportunities.

In accordance with clause 4.7.3 of the LPS 4, the proposed shortfall is acceptable due to the following;

- There is street parking proposed as part of this proposal which will be available on Amherst Street and Stacks Street; and
- The subject area is serviced by public transport with an existing bus route (No. 502) scheduled along Amherst Street which connects directly to the Fremantle Train Station. As such, public transport is available in the locality.

Notwithstanding the shortfall of adequate on-site parking provision for the Industry Light tenancies, the development provides 10 on-street bays perpendicular to Stack Street to compensate for the shortfall. A condition to this effect is recommended to require the on-street bays in the council verge area to be established by the developer and maintained thereafter to the satisfaction and requirements of the City.

State Planning Policy

State Planning Policy 7.0 – Design of the Built Environment

An assessment has been conducted against the design principles of SPP7.0 which are Context and character, Landscape quality, built form and scale, Functionality and build quality Sustainability, Amenity, Legibility, Safety, Community, and Aesthetics. Refer comments below:

- The proposal has been carefully considered against the existing characteristics of the area and will positively contribute to the surrounding area.
- The proposed landscaping is considered to be good quality. However, a condition is recommended to require an additional landscaping plan to identify detailed list and density of the species on site.
- The scale of the proposed development is considered acceptable and compliant with the planning framework applicable to the area.

- The development is considered to maintain a balance between social, economic and environmental considerations by ensuring the development is development to a high standard of sustainability a condition is also recommended to ensure development as constructed achieves a Green Star rating of at least 4 Stars or equivalent.
- Provision of communal open spaces that can be used for a variety of passive and active recreational activities.
- The development considers lighting, and sightlines to enhance community safety.
- Improving the amenity of the locality by providing a range of suitable built form typologies designed to accommodate a diverse and coherent community.
- All dwellings are provided with access from a private road, with the exception of the multiple dwellings which have single consolidated crossover to Amherst Street, which is visually minimised by the building design above.
- Buildings are orientated parallel with the front boundary of the property with front doors and windows facing and clearly visible from the street.
- The overall development contributes to the emerging identity for the greater Knutsford Street East area through the proposed materiality reflecting the historical land uses of the area.

State Planning Policy 7.3 - R-Codes Volume 1 Assessment Items

5.1.1 Site area

Table 1 of the R-Codes Vol 1 provides general minimum and average site area requirements for lots up to R80 density code. The grouped dwellings component of the proposal is assessed against the R80 requirements of the R-Codes Vol 1 which prescribes an average site area of 120m^2, respectively. The proposed grouped dwellings average site area is compliant and therefor consistent with the R-Codes and the Structure Plan.

5.1.4 Open Space, and 5.3.1 Outdoor Living Area

The provision of internal open space and outdoor living area is generally compliant for most of the dwelling types. The following table identifies the dwellings typologies that are not deemed to comply with either open space or outdoor living area provisions;

Type of Grouped Dwelling	Requirement (R80)	Proposed non-compliance	Compliance
Type A 1	*Open Space:* 30% of site area *OLA:* - 16m^2	Open Space: 26%	OLA: Compliant
Type A 3		Open Space: 23.7% OLA dimension: 1.8m x 8.5m	OLA: Compliant

Type G 1 Under croft	- Behind the street setback area - Accessible from the primary living space of the dwelling - Min length and dimension of 4m - 2/3 with no roof cover	Open Space: 26%	OLA: Compliant
Type I1		OLA: 12m^2	Open space: Compliant
Type I2		Open Space: 17% OLA: 7m^2	N/A

The proposed variations are acceptable for the following reasons:

- Despite the reduced amount of open space and outdoor living areas, it is considered that the dwellings are provided with sufficient area to allow for a degree of functionality, with sufficient space available for outdoor furniture;
- The outdoor living areas are capable of use in conjunction with a primary living space within a dwelling and have a degree of access to northern sunlight; and
- The overall development provides a large amount communal open space which is accessible and conveniently located for the exclusive use of the future residents within the development site.

5.3.7 Site Works

The topography of the development slopes from a high point of 30m AHD (approx.) in the east and northeast, down to 22m AHD in the southwest which is approximately 8m of drop within the site. The development site includes numerous undulations, tall and expansive retaining walls, areas of hardstand, and dirt mounds, in addition to the existing buildings. It is noted that No's. 34-36 Amherst Street are currently vacant and are occupied by hardstand and retaining walls which are proposed to be demolished to make way for the development. This demolition is exempt from the requirement to obtain development approval and is not subject to this application.

The natural topography of the site requires earthworks and retaining to establish a more stabilised and flat level lots. The proposed apartment dwelling site and the grouped dwellings which are to be located adjacent to the communal spaces (along the north boundary of the site) are to be affected the most. The interface with the existing properties and road frontage has been considered to ensure safe and constructible solutions are achieved. Standard retaining structures will be established around the perimeter of the site as required. Retaining has been provided at lot boundaries to create a consistent rhythm of the built form that provides a quality streetscape throughout the development, and to result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties.

It is also noted that the proposed development respects the natural topography of the site and aims to reduce the impact of retaining wall visibility by proposing sufficient amount of landscaping to soften the look, where possible.

Notwithstanding the provisions discussed above, the development is generally consisted with the deemed-to-comply provisions of the R-Codes Vol 1 unless otherwise covered by the local planning framework and discussed elsewhere in this report. As such, the proposal is considered acceptable subject to appropriate conditions where relevant.

State Planning Policy 7.3 - R-Codes Volume 2 Assessment Items

Relevant elements of the proposal that are inconsistent with the Acceptable Outcomes of the R-Codes and require an assessment against the Element Objectives or are considered to warrant further discussion by officers generally, are detailed below:

2.3 Street Setback

The proposed apartment building is proposed at nil setback to Amherst Street which varies the 2 metres setback requirement under Table 2.1 of the R-Codes V2. The reduced street setback variation is acceptable for the following reasons:

- There is no prevailing streetscape in the development site as the area subject to the KSELSP is currently transitioning from the historical industrial use. As such, the development is generally compatible and consistent with the setbacks of nearby development;
- An 11m street verge is being retained and to be revegetated through this proposal. Revegetation includes landscaping to support pedestrian and public use of the area, creating an appropriate interface between street and site;
- The proposed balconies face the public realm, establishing a passive surveillance that did not previous exist; and
- The varying setbacks provide adequate stepping and articulation of built form on both ground floor and upper floor elevations, whilst providing clear definable entrance ways to each respective dwelling.

2.6 Building Depth

The proposed building depth is 47m which varies the Acceptable Outcome of 20m. The units are located on either side of central corridors and overall, are considered to be provided with adequate access to sunlight/daylight and natural ventilation (discussed further below) that is assisted by articulated balconies and openings to support daylight and ventilation access for all the units. In addition, all the units have been designed with major openings to habitable rooms located adjacent and orientated next to external faces/balconies of the development with acceptable rooms depths for access to natural light. Further, the dwellings have 3.2m ceiling height which optimises access to natural ventilation.

The building depth therefore meets the objectives of the R-Codes.

2.7 Building Separation

The apartment building is sufficiently separated from the adjacent neighbouring sites due to amalgamation of a number of lots to establish the development site. The internal building separation meets the Acceptable Outcomes except for levels 1 - 3 of the northern side boundary which faces the southern side boundary of the grouped dwelling block. The apartment building is separated by 9m to balconies and major openings in lieu of the Acceptable Outcome of 12m (for buildings less than 4 storeys). Notwithstanding, these separation distances achieve the required visual privacy separation and are considered to provide acoustic privacy, natural ventilation, sunlight and daylight access and outlook onto the proposed public open space for these dwellings.

3.3 Tree Canopy and Deep Soil Areas

Due to the historic use of the development site, there are no existing trees on site to be retained. In accordance with Table 3.3a, for site are greater than 1000m^2, 10 per cent of the site area is to be set aside for deep soil and the minimum requirement for a tree is, 1 large tree and 1 medium tree for each additional 400m^2 in excess of 1000m^2. The landscaping plan provided indicates 2 medium trees and 29 small trees. Based on the lot size, a 142.5m^2 of deep soil area and a 69.6m^2 of tree canopy is required for the development site. The deep soil area provided on the landscaping plan of the multiple dwelling site is 28m^2 in area with an expected tree canopy coverage of 132m^2. Due to the topography of the site and the challenging level changes, an additional 191m^2 of deep soil area is scattered in the adjoining public open space and communal areas within the development site.

It is also noted that the landscaping and tree provisions that are proposed are to be secured by appropriate conditions of approval, should JDAP be of the mind to approve the application.

Notwithstanding the elements discussed above, all other elements of the R-Codes Vol. 2 are considered to meet the Acceptable Outcomes of the R-Codes unless otherwise covered by the local planning framework and discussed elsewhere in this report. As such, the proposal is considered acceptable subject to appropriate conditions where relevant.

State Planning Policy 7.3 – R-Codes incorporating Medium Density Codes

The State Government recently introduced an amendment to the state planning policy 7.3 to minimise change to popular R30-40 single house product while retaining some of the greater flexibility and design improvements to maintain opportunities for greater housing diversity. It is noted that the Medium Density Codes will be publicly available on 8 March 2024 and will become operational following gazettal in the week starting 8 April 2024. In writing this report in

time for Council agendas, the document had not been released so was unable to be given regard in the assessment.

However, based on previous drafts, and an assessment against SPP 7.0, the proposal is considered to be a satisfactory design response to the site. It is anticipated that any JDAP meeting for this development will be held prior to operational gazettal of the updated R-Codes.

Dwelling Mix

Clause 4.4.5 of the City's LPS4 provides that:

'In development comprising of ten or more Multiple Dwellings, a minimum of 25 per cent of the total number of dwellings must have a maximum floor area of 60 square metres or less and no more than 40 per cent of the total number of dwellings may have a floor area of 120 square metres or more'.

The proposed development provides the following range of dwelling types, sizes and configurations:

- 62.5% (15) two-bedroom apartments - with a maximum floor area of 87m^2;
- 37.5% (9) one-bedroom apartments - with a maximum floor area of 51m^2;
- 8.7% (5) four-bedroom townhouses with a maximum floor area of 153m^2;
- 75.4% (43) three-bedroom townhouses - with a maximum floor area of 153m^2;
- 15.7% (9) two-bedroom townhouses - with a maximum floor area of 99m^2;

The multiple dwellings component of the proposal therefore has 9 (37.5%) of dwellings with a floor area of 60sqm or less and zero (0) dwellings with a floor area greater than 120sqm and as such, is fully compliant with the dwelling mix prescribed by clause 4.4.5 of LPS4.

Landscaping Design

LPP 2.10 defines where a landscaping plan is required as part of a development application. Relevant to this application, the following policy provisions require a landscape plan:

> *1.1(e) In cases where the landscaping of a proposed development is an integral part of the assessment of the acceptability of that proposal.*

The development proposal is accompanied by a landscaping plan which was reviewed by the DAC and the City's landscape architects. As mentioned previously in the report, proposed landscaping concept plan indicates true-to-scale mature tree canopy sizes of predominantly 3m to 6m diameter in the communal streets. However, due to the wide spacing of trees, either in the street reserves or in front

gardens that face the streets, these hard paved areas are most likely will be heat sinks. As such, a more detailed landscaping plan is required to be provided to identify the details on type and density of species proposed on the development site. This is to ensure appropriate tree species are selected to provide more extensive shade on the hard paving in the commercial streets.

Considering the above, and in accordance with the requirements of LPP 2.10, a condition is recommended to require an amended landscaping plan to be provided, prior to the submission of building permit, for the City's assessment and approval. The approved landscaping plan is to be implemented prior to the occupation and be maintained thereafter to the satisfaction of the City.

Conclusion:

Approval is sought to construct the proposed development comprising, 24 Multiple Dwellings, 57 Grouped Dwellings, 7 Industry Light commercial tenancies, and associated common property.

The proposed development seeks some variations to some key development controls, including in particular, non-residential car parking.

Other variations, including the non-residential car parking and other minor matters are considered reasonable and supportable under the planning framework as discussed in detail where relevant in the main body of this report. Furthermore, it is also considered that the proposal either complies with other requirements of the City's LPS4. R-Codes Vol 1 and 2, Knutsford East Local Structure Plan and Local Planning Policies, or meets the discretionary criteria or otherwise will be subject to the imposition of conditions of approval so as to satisfy other requirements of relevant policy provisions.

The overall design of the proposal has the support of City's DAC. On the basis of the above, it is recommended that the application be approved, subject to appropriate conditions of approval.

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)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Development plans DA0127/23 2. Applicant Heritage Impact Assessment 3. Amended Development Plans DA0353/23 4. Site Photos 5. City of Fremantle Heritage Impact Assessment for DA127/23 and DA0353/23 6. Asbestos Condition and Inspection Report 7. Structural Integrity Report (23 February 2024)

SUMMARY

Approval is sought for the demolition of the existing Single house and all incidental structures and the construction of new two storey Single house at No. 21 (Lot 23) Herbert Street.

At its meeting on 1 August 2023, Council resolved to refuse Demolition of Existing Single House and Incidental Structures (application ref. DA0127/23)) concluding the existing dwelling held some cultural heritage significance.

The applicant is appealing this decision with the State Administrative Tribunal (SAT case ref. DR 183/2023); and as result of these proceeding SAT has ordered Council under Section 31 of the State Administrative Tribunal Act 2004 (SAT Act) to reconsider its decision associated with DA0127/23.

In addition to this reconsideration request for DA0127/23, the applicant has also opted to submit another development application DA0353/23 which again includes the demolition of the existing dwelling as well as a newly proposed two storey Single house on the subject. This report sets out both the assessment of the heritage significance of the dwelling on site, and the merits of the design of the new home.

The proposal is referred to Council due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

1. ***Existing Dwelling:***
   - **Demolition within a Heritage Area**

2. ***Proposed Two Storey Single House:***
   - **Street Setback / Streetscape**
   - **Overshadowing**
   - **Lot Boundary Setback**
   - **Visual Privacy**

Both the Section 31 Reconsideration (DA0127/23) and new development application (DA0353/23) are recommended for refusal due to the heritage significance of the existing dwelling.

PROPOSAL

Detail

This report deals with two applications – one relating solely to demolition of the existing dwelling, and another relating to the demolition of the existing dwelling and the construction of a new Single house. The detail of both applications is set out below.

DA0127/23 -Section 31 Reconsideration request – Demolition of existing Single house

With respect to the proposed demolition of the existing dwelling, at its meeting on 23 August 2023, in accordance with the Officers Recommendation, Council resolved to refuse application ref. DA0127/23 (Demolition of Existing Single House and Incidental Structures) involving demolition of the existing dwelling on the subject site for the following reasons:

1. *The demolition of the Single house does not meet the requirements of Clause 4.14 of Local Planning Scheme No.4 as it:*
   a) *Is of "some" cultural heritage significance (i.e. is greater than little or no significance); and*
   b) *Makes a significant contribution to the streetscape of Herbert Street and the North Fremantle Heritage Area.*

2. *The demolition proposal does not meet the relevant criteria of LPP 3.6 as it is classified as a Contributory Place to the North Fremantle Heritage Area and its loss would therefore reduce the heritage significance of the locality.*

3. *The demolition of the dwelling is contrary to Clause 67(2)(k) and (l) of the Planning and Development (Local Planning Schemes) Regulations 2015(Deemed Provisions) as it will have an adverse impact upon the cultural heritage significance of the North Fremantle Heritage Area.*

The applicant has subsequently appealed this decision with the State Administrative Tribunal (SAT) (SAT case ref. DR 183/2023). After confidential mediation, SAT has issued an order under Section 31 of the SAT Act that requires Council to reconsider its previous decision. Additionally, SAT has ordered the applicant provide any additional information to support their proposal for DA0127/23 to aid Council in this review. The applicant has provided an independent heritage impact assessment prepared by Griffiths Architects which can be seen in Attachment 2 of this report and an updated structural engineers report seen in attachment 7, in support of the proposed demolition application.

DA0353/23 - Demolition of existing Single house and construction of new Single house

Approval is sought for the demolition of an existing Single house and all incidental structures on the subject site as well as construction of a new two storey Single house at No.21 (Lot 23) Herbert Street, North Fremantle (subject site).

This new application has been submitted to the City, again involving the demolition of the existing dwelling on the subject site as well as now a newly proposed two storey Single house on the subject site..

In response to officer and public comment on the newly proposed dwelling, the applicant submitted amended plans on 15 February 2024 including the following changes:

- Increase street setback of proposed double garage from 1.0m to 4.1m (3.1m increase in street setback) to align with proposed verandah; and
- Change of roof form at front of dwelling from skillion (flat, sloped roof) to a pitched roof.

Amended development plans are included as attachment 3.

Site/application information

Date received:	15 November 2023
Owner name:	Venera Milanja
Submitted by:	Kellet Design Group
Scheme:	Residential R25
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P

CONSULTATION

External referrals

Nil required.

Community

The application DA0353/23 was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal included the demolition of a dwelling in a Heritage Area. The advertising period concluded on 23 January 2024, and eight (8) submissions were received. The key concerns detailed in the submissions relating to DA0353/23 are provided below (summarised):

- *The double garage and reduced street setback design is not in keeping with the character of the Herbert Street streetscape. It is inconsistent with the aesthetics of all of the neighbouring houses, and visually degrades the area.*

- *The existing streetscape character what makes our street a very beautiful, and peaceful one to inhabit, the current design will impose on the streetscape and may create pedestrian hazards with very little space between the garage and footpath.*

- *This existing house has been part of Herbert Street since the 1940s and until recently had been on the Heritage List. Underneath the fake cladding is weather board up to the roof line and a red brick porch. I saw this before the cladding was tacked onto the boards . It makes a significant contribution to the streetscape and its demolition would reduce the heritage significance of the area.*

- *Overshadowing is a concern, breaching by 6%. This would have detrimental effect on the north side of our property including on sunlight/daylight into the kitchen and lounge room window in winter and the house will overshadow solar panels, having an adverse impact upon our property; and*

- *Privacy concerns from the terrace, overlooking of habitable room windows and outdoor living areas of adjoining property.*

The applicant submitted revised plans to addressing the following:

- Increase street setback of proposed double garage from 1.0m to 4.1m (3.1m increase in street setback) to align with proposed verandah; and

- Change of roof form at front of dwelling from skillion (flat, sloped roof) to a pitched roof.

In response to the above, officers note detailed commentary on each of matter raised by submitters are discussed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

i. Existing Dwelling:
- Demolition within a Heritage Area

ii. Proposed Two Storey Single House:
- Street Setback / Streetscape
- Overshadowing

- Lot Boundary Setback
- Visual Privacy

The above matters are discussed below.

Background
The subject site is located on the northern side of Herbert Street. The site has a land area of approximately 412m² and is currently an existing Single House. The site is zoned Residential and has a density coding of R25. The site is not individually listed, however the dwelling is located within the North Fremantle Heritage Area.

The existing dwelling on the subject site is on a steeply sloping lot on the east side of Herbert Street. The single storey, timber framed house is sited centrally at the front of the block with a red face brick retaining wall to the front boundary and matching steps and red painted concrete path leading up to an enclosed verandah at the front of the house.

The existing development within Herbert Street predominantly date back to the early 20th Century with some Inter-War infill. There is a mixture of houses constructed from predominantly limestone and timber.

DA0127/23 which proposes demolition of the existing dwelling on the subject site was refused by Council in August 2023 for the following reasons:

1. *The demolition of the Single house does not meet the requirements of Clause 4.14 of Local Planning Scheme No.4 as it:*
   a) *Is of "some" cultural heritage significance (i.e. is greater than little or no significance); and*
   b) *Makes a significant contribution to the streetscape of Herbert Street and the North Fremantle Heritage Area.*

2. *The demolition proposal does not meet the relevant criteria of LPP 3.6 as it is classified as a Contributory Place to the North Fremantle Heritage Area and its loss would therefore reduce the heritage significance of the locality.*

3. *The demolition of the dwelling is contrary to Clause 67(2)(k) and (l) of the Planning and Development (Local Planning Schemes) Regulations 2015(Deemed Provisions) as it will have an adverse impact upon the cultural heritage significance of the North Fremantle Heritage Area.*

This report seeks to respond to an order from SAT to reconsider the decision, with the applicant providing additional information to support their proposal in the way of an independent heritage impact assessment prospered by Griffiths Architects. Further discussion of the applicants HIA is provided below.

As mentioned above, the applicant has also opted to lodge a second application DA0353/23 which again involves the demolition of the existing dwelling as well as a newly proposed two storey Single house on the subject site. Given the

matter of the demolition is currently unresolved with SAT, the matter of the demolition of the existing dwelling and the newly proposed dwelling are to be considered separate matters for assessment purposes as part of this application.

1. Existing Dwelling Proposed to be Demolished

Heritage and Demolition

Clause 3.4 of LPP3.6 (Heritage Areas) provides that in considering a proposal for demolition on any site in a Heritage Area, applications will be assessed against Clause 4.14 of the City's LPS4, with the following providing additional guidance:

i. Demolition of a contributory place or removal of significant fabric within a heritage area is contrary to the objectives of this policy and will generally not be supported.

ii. Demolition approval will not be considered on the grounds of economic or other perceived gain for the redevelopment of the land.

iii. Condition of the place is not necessarily an acceptable reason for demolition.

iv. When considering partial demolition, the original / early portion of the building should be retained and conserved: demolition of elements of cultural heritage significance will generally not be supported.

Demolition (or partial demolition) of any place of heritage value requires careful consideration because it potentially removes all its heritage significance except for intangible historical and social values that are not dependant on physical fabric. In considering these applications, in accordance with clause 4.14 of LPS4, Council must be satisfied that the building or structure:

(a) has limited or no cultural heritage significance, and
(b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.

Clause 4.14.2 of the LPS4 provides that in considering an application under clause 4.14.1, Council shall have regard to any heritage assessment required under the *Planning and Development (Local Planning Schemes) Regulations 2015* and LPP1.6 (Heritage Assessment and Protection).

The City undertook a detailed Heritage Impact Assessment (HIA), that was prepared in accordance with the Burra Charter and LPP 1.6, for which full details can be found at Attachment 5 of this report.
The following excerpt from City's HIA summarises its conclusions:

> *21 Herbert Street is a largely intact Inter-War era timber house that has been modified in the Post-War era by replacing most of the external weatherboard wall cladding. While the replacement Brick-Clad wall cladding has reduced the heritage value of the place, this change is reversible, and the heritage value can be improved by the reinstatement of the original*

external finish to match surviving sections of original wall cladding. In its current form, 21 Herbert Street does not meet the threshold for inclusion on the Heritage List.

Despite the replacement of the external wall cladding, the scale, form and composition of 21 Herbert Street is still clearly legible, and the place contributes to the character of the largely intact heritage streetscape of Herbert Street which contains a mix of single storey Late Nineteenth to early Post War era timber and limestone houses. 21 Herbert Street is a Contributory Place within the North Fremantle Heritage Area.

Information provided by the applicant has shown that while the house needs to be refurbished and repaired, it is not structurally unsound and is in reasonable condition for a house of its age and construction type. Both reports recommend the demolition of the house but this is based on the cost of removal of asbestos and refurbishment being more expensive than demolition and construction of a standard new home ($250,000 allowed).

The removal of the intrusive, asbestos bearing 'Brick Clad' external wall cladding will remove the potential health risk and improve the contribution that the place makes to Herbert Stret and the North Fremantle Heritage Area. The rear addition which contains asbestos bearing wall and ceiling lining has no heritage significance and can be removed with no impact on the heritage value of the place or its contribution to the Heritage Area.

As detailed in the City's HIA above, the property is deemed to have *some* cultural heritage significance (not limited or no significance) for the following reasons:

- The scale, form and composition of the existing Single house provides aesthetic value to the streetscape and contributes to the intact heritage streetscape of Herbert Street (compromising mostly of Late Nineteenth to early Post War era timber and limestone houses).
- The existing streetscape consists largely of houses that have a similar built form, style and material. Combined, these houses form an identifiable streetscape character.
- The existing Single house at 21 Herbert Street is an Inter-War timber framed house and is an example of the style of housing present within the North Fremantle Heritage Area, therefore is considered contributory.

The applicant has provided their own Heritage Impact Assessment in support of the demolition of the existing dwelling which essentially concluded that 21 Herbert Street has 'little' heritage value. The concluding section of the HIA states as follows:

> *21 Herbert Street has little heritage value. Though we have not researched its origins to any depth, but it is apparent that it has been subject to numerous changes. It makes little contribution to an important North Fremantle Street. It has very few merits.*

> *We are of the view that its demolition is not a loss to the street or North Fremantle's heritage values.*
>
> *We are also of the view that a replacement house that provides a good opportunity for a good transition between 23 and 19 Herbert Street which has the capacity to positively impact on the street.*

City officers have reviewed the demolition proposal with regard to the applicants additional structural engineer report (Attachment 7) and applicants heritage assessment (seen in Attachment 2) that have now been provided. The applicant has also submitted an updated structural engineering report (Attachment 7) and the original asbestos condition and inspection report (Attachment 6) as supplementary information to support their application for demolition. The report identifies there are structural issues with the roof framing of 21 Herbert Street.

The report concluded that,

> *The condition of the house has progressively got worse over time. With the lack of a Maintenance Management Program, no repairs have been carried out in restoring the house to its former glory. Because of the poor tile condition, the exposed ceilings are collecting excess rainwater resulting in ceiling exposing excessive cracks and deflections. These ceiling deformations cannot be rectified. The roof timber work is open to the elements and timber member are rotting. This includes purlin battens and rafters Access to the roof will become dangerous in repairing the tiles to the house. The costs of replacing the roof tiles, repairing the rafters and ceilings will far exceed the costs for a new house.*
>
> *The house in its present state is uninhabitable and is a risk to human habitation. It is my opinion that the house in its present state is NOT SAFE and NOT STABLE both to Tenants and Tradesmen servicing the house.*
>
> *The deteriorated state of the timber structure, combined with water leakage, collapsed battens, and the presence of asbestos, collectively present an imminent risk to safety.*

Recommendations:

> *After carrying out a Structural Assessment of the house a year ago and applying due diligence after this inspection, the following is recommended:*
>
> *a) The house including the Terra Cota tiles and timber roof assembly be demolished. This includes the ceilings.*
> *b) Because of the poor condition of the assembly of timber trusses, a collapse of the roof structure and ceilings is expected.*
> *c) All asbestos material be removed from the house walls and ceilings.*
> *d) The present house has not been declared a Heritage Site.*

e) The Cost of repairing the house in its present condition far exceeds the Budget figure set in 2023.

In response, the following points are made by Officers:

Structural Assessment off Roof Structure of House 22/2/24, Design Engineering Pty Ltd
This report contains much commentary not related to structural assessment however it does demonstrate that the roof structure needs to be repaired and strengthened and that the roof cladding needs to be replaced because it is not weathertight. It lists the following structural issues:

- Some deflection in the rear roof plane
- In places there is some rotting of rafters and battens due to roof leaks
- The roof insulation is wet and its weight is affecting the structural stability of the ceilings

While the roof and ceilings of the house require urgent structural work, this type of work is often undertaken in heritage places that have been allowed to deteriorate due to a lack of maintenance. The repair and strengthening of the roof and ceiling structure and the replacement of the roof cladding will not affect the contribution that the place makes to the heritage character of Herbert Street and the North Fremantle Precinct Heritage Area.
Further to the comments the following is added:

- There has been a surprising level of deterioration to the ceilings over the last nine months. Photographs from May 2023 show that the ceilings were generally in good condition at that time and did not show evidence of past deterioration. By February 2024 they have become very stained, cracked and according to the report structurally unsound.
- Comments comparing the cost of roof repair and recladding with the construction of an entire new house on this site are highly speculative and somewhat misleading. Further, the cost of repair works is not a factor in assessing the heritage value of a place.
- The report is correct in stating that 21 Herbert Street is not individually listed on the Heritage List but it is part of a Heritage Area and its level of contribution is assessed at the time of development so it is not correct to state that it is not a heritage site.

Heritage Impact Assessment, Griffiths Architects, 22/2/24
The findings of this report are that 21 Herbert Street makes little contribution to this important heritage street in North Fremantle and that demolition would not affect the heritage values of the North Fremantle Heritage Area. This assessment is not agreed with for the following reasons:

- 21 Herbert Street has not been included on the Heritage List because of the 1970s changes to the exterior such as the 'brick clad' lining and enclosed porch but it still Contributes to the uniform heritage character

of the street and Heritage Area with its similar scale, form and composition.

- The heritage values of 21 Herbert Street can be improved by removing the 1970s brick clad and porch enclosure to reveal original weatherboards under the 1970s cladding.
- The front setback to 21 Herbert Street does not make it an anomaly in the street – it has a similar setback to other Inter-War infill development in this street and area such as 17 and 27 Herbert Street and demonstrates the Inter-War consolidation of this area.
- 21 Herbert Street has not been substantially changed. External changes include new external wall cladding fixed over the original weatherboards, the enclosure of the front porch with aluminium windows and the replacement of the terracotta roof tiles with Autumn Blend colour terracotta tiles. Internally changes were limited to the kitchen, bathroom and rear toilet room.

There are a number of inaccuracies in this report that are also disputed:

- The earlier demolition application was not rejected because of a lack of an alternative house design. Demolition is refused if the existing place is found to contribute to the character of the heritage area and this cannot be weighed against the quality of the new house design.
- The HIA speculates that the house was constructed much earlier than 1940 and was considerably changed in the Inter-War era but there is no evidence to support this conclusion.
    - The site setback, plan, form and original weatherboard profile, windows etc to the house are all typical of the Inter-War era
    - The 1940s Sewerage Plan clearly shows a house that is very similar to the existing and with the same footprint, front and rear verandahs, brick chimney to the side, garage and retained front garden with steps.
    - Aerial photographs from 1947 onwards show that the existing house and tiled roof have remained largely unchanged until the present day
    - Unlike earlier houses in this street, 21 Herbert Street was not recorded in the Post Office Directory until 1945.
    - Modest Inter-War house often have mixed window types with casement sash windows being used on the front façade and double hung sashes used on the side and rear elevations.

NOTE: Photographs included in the HIA show that since May 2023 there may have been considerable change to the interior of the house including removal of original weatherboard cladding, timber doors and windows as well as the removal of sections of wall lining. While these changes have reduced the authenticity of the building, it has not changed the contribution that the place makes to the street.

The City's recommendations regarding the demolition remain as previously put forward under the preceding application ref. DA0127/23 (Demolition of Existing Single House and Incidental Structures).

In accordance with the requirements of Cl 4.14 of LPS4, the demolition proposal for 21 Herbert Street is not supported as it is considered the existing house, being classified as a Contributory Place in the North Fremantle Heritage Area, makes a contribution to the locality of Herbert Street through the cultural significance of its built form and typology.

It is considered that these areas which are identified to be in poor condition within the new submitted structural engineering report can be replaced or removed without damage to the heritage significance of the existing house. Therefore, it is not considered that the current condition of 21 Herbert Street is an acceptable reason for demolition (as prescribed in Cl 3.4.2 of LPP 3.6).

Further, LPP3.6 provides that demolition of a contributory place or removal of significant fabric within a heritage area is contrary to the objectives of the policy and will generally, not be supported. The policy adds that demolition approval of a contributory place will also not be considered on the grounds of economic or other perceived gain for the redevelopment of the land.

With regards to the HIA and the new replacement two storey dwelling, the assessment seen in attachment 4 concluded that if demolition was supportable then proposed new house itself was acceptable as it would have only a minor impact on the heritage values of the North Fremantle Precinct Heritage Area.

However, on the basis of the above, demolition of the existing dwelling is not supported under cl. 4.1 of the City's LPS4 and LPP 3.6).

2. Proposed New Two Storey Dwelling

Street Setback / Streetscape

Element	Requirement	Proposed	Extent of Variation
Street Setback	5.0m	4.1m	0.9m

The proposed street setback, as per the amended development plans, is considered to meet the objectives and intent of LPP2.9 (Residential Streetscape) & LPP 3.6 (Heritage Areas) in the following ways:

- As shown in Figure 1 below, the proposed street setback is broadly consistent with the existing established prevailing streetscape and in particular the adjacent heritage dwelling at 19 Herbert Street (setback at 3.9m to porch area);
- The design of the replacement dwelling will not project into the established streetscape and will therefore not have a significant adverse visual impact upon the streetscape character of Herbert Street.

- The bulk and scale of the dwelling is considered to respect the scale and form of the surrounding heritage streetscape. The single storey front section of the dwelling compliments the scale of surrounding single storey historic development and the two-storey rear section is set back on the block where its visual impact on the streetscape will be reduced, noting it will be partly concealed by the front section.

Figure 1 – Prevailing Streetscape Aerial

Lot Boundary Setback

Element	Requirement	Proposed	Extent of Variation
Lot Boundary Setback – North boundary - Upper Floor (Living – Balcony)	1.5m	1.1	0.4m

The lot boundary setback is considered to meet the Design principles of the R-Codes in the following ways:

- The lesser setback does not result in a perception of adverse building bulk when viewed from the adjoining northern property which is substantially greater in form and general height;
- The area of the adjoining northern dwelling impacted by the reduced setback consists of no major openings and/ or key outdoor living areas; and
- The lesser setback does not result in any new merit based decision relating to visual privacy.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Overshadowing	Max. 25% (103sqm)	30% (124sqm)	5% (21sqm)

The overshadowing is considered to meet the Design principles of the R-Codes in the following ways:

- It is clearly acknowledged that east west orientated properties are prone to higher levels of overshadowing, particularly when two storey built form is being proposed.
- Majority of shadow will fall on non-habitable side setback area, shed and roof of adjoining southern property, but there are three existing windows located on the southern adjoining dwellings northern elevation. Some direct light to these openings will be impacted by the upper floor addition of the development, but a sufficient level sunlight will still be able accessible to these openings in the mornings and afternoon periods of the Winter solstice.
- The southern adjoining properties key outdoor living area is protected from shadow impacts as it is located to the eastern side of site and no shadow will fall on this primary outdoor living area.
- It's also noted that the southern property also has a solar PV system to its northern elevation roof plain. See Figure 1 above. With regards to the impact of shadow over this system the majority will not be impacted at the worst period of the year (being 21 June) with the shadow being cast mainly on the adjoining dwellings northern wall and eave line.

CONCLUSION

It is noted that while the proposed new dwelling is generally considered acceptable as per the amended development plans, demolition of the existing dwelling on the subject site in unable to be supported by officers as the existing dwelling is considered to have cultural heritage significance as a Contributory Place in the North Fremantle Heritage Area, contributing to the Herbert Street streetscape character through the cultural significance of its built form and typology.

On this basis, both the Reconsideration request for the demolition and the new application for demolition and a new dwelling, are recommended for refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

A) Reaffirm the decision of Planning Committee on 23 August 2023 to Refuse the Demolition of existing Single house (DA0127/23) for the same reasons previously listed, which were as follows:

1. **The demolition of the Single house does not meet the requirements of Clause 4.14 of Local Planning Scheme No.4 as it:**
   a) **Is of "some" cultural heritage significance (i.e. is greater than little or no significance); and**
   b) **Makes a significant contribution to the streetscape of Herbert Street and the North Fremantle Heritage Area.**

2. **The demolition proposal does not meet the relevant criteria of LPP 3.6 as it is classified as a Contributory Place to the North Fremantle Heritage Area and its loss would therefore reduce the heritage significance of the locality.**

3. **The demolition of the dwelling is contrary to Clause 67(2)(k) and (l) of the *Planning and Development (Local Planning Schemes) Regulations 2015(Deemed Provisions)* as it will have an**

adverse impact upon the cultural heritage significance of the North Fremantle Heritage Area.

B) REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of the existing Single House and Proposed Two Storey Single House at No.21 (Lot 23) Herbert Street, North Fremantle (DA0353/23), as detailed on the plans dated 15 February 2024, for the following reasons:

1. **The demolition of the Single house does not meet the requirements of Clause 4.14 of Local Planning Scheme No.4 as it:**
   a) **Is of "some" cultural heritage significance (i.e. is greater than little or no significance); and**
   b) **Makes a significant contribution to the streetscape of Herbert Street and the North Fremantle Heritage Area.**

2. **The demolition proposal does not meet the relevant criteria of LPP 3.6 as it is classified as a Contributory Place to the North Fremantle Heritage Area and its loss would therefore reduce the heritage significance of the locality.**

3. **The demolition of the dwelling is contrary to Clause 67(2)(k) and (l) of the *Planning and Development (Local Planning Schemes) Regulations 2015(Deemed Provisions)* as it will have an adverse impact upon the cultural heritage significance of the North Fremantle Heritage Area.**

C2403-4 DALY STREET, LOT 39, SOUTH FREMANTLE – PROPOSED CHANGE OF USE TO, AND CONSTRUCTION OF, CAR PARK (ED DA0005/24)

Meeting Date: 13 March 2024
Responsible Officer: Manager Development Approvals
Voting requirements: Simple Majority
Attachments:
1. Amended Development Plans
2. Site Photos
3. Site Management Plan
4. Construction Environmental Management Plan
5. Council Meeting Minutes – 22 November 2023
6. Initial DWER Advice – 20 February 2023
7. DWER Advice on Application – 31 January 2024
8. Photos showing existing on-site trees
9. Applicant responses to public submissions

SUMMARY

Approval is sought for a change of use to, and construction of a Car park at Lot 39 Daly Street, South Fremantle.

At its meeting on 22 November 2023, Council approved key lease terms and conditions for the lease of a portion of the subject site (owned by the City of Fremantle) to be used as an 'overflow' car park in association with the adjacent South Fremantle shopping complex.

Development approval is required for the car park including consultation with adjoining landowners and occupiers as is the subject of this application. The proposal is referred to Council given its prior involvement in approving lease terms and conditions of the proposal.

The application is recommended for conditional approval.

PROPOSAL

Detail
Approval is sought for change of use to, and construction of, a car park over a portion of the currently vacant subject site at Lot 39 Daly Street, South Fremantle. The proposed works include:

- Construction of an overflow car parking area in the north-east corner of the subject site in association with the adjacent South Fremantle shopping complex (219 Hampton Road);

- Construction of one new crossover connecting the proposed car park and the adjacent shopping complex site (no access to or from the car park from surrounding public streets provided);
- The removal of some existing vegetation on the subject site;
- Landscaping areas within the proposed car park;
- New fencing located along the boundary of the subject site; and
- Construction of a dual-use pedestrian path (i.e. footpath and bicycle path) with connections to the existing dual-use path in the adjacent Hollis Park Reserve to the south of the subject site.

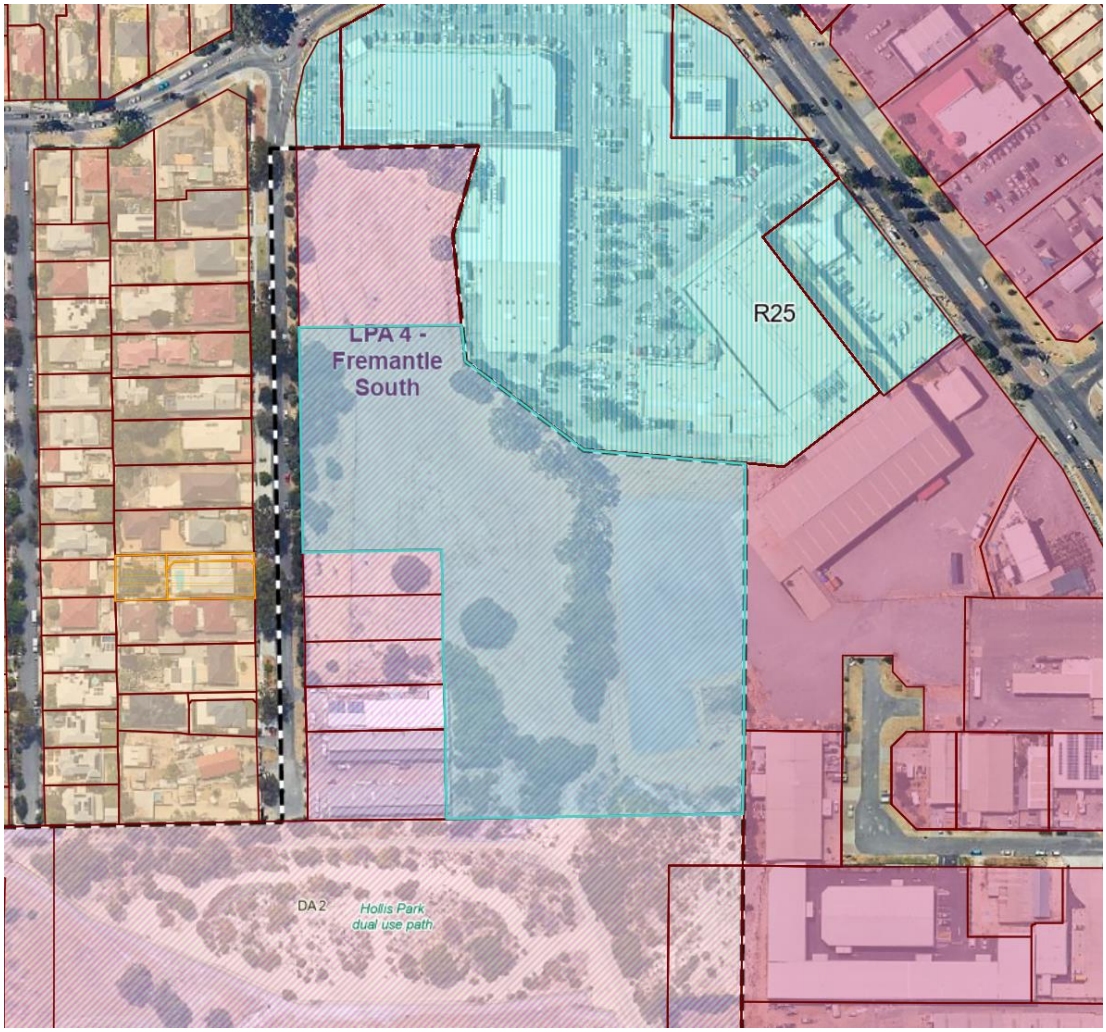
The applicant submitted amended plans on 5 March 2024 including the following:

- Updated development plans identifying the location of existing mature trees across the development area and additional landscaped areas to improve tree retention within the proposed car parking area;
- Site photos showing the existing vegetation located within the development area extent (**Attachment 8**); and

Amended development plans are included as **Attachment 1**.

Site/application information

Date received:	10 January 2024
Owner name:	City of Fremantle
Submitted by:	Ivan Humich
Scheme:	Development Area (Daly and Hollis Street tip site South Fremantle landfill site)
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Vacant
Use class:	Car Park
Use permissibility:	N/A



CONSULTATION

External referrals

Department of Water and Environmental Regulation (DWER)

The applicant previously received advice from DWER in February 2023 (**Attachment 6**) which provided recommendations for improvements to the Site Management Plan and Construction Environmental Management Plan submitted in support of the proposal.

The current development application, including an updated Site Management Plan (**Attachment 3**), was referred to DWER and the following advice was received (summarised – see **Attachment 7** for full details):

'Based on available information, and consistent with previous advice from the department, the site is considered suitable for the proposed car park development. Therefore, the department has no objection to the proposed

development of the site and recommends that the approval should not include a contamination condition.

However, given the risks associated with the presence of waste materials including asbestos and landfill gas, the department recommends the following advice note be applied to any approval granted by the City of Fremantle:

Advice:

A Construction Environmental Management Plan (CEMP) is required to be prepared and implemented for construction works. The CEMP should address the potential for hazardous materials to be present in the waste body including work health and safety requirements.

The ground gas risk assessment carried out for Stage 1 of the proposed car park should be updated to include Stage 2. An Ongoing Site Management Plan (OSMP) is required to be prepared and implemented post construction. The OSMP should allow for ongoing management of any potential ground disturbance as well as the management of ground gas (such as maintenance of venting spaces).'

In response, the applicant provided an updated Construction Environmental Management Plan (**Attachment 4**) which had been updated in accordance with initial DWER advice from February 2023 but unfortunately left out of the submitted application documents. The updated CEMP was referred to DWER for review and the following response was received:

'DWER does not have an approval role for management plans so we are not able to provide endorsement for the CEMP and SMP provided. The proponent will need to satisfy themselves that they have taken all of the DOH advice into account, and may wish to contact DOH directly if any clarification is needed.

The applicant responded, acknowledging:

The applicant has finalised and updated both the ongoing Site Management Plan (SMP) and the Construction Environmental Management Plan (CEMP) for Stage 1. These revisions address the comments raised by the Department of Health (DoH) and the Department of Water and Environmental Regulation (DWER) in February 2023.

Moreover, our client is comfortable with the advice note recommended by the DWER in its letter dated 31 January 2024, and is willing to undertake any additional environmental assessment/reporting required for Stage 2 of the proposed development when this comes forward.

On the basis of the above, the DWER advice will form an advice note should the application be approved and it will be the responsibility of the applicant to ensure adherence to this advice and compliance with any relevant regulations or

requirements of the *Contaminated Sites Act 2003* and the *Work Health and Safety (General) Regulations 2022*.

Community
The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposed land use is discretionary. The advertising period concluded on 12 February 2024, and five (5) submissions were received. The following issues were raised with officer responses where relevant (summarised):

Submission	Officer Comment
Object to the loss of trees on the subject site which provide canopy and habitat for wildlife	The loss of trees any trees on the subject site is a matter for Council consideration under the agreement and advice from the City's Parks and Landscape team, outlined below.
How will surrounding residents be protected should the contaminated site be disturbed for construction.	The applicant has developed Site Management Plan (**Attachment 3**) and Construction Environmental Management Plan (**Attachment 4**) which have been prepared in accordance with advice from the Department of Health and Department of Water and Environmental Legislation. It will be the responsibility of the proponent to adhere to all relevant regulations related to contaminated sites pursuant to the *Contaminated Sites Act 2003* and the *Work Health and Safety (General) Regulations 2022,* but information has been provided to date that demonstrates the proposal is capable of meeting requirements.
Concern relating to increased traffic impact on surrounding streets and parking	The proposal seeks to provide additional parking for the existing adjacent shopping complex; no additions or increase in the shopping centre area is proposed as part of the application. The proposed additional parking bays will be provided for the existing shopping centre with an aim to ease pressure on parking availability for the centre. Furthermore, the car parking will be accessed form the existing car park of

	the shopping centre without additional access points from public streets.
Concern the land use is not appropriate and does not align with the intended future of the site.	Detailed comment on the appropriateness of the land use and the time limited restrictions are outlined below.
Concerns of anti-social behaviour and illegal camping within the proposed parking lot. Request that the Council itself delivers or institutes an obligation on the developer to establish and maintain active, functioning, and ongoing surveillance on the proposed car park/s. This measure is crucial to mitigate potential anti-social behaviour and to track movements in the event of an increase in graffiti and/or damage affecting surrounding businesses, residences, and the general environment.	Management and security of the car park will be the responsibility of the operator and this comment has been provided to the applicant.

Some additional queries from submitters in relation to construction times and construction vehicle access were also forwarded to the Applicant for a response. The applicant provided a detailed letter responding to public comments and queries which can be found at **Attachment 9**.

Relevant conditions and advice notes have also been included in the Officers recommendation.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies.

Background

The subject site is located on the eastern side of Daly Street in South Fremantle. The site has a land area of approximately 24,332m² and is currently vacant. The site is zoned Development Area (DA2 -Daly and Hollis Street Tip Site South Fremantle Landfill Site). The site is not individually heritage listed though is located within the South Fremantle Heritage Area.

The subject site, commonly known as the South Fremantle Landfill Site was previously subject to quarrying / sand mining activities prior to the 1930's and subsequently used for waste disposal in various phases until the landfill was eventually closed in 1991. Due to the former use of the site as landfill, the

site has been classified by the Department of Water and Environmental Regulation (DWER) as *"contaminated – remediation required"* (C-RR) under the *Contaminated Sites Act 2003*.

The City has since the mid-2000's been undertaking site investigation, monitoring and management works in consultation with the Department of Water and Environmental Regulation (DWER) to meet its obligations as a landowner under the Act. The environmental and geotechnical constraints associated with the site due to its past use as a landfill site, and the very high costs of remediation, make it unsuitable for most forms of urban development at least in the short to medium term future.

The proponent of this proposal approached the City seeking permission to undertake site investigations to determine whether it would be viable to extend the existing Woolworths carpark into a portion of subject site.

In consultation with City officers, DWER and the Department of Health (DoH), the proposed Lessee appointed WELARM to undertake soil sampling to determine the extent of remediation required to achieve a carpark on the land. WELARM notified local residents of the testing in the form a letter drop. To the City's knowledge, there were no local enquiries before, during or after the testing.

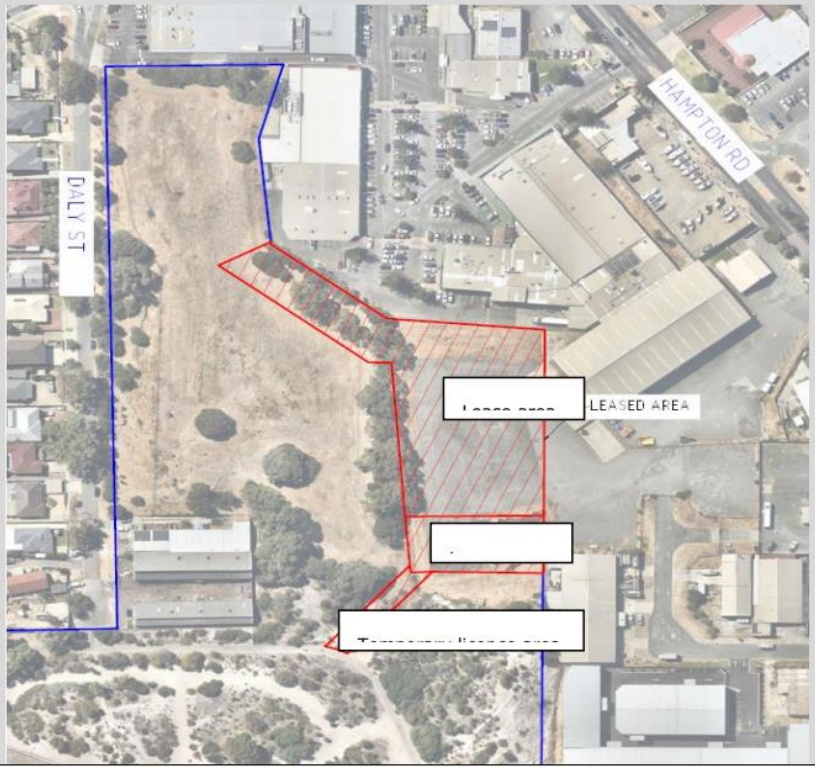
WELARM prepared an ongoing site management plan and outlined to the proponent what remediation works would be necessary to achieve the carpark development. The proposed methodology was generally supported by DWER, DoH and Worksafe.

At its meeting on 22 November 2023, following negotiations with the City and the proponent, Council resolved to finalise the lease between the proponent and the City, subject to the following key Terms and Conditions:

Key Lease Terms	
Land Description	**Portion of Lot 39 on Diagram 20161 Volume 1192 Folio 391**
Property	**Portion of Lot 39 Daly Street, South Fremantle (Approximately 9,000 m2, plan of premises shown below)**
Property Owner	**City of Fremantle**
Lessor	**City of Fremantle**
Lessee	**Humich Nominees Pty Ltd & Anilia Pty Ltd**
Handover Date	**The date of execution of the Lease by both parties.**
Commencement Date	**The date that the construction of the carpark is complete or six months from the Handover date, whichever is earlier.**
Rent Commencement Date	**12 months from the Commencement Date.**
Lease Term	**Ten (10) years**
Options	**2x 5-year options**
Annual Rent	**$21,500 plus GST per annum starting on the first anniversary of the Commencement Date.**
Carpark	**The carpark must be constructed within 24 months of the Handover Date.**
Licence Area	**Approximately 460m2 shown as 'Temporary Licence area' on the Plan of Premises.**
Rent Review	**Rent to increase by 3% annually and reviewed in line with market every five years from commencement. Rent following any Market Review must not decrease by more than 10% of the previous year's Rent or increase by more than 10% of the previous year's Rent**
Bank Guarantee	**To the value of three (3) month's rent (inclusive of GST).**
Incentives/contributions	**One year rent free.**
Permitted Use	**Carpark**
Outgoings	**Outgoings payable may include but not be limited to:** • **Electricity usage** • **Council rates** • **Land tax**
Maintenance	**Land only Lease. All maintenance obligations are the responsibility of the Lessee.**
Insurance	**The Lessee must effect and maintain:** **a) Public liability insurance of $20 million.** **b) Adequate workers compensation insurance in respect to all employees of the Lessee.**

Special Conditions	**1. The Lessee acknowledges that the property is offered "as is".** **2. Lessee's Works** **The Lessee will construct a carpark on the land in accordance with the plan of premises provided noting that some minor variations may be required once further works are undertaken. Any other variations require written approval from the Lessor.** **3. The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:** **- an application for planning consent;** **- an application for a building permit;** **- obtaining any other statutory approval required, including Water Corporation approval where necessary;**
	- construction or installation of the Lessee's Works; and **- Installation or upgrade of any services.** **4. The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.** **5. The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor's public liability insurance.** **6. The parties acknowledge and agree that the Lessee's Works shall vest to the Lessor upon expiry or earlier termination of the Lease without cost.** **7. Parties to act in good faith** **Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.**

	8. Redevelopment **With a minimum of 6 months notice, the Lessor reserves the right to terminate the Lease anytime within the option periods for the purpose of redevelopment.** **9. Temporary Licence** **(a) The Lessee will construct a shared path on the Licenced Area to the satisfaction of the Lessor.** **(b) The Lessee temporarily licences the Licensed Area from the Handover Date until the date a shared path is constructed on the Licensed area to the Lessor's satisfaction.** **(c) The Lessee must *complete* construction of the shared path within 24 months of the handover date unless otherwise approved by the Lessor.** **(d) The upfront cost of site investigations and construction of the shared path within the Licenced area will be borne by the Lessee and paid back by the Lessor in the form of a credit against rent invoices.**
	(e) The Lessor will appoint a representative from the City to oversee the works to ensure quality control and to approve all costs. **(f) The Lessee must not undertake work or expend costs within the licenced area without the prior consent of the Lessor.** **(g) On receipt of a prior approved invoice from the Lessee for works associated with the shared path, the Lessor will apply a credit to the Lessee to be applied against future rent charges for the Lease.** **10. End of Lease** **At the end of the Lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the Lease, will be entitled to reapply to Lease the premises through the public process.**

Plan of Premises	

Notwithstanding the above lease terms and conditions approved by Council, the proposal to construct and change the land use of the existing site to a car park is also subject to development approval, as is the subject of this application.

Land Use

The subject site is zoned Development Area (DA2 - Daly and Hollis Street Tip Site South Fremantle Landfill Site), however, no Structure Plan has been proposed or adopted to guide development of this area at this stage. The *Planning and Development Regulations 2015* provide that where no structure plan has been approved by the Commission over a site or development area, a decision maker may approve the application if satisfied that —

(a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
(b) the proposed development or subdivision would not prejudice the overall development potential of the area.

In consideration of the above, the proposed car par use is considered an acceptable for the following reasons:

- Due to the former use of the site for waste landfill, the site is classified "contaminated – remediation required" (C-RR) under the Contaminated Sites Act.

The environmental and geotechnical constraints associated with the site due to its past use as a landfill site, and the very high costs associated with remediation of the contaminated site, make it unsuitable for most forms of urban development at least in the short to medium term future.

- The proposed car park is considered an appropriate, lower risk land use for the subject site while the contaminated status of the site remains extant. The City currently does not have any short to medium term plans, nor the current ability to remediate and/or redevelop the site as it stands.

- The lease agreement and any development approval for the car park will be subject to a time-limited (temporary) approval of 10 years so as not to prejudice any future redevelopment of the subject site should the ability to remediate and redevelop the site in the future.

Landscaping, On-Site Trees

It is recognised that the proposed car park will require the removal of some mature trees from the site. It is noted these trees are not protected by planning legislation.

The applicant was provided with the opportunity to review the car park design and encouraged to retain some of these mature trees where possible.

The applicant advised that careful consideration had been given to tree retention in the design of the carpark and had engaged an arboriculturist to review this matter further. It was subsequently resolved that of the 27 mature trees within the proposed car parking area, 10 of these trees would require removal though 17 of the trees could be retained in the four proposed garden bed areas and the 3m wide landscaping strip (located along the north-western lot boundary), which are now also shown in the amended development plans at **Attachment 1**. Photos of the on-site trees can also be found at **Attachment 8**.

A condition of approval is recommended to ensure the lodgement of a detailed landscaping plan which shall include full details of tree retention, protection and/or removal, as well as any new planting, to the satisfaction of the City of Fremantle.

CONCLUSION

The proposed car park is considered an appropriate, lower risk land use for the subject site while the contaminated status of the site remains extant and the area remains without a structure plan.

The application is supported, subject to a time-limited (temporary) approval so as not to prejudice any future redevelopment of the subject site.

STRATEGIC IMPLICATIONS

The proposed development includes the removal of mature trees. These trees are not protected under the City's planning framework.

FINANCIAL IMPLICATIONS

Refer lease agreement.

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Proposed Change of Use to, and Construction of, Car Park at Lot 39 Daly Street, South Fremantle, subject to the following conditions:

1. **This approval relates only to the development as indicated on the approved plans, dated 8 January 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.**

2. **Notwithstanding condition 1, the car park use hereby approved is to cease operating within 10 years from completion of the carpark construction, unless otherwise approved by the City of Fremantle.**

3. **The proposed dual use path connection from the subject site through to the existing Hollis Park dual use path on the adjacent lot shall be designed and constructed to the satisfaction of the City of Fremantle. Construction of the shared path shall be completed within 24 months of the completion of the carpark construction unless otherwise approved by the City of Fremantle.**

4. **Prior to lodgement of a Building Permit for the development hereby approved, a detailed landscaping plan, including information relating to species selection, tree retention/removal reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn etc), shall be submitted to, and approved by the City of Fremantle.**

   Prior to the occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the

approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.

5. Prior to commencement of site works for the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:

a) Use of City car parking bays for construction related activities;
b) Protection of infrastructure and street trees within the road reserve;
c) Security fencing around construction sites;
d) Gantries;
e) Access to site by construction vehicles;
f) Contact details;
g) Site offices;
h) Noise - Construction work and deliveries;
i) Sand drift and dust management;
j) Waste management;
k) Dewatering management plan;
l) Traffic management; and
m) Works affecting pedestrian areas.

The approved Demolition and Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

6. Prior to lodgement of a Building Permit for the development hereby approved, the applicant is to submit, and have approved to the satisfaction of the City of Fremantle, a detailed parking plan design which complies with the Australian Standard AS/NZS 2890 and AS/NZS 1428.

Prior to the occupation of the development hereby approved, all car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.

7. 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.

8. 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 Notes:

i. 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.

ii. The Applicant is advised of the need to comply with any necessary requirements prior to the commencement of construction of 'Stage 2' of the proposal under the *Contaminated Sites Act 2003* and the *Work Health and Safety (General) Regulations 2022.*

iii. Advice to Applicant from Department of Water and Environmental Regulation (DWER):

- ***A Construction Environmental Management Plan (CEMP) is required to be prepared and implemented for construction works. The CEMP should address the potential for hazardous materials to be present in the waste body including work health and safety requirements.***

- ***The ground gas risk assessment carried out for Stage 1 of the proposed car park should be updated to include Stage 2. An Ongoing Site Management Plan (OSMP) is required to be prepared and implemented post construction. The OSMP should allow for ongoing management of any potential ground disturbance as well as the management of ground gas (such as maintenance of venting spaces).***

iv. With respect to the required landscaping plan for City of Fremantle approval, please find advice from the City's Parks and Landscape team:

- **Indicate trees to be removed and their species as part of car park construction plan.**
- **Location and species of trees within the carpark, both retained and those proposed to be planted.**
- **Tree pits and/or garden beds of a size that allows sufficient canopy growth.**
- **Ensure that the proposed footpath has ramps and landings with handrails to accommodate access due to the gradient of the footpath location.**

v. **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 or 9432 9999.**

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.**

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)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Development Plans 2. Cover Letter 3. Decision Notice and Stamped Plans (DA0249/23) 4. Site Photos

SUMMARY

Approval is sought for a variation to the planning approval granted for a single storey Single house at No. 18 Watkins Street, White Gum Valley.

The proposal is referred to Council due to the nature of some discretions being sought that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Primary street setback**
- **Lot boundary setback**
- **Sight lines**
- **Vehicular access**
- **Site works**

The application is recommended for refusal.

PROPOSAL

Detail
Approval is sought for a variation to planning approval granted for a single storey Single house at No. 18 Watkins Street, White Gum Valley (subject site).

Upon lodgement of the original application DA0249/23, the applicant was advised that the proposed site fill, street setback and the removal of the verge tree were not supported. The applicant amended the plans however, it was still recommended for refusal due to not meeting the design principles for the street setback. The application along with the amended plans were referred to Council who determined that the design principles were met and subsequently approved the application on 6 December 2023. The decision notice and stamped plans subject of this approval are included as attachment 3.

The applicant has submitted this request to vary the approval seeking to have the original plans submitted with DA029/23 prior to amendments approved.

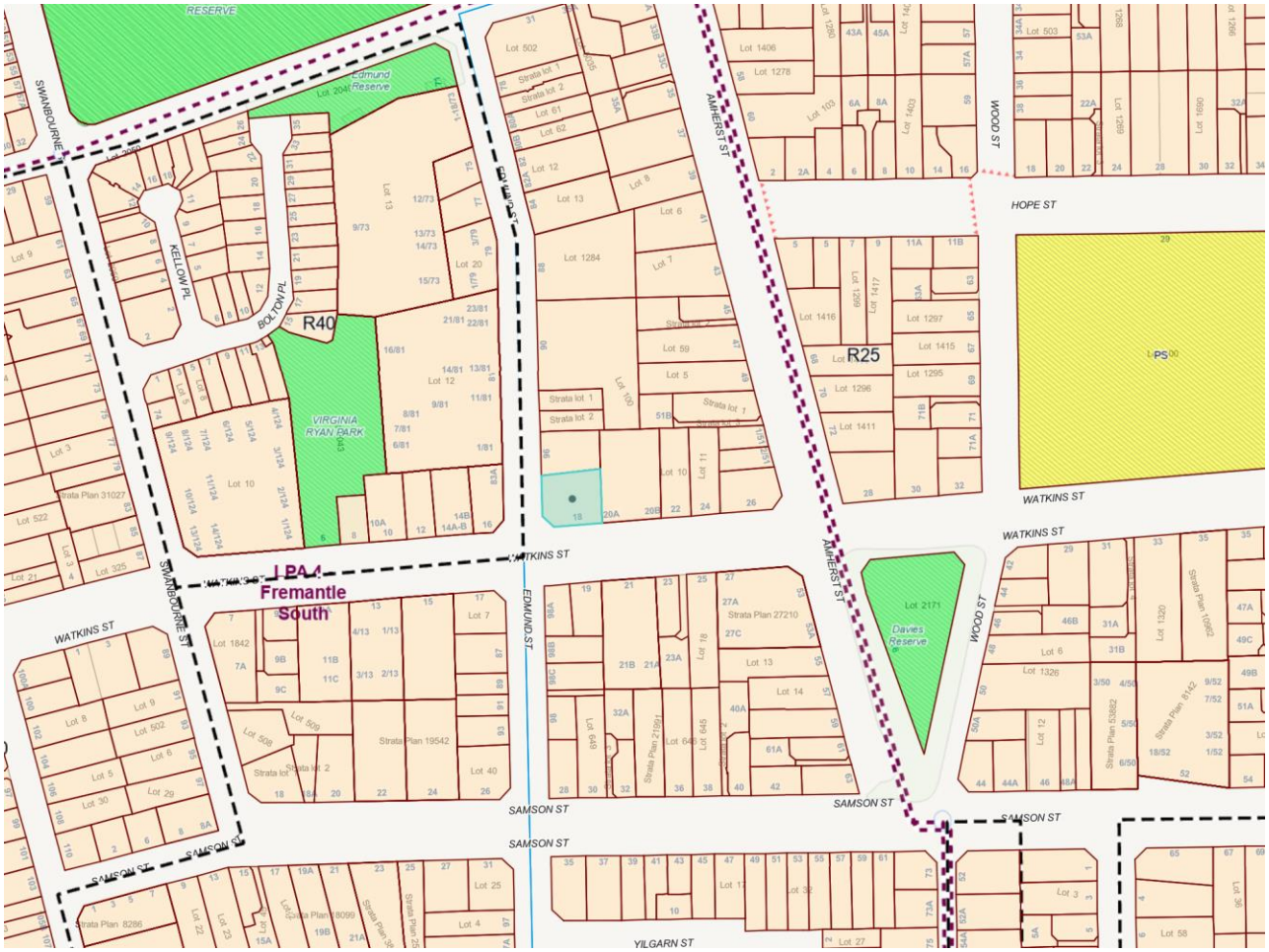
The changes to the approved plans include:

- Reconfiguration of dwelling layout (living room relocated to the west side of the proposed dwelling, bedrooms and gym moved to the east side).
- Carport relocated to the east side of dwelling.
- Reduced primary street setback from 5.304m to 3.5m.
- Crossover relocated further east requiring the removal of a street tree.
- Increased site fill and finished floor levels.

Development plans are included as attachment 1.

Site/application information

Date received:	15 January 2024
Owner name:	Phoebe Stoneman & Adriano Truscott
Submitted by:	KTR Creations Pty Ltd
Scheme:	Residential R25
Heritage listing:	Not Listed
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

City of Fremantle Internal Referrals

Parks and Landscape

- The proposed amended plan alters the location of the crossover to the eastern side of the lot. This will require the removal of a mature street tree.
- The removal of the Cook Island Pine tree located in the street verge illustrated in Figure 1 below is not supported, noting there are viable alternatives for a crossover location to the lot that do not remove a street tree.
- The tree is unfortunately not suitable for relocation due to its size and maturity. It is also advised that the current Helliwell value (calculation of a tree's financial amenity value using a number of criteria including its life expectancy, tree size, rarity, importance in the landscape and the presence of other trees) for the Cook Island Pine is estimated to be $4,350.24.

Figure 1 – Cook Island Pine tree proposed to be removed (marked in red) to facilitate new vehicle crossover.

Community
The previous application subject of DA0249/23 was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought merit-based assessments against the R-Codes and local planning policies. The advertising period concluded on 2 October 2023, and no submissions were received. The development plans accompanying the community consultation match the plans submitted with this variation application (i.e., they are the original plans submitted prior to any amendments).

As this variation application is based on this original set of plans which were advertised to surrounding landowners relatively recently, it is not considered necessary to readvertise the application.

OFFICER COMMENT

Statutory and policy assessment
The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is

made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Primary street setback
- Lot boundary setback
- Sight lines
- Vehicular access
- Site works requirements

The areas that do not meet the Deemed-to-comply or policy provisions remain the same as the previous application with the exception of the setback of the carport and the visual privacy discretions which are now considered to satisfy the R-Code and policy requirements. The above matters are discussed below.

Background
The subject site is located fronting Watkins Street to the South and Edmund Street to the west. The site has a land area of approximately 850m² and currently features a Single house which is proposed to be demolished to facilitate the proposed development. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed nor located within a Heritage Area.

The subject site features an approximate decrease of 3m in natural ground level from the south east corner of the lot down to the north west corner. A search of the property file did not reveal any development history for the site. The dwelling was constructed circa 1945 based on historical aerials.

Land Use
A Single House is a 'P' land use within the Residential zone which means that the use is permitted by the Scheme.

Local Planning Policy 1.1 Amendment and Extension To The Term Of Planning Approval

Clause 1.1 of Local Planning Policy 1.1 defines circumstances where the amendment of a planning approval can be allowed.

> *1.1 In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposal amendment is such that the use or development the subject of the planning approval:*
>
> *(a) remains, in substance, the same; or*
> *(b) is changed so a new and different use or development is proposed.*

It has been determined that, although new R-Code variations have been introduced by this application, the substance of the development, being a

single storey Single house development on a vacant lot with a similar layout, remains the same. In addition, there is no new or different use being proposed other than the approved land use subject of this application to amend the planning approval previously granted.

Primary street setback

Element	Requirement	Previously proposed	Proposed	Extent of Variation
Primary street setback	10m (wall height >4m)	5.304m	3.5m	6.5m

The primary street setback is not supported under the performance criteria of the Residential Streetscape Policy (LPP 2.9) and the design principles of the R-Codes for the following reasons:

- As illustrated by Figure 2 below, the amended reduced setback of the dwelling is inconsistent with the setbacks of buildings within the prevailing streetscape, with the three dwellings to the east being setback further than the proposed dwelling (between 6.2m – 10m).
- It is considered that the dwelling will result in a projecting element into the established streetscape which is not a positive outcome.
- The subject site is a corner lot which will result in the dwelling visibility being greater when looking east along Watkins Street, thereby increasing the impact of the reduced setback on the prevailing streetscape alignment.
- There is no mature, significant tree on site deemed worthy of retention that would justify the reduced setback.
- The proposal will result in a detrimental impact on the streetscape character and amenity of the area as such it is not considered that the amended setback will positively contribute to the established streetscape.

Figure 2 – Illustration of the setback of the prevailing streetscape of Watkins Street in relation to the subject site.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Side setback – East (carport)	1m	0.2m	0.8m

The lot boundary setback is considered to meet the Design principles of the R-Codes in the following ways:

- The carport is a lightweight structure which will have minimal impact from building bulk and scale on the adjoining lot.
- The adjoining lot opposing the carport is approximately 0.5m higher in elevation than the subject site which will assist in reducing any impact resulting from the scale of the structure.
- The carport will oppose a car parking area on the adjoining lot and will not oppose any major openings or outdoor living areas.
- There will be no significant reduction in solar access to the adjoining lot due to its location to the east of the subject site.

Sight lines

Element	Requirement	Proposed	Extent of Variation
Structures within 1.5m of a driveway	Reduced to 0.75m in height	1.8m high front gate	1.05m over height

The sight lines are considered to meet the Design principles of the R-Codes in the following ways:

- The proposed front gate provided for a level of visual permeability between the site and the street.
- There is no footpath located along this side of Watkins Street, therefore there is not considered to be any significant pedestrian traffic passed the vehicle access point.
- The width of the verge (10m) provides sufficient separation between the front gate and the street such that vehicles will be able to safely enter and exit Watkins Street with clear sightlines.

Vehicular Access

Element	Requirement	Proposed	Extent of Variation
Access to on site car parking	From secondary street (Edmund Street)	From primary street (Watkins Street)	Takes access from primary street
Location of crossover	Located so as to avoid street trees, or, where this is unavoidable, the street trees replaced at the applicant's expense or re-planting arrangements to be approved by the decision-maker	Crossover relocated to the location of a street tree.	Does not avoid street tree

The vehicular access is not considered to meet the Design principles of the R-Codes for the following reasons:

- The new crossover is in the location of an existing street tree which will require removal (the existing crossover is located between the street trees).
- The proposed crossover will result in a detrimental impact on the streetscape by way of the loss of a mature street tree.
- The approved crossover is in an appropriate location for vehicular access to the site.

Site Works

Element	Requirement	Proposed	Extent of Variation
Retaining walls, fill and excavation between the street boundary and the street setback	Not more than 0.5m above or below the natural ground level	0.7m retaining wall 0.65m fill	0.2m retaining 0.15m site fill
Retaining behind street setback line	1m lot boundary setback	nil	-1m
Fill behind street setback line, within 1m of a lot boundary	<0.5m fill	1.45m fill/nil setback	0.9m

The site works are not considered to meet the Design principles of the R-Codes in the following ways:

- The site works do not attempt to respond to the natural features of site and will require excessive fill.
- While the south east (front corner) of the lot is cut in to the site to facilitate the new crossover and carport, a substantial portion of the subject site will be filled to a level higher than the natural ground level.
- As indicated by Figure 3 below, substantial fill across the site will be required to achieve the Raised Level of 13.65.
- The height of the retaining wall will result in a detrimental impact on the adjoining lot to the north due to the excessive height of the wall combined with the proposed 1.8m high dividing fence atop the wall.

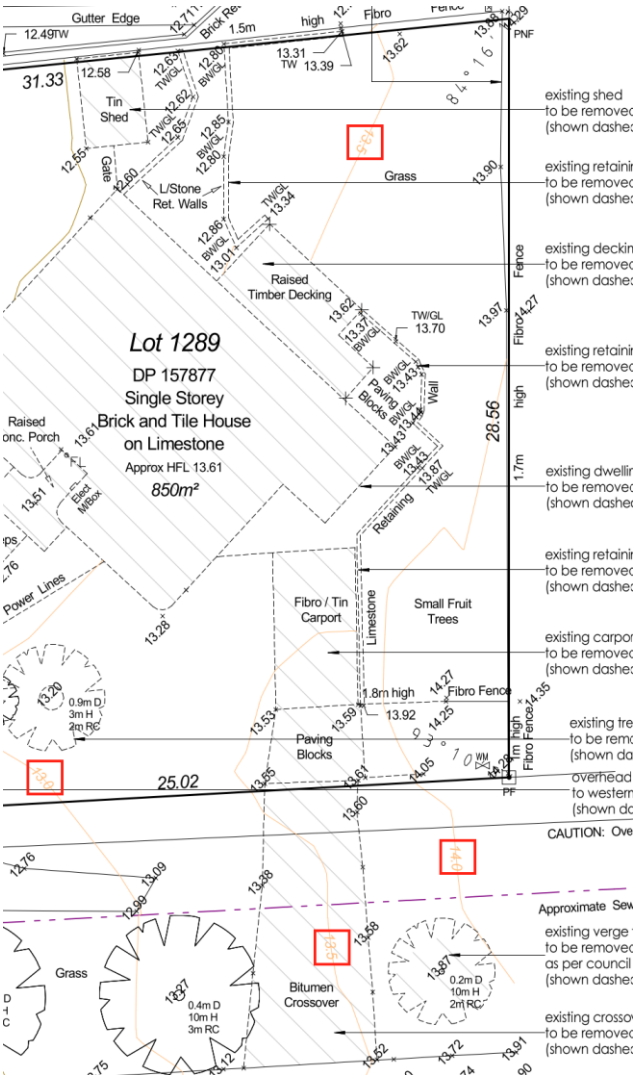


Figure 3 – Illustration of the site topography in relation to the subject site.

CONCLUSION

The proposed setback of the dwelling does not satisfy the performance criteria of LPP2.9 or the design principles of the R-Codes. In addition, the proposed crossover location will result in the removal of a mature street tree and should not be supported due to the level of community benefit it provides. Option to relocate the crossover or retain the existing should be explored. It is therefore considered that the proposal cannot be supported and is referred to Council for determination with a recommendation for refusal.

STRATEGIC IMPLICATIONS

Greening Fremantle: Strategy 2020

- The location of the proposed vehicular crossover will result in the removal of a mature street tree contradicting the objectives of the Greening Fremantle

Strategy which aims to increase the level of canopy coverage across the City to at least 20%.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Variation to Previous Development Approval DA0249/23 (Single Storey Single House) at No. 18 (Lot 1289) Watkins Street, White Gum Valley, as detailed on plans dated 15 January 2024, for the following reasons:

1. **The reduced street setback is inconsistent with the City of Fremantle's Local Planning Policy 2.9 Residential Streetscape Policy and the Residential Design Codes. The reduced setback of the dwelling and garage is inconsistent with the prevailing streetscape and will result in a detrimental impact to the character and amenity of the area.**

2. **The vehicular access/ crossover is inconsistent with the City of Fremantle's Local Planning Policy 2.9 Streetscape Policy and the Residential Design Codes as the location of the vehicular access does not avoid a mature street tree and could be located elsewhere. The tree is not considered suitable for relocation to its size and its removal will reduce the canopy coverage within the City and result in the loss of the community benefit that the tree provides.**

3. **The level of fill and height of retaining is inconsistent with the Design principles of the Residential Design Codes as it is not considered to sufficiently respond to the natural features of the site and proposes excessive retaining and fill, resulting in a detrimental impact to the amenity of the adjoining property to the north.**

C2403-6 WATKINS STREET, NO. 82 (LOT 100), WHITE GUM VALLEY - ANCILLARY DWELLING AND ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE – (JD DA0368/23)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Development Plans 2. Cover Letter 3. Applicant Response to Objections 4. Site Photos

SUMMARY

Approval is sought for an ancillary dwelling and additions and alterations to an existing Single house at No. 82 Watkins Street, White Gum Valley.

The proposal is referred to Council due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Lot boundary setback (north and west boundary walls)**
- **Onsite parking**
- **Dividing fence height**

The application is recommended for refusal.

PROPOSAL

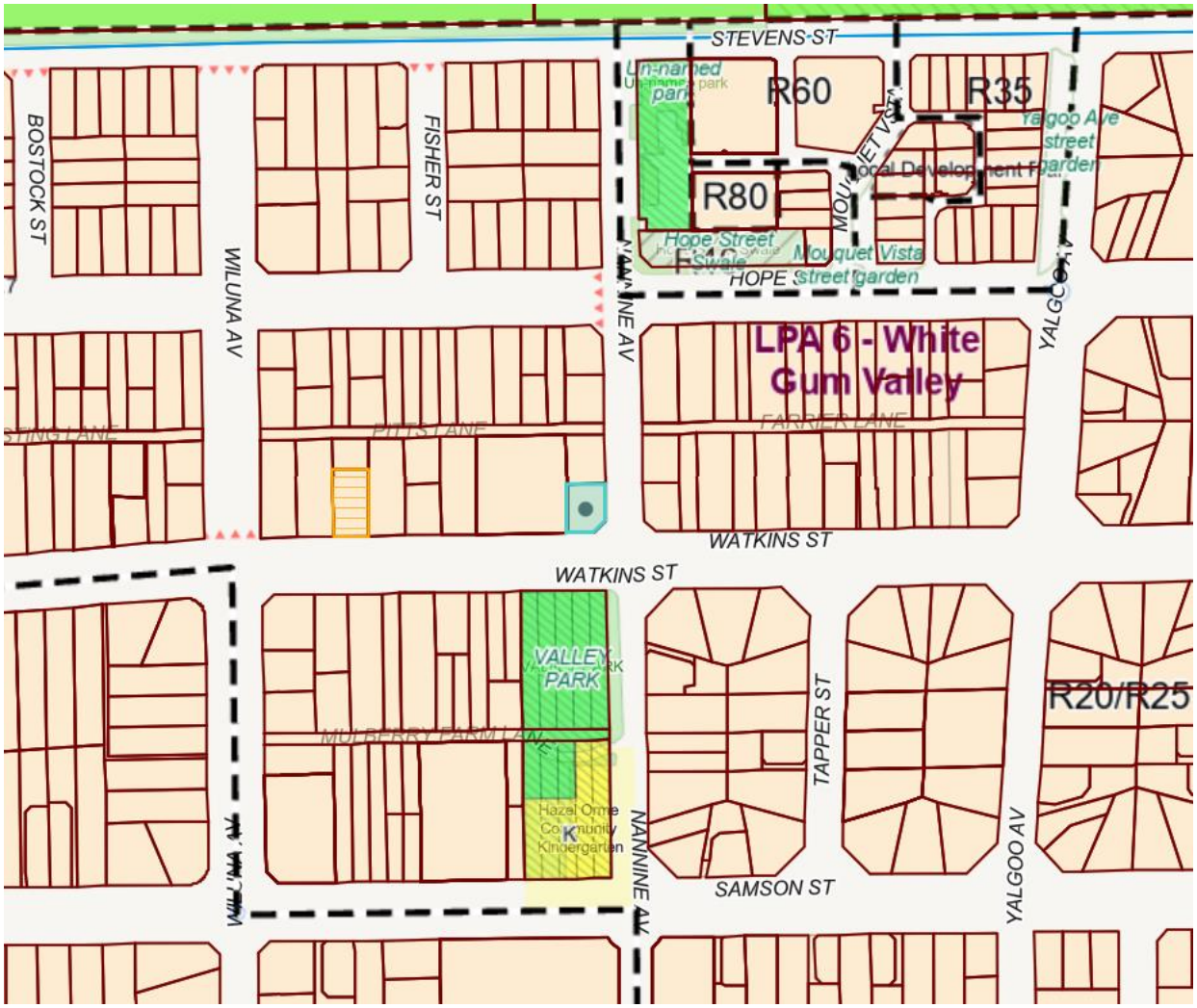
Detail
Approval is sought for an ancillary dwelling and additions and alterations to an existing Single house at No. 82 Watkins Street, White Gum Valley (subject site). The proposed works include:

- Demolition of existing outbuilding.
- Construction of a 40.5m^2 ancillary dwelling with a loft bedroom.
- Construction of a masonry dividing fence with additional screening attached to a total height of 4.4m for the western boundary.
- Installation of a shade sail over existing carparking area.

Development plans are included as attachment 1.

Site/application information

Date received:	28 November 2023
Owner name:	Nathalie Joelle Serin
Submitted by:	Huston Architecture
Scheme:	Residential R20/R25
Heritage listing:	Not Listed
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION

External referrals
Nil required.

Community
The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations *2015*, as the proposal sought merit-based assessments against the R-Codes and local planning policies. The advertising period concluded on 12 January 2024, and two (2) submissions were received. The following issues were raised (summarised):

- Objection to the scale of the boundary wall heights on the west aspect.
- Objection to the scale of the north boundary wall which will pose a substantial detriment to the adjoining property's backyard.
- Objection to the use of materials other than rendered and painted masonry on the external face of the north boundary.
- The proposal for two east-facing translucent glazed opening windows in the upper loft area will impact the privacy of the adjoining property to the north. These windows, situated at eye level from various points, including the stairs and loft space will overlook into our private spaces, including master bedroom, glass doors bathroom and garden dining area. To align with R-Codes requirements for privacy, a request is made that these windows be fixed (non-openable) and frosted.

The applicant provided a response to the objections which is included as attachment 3.

In response to the above, the following comments are provided by officers:

- A condition would be recommended in the event of any potential development approval that the translucent windows are to be fixed/non-openable where required to meet visual privacy requirements.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment
The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Lot boundary setback (north and west boundary walls)

- On site car parking
- Dividing fence height

The above matters are discussed below.

Background
The subject site is located on a corner lot, fronting Watkins Street to the south and Nannine Avenue to the east. The site has a land area of approximately 501m² and is currently occupied by a Single house. The site is zoned Residential and has a split density coding of R20/R25. The site is not individually heritage listed nor is it located within a Heritage Area.

A search of the property file has revealed the following history for the site:

- DA0127/14 - Development approval - Secondary Dwelling and Carport Addition to existing Single House (not commenced and approval expired).
- Dwelling constructed circa 1950.

Land Use
A Single House is a 'P' land use within the Residential zone which means that the use is permitted by the Scheme.

Lot boundary setback (boundary wall)

Element	Requirement	Proposed	Extent of Variation
North	1m	Nil	1m
West	1m	Nil	1m

The north boundary wall is considered to meet the Design principles of the R-Codes in the following ways:

- The proposed boundary wall varies from between 2.6m and a maximum 4.225m and extends for 5.06m of the 20m boundary length. It is considered this height and length is appropriate and should not result in a detrimental impact from building bulk on the adjoining property.
- The boundary wall is located to the south of the adjoining property and will not result in any overshadowing to this property.
- The proposed glass blocks in the boundary wall are translucent and are not considered to constitute a major opening therefore, there will be no loss of privacy on the adjoining property.
- The boundary wall will allow for more effective use of the outdoor living area on the subject site.
- The boundary wall will not immediately oppose any major openings or the immediate outdoor living area of the adjoining property.

The west boundary wall is not considered to meet the Design principles of the R-Codes in the following ways:

- As illustrated by Figure 1, 2 and 3, the height of the boundary wall will match the height of the eaves on the dwelling to the west and is located opposing bedroom 3.
- The bulk and scale of the boundary wall will oppose the abovementioned bedroom, which is located 1.3m from the side lot boundary/ proposed boundary wall, and will have an adverse impact on the amenity of this space due to restrictions to solar access and ventilation.
- The maximum height of the boundary wall will be 4.716m above the raised level of the adjoining property and will extend for 18.3m of the total 25.6m boundary length The bulk and scale resulting from this boundary wall will have a significantly detrimental impact on the visual amenity of occupants.
- The scale and location of the boundary wall is not considered necessary to make more effective use of space on the subject site.

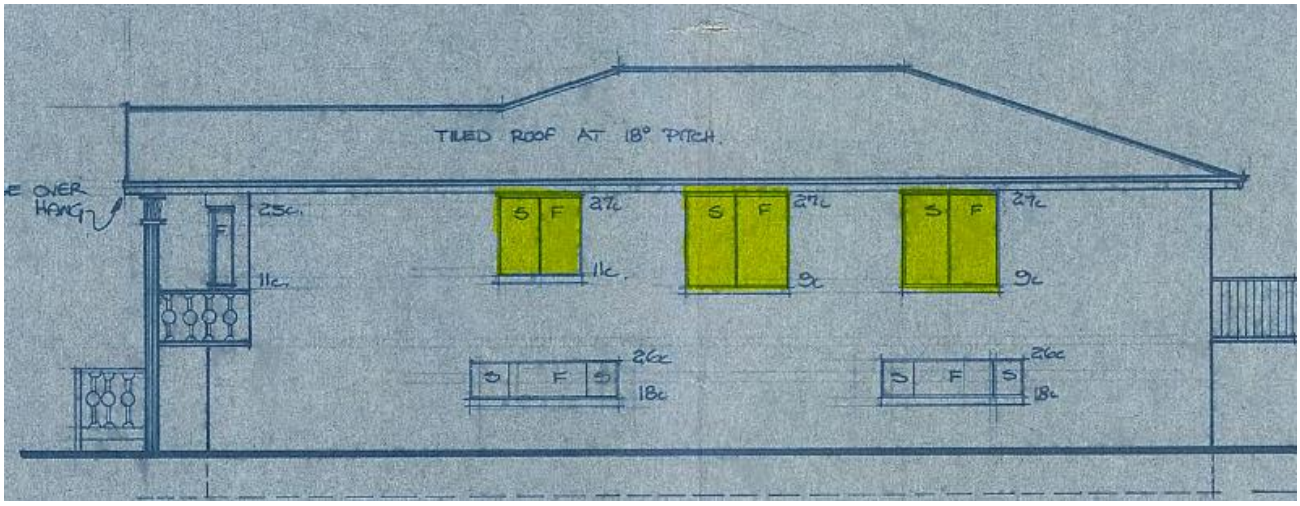


Figure 1 – Image illustrating the location of the major openings on the dwelling to the west (80 Watkins Street).

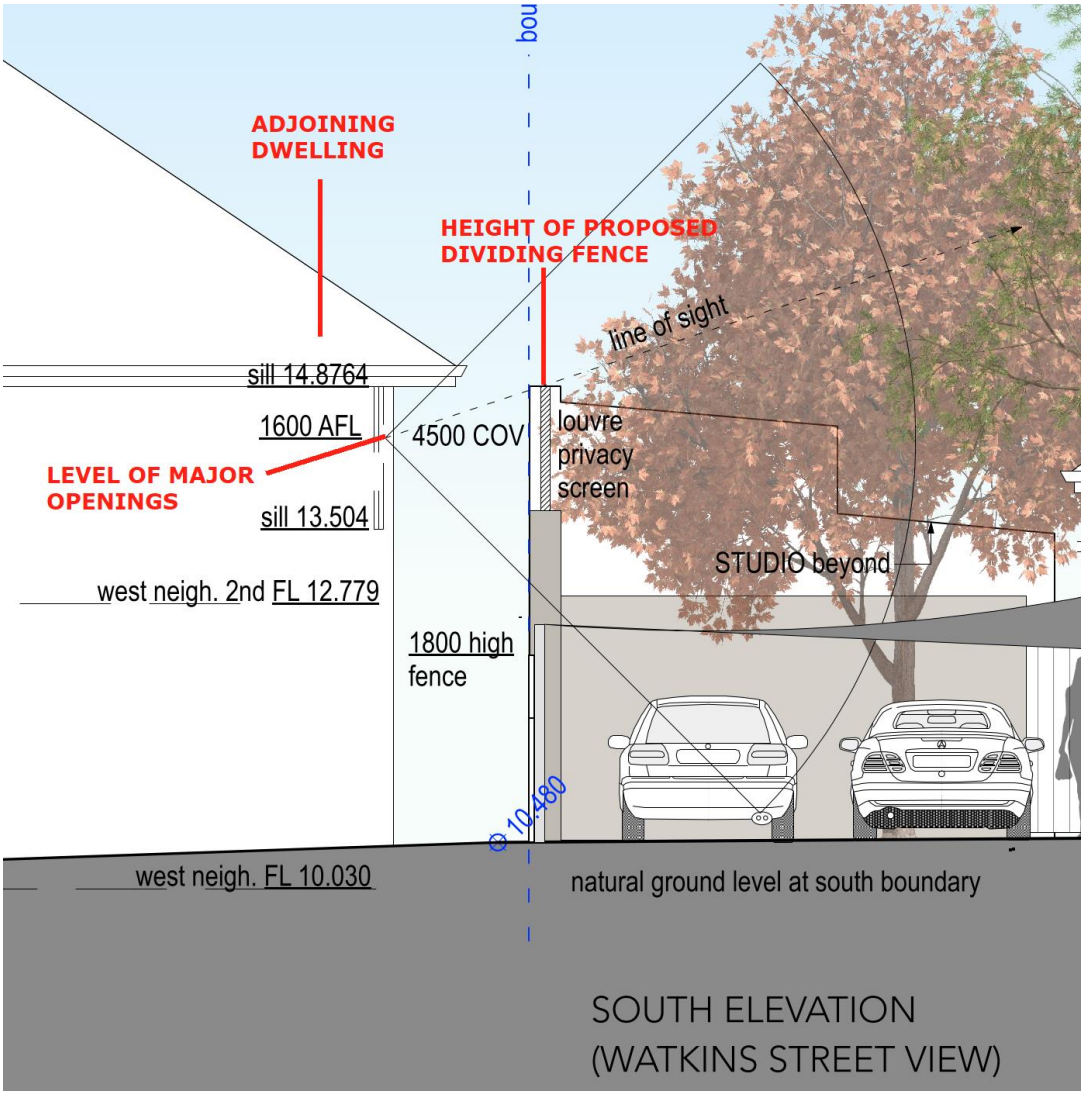


Figure 2 - Image illustrating the proposed boundary wall in relation to the major openings on the dwelling to the west (80 Watkins Street).

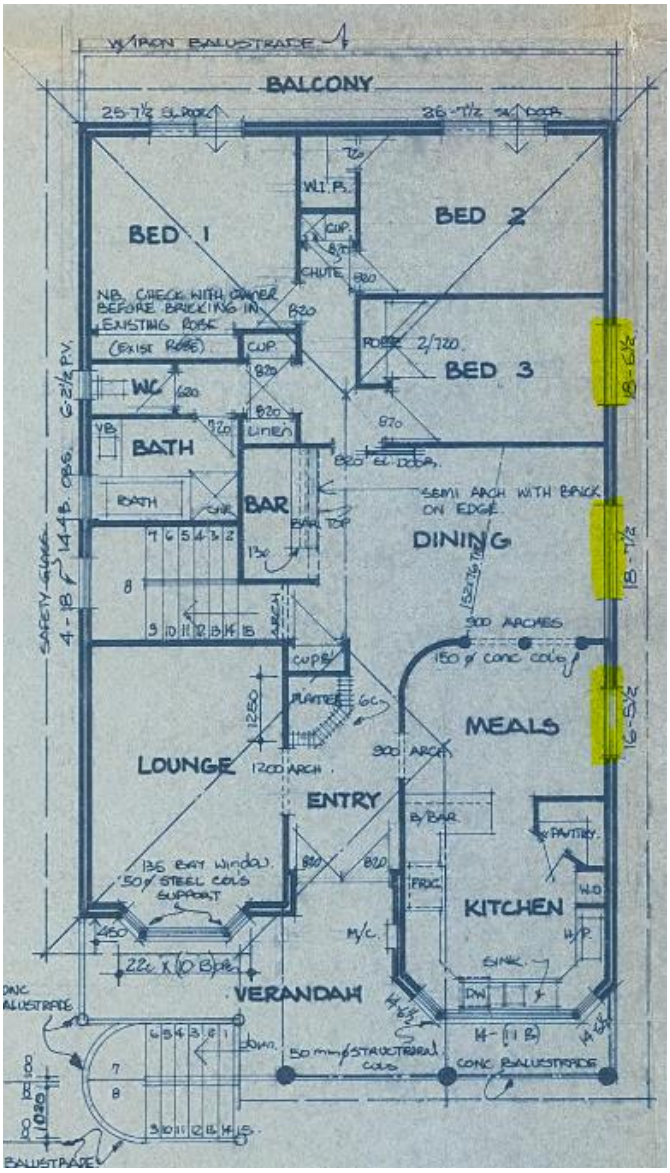


Figure 3 - Image illustrating the rooms and location of the major openings of the dwelling to the west (80 Watkins Street).

Parking

Element	Requirement	Proposed	Extent of Variation
Ancillary dwelling	1 (in addition to existing single house parking requirements)	Nil	1 car bay

The parking is considered to meet the Design principles of the R-Codes in the following ways:

- There is a standard bus route which services Watkins Street with a bus stop located approximately 20m from the subject site.
- There is a high frequency bus route located approximately 400m to the south which services South Street.
- The one (1) bay shortfall for a moderately sized ancillary dwelling is not considered to result in a significant parking shortfall that affects the amenity of the area.
- Street parking is permitted with no time limit.

Boundary (Dividing) Fence

Element	Requirement	Proposed	Extent of Variation
Side boundary fence height	1.8m	3.225m fence + 1.195m screen 4.4m total height	2.62m

The dividing fence has been designed to provide screening from existing overlooking from the habitable rooms on the adjoining dwelling to the west, illustrated by Figure 1 above. The dwelling on the adjoining property was constructed prior to the introduction of the Residential Design Codes, which resulted in the visual privacy impacts on the subject site being neglected. It is acknowledged that there is a level of impact on the visual privacy of occupants of the subject site resulting from the habitable rooms on the adjoining dwelling however, potential alternatives could be explored to minimise any detrimental impact to the adjoining property.

The dividing fence alterations are not supported under the performance criteria of LPP2.8 and Clause 67 of the Regulations for the following reasons:

- Figures 4 and 5 below illustrate the 4.4m height and 10.3m length of the proposed boundary fence.
- Clause 5 of LPP2.8 details the requirements for side and rear dividing fences and screening materials which states as follows:

    5.1 Council will not approve side and/or rear boundary fences greater than 1.8m in height, or screening material that projects more than

500mm above the top of an approved fence unless the proposed fence/screening will not have any significant impact on adjoining properties by way of overshadowing, solar access, or loss of views.
5.2 Council will have particular regard to comments made by neighbouring owners / occupiers of adjoining properties where consultation is carried out, and will only consider the criteria in 5.1 to be met where it is satisfied that no significant adverse impacts on the amenity of the neighbouring property will occur.

Noting the proposed height and length of the boundary fence stated above, the proposed fence is inconsistent with clause 5.1 of LPP2.8. It is considered that the length and height of the boundary fence will restrict access to sunlight and ventilation for the major openings on the adjoining dwelling as well as result in a detrimental impact from bulk and scale thereby resulting in a detrimental impact on the amenity of the adjoining property to the west.

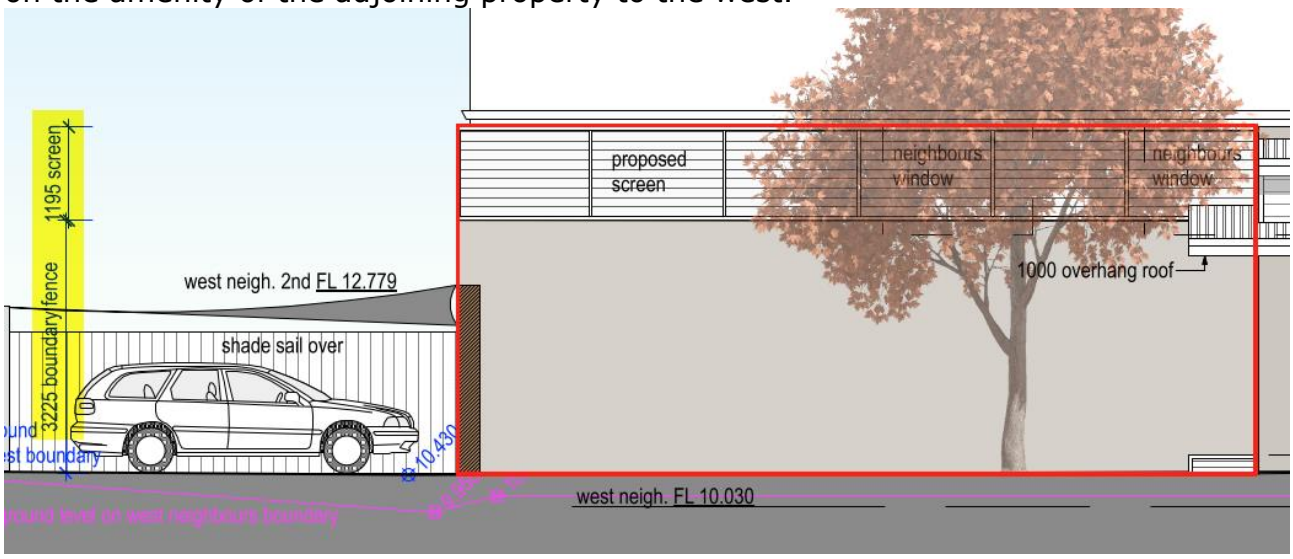


Figure 4 - Image illustrating the proposed boundary fence and screening outline in red.

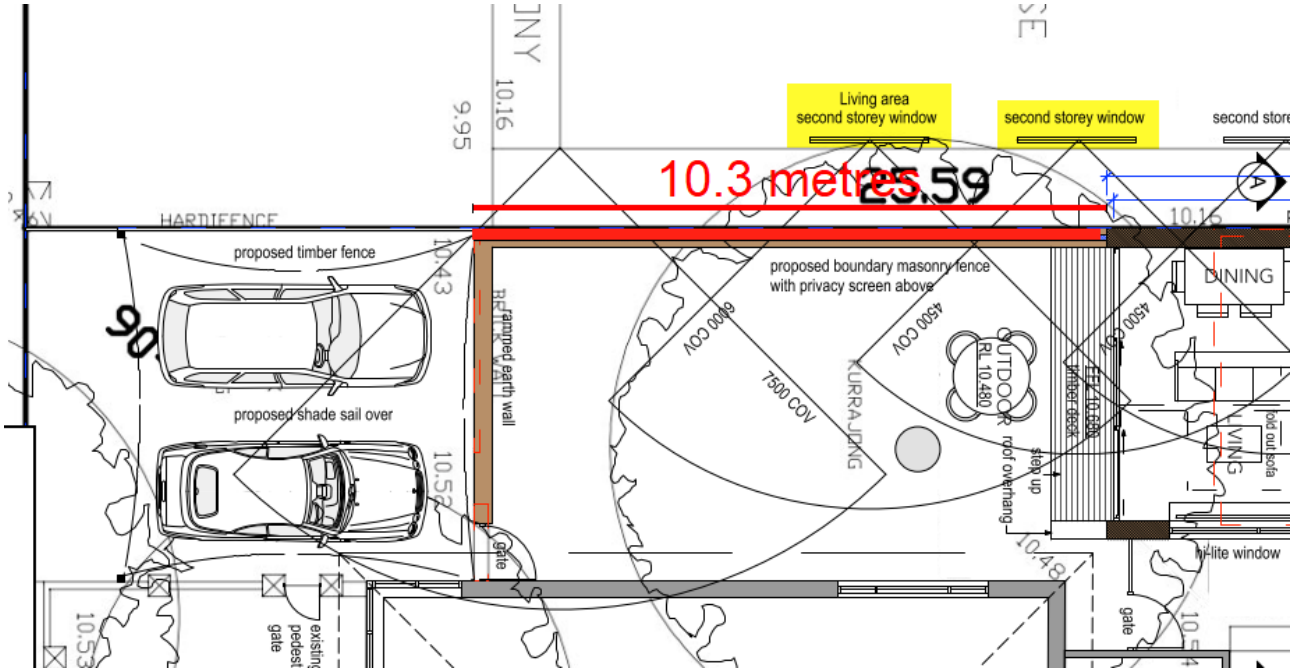


Figure 5 - Image illustrating the location of the proposed boundary fence in red in relation to the major openings on the adjoining lot.

CONCLUSION

It has been determined that the bulk and scale of the proposed north and west boundary wall and the west boundary fence is likely to result in a detrimental impact to the amenity of the adjoining property. Therefore, the application is recommended for refusal.

STRATEGIC IMPLICATIONS

<u>Strategic Community Plan 2015-25</u>

- Increase the number of people living in Fremantle
- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Ancillary Dwelling and Additions and Alterations to Existing Single House at No. 82 Watkins Street (Lot 100), White Gum Valley, for the following reasons:

a. The proposed west boundary wall is inconsistent with the Residential Design Codes due to the bulk and scale of the wall and its location opposing major openings on the adjoining property resulting a detrimental impact on the amenity of the adjoining property.

b. The proposed boundary fence is inconsistent with clause 5.1 of the City of Fremantle's Local Planning Policy 2.8 Fences as the bulk and scale of the proposed boundary fence will result in a detrimental impact to the amenity of the adjoining property to the west.

C2403-7 REFERRED ITEM - CADD STREET, NO. 2 (LOT 511), BEACONSFIELD – ANCILLARY DWELLING ADDITION TO EXISTING SINGLE HOUSE – (JD DA0234/23)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Amended Development Plans 2. Original Development Plans 3. Site Photos

SUMMARY

Approval is sought for an ancillary dwelling addition to an existing Single house at No. 2 Cadd Street, Beaconsfield.

At the Council meeting held on 6 December 2023 it was resolved to refer the application and invite the applicant to consider submitting an amended proposal to address overshadowing. The applicant was encouraged to consider changes such as, but not limited to, reducing the overall roof height and southern wall height.

On 23 January 2024 the applicant submitted amended plans decreasing the southern wall height of the Ancillary dwelling from a maximum 5.426m to a maximum of 3.926m. Fundamentally, this has assisted with reducing the level of shadow created on the southern adjoining site to a deemed to comply level.

In addition to the wall height changes, the applicant has also removed the original screening material/ method along the entire existing southern common dividing fence and proposed an alternative screening method for a smaller portion on the deck addition.

The proposal is referred to Council due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application now seeks discretionary assessments against the Residential Design Codes (R-Codes), which include the following:

- **Visual privacy (South)**

The previous application referred to the 6 December 2023 Council meeting was recommended for refusal. The amended application is now recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for an ancillary dwelling addition to an existing Single house at No. 2 Cadd Street, Beaconsfield (subject site).

Since the previous matter was presented to Council, the applicant submitted amended plans on 23 January 2024 including the following changes:

- Reduced south wall height (opposing neighbouring boundary) from a maximum height of 5.81m to a maximum 3.926m (refer Figure 1 and 2 below).
- Maximum roof peak height increased from 6.696m to a maximum of 6.946m on the north east corner of the roof peak.

Amended development plans are included as Attachment 1. Original development plans previously referred to Council on 6 December 2023 are included as attachment 2.

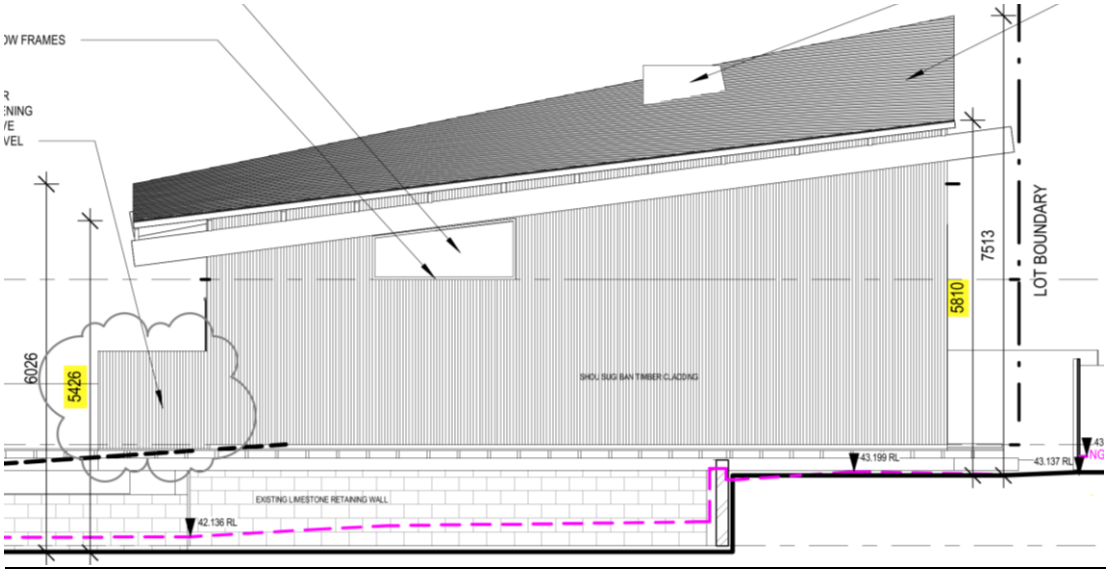


Figure 1 – Development plans submitted for 6 December 2023 Council Meeting (south elevation)

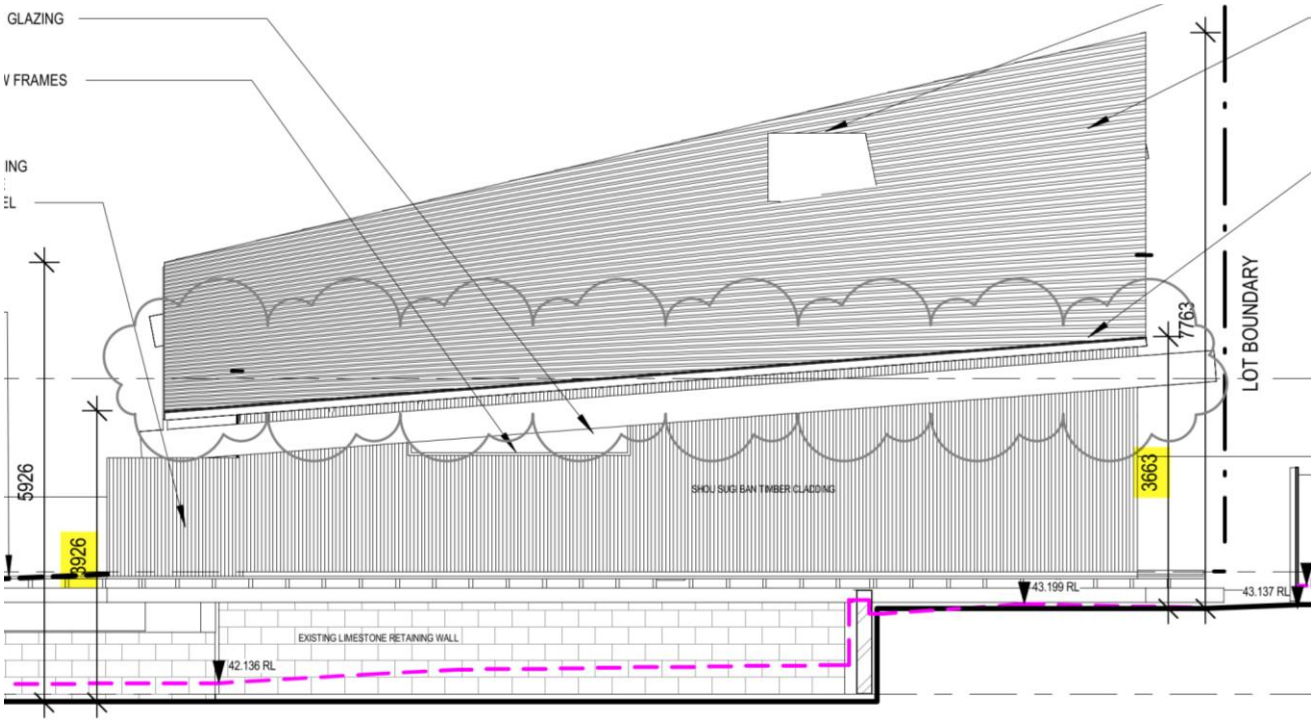


Figure 2 – Amended development plans (south elevation)

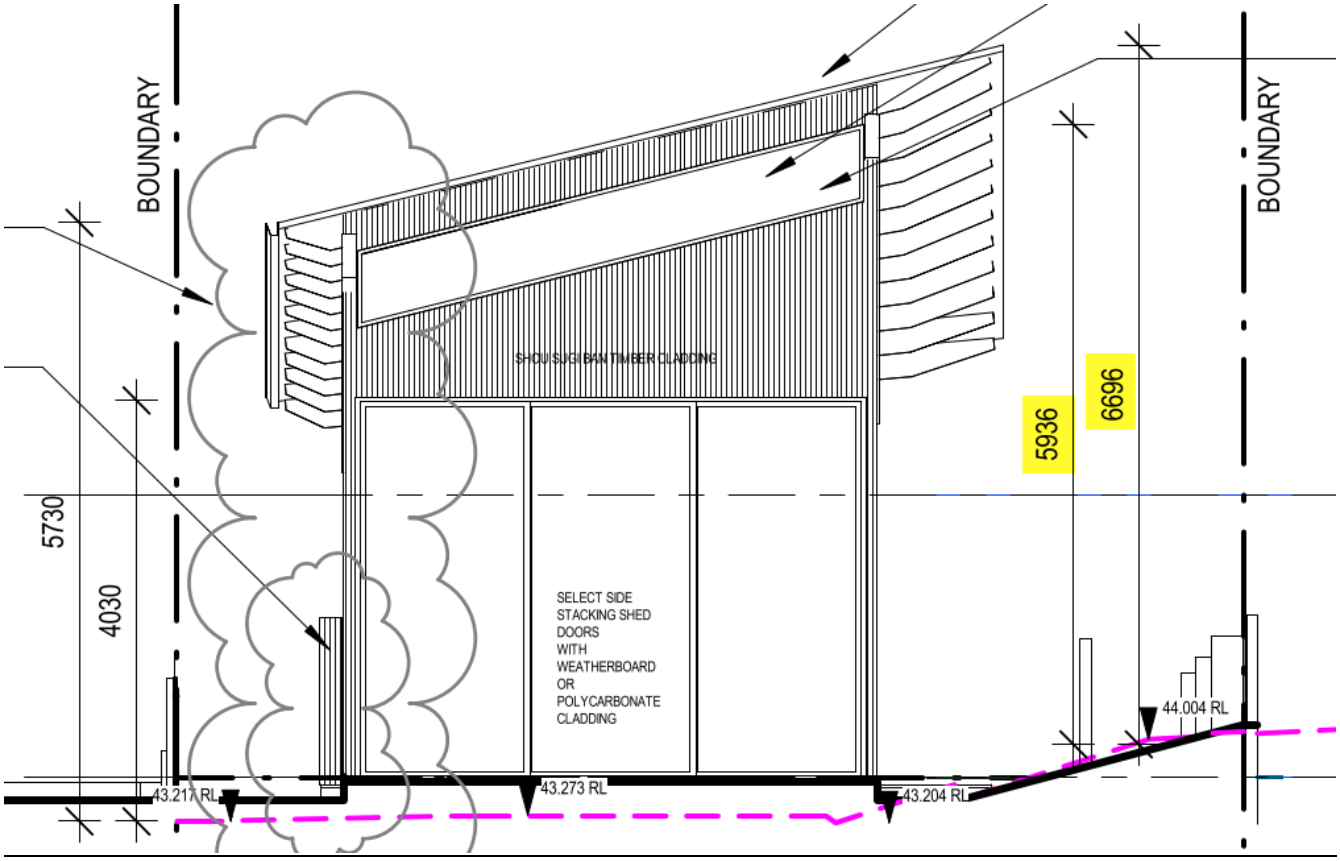


Figure 3 – Development plans submitted for 6 December 2023 (east elevation)

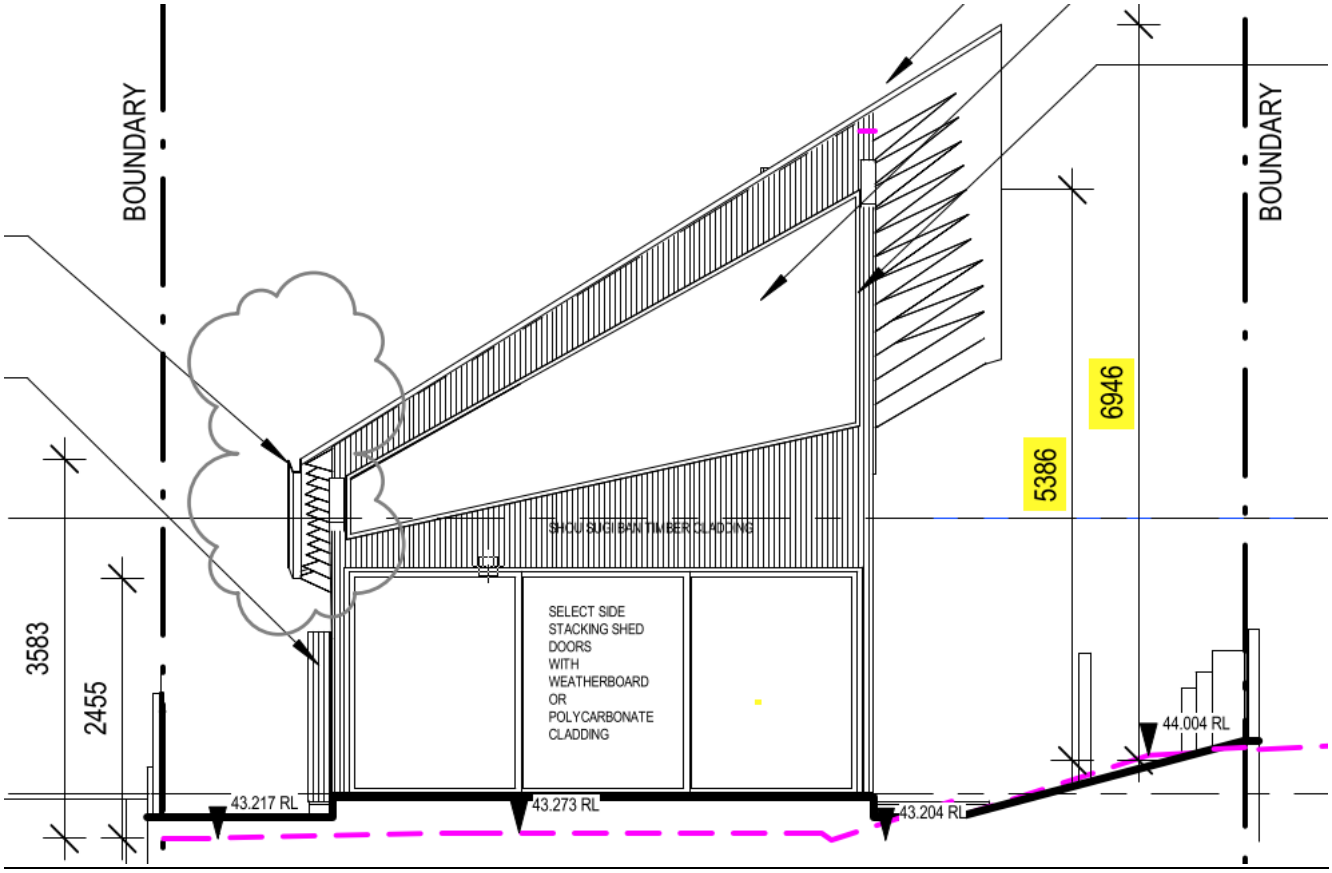
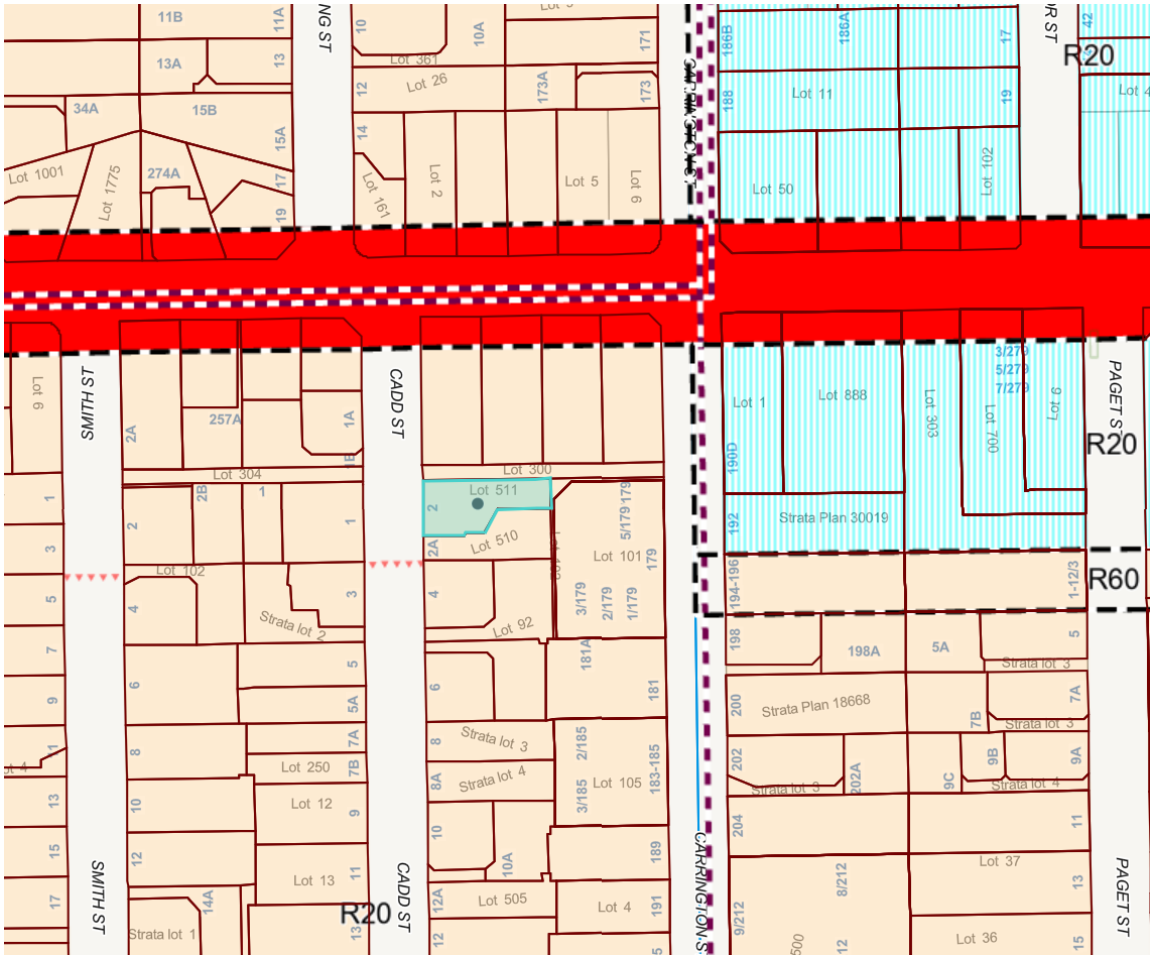


Figure 4 – Amended development plans (east elevation)

Site/application information

Date received:	7 August 2023
Owner name:	Denise Groves
Submitted by:	OCKHM
Scheme:	Residential R20
Heritage listing:	Not Listed
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought to vary visual privacy and site works requirements. The advertising period concluded on 12 September 2023, and one (1) submission was received. The following issues were raised (summarised):

- Insufficient south lot boundary setback.
- Decreased solar access to major openings on the adjoining lot to the south.
- Overshadowing on the adjoining lot to the south exceeding the deemed to comply requirements of the R-Codes.
- Visual privacy impact on the adjoining lot to the south from the proposed decking.
- Setback of the decking to the south lot boundary.
- Building heights not clearly defined.

- Variations to the deemed to comply requirements for open space and outdoor living area.
- Obstructed sight lines from car parking at front of lot.

In response to the above, the applicant submitted revised plans which included the following:

- The setback from the southern lot boundary increased to a minimum of 1.6m.
- Removal of the walkway along the southern aspect.
- Removal of the privacy screening along the dividing fence.
- Installation of a privacy screen at the entrance to the proposed ancillary dwelling.
- Removal of the proposed verge parking. Note: No additional bay was required to be provided for the proposal due to the site's location within 250m of high frequency bus route.

At the Council meeting held on 6 December 2023 Council resolved to refer the application to the next appropriate Ordinary Council meeting. On advice of Council, the applicant submitted further revised plans which included the following:

- Reduced south wall height (opposing neighbouring boundary) from a maximum height of 5.81m to a maximum 3.926m (refer Figure 1 and 2 below).
- Maximum roof peak height increased from 6.696m to a maximum of 6.946m on the north east corner of the roof peak.

The revised plans were referred back to the adjoining landowner for comment. While supportive of the changes made so far, they remain concerned about the level of overshadowing from the proposed dwelling. Officers have assessed the proposal, and it is now deemed to comply against these requirements, with only visual privacy outstanding as a discretion.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Visual privacy (South)

The above matters are discussed below.

Background
The subject site is located on the east side of Cadd Street and abuts a Right of Way to the north, a Public Access Way to the east and a residential lot to the south. The site has a land area of approximately 610m² and is currently occupied by a Single house. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed or located within a heritage area. The subject site slopes downwards in a south westerly direction from the rear corner of the lot to the front corner.

On 7 August 2023 an application was received for an ancillary dwelling addition on the subject site. The applicant amended the plans to address discretions, however it was considered that the reduction to the adjoining properties solar access could not be supported against design principles. The application was therefore recommended for refusal. At the Council meeting held on 6 December 2023 Council resolved to refer the application to the next appropriate Ordinary Council meeting to allow the applicant to work through the design to reduce the impact on the neighbour. The applicant has now submitted further amended plans which are included as Attachment 1.

A search of the property file has revealed the following history for the site:

- Single house additions - Enclose veranda, outdoor kitchen and bathroom – DA0343/13
- Freehold subdivision – DA136223
- Rear two storey additions – DA424/03
- Balcony/veranda addition (front of lot) – DA74/97
- Dwelling, carport and workshop – BL7586/1993

Land Use
A Single House is a 'P' land use within the Residential zone which means that the use is permitted by the Scheme. The proposal is for an ancillary dwelling addition and is considered incidental to the Single house.

Solar access for adjoining sites

Element	Requirement	Original proposal	Amended plans	Extent of Variation
Shadow cast on adjoining property	25% / 134m² or lower	30.5% - 163.5m²	24.5% / 131.32m²	Complies

The total shadow cast on the adjoining now meets the deemed to comply maximum 25% of the adjoining site to the south.

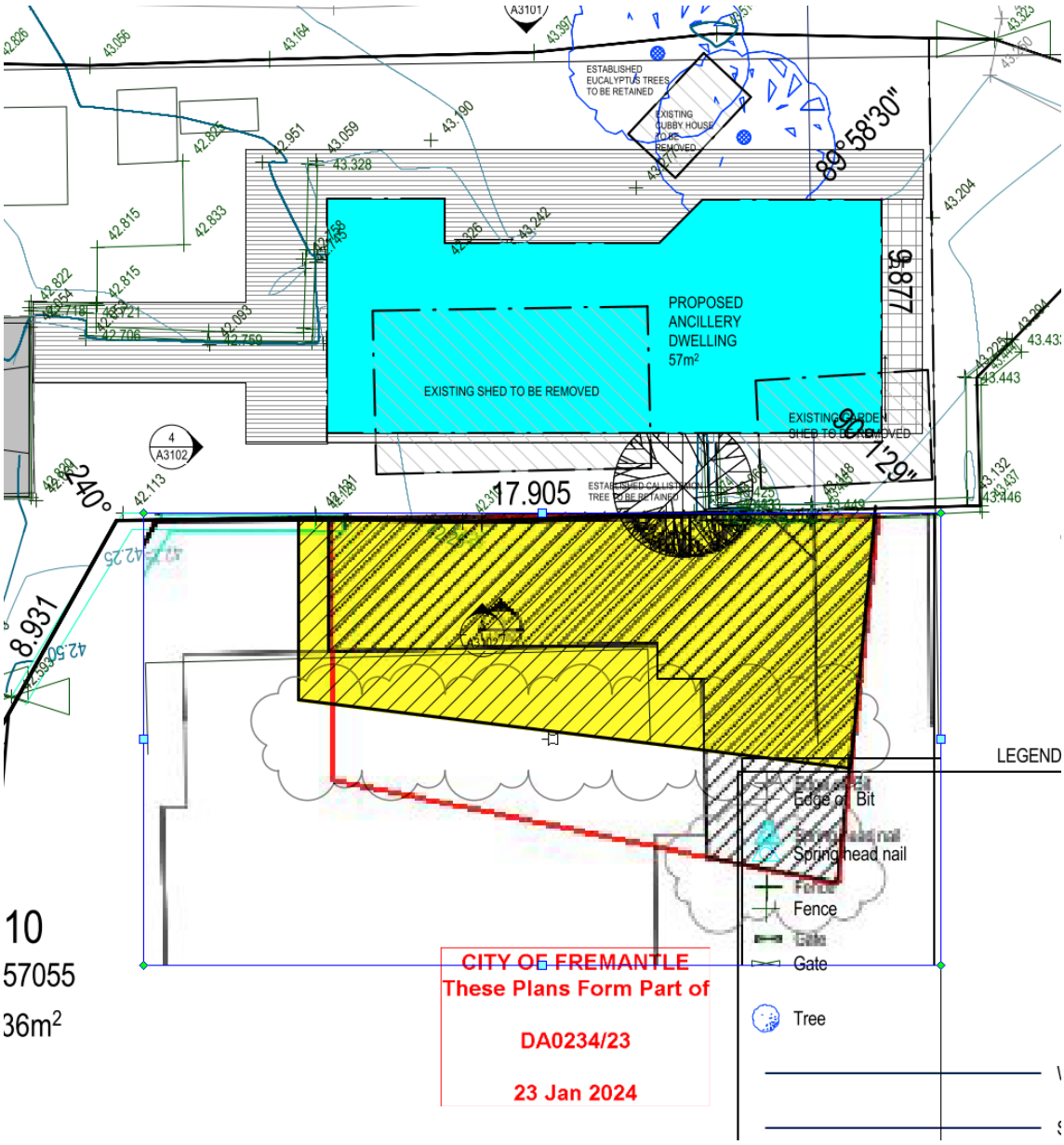


Figure 5 - Shadow impact changes between original plans (red outline) and new amended plans (yellow shade)

Notwithstanding this element is now deemed to comply, the following diagrams demonstrate in section form that while the proposal still throws some shadow, it now manages to avoid the adjoining major opening.

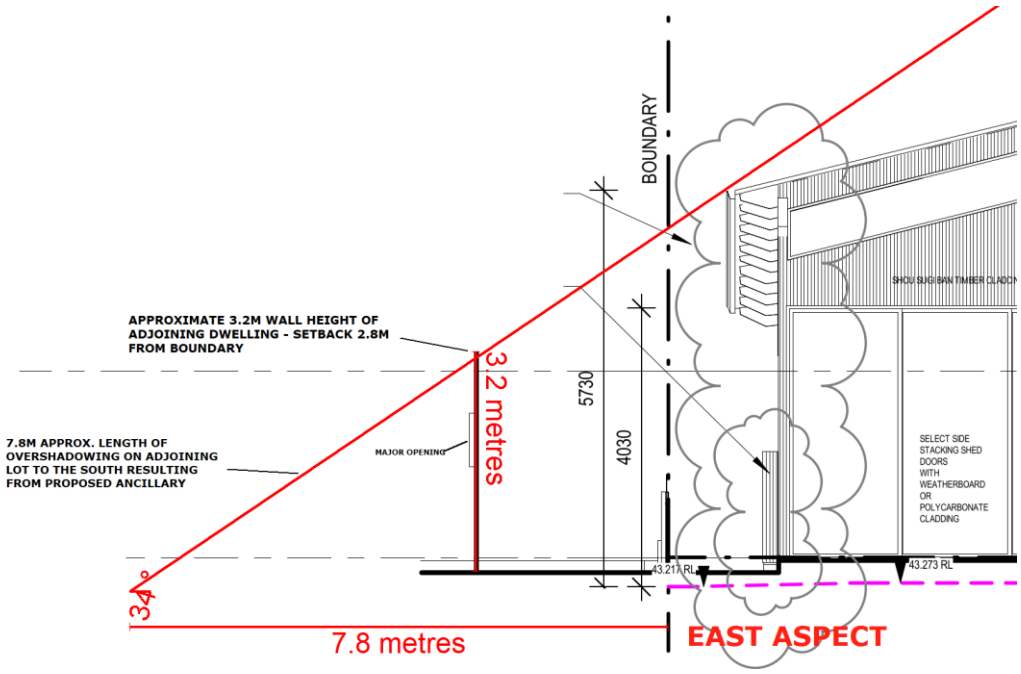


Figure 6 – Original plans

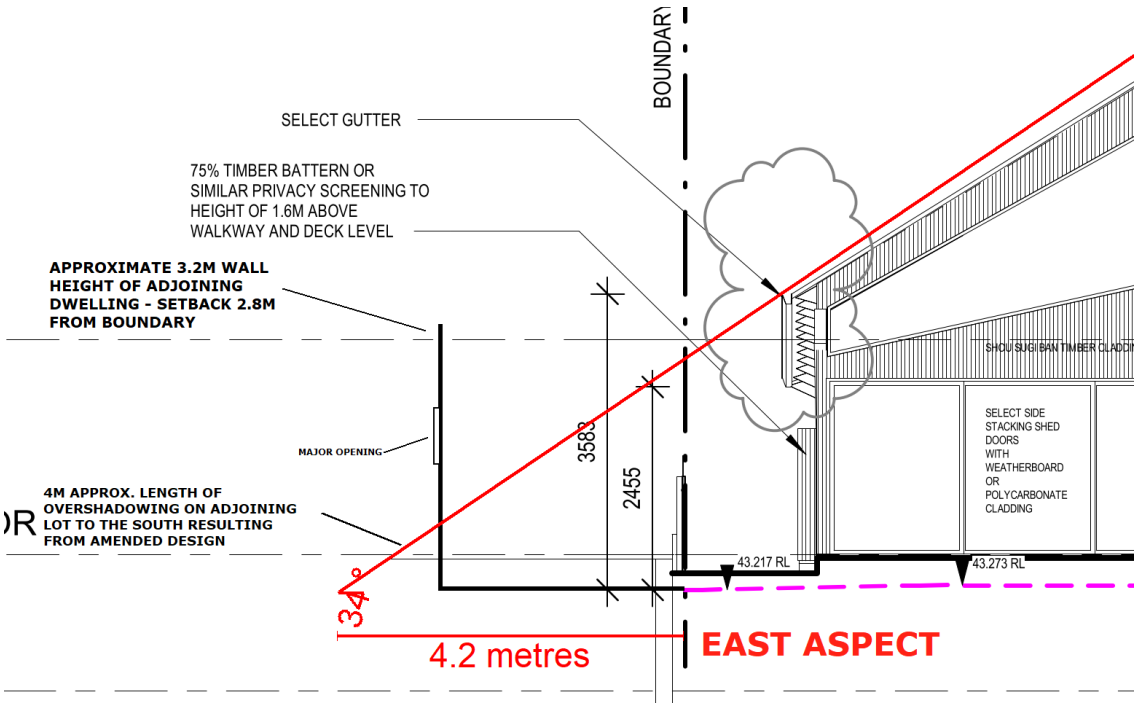


Figure 7 – Amended plans

Visual Privacy

Element	Requirement	Original proposal	Amended plans	Extent of Variation
South Elevation of Deck	7.5m setback	Screening material to 1.6m high above deck on dividing fence	Partial screening to closest southern edge of deck and reliance on existing 500mm screening on fence today.	5.7m (existing screening on fence is not 1.6m above proposed deck ffl)

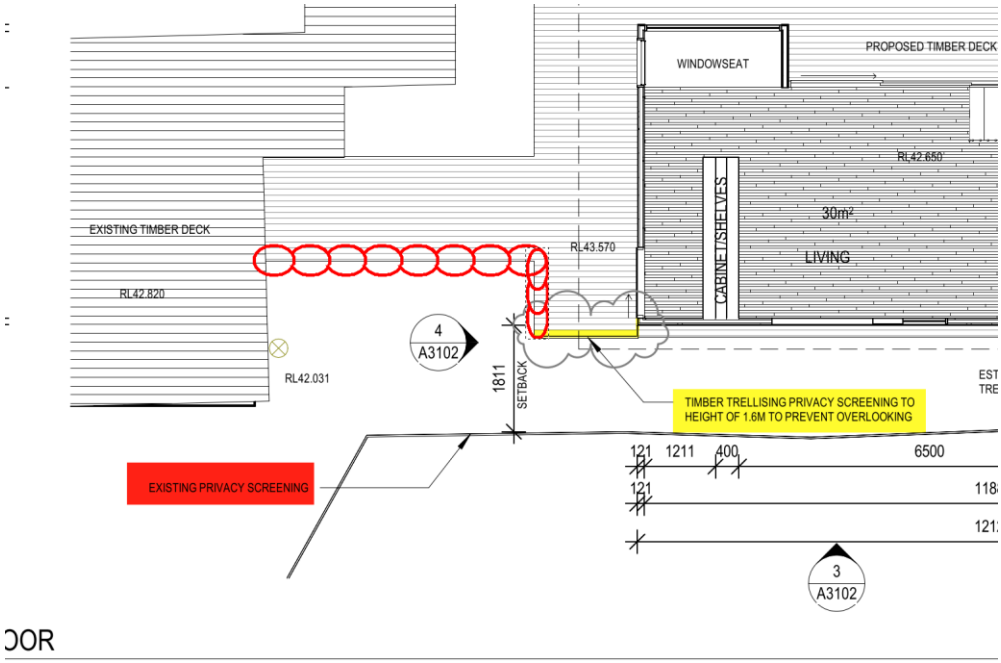


Figure 8 – Visual privacy issues – New screening method

The addition of screening to the deck (proposed in yellow in figure 8) ensures this portion of the deck addition would meet the R-Code deemed to comply requirement and prevent direct views back into the adjoining dwelling. The existing screening material on the subject dividing fence can be seen in Attachment 3, photo 5. A condition is recommended to ensure the yellow highlighted privacy screening above is installed accordingly.

For the remainder of the deck (shown in red cloud above), the applicant proposes that the existing screening on top of the existing dividing fence is sufficient. The existing screening material on the dividing fence (shown in red above) is approx. 500mm above the existing dividing fence meaning the overall height of the

fence plus screening material would be approx. 2.3m. This would not result in a screen that is a minimum of 1.6m from the level of the deck and may still allow for some overlooking, with the site levels of the site

A condition is recommended to ensure screening is provided to at least 1.6m. As part of this condition the screening will be required to be installed prior to occupation of the development and maintained to the satisfaction of the City of Fremantle.

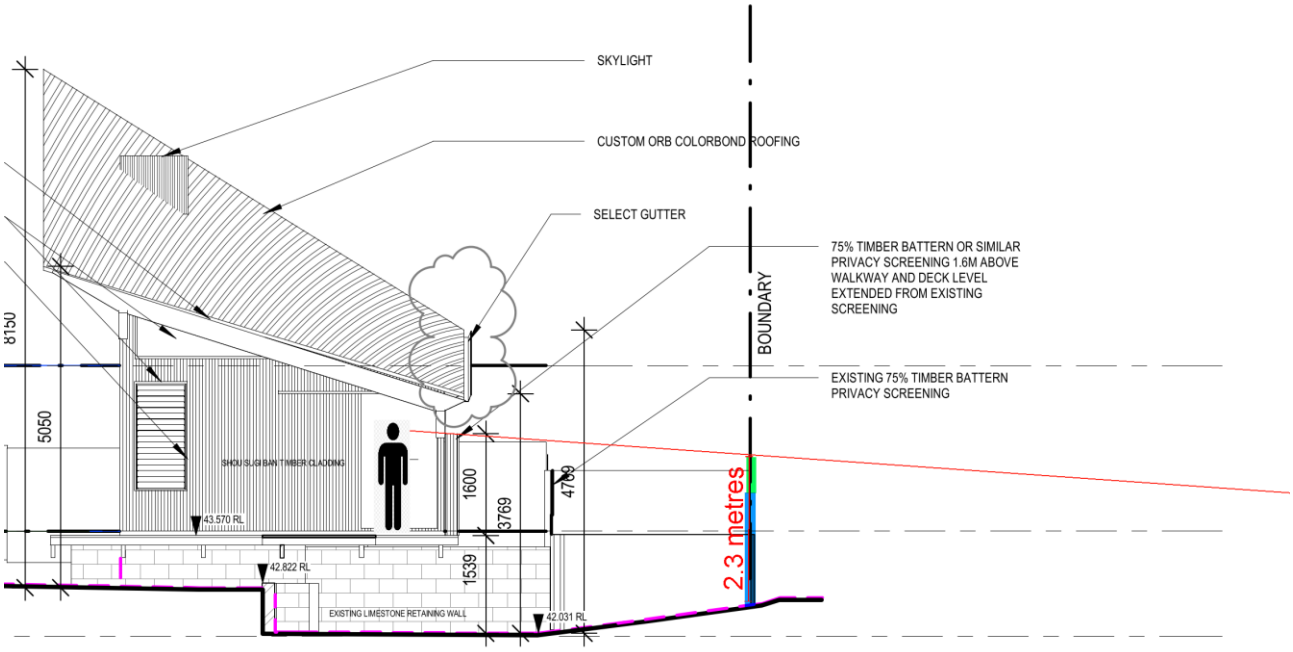


Figure 9 – Line of eyesight resulting from proposed deck and existing screening device on the southern diving fence.

CONCLUSION

The amended plans are considered to address Council reasons for deferral and as such are supported as outlined in the above assessment.

Sufficient amendments have been made to the proposal to enable the application to be recommended for conditional approval.

STRATEGIC IMPLICATIONS

<u>Strategic Community Plan 2015-25</u>

- Increase the number of people living in Fremantle
- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle

Green Plan 2020

- The proposed ancillary dwelling has been designed to retain the mature trees located on the subject site. It is noted that no planning approval is required for the removal of trees not on the Significant Tree register on private land.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Ancillary Dwelling addition to existing Single House at No. 2 (Lot 511) Cadd Street, Beaconsfield, subject to the following conditions:

1. **This approval relates only to the development as indicated on the approved plans, dated 23 January 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.**

2. **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.**

3. **Prior to lodgement of a Building Permit for the development hereby approved, a detailed drawing showing how the deck and raised walkway located on the south elevation, is 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,**

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.

4. **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(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.**

C2403-8 STAPLES STREET, NO. 5 (LOT 19), NORTH FREMANTLE – UNAUTHORISED INSTALLATION OF SOLAR PANELS TO EXISTING SINGLE HOUSE – (JD DA0402/23)

Meeting Date:	13 March 2024
Responsible Officer:	Manager Development Approvals
Voting requirements:	Simple Majority
Attachments:	1. Development Plans 2. Site Photos 3. City's Heritage Assessment

SUMMARY

Retrospective approval is sought for the installation of solar panels to an existing Single house at No. 5 Staples Street, North Fremantle.

The proposal is referred to Council due to the nature of some discretions being sought. The application seeks discretionary assessments against the Local Planning Policies. These discretionary assessments include the following:

- **Solar panels located on a roof plane facing the primary street.**

On balance the application is recommended for approval.

PROPOSAL

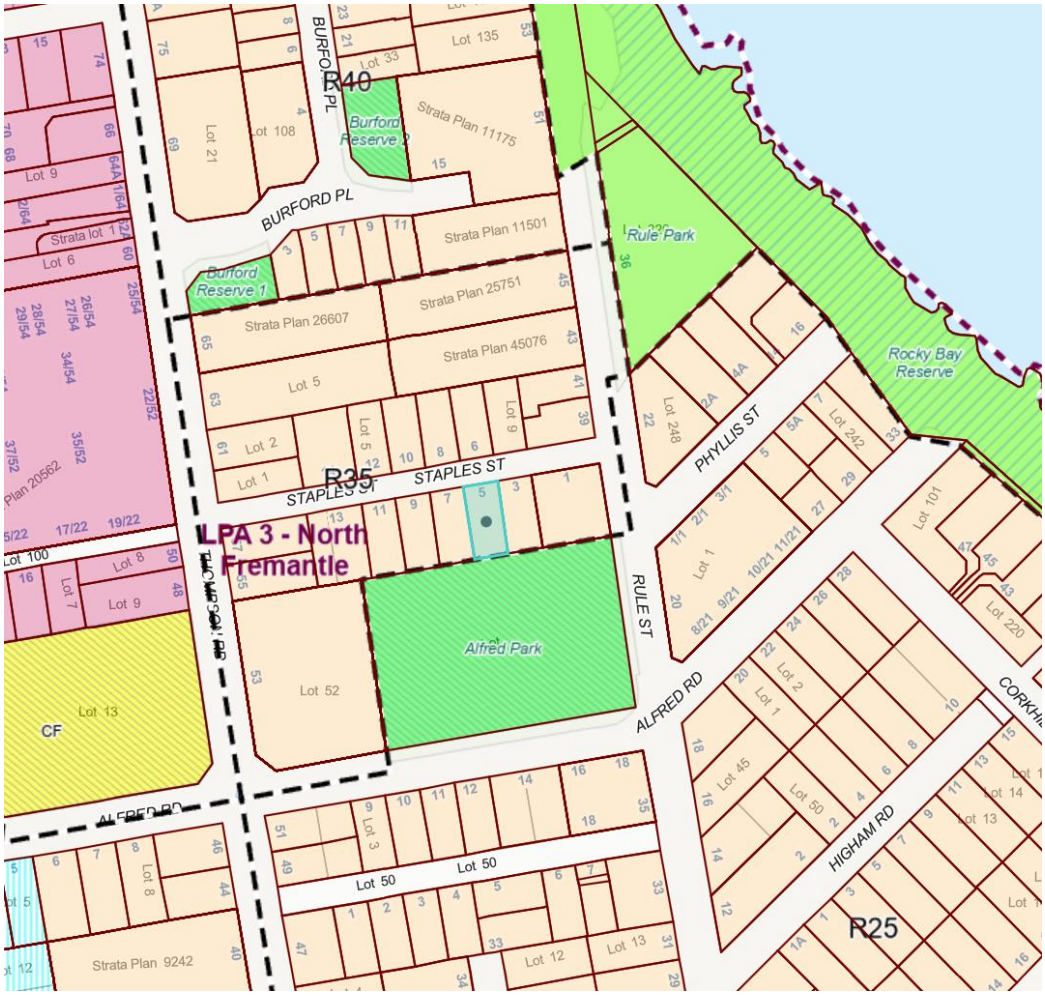
Detail
Retrospective approval is sought for the installation of solar panels to an existing Single house at No. 5 Staples Street, North Fremantle (subject site). The unauthorised works include:

- Installation of solar panels to the north, east, south and west roof planes of the existing dwelling.

Development plans are included as attachment 1.

Site/application information

Date received:	22 December 2023
Owner name:	Rowan Barrett Johns & Anna Louise Franklyn
Submitted by:	Rowan Barrett Johns
Scheme:	Residential R35
Heritage listing:	Individually Listed Level 3 and North Fremantle Precinct Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION

External referrals
Nil required.

Community
The application was not required to be advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER COMMENT

Statutory and policy assessment
The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this

particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Solar panels located on a roof plane facing the primary street.

The above matters are discussed below.

Background
The subject site is located on the south side of Staples Street and abuts Alfred Park at the rear. The site has a land area of approximately 311m² and is currently a Single house. The site is zoned Residential and has a density coding of R35. The site is individually heritage listed and located within the North Fremantle Precinct Heritage Area.

A search of the property file has revealed the following history for the site:

- Outbuilding addition at the rear of the subject site - 2001

The dwelling located on the subject site was constructed in the early 1900's. No other planning history exists for the site.

Land Use
Single House is a 'P' land use within the Residential zone which means that the use is permitted by the Scheme.

Residential Design Codes

External Fixtures

Element	Deemed-to-comply	Provided	Merit based assessment
External fixtures, utilities and facilities	Solar collectors installed on the roof or other parts of buildings.	Solar collectors installed on the roof on all four elevations of the dwelling	Complies

Local Planning Policy 3.6 - Heritage Areas

3.8 Ancillary structures	
3.5.1 Intent	***Officer Comments***
External fixtures for contemporary services (e.g. air conditioning units, radio and television aerials, satellite dishes, solar panels, water tanks, service connections, meter boxes and other external fixtures or similar structures), and ancillary structures such as sheds, patios and gazebos can have an impact on heritage areas through the introduction of elements that are not part of traditional development. Below ground swimming pools and spas (whilst themselves may not impact negatively) have associated fencing and equipment which can have a negative impact on heritage areas. Incorporation of these modern features requires careful placement and treatment to minimise impact. In some situations, they may not be appropriate at all.	It is acknowledged that roof solar collectors are generally positioned on a roof to gain maximum solar efficiency which generally equates to panels of the north, west and east elevations of roof tops. In this instance all four elevations are used as a standard 5kw system has been installed which equates to 26-30 panels. It is also noted that typically solar panels on front elevation of heritage listed dwellings are not typically supported and applicants are encouraged to relocate panels to other roof elevation to not be so prominent and dominate on a streetscape.
3.8.2 Design guidance	
i. Ancillary structures and external fixtures for a place within a heritage area can be supported where they are located behind the original building and screened from view from the primary street, in order to minimise their visual impact on the character of heritage places.	At present the City heritage department are not supportive of the solar additions on the front elevation as they are not acceptable and from a heritage perspective have a negative impact on the heritage values of 5 Staples Street and the North Fremantle Precinct Heritage Area. In reviewing the existing streetscape, No.7 Staples Street (also currently a L3 listed property on the City's Heritage list) has solar panels approved which also are on the front elevation of the dwelling as shown below.

	  The policy seeks to ensure solar panels are located on roof top elevations where the panels are less visible from the streetscape. The provided heritage assessment states that, '*the solar panels on the side and rear facing roof planes of 5 Staples Street are acceptable as they will have minimal impact on the heritage values of this house. However, the street facing panels will dominate the façade of this modest timber cottage and reduce its aesthetic and streetscape values, especially when viewed from directly in front of the house and when approaching the house down Staples Street from the east. (The existing vegetation in front of the house has not been considered as part of this assessment as some of the plants are deciduous and because generally trees change over time.)* The City is not able to simply disregard existing vegetation in its assessment about streetscape impacts particularly when the assessment relates to the actual visual appearance of these additions and their potential impacts. As seen in the site photographs of in Attachment 2 the solar panels installed on the roof elevation of 5 Staples Street are no more dominate or visually intrusive than the existing western adjoining heritage listed dwelling. In fact, considering the

	narrowness of Staples Street and the existing mature vegetation to the front of site and street, the majority of the solar panels will not be highly visible from either directly in front of site or the approach from the east end of Stapels Street. The panels are also flat to the roof, ensuring the original roof form is not obscured by the panels. The existing dwelling onsite is relatively small (approx. 85m^2 area) with all rooftop elevations being used for the solar device and no alternative elevations being available. It must also be noted that the option to simply have the front panels removed to address heritage concerns is not possible as the current PV system is a 5kw system meaning it requires this number of panels to be work. If this is an issue then the whole PV system would need to be removed and replaced with a smaller 3kw system. In addition to the above, solar collecting devices are very easily installed additions with rooftop mounting having minimal permanent impact to the original fabric and essentially being easily reversible in the future. Therefore, on balance, the external fixture additions are supported.

CONCLUSION

Retrospective approval is sought for the installation of solar panels to an existing Single house at No. 5 Staples Street, North Fremantle. The discretionary assessment involves solar panels that are located on a roof plane facing the primary street in a heritage area. It is considered through the above assessment that the solar panels are acceptable and will not have a detrimental impact on the streetscape. The application is therefore recommended for approval.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Installation of Solar Panels to Existing Single House at No. 5 (Lot 19) Staples Street, North Fremantle, subject to the following conditions:

1. **This approval relates only to the development as indicated on the approved plans, dated 22 December 2023. It does not relate to any other development on this lot.**

C2403-9 ANNUAL UPDATE 2023 - LOCAL HERITAGE SURVEY AND HERITAGE LIST - OUTCOMES OF CONSULTATION

Meeting Date:	13 March 2024
Responsible Officer:	Manager Strategic Planning
Voting requirements:	Simple Majority
Attachments:	1. Schedule of Submissions - LHS & Heritage List 2. Hocking Heritage Report – 140 Stirling Hwy HA v2

SUMMARY

The purpose of this report is to present the outcomes of consultation regarding proposed modifications to the Local Heritage Survey and Heritage List as part of the periodic update of the Local Heritage Survey (LHS) required under the *Heritage Act 2018* and Council's Local Planning Policy 2.6.

The report recommends a number of changes to the Local Heritage Survey and Heritage List and seeks Council's endorsement of these modifications.

BACKGROUND

The Annual Update of the Local Heritage Survey and Heritage List
The *Heritage Act 2018* requires that local governments prepare and maintain a Local Heritage Survey (LHS) of places that in its opinion are, or may become, of cultural heritage significance. The LHS is required to be periodically updated and reviewed. Places on the LHS are recognised but do not automatically enjoy statutory protection.

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') Schedule 2 'Deemed Provisions for local planning schemes' part 3 make provision for the establishment and maintenance of a Heritage List and Heritage Areas which have been identified as of significance and worthy of built heritage conservation. Places on the Heritage List and in Heritage Areas have statutory protection under the planning scheme.

Council adopted its initial LHS (then called a Municipal Heritage Inventory) in September 2000 and subsequently adopted a Heritage List based on the Inventory through the provisions of Local Planning Scheme No. 4 (gazetted in 2007). Both have been amended a number of times since.

The City's *Local Planning Policy 2.6* outlines the process for modification to the LHS and Heritage List, including provisions for dealing with requests from property owners for inclusion, removal or amendment. This includes consideration of

requests for modifications annually. The annual update forms part of the routine maintenance of these documents and complements but does not replace broader, more general reviews.

On 6 December 2023, Council considered a report on the 2023 yearly update and resolved to:

Invite comment from affected landowners on the following proposed modifications to the Local Heritage Survey (LHS) and Heritage List:

Place	*Local Heritage Survey*	*Heritage List*	*Reason*
Blinco Cottage, 8 Swanbourne Street, Fremantle.	*Add to LHS with Management Category "Level 2"*	*Add*	*Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation*
Stewart & Lloyds Administration Offices, 140 Stirling Highway, North Fremantle	*Add to LHS with Management Category "Level 2"*	*Add*	*Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation*
House, 100 Attfield Street, South Fremantle	*Change to "Level 2".*	*Retain*	*Heritage Assessment has confirmed that the place has considerable cultural heritage significance and is worthy of a higher management category.*
House, 7 Douglas Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	Considerably altered, difficult to see original form, difficult to recover original form, does not meet threshold for Heritage List
House, 20 Hickory Street, South Fremantle	*Change to "Historic Record Only"*	*Remove*	Considerably altered, difficult to recover original form, does not meet threshold for Heritage List but contributes to the character of the area
24 Norfolk Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	This place does not meet the threshold for inclusion on the Heritage List however, the place has been identified as having archaeological value

House, 9 Barnett Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	Originally part of the site of Dr Barnett's Residence. Existing house dates from 1990s. No fabric associated with Barnett Residence remains on site. Highly unlikely to have any archaeological potential due to extent of ground disturbance.
26 Marine Terrace, West End, Fremantle	*Change to "Historic Record Only"*	*Remove*	There is no significant heritage building fabric located on the new 26 Marine Terrace
2/85 and 3/85 Wray Avenue, Fremantle	*Change to "Historic Record Only"*	*Remove*	2/85 and 3/85 Wray do not contain any heritage fabric and should be removed from the Heritage List.
Limestone features, 11 Howard Street, Fremantle	*Retain and change address from 11 to 9 Howard Street*	*Retain and change address from 11 to 9 Howard Street*	The limestone features in the listing for 11 Howard are existing at 9 Howard St & should be retained on the Heritage List.
House (demolished), 6 Grey Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	No fabric survives from the original stone duplex and given the extent of ground disturbance for the new terrace houses the site has low archaeological potential.
Limestone Feature(s), 85 Solomon Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	The limestone features are extant but they are of recent construction and like the house on site they have little heritage significance.
Limestone Feature(s), 90 Christina Parade, North Fremantle	*Change to "Historic Record Only"*	*Remove*	There is no place 90 Christina Parade.
Duplex, 90 Stirling Hwy, North Fremantle	*Change to "Historic Record Only"*	*Remove*	No evidence of original shop and house on site
Duplex, 90A Stirling Hwy, North Fremantle	*Change to "Historic Record Only"*	*Remove*	No evidence of original shop and house on site

285 High Street, Fremantle	*Change to "Historic Record Only"*	*Remove*	Removal from the HL recognises the Council decision to allow demolition.
Fremantle TAFE, 11-15 Grosvenor St, Beaconsfield	*Change to "Historic Record Only"*	*Remove*	Removal from the HL recognises the Council decision to allow demolition.

In the event of landowners making no objection to modifications recommended to the Local Heritage Survey and Heritage List, that these changes be adopted, documented and communicated to the Heritage Council of Western Australia, and the City's records updated accordingly. Where objection is received, the recommendation be referred back to Council.

The purpose of this report is to consider the outcomes of consultation with affected landowners on the proposed updates.

Maintenance of the City's LHS and Heritage List contributes to Council's objective to "*sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history*".

Heritage protected places in the City of Fremantle
Places on the Heritage List or in a Heritage Area have special protection under the planning scheme to facilitate the conservation of places of heritage value and ensure that development occurs with due regard to identified heritage values in the interest of the community.

The Heritage List contains approximately 2,380 places that are considered to have some heritage value to the City of Fremantle for their individual aesthetic, historic, social or scientific significance (Burra Charter values), and/or their contribution to the streetscape, local area and Fremantle.

The Heritage List attached to the planning scheme contains only an address. Management Categories and other information including historical background, physical description and statement of significance are included in the LHS which is recorded in Inherit, a statewide heritage information database. The LHS place record is a useful guide to understand the heritage significance of a place, but it does not have any legal implications for the development of land within the City of Fremantle.

Heritage Areas are places where special planning control is needed to conserve and enhance the cultural heritage significance and character of an area. There are 18 Heritage Areas in Fremantle. Heritage Areas often include places on the Heritage List, but even places not significant enough to go on the Heritage List can contribute to the significance of a heritage area.

Places within Heritage Areas can be defined as either 'contributory' or 'non-contributory' to the significance of the area. Contributory places are determined by an assessment against the Burra Charter values and may include representative or rare examples of a place type, period or style, places which contribute to the streetscape; and/or be places which combine with other related places to demonstrate the historic development of a heritage area. Where mapping of contributory places has not been undertaken for a Heritage Area or has not been completed due to the inaccessibility of the site or the inability to fully assess the existence of fabric of cultural significance, this will be assessed upon receipt of a planning application.

Development of Heritage protected places
Heritage protection does not prohibit any development, it means that changes should respect and be sympathetic to the heritage values of the place. In most circumstances, development within these places requires planning approval so that the City's heritage staff can assess the impact of a proposal on the heritage significance of a particular place and ensure that this principle is met. The assessment will consider:

- The objectives and provisions of the planning scheme.
- State Planning Policy 3.5 - Historic Heritage Conservation (SPP 3.5), which contains broad principles on historic heritage conservation and development control principles (clause 6.6).
- Any applicable local planning policies – e.g. LPP3.6 Heritage Areas
- The specific attributes and significance of the place, including information in the Local Heritage Survey and archived at the Fremantle History Centre together with an assessment of the existing building fabric to determine the relative levels of significance of its constituent parts.

Works to heritage protected places that require Development Approval
To prevent the loss of significant heritage fabric or heritage values, the State Government and the City of Fremantle require the owners of Heritage Protected places to obtain planning approval for a range of building and maintenance works that are usually exempt if they are not heritage-protected.
Places on the Heritage List require planning approval for most works including demolition, alterations and additions. Exceptions include:

- Removal of trees or vegetation not included on the Significant Tree Register
- Internal modifications including: Kitchen, bathroom or laundry fit out with no structural alterations; Replacement of light fitting(s); Painting/wall papering/plastering of internal walls; Retiling; Construction of new internal non-masonry, non-load bearing walls; New floor covering placed over but not replacing existing floor surface materials; and Electrical and plumbing works.
- Wall mounted external fixtures such as air-conditioning units that do not exceed 1.8m in height and which do not face the primary or secondary street.

- Roof mounted external fixtures such as air-conditioning units and solar panels fixed to a plane of the roof of a building which does not face the primary or secondary street and are not visible above the highest point of the roof.
- Water tanks fixed to a wall of a building which do not face a primary or secondary street and do not exceeding the eaves height and free-standing water tanks that are not located in a primary or secondary street setback and which are no greater than 2.4m in height if more than 1m from any boundary, or 1.8m in height if less than 1m from any boundary.
- Free-standing flagpoles less than 6m high and not used for advertising.
- Minor structures in primary street setback that are less than 2m high or clothes lines less than 3m in height.

Places in a Heritage Area but not on the Heritage List require planning approval for works that could adversely affect the contribution that the place makes to the values of the heritage area or local streetscape. Generally, development applications are required for changes to the exterior of heritage buildings visible from the surrounding streets. As places in a Heritage Area have a lower degree of heritage significance than places on the Heritage List, there are more exemptions (*in italics*):

- *Demolition of Outbuildings not of masonry or limestone construction and with a floor area less than 25sqm.*
- *Demolition of minor structures, patios, shade structures, carports, external fixtures, carports, air conditioners, pools, spas, flagpoles, and water tanks.*
- *Demolition of Internal and boundary dividing fences.*
- *Single storey (ground level) additions and all alterations that are not located within the primary or secondary street setback.*
- Internal works including Kitchen, bathroom or laundry fit out with no structural alterations; Replacement of light fitting(s); Painting/wall papering/plastering of internal walls; Retiling; Construction of new internal non-masonry, non-load bearing walls; New floor covering placed over but not replacing existing floor surface materials; and Electrical and plumbing works.
- Wall mounted external fixtures such as air-conditioning units that do not exceed 1.8m in height and which do not face the primary or secondary street.
- Roof mounted external fixtures such as air-conditioning units and solar panels fixed to a plane of the roof of a building which does not face the primary or secondary street, and which are not visible above the highest point of the roof.
- *Outbuildings located between dwelling and side or rear lot boundary.*
- *Patio located between dwelling and side or rear lot boundary.*
- *Shade Structure located between dwelling and side or rear lot boundary.*
- *Swimming Pools located between dwelling and rear lot boundary.*

- *Building maintenance including painting or application of render on external surfaces of any building or structure and the replacing or altering of roofing materials on a building where there is no change to the roof form and pitch.*
- Free-standing flagpoles less than 6m high and not used for advertising.
- Minor structures in primary street setback that are less than 2m high or for clotheslines less than 3m high.

Local Heritage Survey Management Categories
The LHS is an information database that records and provides information on all places of cultural heritage significance in Fremantle. However, not all places on the LHS are heritage protected and the information in the LHS does not have any legal implications for the development of land within the City of Fremantle.

The information in the LHS, including the Management Category, is used as background information for the heritage impact assessment of the development of places that are identified on the Heritage List and in a Heritage Area. Because of their greater heritage significance, the significant heritage fabric of places with higher management categories requires a greater level of protection and conservation. However, most heritage places usually contain buildings and fabric of different levels of heritage significance. Items of high significance need to be protected and items of low significance can be changed or even removed. These levels of significance are usually determined when a planning application is received and generally, the significant fabric includes the original or early part of the building.

During the assessment process LHS information is generally checked for accuracy in case change has occurred since it was written, or the original data is inconsistent.

There are five main management categories in the LHS plus some older categories that are slowly being updated as areas of Fremantle are being reviewed.

<u>Management category - Level 1a – Exceptional Significance – State Listed</u>
The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle. This place is entered onto the State Heritage Office of Western Australia's Register of Heritage Places. All development applications must be referred to the State Heritage Office for approval.

<u>Management category - Level 1b – Exceptional Significance – Not State Listed</u>
The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. It is recommended that this place be considered for entry in the Heritage Council of Western Australia's Register of Heritage Places.

<u>Management category - Level 2 – Considerable Significance</u>

The City of Fremantle has identified this place as being of considerable cultural heritage significance in its own right within the context of Fremantle and its conservation is a priority.

Management category - Level 3 – Some Significance
The City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and/or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced.

Management category - Level 4 – Historic Record Only
The City of Fremantle has identified places on this place as being of interest for historical reasons and/or for structures that no longer exist. These places are part of Fremantle's rich cultural heritage but are not included on the Heritage List.

LEVEL 1 places are of Some Significance to Western Australia and Exceptional Significance to Fremantle. These places exhibit very high aesthetic, historic, social or scientific values or are rare or representative places within the context of Western Australia. Level 1 places include substantial houses, very important commercial and community buildings, places with important historical connections and fine examples of a particular architectural style. There are 291 Level 1 places in Fremantle of which 158 are included on the State Register (1A) and a further 81 of the 1B places are also part of the State Registered West End. Examples include Samson House, Fremantle Town Hall, Trades Hall (6 Collie Street), Dalgetty Wool Stores, Fremantle Passenger Terminal, St Patrick’s Basilica, and the National Hotel.

LEVEL 2 places are of Considerable Significance to Fremantle. These places exhibit high aesthetic, historic, social, or scientific values or are rare or representative places within the context of Fremantle. Level 2 places include larger houses, important commercial and community buildings, places with local historical connections and good or unusual examples of a particular architectural style or craftsmanship. Terrace houses and duplexes are usually graded as Level 2 as they are an unusual and distinctive type in Fremantle. There are 437 Level 2 Places in Fremantle. Examples include the Beacon Theatre, House 94 South Street, Duplex 40-42 Bellevue Terrace, Terrace 2-12 Price Street, 20 Moran Street, the Caledonian Hall and the Weeties Factory in Harvest Road.

LEVEL 3 places are of Some Significance to Fremantle. These places exhibit typical aesthetic, historic, scientific or social values in the context of Fremantle and are representative of the local traditional, vernacular housing stock. While they are important as individual places, their importance is often enhanced by being part of a grouping of similar places that form significant heritage streetscapes. There are 1603 Level 3 places in Fremantle, and they make up the bulk of places on the Heritage List. Examples include traditional four room houses with a central corridor and front and rear verandas and three room houses with a side

corridor and front and rear verandahs. Single storey parades of shops with a street verandah/awning and corner shop houses are also typical examples.

OTHER – there are about 180 places on the Heritage List with older management categories which will be updated as areas are progressively reviewed. Other categories include Limestone Features, Historic Sites, Archaeological Sites and Shipwrecks.

OFFICER COMMENT

Consultation with affected landowners and tenants was undertaken between 10 January and 2 February 2024 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

At the completion of consultation, four submissions had been received, as outlined in Attachment 1. Two submissions were received from owners in support of proposed changes for:

- 100 Attfield Street – Supported changing the management category from Level 3 to Level 2.
- 7 Douglas Street – Supported removing the place from the Heritage List and changing the management category to Historic Record Only. The owners agree with officer recommendations and also noted that "*the existing statement of significance for the property on the heritage listing, recommends removal in 2010 due to being below the threshold and significantly altered. This would indicate that representatives of the City's planning and heritage department have reached the same recommendation on two separate occasions*".

Two submissions were received from the owners of 8 Swanbourne Street and 140 Stirling Highway respectively and did not support the proposed changes.

<u>8 Swanbourne Street</u> – owner objected to place being added to the Heritage List and its Level 2 Management Category for a range of reasons, including the lack of time given to respond to the letter, the lack of information available on the future reconsideration of the place's heritage status at the time of their purchase of the property in late 2023, and claims that the historical information was inaccurate.

As explained further in the Schedule of Submissions, the points regarding the Annual Update process and the historic information in the report are not accurate and should not affect the decision to include the place on the Heritage List.

8 Swanbourne Street clearly meets the threshold for inclusion on the Heritage List. It is not a typical vernacular house in Fremantle but is a good example of a larger Victorian Georgian house of the time with an 'encircling' verandah,' an unusual roof form and high quality original decorative features. It also has close associations with other historic Fremantle places such as Fremantle Prison and Lenaville at 186 High Street and has historic connections to the Convict Era and the Pensioner Guards through the first owner and occupant Henry Blinco.

8 Swanbourne Street is already a heritage protected place as part of the Monument Hill Precinct Heritage Area but inclusion on the Heritage List will require a higher level of conservation of the significant heritage fabric which includes the original house and its contribution to the street and heritage area. Later additions to the rear from the 1970s, 80s and 90s have little value and can be modified or removed to provide opportunities for future development. Interpretive metal valances and balustrade infill to the verandahs can also be removed or altered and replaced with sympathetic new elements.

Stewart & Lloyds Administration Offices, 140 Stirling Highway – a late objection to the addition of this place to the Heritage List was received after closure of the consultation period. The owner objected to the listing because of the lack of time to respond and because there is currently a Precinct Structure Plan being assessed for this site.

The consultation process followed the standard procedure, and this is not a suitable reason not to include the office at 140 Stirling Highway on the Heritage List.

The City of Fremantle has completed a report on the current Precinct Structure Plan and Council has recommended that the Western Australian Planning Commission refuse the Precinct Structure Plan for several reasons, including two that are directly related to its failure to address the heritage value of the buildings on site:

iii) The proposal is inconsistent with the principles for development within a Heritage Area, as set out in State Planning Policy 3.5 – Historic Heritage Conservation.

ix) The proposal does not meet the broad objectives of Local Planning Policy 3.6 – Heritage Areas, particularly with regard to conservation of the existing office building on the Site."

Although a portion of 140 Stirling Highway is reserved under the Metropolitan Region Scheme for road widening, the land has not yet been ceded to, or resumed by Main Roads WA.

The Western Australian Planning Commission has not approved the demolition of the office building through its recent approval of the subdivision of the site. While the subdivision approval is conditional upon all buildings on site being demolished, demolition still requires approval by the City of Fremantle.

It should also be noted that the City has not approved demolition of the office building at 140 Stirling highway. DA0431/19 for the demolition of all buildings on site was approved by Council at City of Fremantle Planning Committee on 2 September 2022, subject to conditions, including the following:

> *Notwithstanding condition 1 above, the office building on the corner of Stirling Highway and McCabe Street does not form part of this demolition*

approval and is to be retained to the satisfaction of the City of Fremantle.

The independent Heritage Assessment of the buildings at 140 Stirling Highway attached to this report was commissioned by the City of Fremantle to assist with their assessment of DA0431/19. This report recommends that 140 Stirling Highway be added to the Heritage List and the LHS as a management category Level 2 place and the Statement of Significance is as follows:

Stewarts & Lloyds (fmr), built in 1956/57 in the Post War International style has cultural heritage significance for the following reasons;

- *The place is a fine intact example of the Post War International architectural style with its distinctive cubiform shape and regular rhythm of fenestration along its key elevations;*
- *The place has historic value for its association with prominent architect Geoffrey Summerhayes, one of the early proponents of the principles of the Bauhaus school in Western Australia;*
- *The place is closely associated with steel tube manufacturing firm Stewarts and Lloyds established in Fremantle since early 20th century. The functions of this place continued until the end of the 20th century under different company names;*
- *Due to its distinctive architectural form and its elevated position, the place demonstrates local landmark values along this section of Stirling Highway; and,*
- *The place has historic value for its association with the development of industry in North Fremantle in the period following World War Two.*

Inclusion on the Heritage List will not affect the planning approval previously granted for DA0431/19 for demolition of all buildings on site except for the former office building on the corner of McCabe Street and Stirling Highway.

In conclusion, Officers have considered each submission and reconsidered each property's significance in relation to the Burra Charter criteria (as per local planning policies 1.6 and 2.6) but remain of the view that both 8 Swanbourne and 140 Stirling Highway meet the thresholds for listing and are worthy of protection.

It is noted that heritage listing does not automatically preclude any change or development to a place. Heritage listed properties can be developed through appropriate consideration of the heritage significance of the place, following applicable policies and guiding documents.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The *Heritage Act 2018* requires periodic update and review of the LHS. The requirement is met by this report.

CONSULTATION

The *Heritage Act 2018* and the *Planning and Development (Local Planning Schemes) 2015 Regulations* specify consultation requirements with the landowners of all affected properties prior to modification to the Local Heritage List and Heritage List, respectively. Consultation has occurred in accordance with these requirements. A Schedule of Submissions received is attached to this report.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER RECOMMENDATION

Council:

1. **Note the submissions received in relation to the 2023 Local Heritage Survey and Heritage List Yearly Update as outlined in Attachment 1.**

2. **Modify the Local Heritage Survey and Heritage List as follows:**

Place	*Local Heritage Survey*	*Heritage List*	*Reason*
Blinco Cottage, 8 Swanbourne Street, Fremantle.	*Add to LHS with Management Category "Level 2"*	*Add to Heritage List*	*Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation*
Stewart & Lloyds Administration Offices, 140 Stirling Highway, North Fremantle	*Add to LHS with Management Category "Level 2"*	*Add to Heritage List*	*Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation*
House, 100 Attfield Street, South Fremantle	*Modify management category from Level 3 to Level 2*	*Retain on Heritage List*	*Heritage Assessment has confirmed that the place has considerable cultural heritage significance to Fremantle and is worthy of a higher level of protection*
House 7 Douglas Street, Fremantle	*Modify management category from Level 3 to Historic Record Only*	*Remove from Heritage List*	*Heritage Assessment has confirmed that the place does not meet the threshold for inclusion on the Heritage List*

3. Note that changes to the listing of places where no objection was received will proceed without further reference to Council in accordance with Council's previous resolution on 6 December 2023 (C2312-6).

C2403-10 HERITAGE REVIEW - SOUTH FREMANTLE HERITAGE AREA REVIEW – ENGAGEMENT PROJECT – STAGE 2 - RECOMMENDATIONS FOR CHANGES TO THE LOCAL HERITAGE SURVEY AND HERITAGE LIST AND THE DEFINING OF CONTRIBUTORY AND NON-CONTRIBUTORY PLACES WITH THE HERITAGE AREA

Meeting date:	13 March 2024
Responsible officer:	Manager Strategic Planning and City Design
Voting requirements:	Simple Majority
Attachments:	1. List – South Fremantle Heritage Area Review 2. Recommendations by Street – South Fremantle heritage Area Review

SUMMARY

The purpose of this report is to request approval to proceed with Engagement Project – Stage 2 – consultation on the recommendations for changes to the Local Heritage Survey (LHS) and Heritage List and the defining of contributory and non-contributory places with the Heritage Area.

The report recommends changes to the Local Heritage Survey and Heritage List, and the assigning of a 'Level of Contribution' to places within the South Fremantle Heritage Area subject to and following owner consultation regarding these changes.

BACKGROUND

South Fremantle is the first Heritage Area to be reviewed under new best practice principles and changes in legislation. As well as an assessment of the South Fremantle Heritage Area and the individual heritage listings contained within, this review will establish the process for future heritage areas being re-surveyed, consistent with current legislative requirements of the Planning Regulations and the Heritage Act 2018.

A documentary evidence and street by street, place by place survey has been carried out of the South Fremantle Heritage Area (from the streetscape only – no internal inspections).

On 10 May 2023 the Engagement Plan – Heritage Review - South Fremantle Heritage Area was presented to the FPOL Committee and then subsequently Council on 24 May 2023 for adoption. The plan proposed engagement be undertaken in two key stages to allow for discussion and input from the community:

Stage 1: Community Input (Non-statutory process)

Purpose:

- Ask the community and gain understanding of what they like/value about their heritage area
- Invite the community to contribute information to their place record - history and heritage
- Inform community of current heritage listings

This stage is now complete.

At the close of the community engagement period, the City sent 3777 letters in a mail out to owners and occupiers, launched a My Say Freo page, invited one-to-one meetings with a heritage officer and attended 1 Precinct meeting. The City had 422 My Say Freo visitors, 61 My Say Freo interactions and 12 submitted My Say Freo Surveys. Further to this online response the City received 31 handwritten surveys, conducted 8 booked face-to-face meetings and had 2 phone calls.

Of these 53 submissions, 3 raised concern relating to one or more aspects of the South Fremantle Heritage Area, one submission was for noting a change of address and 49 submissions were positive in nature in regard to the South Fremantle Heritage Area.

Stage 2: Community consultation (Statutory process)

Purpose:

- To update the Local Heritage Survey, Heritage List and establish contributory and non-contributory places for the South Fremantle Heritage Area based in the knowledge of what the community value about their heritage area.

Stage 2 is to be undertaken following a report to Council requesting approval to proceed with Engagement Project – Stage 2 – consultation on the recommendations for changes to the Local Heritage Survey (LHS) and Heritage List and the defining of contributory and non-contributory places with the Heritage Area – this is the subject of this report.

The South Fremantle Heritage Area Review is the pilot project that will enable the Community, City of Fremantle Councillors and Staff to determine what is valued as heritage within the area and therefore where the threshold for identification as a Contributory Place within the Heritage Area currently lies. It may be that some places have been recommended for inclusion on the Heritage List and / or identified as a Contributory Place within the Heritage Area which are close to this threshold. This is further highlighted as later built Beaconsfield places are being assessed within the context of much earlier built South Fremantle places. It may be in the future that Beaconsfield as a whole, is considered as a possible heritage area. Should this occur it would facilitate later built Beaconsfield places to be considered within a like context.

Fremantle's Heritage Listings

The City of Fremantle local heritage framework is made up of a non-statutory database that holds the information on heritage places and then two separately adopted registers: the Heritage List and Heritage Areas.

Local Heritage survey (LHS): (Previously Municipal Heritage Inventory (MHI)) **Non statutory database**	Originally adopted on 18 September 2000 and contained approximately 4000 places. The LHS provides information on each place and the level of heritage significance (Levels 1-4 provided below) as per LPP 1.6 Heritage Assessment and Protection. The LHS requires continual review for consistency and accuracy.

Level 1 (includes 1A and 1B)
Level 1a – Exceptional Significance – State Listed
The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. This place is entered into Western Australia's State Register of Heritage Places.

Level 1b – Exceptional Significance – Not State Listed
The City of Fremantle has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. It is recommended that this place be considered for entry in the Heritage Council of Western Australia's Register of Heritage Places.

LEVEL 1 places are of Some Significance to Western Australia and Exceptional Significance to Fremantle. These places exhibit very high aesthetic, historic, social or scientific values or are rare or representative places within the context of Western Australia. Level 1 places include substantial houses, very important commercial and community buildings, places with important historical connections and fine examples of a particular architectural style. There are 291 Level 1 places in Fremantle of which 158 are included on the State Register (1A) and a further 81 of the 1B places are also part of the State Registered West End.

Level 2
The City of Fremantle has identified this place as being of considerable cultural heritage significance in its own right within the context of Fremantle and its conservation is a priority.

LEVEL 2 places are of Considerable Significance to Fremantle. These places exhibit high aesthetic, historic, social, or scientific values or are rare or representative places within the context of Fremantle. Level 2 places include larger houses, important commercial and community buildings, places with local historical connections and good or unusual examples of a particular architectural style or craftsmanship. Terrace houses and duplexes are usually graded as Level 2 as they are an unusual and distinctive type in Fremantle. There are 437 Level 2 Places in Fremantle.

Level 3
The City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and/or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced and its significant parts conserved.

LEVEL 3 places are of Some Significance to Fremantle. These places exhibit typical aesthetic, historic, scientific or social values in the context of Fremantle and are representative of the local traditional, vernacular housing stock. While they are important as individual places, their importance is often enhanced by being part of a grouping of similar places that form significant heritage streetscapes. There are 1603 Level 3 places in Fremantle, and they make up the bulk of places on the Heritage List.

Level 4 - Historic Record Only
The City of Fremantle has identified this place as being of interest for historical reasons and/or for structures that no longer exist. These places are part of Fremantle's rich cultural heritage but are not included on the Heritage List.

Heritage List: **Statutory protection**	Places identified within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.
Heritage Area: **Statutory protection**	Those areas where heritage significance is attached to a grouping of places or streetscape value rather than (or sometimes in addition to) their individual significance. The Regulations require local governments to prepare a local planning policy for each Heritage Area which sets out: 1. A map of the area. 2. A statement of significance for the area.

3. A record of places of heritage significance in the area (Contributory Places).

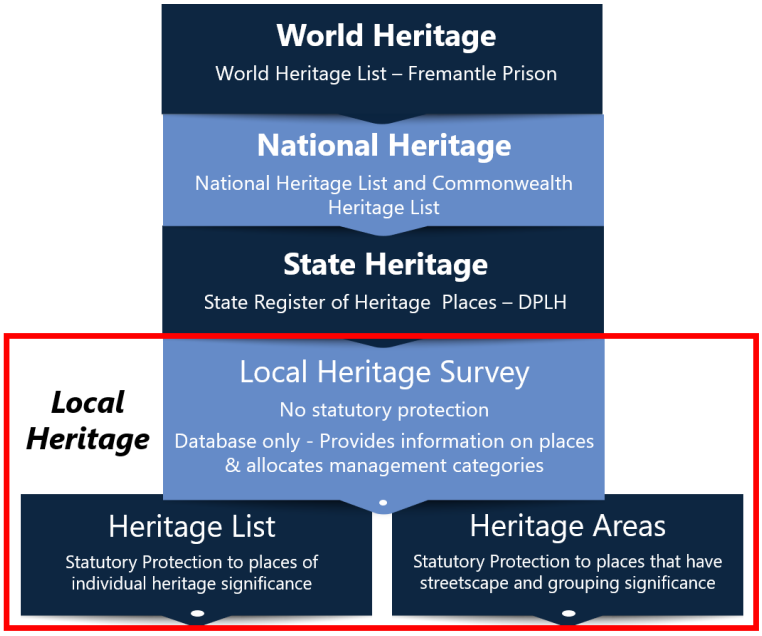


Figure 1. Local Heritage Framework and where it sits within the wider heritage framework

Heritage Places and Heritage Area Review Projects

Since the gazettal of Local Planning Scheme No. 4 (LPS4) in 2007 and the establishment of the City's Heritage List, and subsequently the City's Heritage Areas, the heritage framework has undergone several changes including the gazettal of *State Planning Policy 3.5 – Historic Heritage Conservation*, gazettal of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and, most recently, update of heritage legislation and guidelines. These changes have required the City to reconsider and update the way it manages its heritage framework.

As well as annual and periodic reviews of the Heritage List, the City has more recently:

- Replaced the term 'Municipal Heritage Inventory' (MHI) with 'Local Heritage Survey' (LHS) and amended how the LHS is reviewed.
- Reduced the number of Heritage Areas to 18 (revoking nine).
- Introduced Local Planning Policy 3.6 – Heritage Areas (LPP3.6) to provide the Heritage Area boundaries and statements of significance in alignment with the requirements of the Regulations. LPP3.6 also includes provisions around siting and scale, form of development, infill development, garages and

carports, street fencing etc used to assess development applications in heritage areas.

Further work is required to identify the contributory places for each Heritage Area (as per the Regulations). In the interim where identification of contributory places has not been completed, or is incomplete, assessment is made when a development application is lodged.

Further work is also required to review street by street the Local Heritage Survey and heritage List to ensure it is up to date, accurate and consistent. As stated above South Fremantle is the first Heritage Area to be reviewed under new best practice principles. As well as an assessment of the South Fremantle Heritage Area this review will establish the process for future heritage areas being re-surveyed, consistent with current legislative requirements of the Planning Regulations and the Heritage Act 2018.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The *Planning and Development (Local Planning Schemes) Regulations 2015* specify the requirement and process for the establishment and maintenance of a heritage list under the local planning scheme, and for the designation, amendment or revocation of heritage areas as well as the procedures for advertising and adopting a local planning policy.

The *Heritage Act 2018* requires periodic update and review of the LHS.

CONSULTATION

The *Heritage Act 2018* and the *Planning and Development (Local Planning Schemes) 2015 Regulations* specify consultation requirements with the landowners of all affected properties prior to modification to the Local Heritage Survey and Heritage List, respectively.

The Planning Regulations also specify consultation requirements for the designation or amendment of heritage areas, and for the adoption or amendment of local planning policies.

Following adoption of the South Fremantle Heritage Area Review for community engagement – Stage 1, officers undertook a community engagement process as per the Engagement Plan in Attachment 2:

At the close of the community engagement period, the City sent 3777 letters in a mail out to owners and occupiers, launched a My Say Freo page, invited one-to-

one meetings with a heritage officer and attended 1 Precinct meeting. The City had 422 My Say Freo visitors, 61 My Say Freo interactions and 12 submitted My Say Freo Surveys. Further to this online response the City received 31 handwritten surveys, conducted 8 booked face-to-face meetings and had 2 phone calls.

Of these 53 submissions, 3 raised concern relating to one or more aspects of the South Fremantle Heritage Area, one submission was for noting a change of address and 49 submissions were positive in nature in regard to the South Fremantle Heritage Area.

14 respondents had further specific information, history, plans, maps or photographs about their place or about the South Fremantle Heritage Area.

Submissions were invited to respond to a questionnaire which included the questions:

- *What do you value about the South Fremantle Heritage Area?*
- *What do you see as the key elements and/or themes that contribute to the South Fremantle Heritage Area?*

OFFICER COMMENT

Since gazettal of the City's Local Planning Scheme No. 4 (LPS4) which set out the provisions for maintaining the City's Heritage List and adopting Heritage Areas, the City has undertaken an annual review and a rolling review of Heritage Places by suburb and/or request, the most recent comprehensive review being North Fremantle and Fremantle. In recent times, the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) took over the requirements from LPS4 for maintaining a local government's Heritage List and Heritage Area registers.
These provisions differ slightly to the previous requirements. There have also been other changes in heritage legislation and guidelines. For these reasons, and the age of the City's heritage information in the LHS (some dating back to before 2000), a more comprehensive review of suburbs/heritage areas is required to update, refine and add information, especially in regard to contributory places, which has not previously been captured.

South Fremantle is the first Heritage Area to be reviewed under the new best practice principles. As well as an assessment of the South Fremantle Heritage Area, this review will establish the process for future heritage areas being re-surveyed, consistent with current legislative requirements of the Regulations and the *Heritage Act 2018* including:

- An appropriate methodology
- An appropriate collection and storage of information
- Templates for future area reviews

- Management Category review and a test of their application in the field
- Review of Heritage Area boundaries (if required).

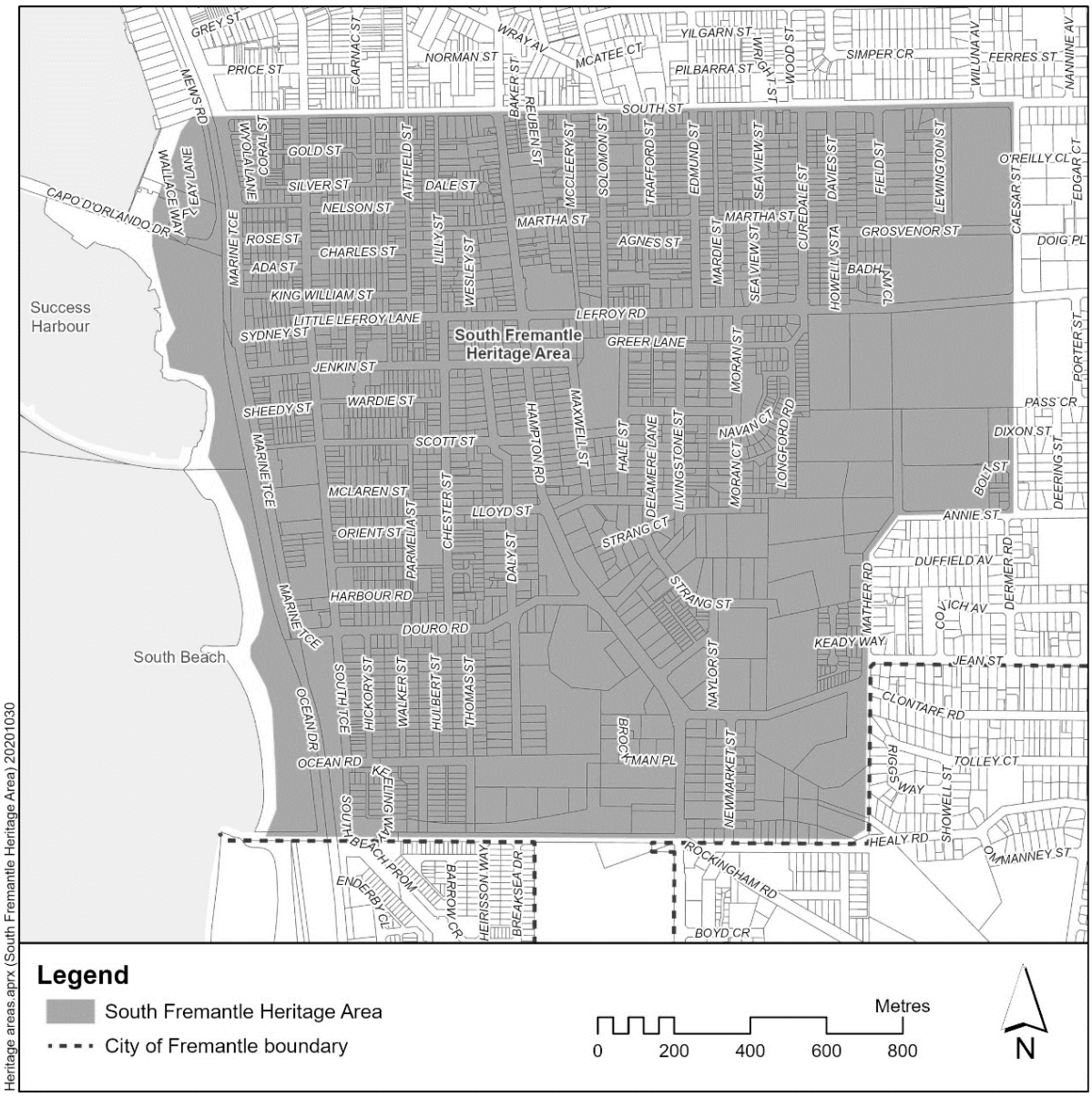


Figure 2. Extent of the South Fremantle Heritage Area

Conclusion

As community engagement (Stage 1) for the South Fremantle Heritage Area Review is complete and the documentary evidence and street by street, place by place survey has been carried out, City officers recommended that:

- Council notes the draft recommended updates to the Local Heritage Survey and Heritage List

- Council notes the draft recommended contributory and non-contributory places for the South Fremantle Heritage Area informed by the learnings from the recent engagement with community regarding what they value about their heritage area.
- Council invites comment from affected landowners on the proposed modifications to the Local Heritage Survey (LHS) and Heritage List, and the recommended contributory and non-contributory places for the South Fremantle Heritage Area.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

1. **Endorse the draft recommended updates to the Local Heritage Survey and Heritage List.**
2. **Endorse the draft recommended contributory and non-contributory places for the South Fremantle Heritage Area.**
3. **Authorises officers to invite comment from affected landowners on the proposed modifications to the Local Heritage Survey (LHS) and Heritage List, and the recommended contributory and non-contributory places for the South Fremantle Heritage Area.**

C2403-11 PLANNING INFORMATION REPORT - MARCH 2024

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Meeting date: 13 March 2024
Responsible Officer: Manager Development Approvals
Voting requirements: Simple Majority
Attachments: 1. Schedule of applications determined under delegated authority

Under delegation, development approvals officers determined, in some cases subject to conditions, each of the applications relating to the place and proposals as listed in the attachments

2. UPDATE ON METRO INNER-SOUTH JDAP DETERMINATIONS AND RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS FOR REVIEW

Meeting date: 13 March 2024
Responsible Officer: Manager Development Approvals
Voting requirements: Simple Majority
Attachments: Nil

Applications that have been determined by the Metro Inner JDAP and/or are JDAP/Council determinations that are subject to an application for review at the State Administrative Tribunal are included below.

1. Application Reference
DA0127/23
Site Address and Proposal
21 Herbert Street, North Fremantle – Demolition of existing Single house and incidental structures
Current Status
• At its meeting held August 2023, the Council resolved to refuse the application in accordance with the officer recommendation. • An Application for Review by the State Administrative Tribunal has been lodged by the owner. • Directions Hearings were held in December, with mediation following on 12 January. A further mediation is scheduled for 1st February. • An order was issued by SAT for Council to reconsider its decision, with the applicant providing updated information for consideration. A report dealing with the reconsideration is included in this Agenda.

2. Application Reference
DAPV001/24
Site Address and Proposal
No. 19-25 Burt Street, Fremantle – Amendments to public works development (Mixed use development comprising of Community Purpose, Restaurant/Café, Convenience Store, Industry Cottage and Multiple Dwellings)
Current Status
• Application to vary the approved development was received on 8 January 2024. • Referral comments have been provided to officers at the Department of Planning, Lands and Heritage who are the Responsible Authority, noting the changes are supported with the exception of earthworks in the road reserve, and two apartments that do not meet adequate standards for solar access. • At the time of writing this report, a determination had not been made.

3. Application Reference
DAP008/23 –
Site Address and Proposal
30-4 Amherst Street and 2-4 Stack Street, Fremantle – 57 Grouped Dwellings, 24 Multiple Dwellings, 7 Commercial tenancies and associated common property
Current Status
• Application for development was received on 13 December 2023. • A responsible authority report is part of this agenda for Council consideration. • At the time of writing this report, a JDAP meeting has not been scheduled.

4. Application Reference
DAP001/24 –
Site Address and Proposal
3B Keegan Street, O'Connor – Single storey Retail and Warehouse development
Current Status
• Application for development was received on 23 January 2024. • Assessment is currently underway. • At the time of writing this report, a JDAP meeting has not been scheduled.

OFFICER'S RECOMMENDATION

Council receive the following information reports for March 2024

1. **Schedule of applications determined under delegated authority**

2. **Update on Metro Inner-South JDAP determinations and relevant State Administrative Tribunal applications for review.**

11.2 Strategic and general reports

C2403-12 MEETING PROCEDURES POLICY REVIEW

Meeting date: 13 March 2024
Responsible officer: Manager Governance
Voting requirements: Simple Majority
Attachments: 1. Amended Meeting Procedures Policy

SUMMARY

Following implementation of the new Council meeting structure, a review of the Meeting Procedures Policy was undertaken, and changes are proposed to enable better decision making processes and provide clarity in relation to the process for dealing with alternative motions.

This report recommends that Council adopt the proposed amendments to the City of Fremantle Meeting Procedures Policy.

BACKGROUND

The City's meeting procedures policy was last reviewed and adopted by Council in June 2022 after the ordinary elections. Following implementation of Council's resolution to change the Council meeting structure from two Committee meetings and one Council meeting per month, to two Council meetings per month, it was identified that some changes to the meeting procedures may be required in order to help facilitate more flexible and effective decision-making process to occur in Council meetings.

A detailed report of the proposed changes is provided below, to inform Council where changes are recommended. These changes are also shown in tracked changes in Attachment 1.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The Meeting Procedures Policy will need to be further amended once the new state-wide regulations, proposed to standardise meeting procedures for all WA local governments, are implemented (expected to be 2025).

There is no legal or statutory requirement for Council to adopt this policy.

CONSULTATION

Elected Members were given an opportunity to provide feedback during review of this policy and the feedback received was taken into consideration when recommending the changes outlined in this policy.

It is considered that community consultation is unnecessary in this instance as the proposed changes apply to the processes of Council meetings and not the broader community.

OFFICER COMMENT

The recommended changes to the Meeting Procedures Policy are tracked within **Attachment 1** and outlined in the following table including justification for each amendment.

Proposed change	Reason
9.1 MOTIONS TO BE STATED AND IN WRITING (1) A member who wishes to move a substantive motion, ***alternative motion*** or an amendment to a substantive motion is to state the substance of the motion before speaking to it.	To clarify that this clause applies
9.2 MOTIONS TO BE SUPPORTED (1) A substantive motion, ***alternative motion*** or an amendment to a substantive motion is not open to debate until it has been ***moved and*** seconded. (2) A motion to revoke or change a decision made at a council or committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations. (3) A motion that is not carried (a 'lost' motion) by the majority outlined as required for that motion does not form a decision of a committee or council, ***and the Presiding Member may call for a new substantive motion to be put.***	Provides clarification on procedure. Includes the alternative motions and enables the presiding member to call for new substantive motions.
9.4 ~~COMPLEX~~ MOTIONS *TO BE CONSIDERED IN PARTS* 1. ***At the request of a member,*** the presiding member may ***determine*** ~~**require**~~ that a ~~**complex**~~ substantive motion, ***alternative motion*** or ~~**a complex amendment to a substantive**~~ ***amended*** motion, is to be broken down and put in the form of more than one motion, each of which is to be put ***to the vote*** in sequence.	Provides clarification on procedure. "Complex" has been removed from this clause as motions may be moved in parts regardless of complexity.

9.7 ALTERNATIVE *MOTIONS* ~~RECOMMENDATIONS~~ AND AMENDMENTS ***1. Should a member wish to negate a substantive motion or change the intent of the substantive motion and have Council consider an alternative motion, the Member must:*** ***a. provide written notice of the alternative motion and reason for the alternative motion, to the CEO by 12pm on the day preceding the meeting; or*** ***b. foreshadow the alternative motion prior to the right of reply to the substantive motion in the meeting.*** ***2. Foreshadowed alternative motions of which notice has not been given (as required by 1.a.), may only be put if the substantive motion is not carried, and is to be accepted by Council as a procedural motion.*** ***3. A Member may request an alternative motion be moved in place of the officer's recommendation or substantive motion, or at any other time during debate.*** ***4. Once moved and seconded, the alternative motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other motion.*** ***5. If more than one alternative motion is proposed for any item before the Council, the Presiding Member shall deal with them in the order in which they were received or as agreed by majority of Council members at the meeting.*** ***6. Should a member wish to amend a substantive motion, the member must provide written notice of the proposed amendment and reason for the amendment, to the CEO by 12pm on the day preceding the meeting.*** ~~**2. (1) Elected members must give notice of proposed amendments and alternative recommendations on council agendas.**~~ 7. ~~**(2)**~~ Written notice must be provided to the CEO for any proposed amendments ~~**or alternative recommendations**~~ to a council motion by 12 noon on the day preceding the meeting; and 8. ~~**(3)**~~ All notices of proposed amendment or alternative motion must be distributed by the CEO to all elected members, and published on the council website before 5 pm on the day preceding the meeting; and 9. ~~**(4)**~~ Any proposed amendments or alternative motion that relate to matters which, in the opinion of the CEO, is or is likely to be closed to members of the public in accordance with S 5.23 (2) of the Act, will not be published on the council website; and	Enables members to move alternative motions and provides clarification on the process for moving alternative motions.

10. ~~(5)~~ The presiding member – (a) is to determine whether an amendment is a minor amendment; and (b) is to make that determination on the basis that a minor amendment is one which, in their opinion: (i) does not significantly or materially change the original motion; or (ii) does not significantly or materially impact on an interested person; and (iii) may be moved at a council or committee meeting without prior notice having been given.	
10.1 PERMISSIBLE PROCEDURAL MOTIONS (1) In addition to the right to move an amendment to a substantive motion a member may move any of the following procedural motions – (a) that the meeting proceed to the next item of business; (b) that the item be ~~referred (for further information) or be~~ deferred (for ***further information or*** decision) to a council or committee meeting; (c) that the meeting now adjourn; (d) that the motion be now put; (e) that the member be no longer heard; (f) that the ruling of the presiding member be disagreed with; and (g) that the meeting be closed to members of the public. ***(h) that a foreshadowed alternative motion (as per clause 9.7 part 1. b.) be considered.***	Removed 'referred' from part b, as it is not required. A deferral motion can be used to defer a decision to seek further information or for another action to occur prior to Council making a decision. Part h, requires a procedural motion to be put prior to consideration of any foreshadowed motion (where notice has not been given).
10.2 NO DEBATE (1) The mover of a motion stated in paragraphs (a), ~~(b),~~ (c), (f) or (g) of clause 10.1 may speak to the motion for not more than 5 minutes, the seconder may speak for not more than 3 minutes, and there is to be no debate on the motion without the agreement of the presiding member. (2) The mover of a motion stated in paragraph (d) or (e) of clause 10.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.	Enables Council to debate a procedural motion to defer the item. It is noted that the new clause 10.1(h) for procedural motions has not been included in this section, meaning that debate may occur prior to consideration of a foreshadowed motion.

10.6 ITEM TO BE DEFERRED OR ADJOURNED (1) A motion "that the item be ~~r~~deferred or adjourned" – (a) is to state the time to which the debate is to be **deferred or** adjourned ~~(~~and the reasons for the motion~~)~~; and (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the meeting, ~~**and at**~~ **or** the time stated in the motion.	The clarify that this clause relates to deferral motions. This clause clarifies the process for deferral motions including the requirement for a reason for deferral.

The above changes are recommended to Council for approval, to enable better decision-making processes.

The policy will be further reviewed as part of the Elected Member related Council Policy review, to be presented to Council in the upcoming months. Further amendments are expected to be proposed which cover recent legislative changes and other minor amendments.

VOTING AND OTHER REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

1. **Adopt the Meeting Procedures Policy as provided in Attachment 1, and**

2. **Note that minor amendments that do not change the effect or intent of the policy such as formatting, branding and corrections considered appropriate by the administration, may be made without further approval from Council.**

C2403-13 VERGE GARDEN POLICY

Meeting date:	13 March 2024
Responsible officer:	Manager Parks and Landscape
Voting requirements:	Simple Majority
Attachments:	1. Verge Garden Policy 2. Verge Garden Guidelines 3. Verge Garden and Street and Reserve Tree Policy Community Engagement Report

SUMMARY

The City of Fremantle encourages and supports residents to develop and maintain verge gardens to achieve social, environmental and economic values for the community through the Verge Garden Policy, Verge Garden Guidelines and verge garden assistance programs.

This report recommends that Council adopt the updated Verge Garden Policy and note the Verge Garden Guidelines. Officers will also submit verge garden assistance programs responding to community requirements as part of the annual budget process.

BACKGROUND

The City of Fremantle encourages and supports residents to develop and maintain verge gardens to achieve social, environmental and economic values for the community through the Verge Garden Policy. Verge Gardens support strategic objectives of the City including:

- Green Links (Greening Fremantle: Strategy 2020)
- Canopy (Urban Forest Plan, 2017)
- Water (Water Conservation and Efficiency Plan 2020-2025).

The current Verge Garden Policy was adopted by Council in September 2017. The focus of it is encouraging verge gardens from an amenity and biodiversity perspective, outlining the City's support for verge garden implementation and maintenance, and defining material use on the verge. The Verge Garden Policy was supported by the Creating Your Verge Garden document which outlined the practical design, implementation and maintenance for verge gardens.

This item was considered at the Ordinary Meeting of Council on 14 February 2024 and was deferred to the next appropriate Council meeting to allow further discussion with staff and interested elected members on the potential of the City of Fremantle to support future establishment of verge gardens within the City. The reason for deferral was:

> *Several opportunities have been identified and others may exist where the City can assist residents to establish verge gardens, particularly where*

verges are substantial in size. It would be appropriate to explore this further prior to finalizing the policy so that specific agreed opportunities can be accommodated.

This report has an updated Verge Garden Policy and considerations for verge garden support and implementation.

FINANCIAL IMPLICATIONS

Council adopted the following budget for the 2023/24 financial year:

IP Activity Project: 100914 - Verge Garden Scheme		**Income**	**Expenditure**
100914.4391	Verge Garden Scheme Reimbursement Inc – Other (WaterCorp Grant)	(10,000)	
100914.6823	Verge Garden Scheme Contract Exp - General		15,000
100914.6865	Verge Garden Scheme Materials Exp - General		17,960

To increase implementation of verge gardens across the City, additional budget and/or a new dedicated staff member should be considered. It is proposed these are developed and implemented through the annual budget process to respond to community requirements. A range of options are presented in the Officer Comment section.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Consultation was undertaken via My Say in August and September 2021 to seek feedback regarding the Verge Garden and Street and Reserve Tree Policy's. A total of 171 participants completed the survey.

Of those, 19 participants have accessed the native plant subsidy scheme, 13 have requested a street tree and 9 have accessed free recycled tree pruning mulch from the recycling centre.

OFFICER COMMENT

The aims of the updated Verge Garden Policy are to enable residents to improve the social, environmental and economic benefits of verges, while also improving the effectiveness and access to verge garden assistance. To support the updated Verge Garden Policy, the Verge Garden Guidelines have been updated.

The intent of the Policy, Guidelines and City assistance is to make it as easy as possible for residents to create a verge garden aligned with City strategy.

Verge Garden Policy

The key focus areas of the Verge Garden Policy are:

Approvals

An owner of land may, on the part of the verge directly bordering the land, install a verge garden in accordance with this Policy.

Where the land is owned or managed by a third party, the written permission of the land owner or manager is required prior to installing a verge garden. The intent of this statement is to allow residents to create verge gardens on underutilised verge areas with the adjacent land owner or manager's permission.

Social Values

The Policy encourages the use of verges for community connection and improved health and wellbeing by providing social spaces and improved amenity. Verge garden planning should consider play, pedestrian and cyclist comfort, social spaces with seats or benches, community libraries and toy libraries. The importance of linking up neighbourhood verge gardens, to create a strong sense of place and improved amenity for pedestrian and cyclists is highlighted. Residents are also encouraged to use verges as productive spaces with edible gardens, herbs and vegetable planters.

Environmental Values

The important environmental functions of verges include biodiversity, fauna habitat, storm water management, low water use and green corridor connections. The creation of fauna friendly verges by using habitat items such as insect hotels, logs and boulders, and plants that also provide food sources. The importance of linking up neighbourhood verge gardens to create green corridor connections for fauna and improved biodiversity is highlighted. The use of water wise, endemic and Australian plant species is also recommended.

Economic Values

Well planned and maintained verge gardens can provide a range of economic values to the resident and community by reducing maintenance costs while increasing property value. A reduction in the urban heat island can also lead to a reduction in utility costs and improved hard infrastructure asset life.

Acceptable Materials

The Verge Garden Guidelines provide a list of acceptable materials not requiring approval, materials requiring approval and unacceptable materials.

Acceptable materials include:

- Maintained turf.
- Garden of low plants like shrubs, groundcovers, vegetables and herbs.
- Organic mulch (best to choose a waterwise chunky one).
- Irrigation at ground level such as drip or spray.
- Removable planters and raised beds like timber vegetable planters.
- Edging to gardens, turf and inorganic mulch.
- Social infrastructure features such as seats, benches, community libraries and toy libraries as long as they are removable.
- Fauna friendly features such as insect hotels, logs and boulders that are food and shelter sources, but they must be removable.
- Play equipment features such as nature play and swings.
- Hardstands of an "acceptable material" such as trafficable paving including permeable paving, concrete, timber inlays, and/or consolidated inorganic mulch, or non-loose gravel (if less than 1/3 of the verge area excluding the crossover with the balance being the preferred soft landscaping materials).

Unacceptable materials or structures include those which are:

- Fences
- Unsafe
- Blocking sightlines or presenting a hazard
- Loose or slippery (for example loose gravels)
- Impermeable
- Sharp or prickly
- Weeds
- Artificial turf

Verge Garden Assistance

The City provides assistance with verge garden planning through the Verge Garden Guidelines and other annual events associated with the facilitation of verge gardens. The City will, subject to resource availability and annual budget allocation, assist with implementation and maintenance of verge gardens through annual programs which may include:

- workshops
- mulch
- subsidised plants
- reimbursements or subsidies
- preparation assistance schemes.

These may vary annually to respond to community requirements and will be developed through the annual budget process.

The provision of subsidised plants is the most heavily subscribed part of the City's verge garden assistance program and plant allocations are exhausted annually. Officer's recommend extending this program as it contributes to a primary aim of verge gardens of increasing native, waterwise plants on verges for habitat and biodiversity while decreasing water consumption. Further engagement with schools and commercial/industrial properties is also recommended.

The previous version of the Verge Garden Policy outlined a Verge Preparation Assistance Scheme whereby the City would assist in the preparation of resident's verges. This included removal of soil and turf to 100mm deep and 1.0m from kerb lines, footpaths, and driveways. Mulch was provided based on the cubic meters needed for the allocated verge area. Out of nearly 100 applicants, only 12 verges were able to be prepared within the allocated $15,000 budget. The verge preparation assistance scheme requires extensive administration time and prepares a relatively small amount of verges. Officers recommend directing this budget towards other programs which give access to more of the community such as subsidised plants, mulch and workshops.

Verge Garden Guidelines

The Verge Garden Policy is intended to be read in conjunction with the Verge Garden Guidelines. The Guidelines are the easy to read, practical how to create and maintain a verge garden for residents. The Guidelines cover:

- The importance of verges including who is responsible for verges
- Design considerations including plant species selection guidance and design examples
- Materials including social infrastructure and fauna infrastructure
- Rules including parameters and restrictions for spatial/ratios, setbacks, heights and street trees
- Installation/construction including preparation
- Maintenance.

Additional Information Following Deferral

Following the deferral of this item at the Ordinary Meeting of Council on 14 February 2024, Officers and Elected Members met to discuss how the Verge Garden Policy and Program can be expanded to increase the rate of conversion of verges to gardens.

Community Verge Gardens

The Verge Garden Policy has been revised to encourage and support community or 'Friends of Groups' to develop, implement and maintain verge gardens. The intent of the following statement is to allow verge garden assistance

programs to be flexible and responsive to community groups, site requirements and objectives for the verge garden. These will be developed and implemented through the annual budget process.

> *"The City encourages community or 'Friends of Groups' to develop, implement and maintain verge gardens on a large or multiple verge scale, or with approval from the City or land manager, other urban open space. Multiple, connected verge gardens have improved benefits for biodiversity, habitat creation, sense of place and urban heat island mitigation. The City will assist community or 'Friends of Groups' with implementation and maintenance of verge gardens through programs developed through the annual budget process."*

Verge Garden Implementation

There are a range of models which can be considered to support verge gardens. These may apply to different areas of the community and target verge garden creation/conversion as well as maintenance. Given that individual and community requests vary depending on factors such as the site location, size, existing condition and proposed outcome, the verge assistance program needs to be flexible to adapt to requirements. Residents / community groups may only require access to parts of the program and this should be accommodated. It is proposed these are developed and implemented through the annual budget process to respond to community requirements.

The following is not a comprehensive list and there are other options available:

<u>Program Option: Greening Officer</u>

A greening officer can focus on the practical implementation of verge gardens with residents and community groups. They could support and administer the verge garden program through a range of measures including education, advice, facilitation and managing works. This officer could also have a focus on green linkage implementation, biodiversity projects and supporting other community greening initiatives.

Staff requirements: new part/full time staff member.
Budget: this position would be responsible for implementing and administering the initiatives below.

<u>Program Option: Workshops</u>

Workshops aimed to educate residents with the knowledge and skills to prepare their verge gardens will help enable those ready to create a verge garden. Workshops can guide participants in designing, preparing, constructing and maintaining verge gardens that promote biodiversity, habitat creation, ecological resilience, and social connection in line with the Policy objectives. They can be held in various locations across the City and provide advice relevant to the

landscape typology of the area. Workshops can also engage with residents or local community groups who have great verge gardens to undertake walking tours and provide real world advice.

Staff requirements: additional staff administration time.
Budget: varies – can be undertaken with in house staff or by specialist consultants depending on the focus of the workshop.

Program Option: Rebate's for verge conversion

A rebate can be offered to residents for converting their verge to a verge garden in accordance with the Verge Garden Policy. Rebate's are effective as they incentivise the completion of the verge garden to obtain the rebate. The City has previously prepared verge's for residents that were not completed into a verge garden.

Staff requirements: additional staff administration time
Budget: Options include a fixed rebate, rebate based on size classification of verge, or rebate on a sq/m basis up to a maximum value.

Program Option: Community verge grants

A grant could be offered to incentivise community groups to convert multiple to a verge garden in accordance with the Verge Garden Policy. Community groups would be required to present a verge garden proposal to the City for assessment including demonstrating the required skills and resources to implement and maintain the verge garden.

Staff requirements: additional staff administration time.
Budget: Options include a fixed grant, grant based on size classification of verge, or grant on a sq/m basis up to a maximum value.

Program Option: Verge Preparation Assistance

The previous version of the Verge Garden Policy outlined a Verge Preparation Assistance Scheme whereby the City would assist in the preparation of resident's verges. This included removal of soil and turf to 100mm deep and 1.0m from kerb lines, footpaths, and driveways. Mulch was provided based on the cubic meters needed for the allocated verge area. The verge preparation assistance scheme required extensive administration time to prioritise the verge gardens for preparation. As noted above, out of nearly 100 applicants assessed, only 12 verges were able to be prepared within the allocated $15,000 budget in 2023. To make the program effective, an increased budget, additional staff resource and a change to the program administration (proof of capability to complete the verge garden and prioritisation) is recommended.

An alternative proposal would be for the City to provide all property's with 1 skip bin (within a set period) to dispose of soil and turf and other materials from

preparing their verge for a garden. This would be subject to the resident providing a verge garden proposal to the City for assessment including demonstrating the required skills and resources to implement and maintain the verge garden.

Staff requirements: additional staff administration time
Budget: current cost to prepare a verge using a Contractor is approximately $1,000 to $1,500 to prepare a verge. A skip bin could be provided based on size of verge.

Program Option: Subsidised/Free plants

The City currently subsidises 50% of the cost of plants through the plant subsidy program. The subsidised plant scheme is highly successful and fully subscribed every year, contributing to the green cover within the City. Council could consider making the plants free to increase accessibility and uptake. The verge plant program is an effective support program for verges already converted to verge garden.

Staff requirements: no resource additional requirements.
Budget: The current plant budget is $17,960.

Program Option: Mulch and FOGO compost delivery

The City currently supplies recycled tree pruning mulch to residents for pickup at the Recycling Centre when it is available. It is worth noting that with the threat from Polyphagous Shot Hole Borer, the City may have to cease this practice. An alternative is to have a dedicated budget for mulch provision from suppliers which the City can provide to residents at a subsidised rate or free. The City also has access to FOGO compost available for purchase from the Recycling Centre, this could be provided to residents at a subsidised rate or free.

Staff requirements: no additional requirements.
Budget: Varies, depending on level of provision desired.

Program Option: Rewild Perth

The City has the opportunity to join the ReWild Perth program through its membership of the Perth South West Metro Alliance. The Rewild Perth program aims to recreate environments which support native wildlife as follows: *"ReWild Perth provides you with advice on how to build eye-catching gardens with local wildlife in mind. Being a part of ReWild Perth is an immediate action to improve biodiversity across our City whilst beautifying your own home".* The program offers a range of services including workshops, school incursions, media and education and volunteering opportunities which the City can opt in to.

Staff requirements: minor additional resource requirements (run by ReWild, administration required by CoF).

Budget: Varies depending on the program selected (current options presented are $4,275 and $6,240)

Program Option: Verge Garden Awards

Through the Policy, the City encourages verge gardens that provide social, environmental and economic benefits. An annual award program to recognise residents and community groups who achieve this objective will encourage the creation and maintenance of beautiful verge gardens.

Staff requirements: minor additional resource requirements to inspect verges and assess winners.
Budget: Another local government runs a program with prizes from third to first up to $500.

The A staff member is required to ensure the success of implementing one or a range of the above programs.

Summary

Should Council adopt the Verge Garden Policy, officers will:

- Launch the new Verge Garden Guidelines and Policy through a series of workshops on the new approach in time for the autumn 2024 verge garden season.
- Provide subsidised verge garden plants in April / May 2024 (and subsequent years subject to budget approval).
- Supply recycled tree pruning mulch at the depot, delivery for larger verge gardens may be provided subject to availability.
- A new Verge Garden Assistance program ahead of the 2025 winter season, to be developed and approved through the 2024/25 budget process inclusive of required staffing.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

1. **Receive the Verge Garden and Street and Reserve Tree Policy Community Engagement Report as provided in Attachment 1.**

2. **Adopt the updated Verge Garden Policy provided in Attachment 2 and note the Verge Garden Guidelines provided in Attachment 3.**

3. **Note officers will develop an expanded verge garden assistance program including budget and staff resource requirements for consideration in the 2024/25 annual budget process, with a focus on verge garden creation/conversion for both individual and community groups.**

C2403-14 'FRIENDS OF' GROUPS POLICY

Meeting date:	13 March 2024
Responsible officer:	Manager Parks and Landscape
Voting requirements:	Simple Majority
Attachments:	1. 'Friends of' Groups Policy 2. 'Friends of' Groups Manual

SUMMARY

The City of Fremantle currently has five active 'Friends of' Groups which work in partnership with the City towards the ecological conservation and restoration of their chosen natural areas. These partnerships have been informal in nature with the City providing support in an ad-hoc manner. The 'Friends of' Groups Policy and Manual, supported by a budget allocation for implementation, aims to formalise the support of Friends of Groups by the City.

This report recommends Council adopt the 'Friends of' Policy as provided in Attachment 1, and note officers will include a provision of $22,000 to support the activities of the 'Friends of' Groups for consideration in the 2024/25 budget process.

BACKGROUND

The City of Fremantle currently has five active 'Friends of' Groups which work in partnership with the City towards the ecological conservation and restoration of their chosen natural areas. Until now, these partnerships have been informal in nature with the City providing support in an ad-hoc manner. The 'Friends of' Groups Policy seeks to formalise those partnerships while reducing the administrative burden to the groups so they can focus on the conservation activities they enjoy. The associated 'Friends of' Groups Manual provides additional detail on implementing the 'Friends of' Policy.

Providing support for friends of groups is an objective of the Greening Fremantle: Strategy 2020 Actions "3.1 Review and develop management plans and programs for community group participation in design, implementation and ongoing management of POS and other green spaces", "3.2 Provide and promote grant opportunities for community partnering projects" and "3.3 Develop the City's capacity to assist "Friends of" and other groups for the implementation of enhancement plans".

This item was considered at the Ordinary Meeting of Council on 14 February 2024 and was deferred to the next appropriate Council meeting to allow further discussion with staff and interested elected members, in association with the proposed discussion on the Verge Garden Policy. The reasons for deferral was:

It is considered appropriate to discuss the potential and implications of the "Friends of Groups" Policy in association with that for the Verge Garden Policy.

This report has an updated Friends of Groups Policy and has been considered alongside revisions to the Verge Garden Policy and scheme.

FINANCIAL IMPLICATIONS

The Policy will require an annual budget to provide financial support for the 'Friends of' Groups activities. The proposed amount for the Financial Year 2024/25 is $22,000. This would allow for each of the five groups to access up to $4,000 each and include an additional 10% for administration fees for a sponsor to manage the finances of unincorporated groups.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Active 'Friends of' Groups were contacted via email in July 2023 to seek their comments regarding the proposed Policy and the Annual Work Plan. Their comments were incorporated into the Policy and into the Manual. Furthermore, a Revegetation workshop was held for the 'Friends of' Groups on 14 September 2023 which provided an opportunity to collate the key concerns of the participants.

OFFICER COMMENT

Friends of Groups provide great benefit to the local community, natural areas and the City. They contribute to conservation of natural areas, provide education to the community, and build community connections among many other benefits.

Currently, the City liaises with 'Friends of' groups each year to identify their needs to maximise the success of bush care activities on City managed land within the existing operational budget and provides supporting documentation for Friends of groups grant applications. The City liaises with and supports Friends of groups through the year to implement their activities, coordinate works and co-host events. Activities are consistent with City management or operational plans for each respective natural area. However, this is currently managed in an ad-hoc way, with no clearly set expectations.

The aim of the Policy and Manual is to:

- clarify expectations, roles and responsibilities between the City and Friends of groups
- build capacity of Friends of groups to operate and achieve their goals
- ensure best practice conservation land management is undertaken

- facilitate community participation in operational planning for natural areas
- provide financial support to 'Friends of' groups (subject to budget approval)
- reduce the administrative burden to the groups so they can focus on the activities they love
- enable the City to meet its Work Health and Safety requirements.

There are various external grants programs available to 'Friends of' groups such as Coastwest grants and State NRM Community Stewardship Grants. It is common for these to require a minimum 50:50 cost sharing arrangement, often with the applicants' cost contribution comprised of a mix of in-kind and financial contributions. There is potential to attract additional external funding for activities within City-managed land that contributes to the implementation of the respective natural area's management or operational plan should 'Friends of' Groups be able to apply to the City for matching contributions through an increased budget provision to do so. It is worth noting that, as cited by Volunteering Australia, the return on investment for every dollar invested in volunteers is $4.50.

Additional Information Following Deferral

Following the deferral of this item at the Ordinary Meeting of Council on 14 February 2024, Officers and Elected Members met to discuss how the Verge Garden Policy and 'Friends of' Groups Policy work together. As a result of this the Verge Garden Policy was revised to encourage and support community or 'Friends of Groups' to develop, implement and maintain verge gardens as well as a program of options for verge garden implementation. The 'Friends of' Groups Policy has been revised to define the intent of Friends of Groups under the Policy as follows:

> *"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."*

The Policy also acknowledges the City supports urban greening for residents and community groups on other areas of urban open space through the Verge Garden Policy as follows:

> *"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."*

Officers recommend Council adopt the Policy and Manual, supported by a budget allocation for implementation, to formalise the support of Friends of Groups by the City.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

1. **Adopt the 'Friends of' Groups Policy as provided in Attachment 1.**

2. **Note officers will include a provision of $22,000 to support the activities of the 'Friends of' Groups for consideration in the 2024/25 budget process.**

11.3 Committee and working group reports

Nil.

11.4 Statutory reports

Nil.

12. Motions of which previous notice has been given

A member may raise at a meeting such business of the City as they consider appropriate, in the form of a motion of which notice has been given to the CEO.

Nil.

13. Urgent business

In cases of extreme urgency or other special circumstances, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.

14. Late items

In cases where information is received after the finalisation of an agenda, matters may be raised and decided by the meeting. A written report will be provided for late items.

15. Confidential business

Members of the public may be asked to leave the meeting while confidential business is addressed.

Nil.

16. Closure