



# Agenda

## Ordinary Meeting of Council

Wednesday 8 May 2024 6pm



## **Notice of an Ordinary Meeting of Council**

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday 8 May 2024** in the Council Chamber at the Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read "Glen Dougall".

Glen Dougall  
**Chief Executive Officer**

2 May 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**

Cr Doug Thompson – 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**

The following questions were taken on notice at the Ordinary Meeting of Council held on 24 April 2024:

### **Ian Ker spoke in relation to item C2404-13 and asked the following questions:**

#### **Question 1:**

Is the construction budget now more than one of the original tenders? If so, why was that tender not revisited?

#### **Response:**

Yes, there was an increase in budget which was reported to Council on the 27th of March 2024.

#### **Question 2:**

Were both original tenderers given equal opportunity to respond to the recast tender specifications? If not, why not?

#### **Response:**

Our approach was detailed in the report to Council on the 27th of March 2024. Request for quotations did not include both original contractors, and the specifications and scope of the tender did not change in the recast tender.



**Question 3:**

Why has the construction time increased from the original estimate of 6 months to 12 months?

**Response:**

The construction timeline has not increased to 12 months, this report (C2404-13) references provisional dates and touches on site possession in June and completion early 2025.

**Question 4:**

How did ICS demonstrate meeting the 'relevant experience' and 'key personnel, skills and resources' criteria?

**Response:**

All proposals were scored in accordance with the City's procurement policy, which was detailed in the report to Council on the 27th of March 2024.

**Question 5:**

What similar projects (ablution block; exposed coastal location) is the City of Fremantle aware of that have successfully used Recycled Concrete Aggregate for the main structure?

**Response:**

The City can confirm that officers have researched materials and their use in coastal locations, and equally the contractor has experience in using recycled concrete on projects.

**Question 6:**

Does 'no reduction in building footprint' relate to external or internal area?

**Response:**

There is no reduction in the internal building areas.

**Question 7:**

In relation to the above question, If it relates to external area, what is the reduction in internal floor space and how is this distributed?

**Response:**

Please see response to question 6 above.

**Question 8:**

How does the corrosion resistance of High-Density Galvanised steel compare to the previously specified stainless steel?

**Response:**

Galvanised steel is commonly used in coastal settings, and with painting and coating is suitably protected. It is used in environments with poxy resin, which we anticipate will give a lifespan of 20-25 years. Stainless steel provides



slightly more. It is important to note that both products require cleaning and maintenance. It is important to the City that regimes are put in place so that the City meet and exceed the anticipated life expectancies.

**Question 9:**

Has the City of Fremantle budgeted for effective cleaning and maintenance of the new facilities to ensure the problems repeatedly reported on the previous facilities do not arise again?

**Response:**

The City has budgets for effective cleaning and maintenance of facilities. A suitable cleaning regime will be established once the facilities are constructed.

**Keryth Cattalini spoke in relation to item C2404-7 and asked the following questions:**

**Question 1:**

Can you please advise why the City is stating that it "may not", with regard to the City having undertaken all administration processes in this instance, means?

**Response:**

The City has undertaken an investigation regarding who was notified of the plan to register significant trees in late 2018. At this time it is only owners that can be confirmed as being notified.

**Question 2:**

Can you please confirm that the City contacted all owners in the 2018-2019 period?

**Response:**

Please see response to question 1.

**Question 3:**

Would the City have used the same system for notifying owners and occupiers? If so, why is it that the City cannot confirm the occupier were contacted in the same way that the owners were contacted?

**Response:**

The City is of the opinion that the same system should have been used for notifying both owners and occupiers of a significant tree registration.

**Question 4:**

Can you please advise how many, if any, occupiers were contacted during the process in 2018-2019?

**Response:**

Please see response to question 1.



**Question 5:**

In relation to the above question, is the City going to continue with the investigation into this matter?

**Response:**

At this time, the City will pause any further investigation if council agree to undertake a new process for the registration of trees from the Heritage List to the Significant Tree Register.

**Question 6:**

Would it be reasonable to assume that given the lack of evidence of contact with occupiers who were not owners, that it did not happen?

**Response:**

The City acknowledges there is doubt in this area of the process.

**Kristian Morris spoke in relation to item C2404-7 and asked the following questions:**

**Question 1:**

In relation to question 6 above, can you advise if this is the case with the trees in the motion being considered tonight?

**Response:**

Please see response to question 6 above.

**Question 2:**

Can you please provide the City's definition of "registration" and "re-registration" for the record? Please also advise where the definition is obtained from?

**Response:**

"Registration" is when the City places a tree on the Significant Tree Register, under provisions in its Planning Scheme No.4. The City is using the term "re-registering" in reference to re-running the administrative process to remove any doubt that may exist around the original process followed in 2018-19.

**Danielle Cattalini spoke in relation to item C2404-7 and asked the following question:**

**Question 1:**

While LPS 4 provides a process for the inclusion of trees of the Register of Significant Trees, there is no process under LPS 4 for the transfer of trees from the Heritage List to the Register of Significant Trees. Could the Council advise which clause of LPS 4 provides a transfer? Noting that the CEO is required to carry out the exact resolution of the Council, not the intent of the resolution.





**Response:**

The Scheme provides a mechanism to register trees. The reference to “transferring” is simply used to acknowledge that certain trees had already been identified as having cultural significance and that the Council’s intention was to place these onto the Register to ensure they had a level of protection.

**Pamela Cattalini spoke in relation to item C2404-7 and asked the following questions:**

**Question 1:**

Can you please inform me again why you are not following your own policy and processes?

**Response:**

Council will make a decision at the meeting tonight (24 April 2024) on undertaking the process again.

**Question 2:**

Can you also please inform me why for the past five years after putting our tree at 195 High Street on the Significant Tree Register without my consent, has the Council only listed one other tree on the register, which has been nominated by the owner? Is it because you need the owner’s consent to do so?

**Response:**

The Council approved one further tree being added to the Register which occurred earlier this year.

**Question 3:**

Why are you still actively pursuing me in relation to my tree?

**Response:**

The Council is being asked to reconsider the process for registering all trees from the 2018 process as there is doubt as to whether all components of the process were followed.

## **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**

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

There are no deputation requests.

## **9. Presentations**

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

## **10. Confirmation of minutes**

### **OFFICER'S RECOMMENDATION**

**Council confirm the minutes of the Ordinary Meeting of Council dated 24 April 2024.**

## **11. Elected member communication**

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



## 12. Reports and recommendations from officers

### 12.1 Planning reports

**C2405-1 DEFERRED ITEM - PRITCHARD STREET, NOS. 6-8 (LOTS 93 AND 90), O'CONNOR - ANIMATED SIGN ADDITION AND PARTIAL CHANGE OF USE TO USE NOT LISTED (LARGE FORMAT THIRD PARTY DIGITAL ADVERTISING) (ED DA0264/23)**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority  
**Attachments:**  
1. Amended Development Plans  
2. Site Photos  
3. Applicant's Supporting Report and Appendices  
4. Main Roads Western Australia (MRWA) Advice  
5. Applicant Response to Deferral Letter and Attachments

#### SUMMARY

**Approval is sought for an animated sign addition and partial change of use to Use Not Listed (Large Format Third Party Digital Advertising) at Nos. 6-8 (Lots 93 and 90) Pritchard Street, O'Connor.**

**The proposal is referred to the Council due to the nature of some discretions being sought. 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:**

- **Land Use;**
- **Third Party Advertising; and**
- **Size, Scale and Type of Advertising Sign.**

**This application was originally referred to Council on 14 February 2024 with an officer recommendation for refusal due to the third party advertising proposed on the sign (which does not comply with the City's advertising policy) and the excessive size, height, scale, type and appearance of the proposed sign, its incompatibility with the scale of existing development on the subject site and within the locality generally as well as the adverse impact upon visual amenity.**

**The Council resolved to defer the application to enable the applicant additional time to consider providing additional information or amending the proposal as follows:**



- **Include a percentage of advertising time for the businesses on site;**
- **Provide technical supporting information that the residents in Hilton on the far side of South Street will not receive light overspill from the screen; and**
- **Provide a comprehensive, staged landscaping improvement plan for the site, including surrounding verge areas, that ensures that landscaping and signage in the open areas between the buildings and surrounding roads are maintained (or improved) in a coordinated and well presented manner, with consideration of City and Main Roads WA requirements; or**
- **otherwise amend the proposal and provide additional information to address the objectives of LPP 2.14 Advertisement Policy to reduce the amenity impact on the locality and nearby residents.**

**In response to the above, the applicant has prepared amended development plans (dated 13 March 2024) and further documentation in response to the above deferral reasons, that include the following changes or documentation:**

- **Amended Development Plans – demonstrating reduction in the overall height of the sign from 10.5m to 9.2m (1.3m reduction), all other sign dimensions remain as previously proposed;**
- **95% of advertising to remain as third party advertising under commercial agreement for a fee, 5% of advertising time allocated to City or community groups, and 5% of advertising time to be allocated to on-site tenants;**
- **Revised Landscaping Plans - increased landscaping proposals for the Stock Road, South Street and Pritchard Street verge areas;**
- **Amended Lighting Impact Assessment;**
- **Traffic Technical Note; and**
- **Revised Road Safety Assessment.**

**While the above amendments are acknowledged, these have not addressed – in any substantive manner - the officers’ previous reasons for refusal. The proposal is still to provide 95% of the advertising content for third parties, remaining in direct conflict with Council’s Local Planning Policy regarding advertising and the marginal height reduction has not effectively addressed the excessive size, height, scale, type and appearance of the proposed sign, its incompatibility with the scale of existing development on the subject site and within the locality generally. As such, the amended proposal remains recommended for refusal.**

**Amended development plans can be found at Attachment 1 and the applicants accompanying response to deferral letter and attachments can be found at Attachment 2.**



## **PROPOSAL**

### **Detail**

Approval is sought for the addition of a freestanding Large Format Digital Sign Addition and Partial Change of Use to Use Not Listed (Large Format Third Party Advertising) to an existing property at Nos. 6-8 (Lots 93 and 90). The proposed works include:

- Erection of a large, freestanding, one single-sided digital advertising sign, comprising a LED digital screen with dimensions of 12.48m (wide) x 3.2m (high), with an advertising content display area of 39.9m<sup>2</sup>. The digital screen is to be mounted on top of a 6.0m steel support column meaning the overall height of the sign will be approximately 9.2m from ground level (reduced from 10.5m in the previously considered plans).
- The sign is proposed to display third party advertising content (95% of the time) to motorists travelling along the adjacent South Street and Stock Road. The information provided with the application does not specify who the third-party advertising will be for but will be under commercial agreement for a fee.
- The amended proposal also offers 5% of the advertising time for City/Community groups and 5% for business located on the subject site.
- An area of landscaping is proposed around the sign base and the amended Landscaping Plans concepts indicate additional landscaping of the Stock Road, South Street and Pritchard Street verge areas (off-site; subject to separate approvals from City and MRWA).

This application was originally referred to Council on 14 February 2024 with an officer recommendation for refusal due to the third party advertising proposed on the sign (which does not comply with the City's advertising policy) and the excessive size, height, scale, type and appearance of the proposed sign, its incompatibility with the scale of existing development on the subject site and within the locality generally as well as the adverse impact upon visual amenity.

The Council resolved to defer the application to enable the applicant additional time to consider providing additional information or amending the proposal as follows:

- Include a percentage of advertising time for the businesses on site;
- Provide technical supporting information that the residents in Hilton on the far side of South Street will not receive light overspill from the screen; and
- Provide a comprehensive, staged landscaping improvement plan for the site, including surrounding verge areas, that ensures that landscaping and signage in the open areas between the buildings and surrounding roads are maintained (or improved) in a coordinated and well-presented manner, with consideration of City and Main Roads WA requirements; or
- otherwise amend the proposal and provide additional information to address the objectives of LPP 2.14 Advertisement Policy to reduce the amenity impact on the locality and nearby residents.



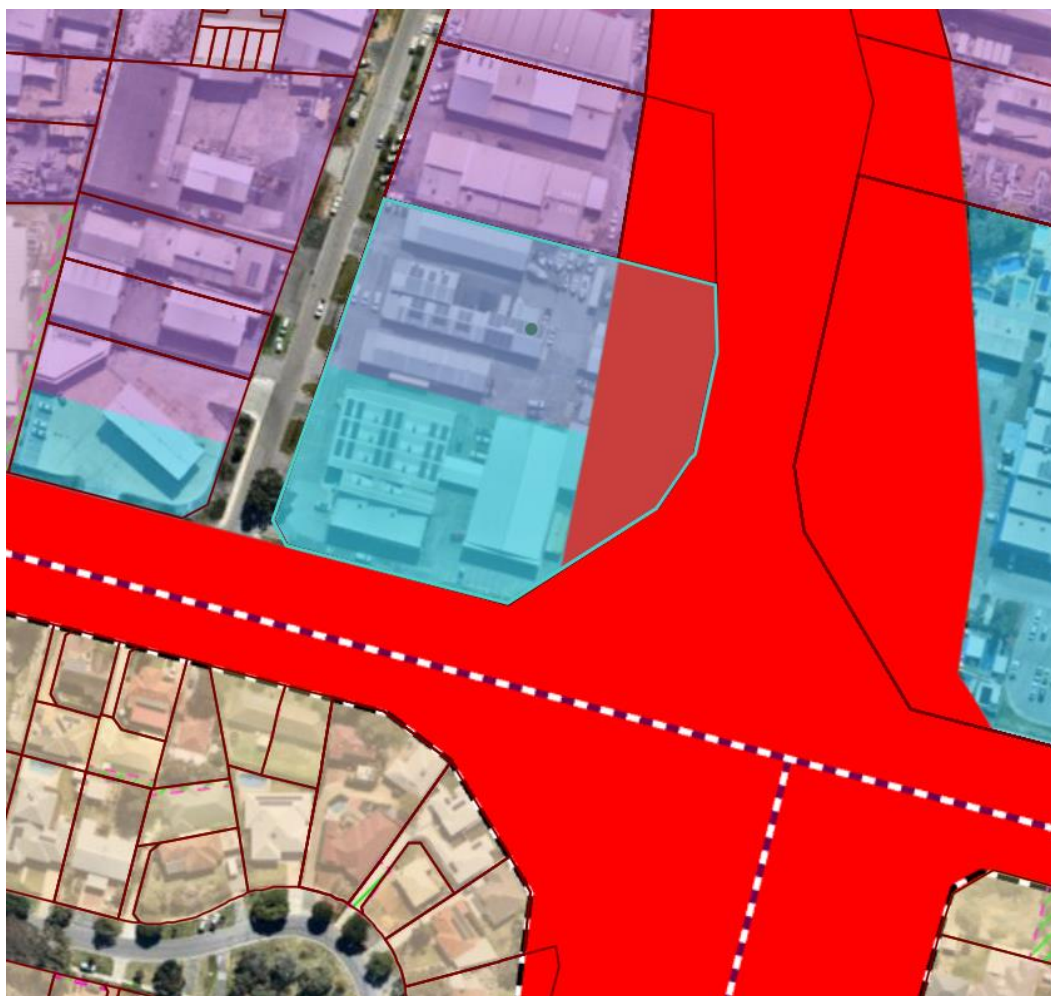
In response to the above, the applicant has prepared amended development plans (dated 13 March 2024) and further documentation in response to the above deferral reasons, that include the following changes or documentation:

- Amended Development Plans – demonstrating reduction in the overall height of the sign from 10.5m to 9.2m (1.3m reduction), all other sign dimensions remain as previously proposed;
- 95% of advertising to remain as third-party advertising under commercial agreement for a fee, 5% of advertising time allocated to City or community groups, and 5% of advertising time to be allocated to on-site tenants;
- Revised Landscaping Plans - increased landscaping proposals for the Stock Road, South Street and Pritchard Street verge areas;
- Amended Lighting Impact Assessment;
- Traffic Technical Note; and
- Revised Road Safety Assessment.

While the above amendments are acknowledged, in the opinion of officers, these have not substantially addressed the officers’ previous recommended reasons for refusal and these remain upheld, as discussed in detail in the following sections of the report.

**Site/application information**

Date received:	4 September 2023
Owner name:	25 Nominees Pty Ltd
Submitted by:	Planning Solutions
Scheme:	Commercial Zone (If Residential include Density)
Heritage listing:	N/A
Existing land use:	Showroom
Use class:	Third Party Advertising
Use permissibility:	Use Not Listed



## **CONSULTATION**

### **External referrals**

*Main Roads Western Australia (MRWA)*

The application, including the amended plans and other revised documentation once received (13 March 2024), was referred to MRWA for comment as the site is affected by Primary Regional Road reservations (Category 1, Stock Road and Category 3, South Street).

MRWA have advised they had no objection to the proposal subject to a number of conditions and advice notes being imposed relating to the minimum dwell time for displayed advertisements, restrictions on the maximum luminance levels and to ensure the development is wholly contained within the subject site and does not overhang or encroach into the adjacent road reserve.

Full details of the MRWA advice can be found at **Attachment 4** of this report.





## **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 use is not listed under the City's LPS4 Zoning Table, and the proposal does not comply with Local Planning Policy 2.14 (Advertisement Policy). The advertising period concluded on 10 October 2023, and nil submissions were received.

## **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. In this particular application the areas outlined below do not meet LPS4 and Local Planning Policy provisions:

- Land Use;
- Third Party Advertising; and
- Size, Scale and Type of Advertising Sign.

The above matters are discussed below.

### **Background**

The subject site is located on the north-western junction of South Street and Stock Road. The site has a land area of approximately 5439m<sup>2</sup> and currently contains a large warehouse style building that operates as a Bulky Goods Showroom (Prime Liquidations furniture store).

The site is zoned Commercial and is not individually heritage listed nor located within a Heritage Area.

The area is characterised by large warehouse style commercial building typologies and uses along the northern sections of South Street and Stock Road. The southern side of South Street (opposite the subject site) is characterised by one and two-storey single houses.

A search of the property file has revealed there is no planning history for the subject site relevant to this proposal.

### **Land Use**

Third party advertising is a use which is not listed in the City's LPS4 Zoning Table, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. It is worth noting that on the basis of SAT precedence, such third-party advertising signage of this format has also been deemed a 'use not listed' in other cases.

In considering a 'use not listed', Clause 3.4.2 of the City's Local Planning Scheme No. 4 provides that:





*If a person proposes to carry out any use that is not specifically mentioned in the zoning table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Council may—*

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of the Planning and Development (Local Planning Schemes) Regulations 2015 in considering an application for planning approval, or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted. the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015.*

With respect to the above, the application has been advertised in accordance with and considered under the relevant matters of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations 2015)*, clause 67(2), as follows:

- (a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (g) Any local planning policy for the Scheme area;*
- (m) The compatibility of the development with its setting including: (i) the compatibility of the development with the desired future character of its setting; and (ii) the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) The amenity of the locality including the following:*
  - (i) Environmental impacts of the development*
  - (ii) The character of the locality*
  - (iii) Social impacts of the development*
- (x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) Any submissions received on the application.*

The Objectives of the 'Commercial Zone' under the City's Local Planning Scheme No. 4 are as follows:



- (i) provide for the development of offices and associated commercial and larger scale uses, including showrooms, and warehouses and uses requiring outdoor displays,*
- (ii) ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
- (iii) to conserve places of heritage significance the subject of or affected by the development.*

The proposed third-party advertising (use not listed) is considered inconsistent with the objectives of the 'commercial' zone under the City's Local Planning Scheme No. 4 and relevant matters for consideration under the *Planning and Development (Local Planning Schemes) Regulations 2015*, Clause 67(2) for the following reasons:

- The amended proposal remains significantly (95%) for the purposes of third-party advertising (with 5% of advertising time being offered by the applicant for City/community purposes (which remains 3<sup>rd</sup> party advertising) and another 5% for on-site business/activities). As such, for a significant majority of the time, the proposed use will still have no direct relationship to the land/property it will occupy nor any adjoining land or the wider locality in general; remaining, for all intents and purposes, third part advertising.

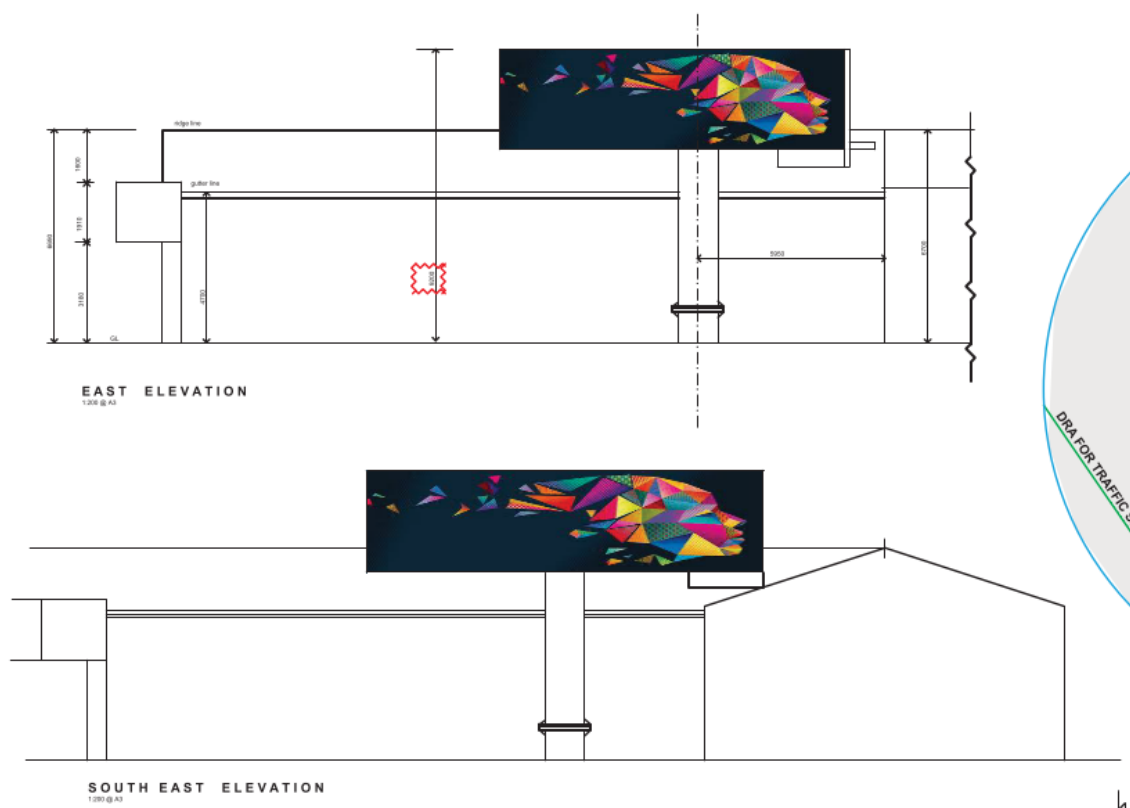
Firstly, officers do not consider it appropriate to waive or disregard scheme/policy provisions or objectives in exchange for complimentary advertising time for City purposes as has been proposed/offered by the applicant in the amended proposal. This would undermine the City's advertising policy provisions and objectives to allow for third party advertising, which is otherwise prohibited, on the basis the City may receive some free advertising time.

Furthermore, it is also noted that compliance and monitoring of the advertising content on the sign to confirm compliance with the suggested percentages of advertising time on the display is simply not feasible or reasonable for City officers to undertake and therefore it is considered this offer could not reasonably be secured by a condition of approval.

- The proposed third-party advertising component (95% of intended advertising content) is inconsistent with the objectives of the Commercial zone as the proposed use does not provide or contribute to the commercial goods or services offerings within the Commercial zone or wider locality and only provides benefit to the advertiser.
- The amended development plans for the signage associated with the proposed use are a 12.48m (wide) x 3.2m (high) sign with an advertising content display area of 39.9m<sup>2</sup> (same as previous) mounted on top of a 6.0m (previously 7.3m) support column meaning the overall height of the structure will be approximately 9.2m from ground level (1.3m overall height reduction, no reduction in length and width of advertising display).



Notwithstanding the marginal overall height reduction of the amended plans, the sign structure and associated development will still exceed the height of any building on the subject site as well as any adjacent or nearby buildings within the locality (as depicted in the extract of the amended plans below):



**Figure 1.** Depiction of proposed sign (as per the amended development plans) in relation to existing buildings on the subject site

By virtue of the size, scale, type and appearance of the development associated with the use, it is considered excessive, incongruous and incompatible with the existing and desired future character of the locality.

- Despite an overall height reduction as per the amended plans, the large, illuminated sign associated with the proposed use is likely to remain visible from a number of the rear yards and openings of residential properties along Bromley Road / Chadwick Street in Hilton, that back onto the opposite side of South Street from the subject site. As such, this will be potentially detrimental to the amenity of these residential properties by virtue of the size of the illuminated display area that will operate 24/7. See figures below from rear of 64B Chadwick Street which clearly shows the Prime Liquidations building on the subject site to be visible, noting the sign will sit higher than this building as depicted in the development plans and image above.





**Figure 2.** View from the rear of 64B Chadwick Street looking in the direction of the subject site (existing building and signage clearly visible).



**Figure 3.** Aerial image shows where subject site (red) is located in relation to 64B Chadwick Street (blue) and other residential dwellings on the southern side of South Street.



The applicant has submitted a revised Lighting Impact Assessment (refer from page 21 of **Attachment 5**) that concludes the proposed signage will not cause any unacceptable amenity impacts to nearby residences or accommodation. It also states the sign shall also not result in unacceptable glare nor should it adversely impact the safety of pedestrians, residents or vehicular traffic.

While officers note the illumination from the sign will be within allowable limits in accordance with the lighting assessment, it is noted the large, illuminated sign will still be visible from these properties and likely to still dominate outlook from these dwellings, particularly after dark.

- The proposed third-party advertising use and associated development does not comply with the City's Local Planning Policy 2.14 (Advertisement Policy) as is discussed in detail within the following section of this report.
- By reason of the above, approval of the land use and associated development would set a significantly undesired precedent for the locality and City of Fremantle generally.

On the basis of the above and notwithstanding the amended development plans, the proposed land use is considered by officers to remain inconsistent with the objectives of the Commercial zone and clauses 67(a), 67(g), 67(m), 67(n) and 67(x) of the *Deemed Provisions* for the reasons outlined above. As such, the proposed third-party advertising (use not listed) is not supported.

### **Advertisement Policy (Local Planning Policy 2.14)**

The purpose of the City's LPP2.14 is to provide requirements for advertisements where they require planning approval under the *Planning & Development (Local Planning Scheme) Regulations 2015* and the Local Planning Scheme No.4 as is the case for this proposal.

The policy provides general advertising requirements as well as additional requirements for specific types of signage. With respect to signage proposed, it is to be considered as illuminated signage that fits within the definition of a 'Pole, pylon, or freestanding sign', defined in the policy as:

*'means advertisement which is erected on a permanently attached freestanding pole, pylon or other structure and used to advertise one or multiple tenancies on private land.'*

The following table evaluates the proposed sign under the general advertising requirements, applicable to all signs/advertising within the City (Clause 1.1 of LPP 2.14):



<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(a) Advertisements will not be approved on properties primarily used for residential purposes where the advertisement does not pertain to a relevant home business, occupation or store on the site unless otherwise provided for in another local planning policy.</p>	<p>Site is zoned Commercial and is non-residential in nature</p>	<p>Complies.</p>
<p>(b) Advertisements are to be located and designed so as not to cause a hazardous distraction to motorists, pedestrians, or other road users.</p>	<p>The applicant has provided a Road Safety Assessment Report (Appendix 2 of <b>Attachment 3</b>) and a Lighting Impact Assessment (Appendix 4 of <b>Attachment 3</b>) in accordance with Main Roads Western Australia (MRWA) requirements for Large Format Digital Signage.</p> <p>These reports have been reviewed by MRWA who do not object, subject to appropriate conditions of approval relating to: minimum dwell time for displayed advertisements, restrictions on the maximum luminance levels and to ensure the development is wholly contained within the subject site and does not overhang or encroach into the adjacent road reserve, the proposal would meet the <i>MRWA Policy and Application</i></p>	<p>Complies, subject to conditions as recommended by MRWA.</p> <p><i>NB. At the time of writing this report, the amended plans (<b>Attachment 1</b>), Traffic Technical Note (from page 41 of <b>Attachment 5</b>, and Revised Road Safety Assessment (from page 45 of <b>Attachment 5</b>) have not been reviewed by MRWA.</i></p>



	<p><i>Guidelines for Advertising.</i></p> <p><i>NB. At the time of writing this report, the amended plans (<b>Attachment 1</b>), Traffic Technical Note (from page 41 of <b>Attachment 5</b>, and Revised Road Safety Assessment (from page 45 of <b>Attachment 5</b>) have not been reviewed by MRWA.</i></p>	
<p>(c) Advertisements will be compatible with the style, scale and character of the surrounding streetscape, and the predominant uses within the locality. Consideration will be given to the number and type of existing signs in the locality so as to avoid visual clutter.</p>	<p>As per the amended development plans (<b>Attachment 1</b>) The proposed illuminated LED sign display is to be of 12.48m (wide) x 3.2m (high), with an advertising content display area of 39.9m<sup>2</sup> (no change to previous sign display size). The digital screen is to be mounted on top of a 6.0m (previously 7.3m) steel support column meaning the overall height of the sign will be approximately 9.2m from ground level (reduced from 10.5m in the previously considered plans)</p> <p>The amended sign will still exceed the height of any building on the subject site (refer Figure 1 above) as well as any adjacent or nearby buildings within the locality and would be the only illuminated sign of</p>	<p>Does Not Comply.</p>





	<p>such a scale and extent within the locality.</p> <p>The size, height, scale, type, and appearance of the illuminated sign is considered excessive, incongruous and incompatible with existing character of the streetscape.</p> <p>The sign will provide a large, illuminated sign that dominates the subject site and provides additional signage over and above existing signage on the buildings on the site, creating adverse visual clutter.</p>	
<p>(d) Advertisements shall not impede pedestrian or vehicle movements.</p>	<p>The sign will not impede pedestrian or vehicle movements on the subject site or adjacent road reserve given the location proposed within the site and adjacent existing buildings.</p>	<p>Complies.</p>
<p>(e) Illuminated signs are to be maintained to operate as an illuminated sign; and</p> <p>(f) Advertisements are not to emit a flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective, or fluorescent materials in its design structure.</p>	<p>The sign is considered able to be maintained and would be limited to static advertising only to comply with MRWA digital advertising and content display – this would be conditioned should the application be approved.</p>	<p>Complies, subject to conditions of approval.</p>





<p>(g) Advertisements in the form of an Animated signs will not, be supported by Council.</p>	<p>The proposed sign falls under the definition of an Animated Sign under LPP2.14 given the sign will include “variable messages” and “changing messages” and on this basis, are not supported.</p>	<p>Does Not Comply.</p>
<p>(h) Advertisements will not be approved on private land which include,</p> <ul style="list-style-type: none"> <li>i. the name, logo, or symbol of a company or other organisation that does not own or substantially occupy the site or building on which the advertisement is located, or</li> <li>ii. a product or service not provided on the site on which the advertisement is located;</li> <li>iii. a product or service that does not form part of the signage displaying the name, logo, or symbol; of a company or other organisation that owns or substantially occupy the site or building on which the advertisement is located; or</li> <li>iv. signs for an activity or event not occurring on the site on which the advertisement is located.</li> </ul>	<p>The amended proposal remains significantly (90%) for the purposes of third-party advertising (with 5% of advertising time being offered by the applicant for City/community purposes and another 5% for on-site business/activities). As such, for a significant majority of the time, the proposed use will still have no direct relationship to the land/property it will occupy nor any adjoining land or the wider locality in general; remaining for all intents and purposes, third part advertising.</p> <p>It is also noted by officers that compliance and monitoring of the advertising content on the sign to confirm compliance with any suggested percentages of advertising time on the display is simply not considered feasible or reasonable for City officers to undertake and therefore it is considered this offer could not</p>	<p>Does Not Comply.</p>



	<p>reasonably be secured by a condition of approval.</p> <p>Officers do not consider it appropriate to waive or disregard scheme/policy provisions or objectives in exchange for complimentary advertising time for City purposes as has been proposed/offered by the applicant in the amended proposal. This would undermine the City’s advertising policy provisions and objectives to allow for third party advertising, which is otherwise prohibited, on the basis the City may receive some free advertising time.</p>	
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The following table evaluates the proposed sign under the requirements applicable to pole, pylon, or freestanding signs (Clause 2.5 of LPP 2.14):

<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
(a) The advertisement is no more than the height of the immediately adjoining subject building or no more than 6.0m in height whichever is the lesser; and	The proposed sign has an overall height of 10.5m, significantly exceeding the height of both the existing building (that has a maximum roof height of 6.7m) and the 6.0m lesser limit imposed by the clause.	Does Not Comply.
(b) The advertisement does not significantly obstruct the view between the building and the street, thereby preventing casual surveillance of the street from the property and vice versa; and	Given the sign exceeds the height of the existing buildings on the subject site and will sit above any openings of the building, the sign will not prevent casual surveillance of the street from the property.	Complies.



<p>(c) It can be demonstrated that the advertisement is consistent with a particular design convention associated with a specific land use (ie pylon signs for petrol stations); and</p>	<p>Given the sign is intended for third party advertising for a significant majority (90%) of the time, the type of sign is not related or consistent with any particular design convention associated with a specific land use and this type of use is not defined under the LPS4.</p>	<p>Does Not Comply.</p>
<p>(d) The advertisement is restricted to one sign per site, may include the advertising of multiple tenancies and can be illuminated and / or double sided.</p>	<p>The subject site already contains an existing pole, pylon, or freestanding sign which provides advertising for the 'Adreeno' business which is adjacent.</p>	<p>Does Not Comply.</p>

Clause 3 of LPP2.14 provides that Council may vary the requirements outlined within Clause 1 and 2 where it can be demonstrated that the following can be met to the satisfaction of the Council:

- a. The cumulative effect of the signage does not negatively impact on the surrounding locality by way of visual clutter; and*
- b. The scale and design of the signage is subservient to the building to which it relates, are sized in proportion with parapets, panels, windows, and wall areas within close proximity to the proposed sign so as to not dominate the view of the building from the street.*

The proposed third party, illuminated pole, pylon, or freestanding sign does not satisfy either part (a. or b.) of Clause 3 for the following reasons:

- Notwithstanding a reduction in the overall height of the sign by 1.3m (from 10.5m to 9.2m) in the amended development plans, the proposed sign will still have an overall height of 9.2m, clearly exceeding and in no way subservient to the height of both existing buildings (that have a maximum roof height of 6.7m) on the subject site as well as any adjacent or nearby buildings within the locality and would be the only illuminated sign of such a size and scale within the locality.
- The sign will provide a large, 39.9m<sup>2</sup> (unchanged from previous plans) illuminated LED display that will dominate views of the subject



site and provide additional signage over and above existing signage on the existing buildings on the site, creating adverse visual clutter.

- The size, height, scale, type, and appearance of the illuminated sign is considered excessive, incongruous and incompatible with existing character of the streetscape.

Further to the above, third-party advertising is not permitted by the policy (as noted in clause 1(h) above and Clause 3 does not provide any mechanism to vary this provision nor consider percentages of advertising for other purposes; Clause 3 simply relates to the extent, design, and location of any proposed signage.

As such, the proposed sign does not comply with clause 1 (c), (g), (h) and clause 2.5 (a), (c) and (d) of LPP2.14 as outlined above and is therefore not supported.

### **Landscaping**

While the provision of landscaping is not statutorily required for this type of application, as part of the amended development plans, the applicant has provided revised landscaping plans (refer pages 4 and 5 of **Attachment 1**) that includes on-site landscaping at the base of the proposed sign (Stage 1) and propose landscaping across the Stock Road, South Street and Pritchard Street verge areas (Stage 2). The applicant's justification/reasoning for providing additional landscaping is that the landscaping proposals will enhance the visual amenity of the site and locality with the sign itself forming only a single aspect of upgrades to the wider site.

While the landscaping proposals are acknowledged, officers have the following concerns:

- The proposed landscaping of the Stock Road, South Street and Pritchard Street verges is located outside on the development site. As such, these proposals will be subject to separate applications and approval from the City of Fremantle and Main Roads Western Australia who are currently responsible for these verges. No such applications or approvals appear to have been made at this stage so there is no indication of whether such proposals are acceptable to these parties.
- The proposal does not appear to give any indication or certainty of who will be responsible for maintaining and managing the proposed landscaping within the road reserves which will be a key consideration for both the City and MRWA.
- Officers do not consider that landscaping at the base of the sign or the surrounding verges of the site effectively mitigate the visual impact of the large format digital sign itself, which remains considered excessive in size, height, and scale and incompatible with the scale of existing development on the subject site and the locality generally. Additional landscaping at the base of the sign or on surrounding verges and separated from the proposed sign, is not seen to reduce the impact of the sign itself;



- The City’s Parks and Landscape team were asked to review the amended landscaping proposals and the following comment:
  - The landscaping proposed for some of the Stock Road/South Street verges are within a ‘Primary Regional Road Reserve’ which is under MRWA management so the applicant should ensure MRWA are aware of their intention to plant the verge area and obtain any necessary approvals;
  - Any landscaping of the City’s verge areas would be required to be implemented, maintained and watered by landowners of the adjacent property in perpetuity.
  - Should the application be approved, with respect to landscaping of the verges, any proposals should ensure at least 1m of mulching before planting on the kerb side of the verge along Pritchard Road for pedestrian access as there are no footpaths on this street. In terms of the turf selection for the verge at the corner of South Street and Stock Road, we recommend Couch, Hybrid Couch, Kikuyu, and Zoysia as waterwise turf over Soft-leaf Buffalo.

## **CONCLUSION**

While the amendments to the proposal are acknowledged, in the opinion of officers, these have not substantially addressed the officers’ previous reasons for refusal. The proposal is still to provide 95% of the advertising content for third parties, remaining in direct conflict with Council’s Local Planning Policy regarding advertising and the marginal height reduction has not effectively addressed the excessive size, height, scale, type and appearance of the proposed sign, its incompatibility with the scale of existing development on the subject site and within the locality generally. As such, the amended proposal remains recommended for refusal.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.



## **OFFICER'S RECOMMENDATION**

### **Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the animated sign addition and Partial Change of Use to Use Not Listed (Large Format Third Party Digital Advertising) at Nos. 6-8 (Lots 90 and 93 Pritchard Street, O'Connor, as detailed on plans dated 13 March 2024, for the following reasons:**

- 1. The proposal does not comply with Clause 1.1(h) of Local Planning Policy 2.14 (Advertising Policy) as 95% of the advertising content would advertise services, products and/or activities that are not available at, located on, or related to, the subject site; thereby constituting third party advertising which is prohibited by the policy.**
- 2. The proposal is inconsistent with clauses 67(c), 67(g), 67(h), 67(m), 67(n) and 67(x) of the Deemed Provisions and does not comply with Clauses 1.1 (c), (g) and clauses 2.5 (a), (c) and (d) of Local Planning 2.14 (Advertisement Policy) by virtue of the excessive size, height, scale, type and appearance of the proposed sign, its incompatibility with the scale of existing development on the subject site and within the locality generally as well as the adverse impact upon visual amenity.**



**C2405-2 CANTONMENT STREET NO.28 (LOT 10), FREMANTLE - AMENDMENTS TO DAP005/23 (THREE (3) STOREY MIXED USE (SHOP, OFFICE, LIQUOR STORE- SMALL AND CHILDCARE PREMISES) DEVELOPMENT) INVOLVING THE PROPOSED DELETION OF CONDITION NO. 26 (ED DAPV002/24)**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority  
**Attachments:**  
1. Applicant Covering Letter  
2. Original Decision Notice and Approved Plans

**SUMMARY**

**Approval is sought for amendments to development approval ref. DAP005/23 (Three (3) Storey Mixed Use (Shop, Office, Liquor Store - Small and Child Care Premises) Development), involving the proposed deletion of condition No. 26, at No. 28 (Lot 10) Cantonment Street, Fremantle.**

**The proposal is referred to Council due to the nature of the proposed amendments to an application previously considered by Council and the Joint Development Assessment Panel.**

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for amendments to development approval ref. DAP005/23 (Three (3) Storey Mixed Use [Shop, Office, Liquor Store - Small and Child Care Premises] Development) by proposing to delete condition No. 26 at No. 28 (Lot 10) Cantonment Street, Fremantle.

At its meeting on 30 January 2022, the Metro Inner-South JDAP resolved to conditionally approve the following development at the subject site:

*'Construction of a three (3) storey mixed use (shop, office, liquor store-small and child care premises) development'.*

Due to the subject site being located within a public art and/or heritage works contribution area, as identified in Appendix 1 of Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works), the approval was subject to an appropriate condition of approval requiring the requisite contribution (or an equivalent public art proposal) pursuant to the policy.



As such, condition 26 of the JDAP development approval, dated 30 January 2022 (Attachment 2), was applied which provided the following:

*'Prior to occupation of the development, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm consistent with the City's LPP 2.19 and to the satisfaction of the City of Fremantle. Based on the estimated cost of the development being \$14 million the contribution to be made is \$140,000. Alternatively, the City may waive the requirement in relation to the public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in accordance with clause 6 of LPP 2.19 where the development incorporates public art in the development to the same value as that specified in the condition that is located in a position clearly visible to the general public on the site of the development. In determining the appropriateness and artistic merit of the public art, council shall seek relevant professional advice.'*

The applicant seeks to delete this condition for the reasons outlined in their covering letter at Attachment 1. No other amendments are sought to the extant development approval.

**Site/application information**

Date received:	25 March 2024
Owner name:	Silverleaf Investments Pty Ltd
Submitted by:	PTS Town Planning
Scheme:	City Centre (If Residential include Density)
Heritage listing:	Not Individually Listed and not in a Heritage Area.
Existing land use:	Vacant/Under Construction and Car Park
Use class:	Shop, Office, Liquor Store – Small, Childcare Premises
Use permissibility:	P, P, A, A respectively





## OFFICER'S RECCOMENDATION

### Council:

**SUPPORT the Officer's Recommendation to REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the amendments to development approval ref. DAP005/23 (Three (3) Storey Mixed Use [Shop, Office, Liquor Store - Small and Child Care Premises] Development), involving the proposed deletion of condition No.26, at No. 28 (Lot 10) Cantonment Street, Fremantle for the reasons outlined in the responsible authority report.**



**Form 2: Responsible Authority Report**  
(Regulation 17)

**LOT 10 (No. 28) CANTONMENT STREET, FREMANTLE – AMENDMENTS TO DAP005/23 (THREE (3) STOREY MIXED USE [SHOP, OFFICE, LIQUOR STORE-SMALL AND CHILDCARE PREMISES] DEVELOPMENT) INVOLVING THE PROPOSED DELETION OF CONDITON NO. 26 (ED DAPV002/24)**

**Form 2 – Responsible Authority Report**  
(Regulation 17)

<b>DAP Name:</b>	Metro Inner JDAP
<b>Local Government Area:</b>	City of Fremantle
<b>Proposed Amendments:</b>	Proposed Deletion of Condition 26
<b>Applicant:</b>	PTS Town Planning
<b>Owner:</b>	Silverleaf Pty Ltd
<b>Value of Amendment:</b>	\$ 140,000 (Public Art Contribution)
<b>Responsible Authority:</b>	City of Fremantle
<b>Authorising Officer:</b>	Chloe Johnston, Manager Development Approvals
<b>LG Reference:</b>	DAPV002/24
<b>DAP File No:</b>	DAP/22/02352
<b>Date of Original DAP decision:</b>	30 January 2022
<b>Application Received Date:</b>	25 March 2024
<b>Application Statutory Process Timeframe:</b>	60 Days
<b>Attachment(s):</b>	1. Applicant Covering Letter 2. Original Decision Notice and Approved Plans (dated 30 January 2022)

**Responsible Authority Recommendation**

That the Metro Inner JDAP resolves to:

- Accept** that the DAP Application reference DAP/22/02352 as detailed on the DAP Form 2 dated 14 March 2024 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
- Refuse** DAP Application reference DAP/22/02352 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City of Fremantle Local Planning Scheme No. 4, for the proposed amendment to the approved three (3) storey mixed use development (shop, office, liquor store- small and child care premises) at Lot 10 (No. 28) Cantonment Street, Fremantle, for the following reasons:



**Reasons**

1. Condition 26 of development approval DAP005/22 (dated 30 January 2022) and the requirements therein, pursuant to Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works), have been appropriately applied to the development proposal and remain valid and applicable to the extant development approval. It is considered that no material reasoning, or any other appropriate statutory mechanism has been presented that would warrant the deletion of this condition or otherwise waive the requirements of LPP2.19.

**Reasons for Responsible Authority Recommendation**

TBC – *if differing to officer recommendation.*

**Details: outline of development application**

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Central City Zone
Local Planning Scheme	Local Planning Scheme No.4
Local Planning Scheme - Zone/Reserve	City Centre Zone
Use Class and permissibility:	Shop – P Office – P Liquor Store (small) – A Child Care centre - A
Lot Size:	16100m <sup>2</sup>
Existing Land Use:	Vacant Land
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

**Proposal**

At its meeting on 30 January 2022, the Metro Inner-South JDAP resolved to conditionally approve the following development at the subject site:

*‘Construction of a three (3) storey mixed use (shop, office, liquor store-small and child care premises) development’.*

**Agenda – Ordinary Meeting of Council**  
**8 May 2024**



Due to the subject site being located within a public art and/or heritage works contribution area, as identified in Appendix 1 of Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works), the approval was subject to an appropriate condition of approval requiring the requisite contribution (or public art proposal) pursuant to the policy.

As such, condition 26 of the JDAP development approval, dated 30 January 2022 (**Attachment 2**), provided the following:

*‘Prior to occupation of the development, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm consistent with the City’s LPP 2.19 and to the satisfaction of the City of Fremantle. Based on the estimated cost of the development being \$14 million the contribution to be made is \$140,000. Alternatively, the City may waive the requirement in relation to the public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in accordance with clause 6 of LPP 2.19 where the development incorporates public art in the development to the same value as that specified in the condition that is located in a position clearly visible to the general public on the site of the development. In determining the appropriateness and artistic merit of the public art, council shall seek relevant professional advice.’*

The applicant seeks to delete this condition for the reasons outlined in their covering letter at **Attachment 1**.

**Background:**

The subject site is bound by Elder Place (west), Queen Street (south), Goldsbrough Street (north) and Cantonment Street (east). The site is 16,100m<sup>2</sup> and is zoned City Centre under Local Planning Scheme No. 4 (LPS4). The site is not heritage listed, nor is it located within a prescribed heritage area. However, the site is located directly adjacent to state registered properties including the Elders Woolstores at No.1 Goldsbrough Street and the Fremantle Train Station building.

The subject site is identified as a key strategic site in the City Centre zone, due to its size and its proximity to Victoria Quay, Fremantle Train Station and the Queen Street axis leading to Kings Square. The site is also subject to the provisions of Scheme Amendment No. 49 which modified the development standards relating to 12 strategic sites within the inner east end of the City Centre.

On 7 April 2020 the Metro South-West Joint Development Assessment Panel (JDAP) approved DAP003/19 which was for the partial demolition of the existing Shopping Centre building and the construction of a six (6) storey with basement Mixed use development including Shop, Liquor Store, Office, Childcare Premises, Public Car Park Restaurant, Civic Use (Police Station) and Hotel uses. The demolition component of the approval was acted upon with the exception of the retention of a two storey Public Carpark remaining on the north of the site, however, the development component never came forward.

Subsequently, at its meeting on 30 January 2022, the Metro Inner-South JDAP resolved to conditionally approve a differing development proposal at the southern end of the wider subject site (identified as Stage 1A, refer site plan of **Attachment 2**):



*'Construction of a three (3) storey mixed use (shop, office, liquor store-small and child care premises) development'.*

This development is currently under construction and is the subject of this application.

### **Legislation and Policy:**

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) Regulations 2015 (WA);
3. City of Fremantle Local Planning Scheme No.4 (LPS4).

#### Planning and Development (Local Planning Schemes) Regulations 2015 (WA):

- Cl 3. (5) Local planning policies
- Cl 60. Requirement for development approval
- Cl64. Advertising applications
- Cl66. Consultation with other authorities
- Cl67. Matters to be considered by local government

#### Local Planning Scheme No. 4

The following Scheme provisions are considered the most relevant in the consideration of the planning application:

- Schedule A
  - Clause 61 - Supplemental provisions to the deemed provisions
  - Clause 78B – Advisory Committee

#### State Government Policies

- SPP7.0 Design of the Built Environment

#### Local Policies

The site is subject to the following relevant Local Planning Policies:

- Local Planning Policy 1.1 - Amendment and Extension to the Term of Planning Approval
- Local Planning Policy 1.9 – Design Advisory Committee and Principles of Design
- Local Planning Policy 2.13 – Sustainable Buildings Design Requirements
- Local Planning Policy 2.19 – Contribution for Public Art and/or Heritage Works
- Local Planning Policy 3.1.5 – Precinct 5



**Consultation:**

Public Consultation

Due to the nature of the proposed amendment, public consultation was not deemed necessary in accordance with Schedule 2, clause 64 of the Planning and development (Local Planning Schemes) Regulations 2015.

Referrals/consultation with Government/Service Agencies

Not applicable.

**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 for the determination of this application:

- Local Planning Policy 2.19 (Contribution for Public Art and/or Heritage Works)

These and any other relevant matters are discussed below.

Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works)

The purpose of Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works) (LPP2.19) is to provide criteria upon which Council can require certain types of commercial and multiple residential development, in specified areas, to contribute a percentage of the development's total cost to the development of public art works and/or heritage works.

LPP2.19 applies to all development on land as depicted in Appendix 1 (Contribution Areas) of the policy (which includes the subject site and all others with the Fremantle City Centre) with the exception of:

- (a) Single houses and grouped dwellings;*
- (b) Buildings used for any industrial use class in Table 2 of the Scheme;*
- (c) Any development with a gross lettable area of less than 1000 sqm;*
- (d) Refurbishments and change of use of existing buildings larger than 1000 sq m gross lettable area not involving substantial structural alteration, and all refurbishments to buildings with a gross lettable area of less than 1000 sq m;*
- (e) Any other type of development with an estimated total cost of less than \$1,000,000.*

The previously proposed (now approved) development at the subject site, being a mixed use development with a gross lettable area exceeding 1000sqm and with an estimated value of \$14 million, does not meet any of the above criterion ((a) – (e)) that would warrant any exception from the policy and therefore, the proposal was appropriately subject to the requirements of the policy and the public art and/or heritage works contribution (refer clauses 1 – 5 of the policy), as detailed in condition 26 of the JDAP development approval (**Attachment 2**), dated 30 January 2022.





Clause 6 of the policy (and the associated condition of approval that was imposed) also advises the following:

*Council may waive the requirement for the public art/heritage work(s) contribution in cases where a development incorporates public art work(s) to the same value as specified in clause 2 and the public art work(s) is located in a position clearly visible to the general public, either on the site of the development or within a crown reserve adjoining or near to the development site, subject to being satisfied in relation to all of the following:*

- (a) The details of the proposed public art work shall be set out as part of the application for Planning Approval. Prior to determining the application, Council shall seek relevant professional advice with regard to the appropriateness and artistic merit of the proposed public art work.*
- (b) Where the public art/heritage work is to be located on private land, the public art work and/or heritage works shall be maintained by the owner(s) of the land to the satisfaction of the Council.*
- (c) Where the public art/heritage work is to be located within a crown reserve, the owner(s) of the subject development is required to enter into a legal agreement with the City undertaking to maintain the public art/heritage work to a standard specified by the City and, if required, to temporarily remove the public art work and to reinstate it (thereafter) should it be necessary to allow a public utility or service authority to carry out necessary/essential works*

At the time of writing this report, no such appropriate public art work(s) proposal(s) have been presented by the applicant for, at the time of the original application or since approval, and therefore, there is no ability nor valid reasoning for the City to waive the contribution requirement specified in condition 26 of the decision notice.

The applicant's covering letter in support of the proposed amendment to delete condition 26 of the development approval justifies this position on the following main terms (summarised, see full details in **Attachment 1**):

- i. The landowner claims they were forced to adopt a higher level of design to respond to the historic use of the site and area, while the site has no heritage listing and is not located within a heritage area or precinct. It is claimed the design was forced to implement a brick podium outcome through the Design Advisory Committee process the application was subject to. The applicant notes the proposed development did not require 'design excellence' and the use of brick added a significant cost to the build.
- ii. The landowner advises that the response to the tenders has resulted in a significant cost increase which has put a significant financial impost on the development. The applicant notes that it is evident in other areas of Western Australia, including Fremantle, there are many projects that have been delayed or indefinitely suspended given the cost of works.
- iii. The applicant notes additional project costs such as resolving contamination and improvement to the queen street verge.



City officers have reviewed the justifications outlined in the applicants covering letter and the proposal to delete the subject Condition 26 and do not support the proposal, for the following reasons:

- The approved application, and previous iterations were subject to review of the City's Design Advisory Committee (DAC), as is required by clause 11.8.6.2 of the City's LPS4 and Local Planning Policy 1.9 (Design Advisory Committee & Principles of Design) given the proposals were greater than 11.0m or 3 storeys in height and were not in the Residential or Industrial zone.

While achieving 'design excellence' was not required for this version of the development, the development was required to be assessed under SPP7.0 Design of the Built Environment. Furthermore, the subject site is identified as a key strategic site in the City Centre zone enhancing the importance of design. In this circumstance, the decision maker was only required to have regard to the DAC comments, with no height or density bonuses applied for that required a certain level of design quality. Past applications were greater in height and scale, covering greater areas of the site and extending to have frontage on Elder Place. It is noted that no alternate design response was presented for consideration in this smaller version of the development.

- It is noted that while the subject site has little heritage value in of itself, it is located within the setting of, and closely related with, the adjacent State Heritage listed places, the *Fremantle Railway Station* and *Elders Wool Stores*. The site was also considered to present a rare opportunity to construct a medium density mixed use development in central Fremantle within close proximity to the train station – a development that work with the historic urban form and fabric of the area to re-establish its distinct harbourside character, not only in terms of its physical form and appearance but also in terms of re-establishing the beneficial interdependency that used to exist between the harbour and the adjoining areas of the city.

The brick plinth to the building proposed under DAP005/22 for the corner of Queen and Cantonment Streets was seen as a good way to positively respond to the historic urban character of this area and the setting of the adjacent Elders Wool Store and Fremantle Railway Station by referencing the historic wall of warehouse development that lined Victoria Quay. However, the brick plinth was not nominated in the application for consideration as the owner's contribution for LPP2.19 and as it was not "associated with the conservation, restoration or interpretation of proximate **public** buildings, structures or places of cultural heritage significance" (Clause 5 of LPP2.19) it could therefore not be considered as such.

Presenting a development in a way that it is complementary to an existing character or heritage streetscape, is required to address SPP 7.0, the desired character of the area as outlined in LPP 3.1.5 Precinct 5 and the matters to be considered in the Deemed Provisions. A design response that addresses these matters would be required regardless of the existence of the Public Art requirement.

- While City officers can acknowledge a general increase in building costs in recent times, this would not be considered reason to warrant waiving a valid planning requirement (as discussed above). The proposal was only found acceptable, in part,





subject to an appropriate public art and/or heritage contribution or proposal being provided as part of the development.

The City promotes and supports high quality public art that enriches our shared public spaces, and believe developers play a vital role in contributing to the public amenity and visual character of the neighbourhood in which they develop. The City is therefore committed to ensuring the Public Art contribution is upheld to ensure we maintain character, vibrancy and visual distinction to the public interface of the City's built environment, and to support the cultural, economic, social and artistic vitality and values of the City.

Waiving key planning and development outcomes, such as public art, on the basis of building cost increases, would set an undesirable precedent and may result in the loss of important public art initiatives and outcomes.

- No alternative or compromised response to address the policy has been presented by the applicant for consideration.

#### Local Planning Policy 1.1 - Amendment and Extension to the Term of Planning Approval

LPP1.1 provides that in determining whether to allow an amendment of a planning approval, Council will consider whether the nature and extent of the proposed amendment is such that the use or development the subject of the planning approval remains, in substance the same or is changed so that a new development is proposed. Notwithstanding the assessment against the policy criteria, it is accepted that the proposed amendment would not substantially change the proposal, and is able to be considered as a variation to the existing approval as per the Regulations.

#### **Conclusion:**

It is concluded that condition 26 of development approval DAP005/22 and the requirements therein, pursuant to Local Planning Policy 2.19 (Contributions for Public Art and/or Heritage Works), have been appropriately applied and remain valid and applicable to the extant development approval.

Officers do not consider that valid, material reasoning, or other appropriate statutory mechanism has been presented that would warrant the deletion of this condition or otherwise waive the requirements of LPP2.19.

As such, the proposed deletion of condition 26 of development approval DAP005/22, is not supported and the application is recommended for refusal.



**C2405-3 MATHER ROAD, NO. 3 – 5 (LOT 251) AND PART NO. 7 (LOT 252) BEACONSFIELD – PARTIAL TEMPORARY CHANGE OF USE TO BREWERY AND ALTERATIONS AND ADDITIONS TO EXISTING BUILDINGS (ED DA0008/24)**

<b>Meeting date:</b>	8 May 2024
<b>Responsible officer:</b>	Manager Development Approvals
<b>Voting requirements:</b>	Simple Majority
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Amended Development Plans</li><li>2. Site Photos</li><li>3. Applicant Covering Letter</li><li>4. Acoustic Report</li><li>5. Waste Management Plan</li><li>6. Harm Minimisation Policy</li><li>7. Responses to Submitters</li><li>8. Reciprocal parking consent from adjoining tenancy</li></ol>

**SUMMARY**

**Approval is sought for a Partial Temporary Change of Use to Brewery and Alterations and Additions to the Existing Buildings at No. 3-5 (Lot 251) and part No. 7 (Lot 252) Mather Road, Beaconsfield.**

**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).**

**These discretionary assessments include the following:**

- **Discretionary Land Use (Brewery); and**
- **On-site Car Parking.**

**The application is recommended for conditional approval.**

**PROPOSAL**

**Detail**

Approval is sought for a Partial Temporary Change of Use to Brewery and Alterations and Additions to Existing Buildings at No. 3-5 (Lot 251) and part No. 7 (Lot 252) Mather Road, Beaconsfield.

The proposed works include:

- Change of use of the existing southern warehouse building/tenancy on the subject site from 'Industry - General' to 'Brewery'. The existing 'Industry-



General' use and business (*Concrete Studio*) is to remain operating from the existing warehouse building/tenancy on the northern side of the subject site (refer site plan);

- The operating hours of the proposed Brewery are to be as follows:
  - Production/brewing: Monday to Thursday, 9AM – 3PM; and
  - Open to public: Wednesday to Sunday, 10AM – 10PM.
- Internal fit out of the warehouse building to accommodate the brewery infrastructure, hospitality, and service areas (including the toilets) and staff office; and
- External works including hard stand parking and vehicle circulation/access areas as well as outdoor hospitality areas, including associated landscaping and children's playspace.

*NB. The proposal partially relies on the use of a portion of the adjoining lot (No. 7 (Lot 252) Mather Road) to provide a majority of the on-site parking and part of the vehicle access/circulation for the proposed brewery. The adjoining lot is a large, mostly vacant lot that binds the subject site to the south and east; structures on the portion of the lot intended to be used for car parking have been recently demolished and cleared (refer aerial image below). This adjoining lot is owned by Main Roads Western Australia (MRWA) and the use of this portion of the lot for the proposal is to be subject to a licence agreement with this agency on a time-limited (temporary) basis only. This licence agreement has been agreed in principle subject to the determination of this application (refer detailed advice from MRWA below).*

The applicant submitted amended plans on 10 April 2024 including the following:

- Amendments to the hardstand parking area design and layout proposed on adjacent Lot 252 Mather Road in response to MRWA and City officer comment;
- Increased on-site parking provision;
- Greater detail provided to floor plan to delineate various areas and their use throughout the proposed brewery;
- Deletion of previously proposed bays within the City's road reserve; and
- Written agreement from the adjoining tenant on the site (*Concrete Studio*) to utilise their on-site parking outside of their business hours (8AM – 4PM Mon-Fri; closed Sat & Sun)

Development plans are included as Attachment 1. Refer also, applicant's covering letter (Attachment 3) for an overview of the business proposal.





**Site/application information**

Date received: 12 January 2024  
Owner name: Mather Road Pty Ltd  
Submitted by: Joel Nash  
Scheme: Development Area 7 – Former Lefroy Road Quarry  
Heritage listing: Historic / Archaeological – South Fremantle Heritage Area  
Existing land use: Industry - General  
Use class: Brewery  
Use permissibility: N/A – See discussion below





## **CONSULTATION**

### **External referrals**

#### *Main Roads Western Australia (MRWA)*

The application was referred to MRWA as the application proposes to partially use a portion of the adjacent southern site (Lot 252, owned by MRWA) for hardstand car parking and vehicle access under a licence agreement with the MRWA.

The following advice and recommendations were provided by MRWA:

#### *Development Application Recommendation*

*In response to correspondence received from the Applicant on 19 February 2024 pertaining to further amended development plans and supporting information, please be advised Main Roads has no objection to the development proposal subject to the imposition of the following Condition and Advice Note:*

#### Condition

- 1. The applicant shall upon receipt of a notice from Main Roads, remove the development and associated infrastructure from Lot 252 (No.7) Mather Road, Beaconsfield at their own expense.*

#### Advice Note

- a. The proposed development on Lot 252 (No.7) Mather Road, Beaconsfield is temporary in nature. Please note a separate License Agreement with Main Roads is to be obtained prior to any commencement of works on Lot 252 (No.7) Mather Road, Beaconsfield.*

#### *License Agreement*

*Please be advised that at time of writing a License Agreement has not been approved between the applicant and Main Roads. My understanding is that negotiations on a license will not commence until a decision has been made on the development application by the City. A license term of up to five (5) years can be considered. Should there be no change to the future status / requirement of Lot 252, the granting of another term can be considered.*

#### *Comment*

*The City, as decision-maker, is to consider the implications upon the proposed development should the status / requirement of Lot 252 by Main Roads change at a later date, specifically in regard to on-site car parking provision, waste management and deliveries to site.*



The use of the parking bays located on the adjacent site will be crucial in providing the majority of on-site parking and part of the vehicle access/circulation for the proposal. Therefore, should the application be approved, it will be conditional on these bays remaining available and on an otherwise temporary basis, as discussed in greater detail below.

It is considered the above could be secured with appropriate conditions, should Council be of the mind to approve the application.

**Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The advertising period concluded on 21 February 2024, and seven (7) submissions were received. The following issues were raised (summarised):

<b>Submitter Comment</b>	<b>Officer Comment</b>
Concerns relating to traffic generation in adjacent streets and a lack of on-site parking leading to the parking of vehicles on adjacent residential streets, verges and adjoining business car parks.	Traffic and Parking is discussed in detail within the officer assessment section of the report below.
Concerns the proposal will cause amenity and nuisance to nearby residential properties with excessive noise generation from operations and customers (no acoustic report provided) and potential for anti-social behaviour to occur.	An acoustic report has been provided (Attachment 4) and noise is discussed in greater detail in the officer assessment section below.  With respect to anti-social behaviour and management/mitigation of patron nuisance this is difficult to predict but it will be the responsibility of the operation to manage and minimise any potential issues through their licensing agreement and management practices (refer Harm Minimisation Policy at Attachment 6).
Concerns regarding loss of mature Eucalyptus closest to the street.	The loss of any mature trees on the City’s verge is not supported and would require separate approval in any event. The retention of any mature trees onsite and retaining/increasing canopy is always encouraged and supported by the City.





	<p>The applicant has confirmed there is no intent to remove the Eucalyptus mentioned in their responses to submissions (Attachment 7).</p>
<p>Brewery proposal sounds like a great idea, excited to see it built.</p>	<p>Noted.</p>
<p>As a nearby resident, I support the idea of the street continuing its mixed used history and of the inclusion of a place where residents and others can meet. I think a microbrewery, done right and with its licence conditions suitable for a residential area, could work well.</p> <p>Support contingent on those with young families being supportive and not affected and reasonable opening hours in the context of a residential neighbourhood.</p>	<p>Noted.</p>
<p>Assuming the operators meet all necessary responsibilities and obligations commensurate with running said operations, that such a business would be most welcome by the surrounding community.</p> <p>I would welcome the development of such an operation at the prescribed location, especially given the current site is somewhat rundown and derelict.</p>	<p>Noted.</p>

The applicant also provided responses to the schedule of submissions, as can be found at Attachment 7.

The remaining comments are addressed in further detail within 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:

- Discretionary Land Use – Brewery; and
- On-Site Car Parking.

The above elements and other relevant matters are discussed below.

### **Background**

The subject site is located on the western side of Mather Road. The site has a land area of approximately 2570m<sup>2</sup> and is currently 'Industry – General' in land use with a former metal finishing, and current concrete contractor business (*Concrete Studio*) operating from the existing buildings on-site. The site is zoned Development Area (DA7 - Former Lefroy Road Quarry). The site has a 'historic/archaeological' heritage listing and is located within the South Fremantle Heritage Area.

This western side section of Mather Road comprises other commercial/industry type uses and building typologies and the open land that used to form the Lefroy Road Quarry, however, the western side of Mather Road is characterised by predominantly single storey single houses.

The subject site forms part of the wider Development Area (DA7 - Former Lefroy Road Quarry) which is subject to the '*Lots 18 and 19 Lefroy Road, Lots 20, 252, 254 and 255 Mather Road and Lot 5 Strang Street, Beaconsfield*' Structure Plan, adopted in January 2019. Notwithstanding, the subject site is one of several existing lots in DA7, that by virtue of the fact they are under private ownership and had/have existing commercial/industry uses operating from them, were not included in the structure plan area that otherwise proposes the redevelopment of the former quarry site with residential development with a density coding between R15 – R100, as per the below Structure Plan map:



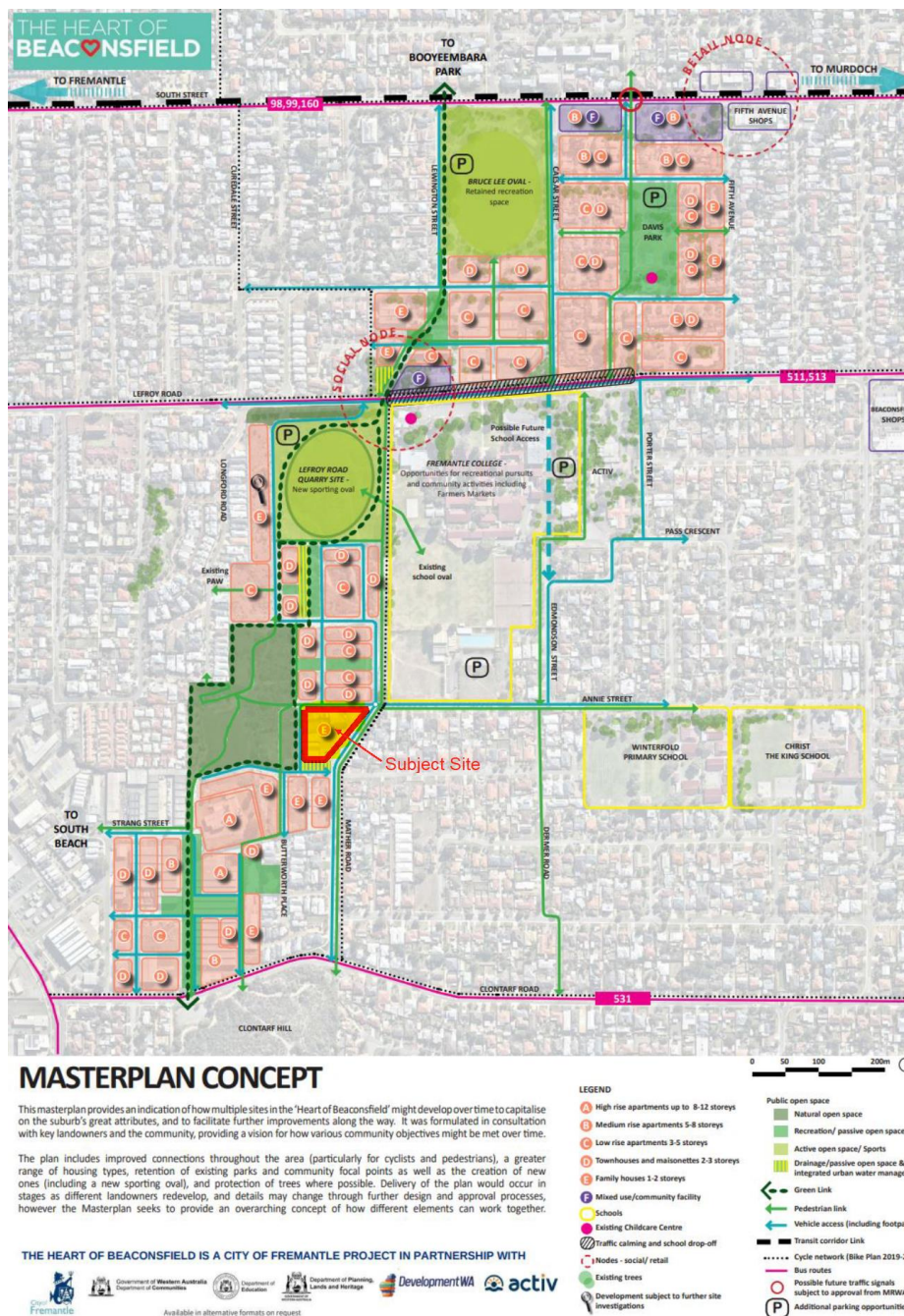
**Figure 1. Former Lefroy Road Quarry Structure Plan Map Extract Showing Subject Site Not Included Within the Structure Plan Area**

As the subject site is not included within the structure plan area and the land is not zoned otherwise, any land use or development applications may be considered on their merits by Council and potentially supported, where they do not prejudice the specific purpose and/or requirements of the development area.





The subject site is also contained within the *Heart of Beaconsfield Masterplan Concept* area, adopted by Council in 2021, which comprises the former quarry site and, in consistency with the Structure Plan, also envisages a mixture of low to high density residential development across the wider masterplan area as well as a large sporting oval toward the northern end of the quarry site (see Figure 2 below, Heart of Beaconsfield Master Plan Concept, subject site highlighted yellow).



**Figure 2. Heart of Beaconsfield Masterplan Concept, Subject Site Highlighted Yellow**



A search of the property file has revealed there is no recent or relevant planning history for the site.

## **Land Use**

While the subject site forms part of the wider Development Area (DA7 - Former Lefroy Road Quarry), it is one of the several privately owned sites (Lots 21, 253, 251 (subject site), 250 and 9 Mather Road), with existing commercial/industry uses and business operations. These sites were omitted from the structure plan covering DA7 that otherwise provides for residential development across the structure plan area (refer Figure 1 above). The sites in fragmented private ownership were precluded from the structure plan area to encourage a coordinated approach to development across the structure plan area and other sites in state ownership; avoiding the ad hoc redevelopment of these individual lots in separate ownership. The remainder of the sites that were included in the structure plan area are under state government agency ownership and management.

It is noted the site is also contained within the *Heart of Beaconsfield Masterplan Concept* area (refer Figure 2 above), adopted by Council in 2021, which covers the former quarry site and, in consistency with the Structure Plan also envisages a mixture of low to high density residential development across the wider masterplan area as well as a large sporting oval toward the northern end of the former quarry site (refer Figure 2 above).

For sites contained within Development Area, yet not forming part of the structure plan area, any applications for a change in land use and/or minor development may be considered under clauses 72 and 27(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* through a temporary (time-limited) approval, whereby the proposed land use/development does not conflict with the principles of orderly and proper planning, does not significantly intensify the existing current land use and where the proposal is considered to not prejudice the specific purpose and requirements of the development/structure plan area.

The objectives and vision of the Structure Plan (of which the site is bound by to the west) attempt to address the major constraints to development of the former quarry site, arising from its former use for as landfill, as well as establishing a strategy for the safe and effective remediation of any contamination. The Structure Plan seeks to provide foundation for a distinctive new residential community surrounding an extensive network of open space and a design that responds to the site's unique topographical and landscape characteristics.

Future development aims to provide a variety of residential dwelling types with lifestyle options, promoting a diverse local community, including opportunities for aged and dependent living and other aged care uses that are not currently available to this locality.



The proposed Brewery land use is considered acceptable in principle, for the following reasons:

- As it currently stands, the proposed Brewery use would not prejudice the specific purpose, requirements, or objectives of the Development Area and/or the adjoining Structure Plan Area as the quarry site is currently vacant and there are no current proposals, to redevelop this large area.

Furthermore, any future redevelopment of the structure plan area would be expected to take many years from planning to completion, as such and on balance, the proposed Brewery could be considered an appropriate use to activate the site, on a time-limited (temporary) basis, until such a time that adjacent developments start to come forward. This would be of course subject to satisfying other policy requirements and conditions, as is discussed in the following sections of this report.

- It is considered that the proposed use would, in part, de-intensify the current 'Industry – General' use of the subject site. Industrial - General land uses (such as the concrete studio and metal finishing businesses on the site) are generally more appropriate in 'Industrial' zoned areas and not adjacent/nearby residential dwellings (as they are in this case on the opposite side of Mather Road) nor future adjacent residential sites (as envisioned in the Structure Plan). This is provided the Brewery use can effectively manage and mitigate any of its own potential amenity impacts upon nearby residential dwellings.
- There is a noted lack of hospitality type land uses within the locality with the site being over 1 kilometre from any nearest 'centre' zoning (City, Neighbourhood or Local). As such, the proposed brewery may provide an appropriate hospitality venue for local workers (from nearby commercial/industrial businesses) and/or local residents within a reasonable catchment without detracting from other 'centres' within the wider area.
- The proposal has a minimal development/works component, with little additions or alterations to the existing building with the exception of the internal fit out for the brewery and external parking hardstand and landscaping areas. As such, the proposal does not involve the considerable investment of redeveloping the site or altering the existing structures significantly but rather adapting the existing. This is important given any approval would be for a temporary basis only, and there would be greater risk in significantly investing in redevelopment of the site, should any approval be revoked at the end of the temporary time period.

On the basis of the above, the proposed Brewery land use at the subject site is considered an acceptable use in principle, subject to a time-limited (temporary) approval and satisfying other statutory requirements and considerations where relevant.



As is discussed in the following section of this report, the proposal also relies on the use of the adjacent southern, Lot 252 Mather Road, (owned by Main Roads) for car parking under a licence agreement with Main Roads and of a term of up to five (5) years (refer MRWA comment above). The proposal, should it be approved, should only therefore be considered appropriate if limited and conditional on the following terms:

- (i) Any approval being limited to a time-limited (temporary) period of up to five (5) years only. At the end of this term, the applicant could apply to extend the approval timeframe, which would be considered under the circumstances at that time and the status of development within the adjacent structure plan area; AND
- (ii) Any approval to also be conditional on the proposed parking bays on the adjacent lot remaining available and accessible by the use. Should MRWA give notice, at any time, and the use of these bays cease to be available, any approval would also cease to be valid at such a time.

It is therefore recommended that should the application be approved, subject to the above conditions.

Council is advised that the applicant has also been made explicitly aware of these conditions that any approval would be subject to if approved; the applicant has acknowledged this and is willing to accept appropriate conditions to this effect, should the application be approved.

**On Site Car and Bicycle Parking**

Car and bicycle parking requirements and provisions for the proposed brewery use, in accordance with Table 2 of the City’s LPS4, are outlined in the following table:

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Vehicle parking Brewery:  1: 2.5m <sup>2</sup> of public bar area*  1: 100m <sup>2</sup> of space not open to the general public  <i>*NB. For practical assessment purposes, as the</i>	Lounge/Garden Area: 131.5m <sup>2</sup> (26 bays)  +  GLA not open to general public:142 m <sup>2</sup> (1 bays)  <u>Total Req: 27 bays</u>	<ul style="list-style-type: none"> <li>• 7 on-site parking bays; plus</li> <li>• 14 bays on adjacent Lot 252; plus</li> <li>• 5 bays on adjacent tenancy (reciprocal arrangement)</li> </ul> <p><u>Total Available: 26 bays*</u></p>	1 bay (3.7% variation)*  <i>*refer detailed discussion below</i>



**Agenda – Ordinary Meeting of Council  
8 May 2024**



<p><i>brewery has no defined 'public bar area', the requirement from a similar 'Tavern' use of: 1:5m<sup>2</sup> lounge/garden area was considered appropriate to employ.</i></p>		<p><i>*refer detailed discussion below</i></p>	
<p>Delivery/loading bays:  1 per service/storage area</p>	<p>1 bay</p>	<p>On-site loading/deliveries available across 6.8m wide hardstand parking aisle that runs length of building and space at end to park/load</p>	<p>Nil - complies</p>
<p>Bicycle bays:  Class 1: 1 per 25m<sup>2</sup> bar floor area  Class 3: 1 per 25m<sup>2</sup> bar floor area</p>	<p>Class 1: (131.5) = 5.26 (5)  Class 3: (167.2sqm) = 5.26 (5)</p>	<p>Class 1:  Nil  Class 3:  10 bays provided adjacent southern edge of building.</p>	<p>7 Class 1 bays  To be conditioned if approved, ample space is available on-site to provide the required Class 1 bays.</p>
<p>End-of-Trip Facilities</p>	<p>One male and one female shower (or 2 unisex) required for every 10 Class 1 or 2 bicycle racks required</p>	<p>One unisex shower and toilet facility provided adjacent the male and female toilet at eastern end of building</p>	<p>One unisex shower – provision of the one unisex shower facility is supported and considered appropriate for use</p>





### *Car Parking*

The total available car parking bay provision of 26 bays for the proposal, comprises the following:

- i. 7 bays (including 1 ACROD bay) are provided wholly on the subject site;
- ii. 14 bays are provided on the adjacent lot, Lot 252 Mather Road, which abuts the southern boundary of the site and is owned by Main Roads. The construction and availability/accessibility of these bays for the proposed use is to be subject to a licence agreement with Main Roads on a time-limited (temporary) basis only (refer Main Road advice above);
- iii. 5 additional bays are available in a reciprocal arrangement and with the written consent of the adjacent tenancy business (*Concrete Studio*), in which these bays will be made available to the proposed Brewery after the business closes at 4pm each day, Monday to Friday, and is not open on weekends (refer consent letter at Attachment 8).

In total, 26 bays are available to the use in lieu of the 27 required under Table 2 of the LPS4. While the single car bay shortfall (representing a 3.7% variation from the requirement in this case) is not generally of much concern to officers, it is noted that a majority of the parking provision relies upon third party arrangements/agreements. This includes the use of the adjoining lot (Lot 252 Mather Road) under a licence agreement with Main Roads (providing 14 of the bays (representing 54% of the total bays)) and also on the reciprocal use of the adjoining tenancy's parking bays (providing a 5 additional bays); both of which can only be considered on temporary and conditional terms, as discussed further below.

Clause 4.7.3.1 of the City's LPS4 provides that Council may waive or reduce the standard parking requirements specified in Table 2 of LPS4 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;*



- (vii) *the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation; and/or*
- (viii) *any other relevant considerations.*

Given the particular location of the subject site, outside of any centre, without existing street parking bays available in close proximity and not being in a location with high public transport accessibility, it is difficult for the proposal to satisfy any of the above criterion to support a reduction in the standard parking requirements. As such, the on-site parking provision and/or access to a sufficient level of readily accessible parking bays adjacent the site, is crucial to officer support of the proposal with respect to parking.

The reciprocal arrangement and agreement with the adjacent tenancy and business, *Concrete Studio* (refer Attachment 8), would provide an additional 5 bays for the brewery use at the front of the adjacent tenancy on the subject site. This arrangement is generally considered acceptable because the business hours for *Concrete Studio* are listed as being 8AM – 4PM Monday to Friday and being closed on Saturday and Sunday. It is expected that the parking demand for the brewery will be highest in the evenings and on weekends, when these bays on the adjacent site will be available under the reciprocal arrangement. It is acknowledged that this arrangement may only be temporary, should the current tenant leave or withdraw their agreement. If this arrangement ceases, the six (6) bay shortfall (representing a 22% variation) that would result, would remain acceptable to officers, provided the bays on the adjoining lot also remain available, as discussed below.

As stated in their comment above, MRWA raise no objection to the construction of hardstand car parking areas on their adjoining site, subject to a License Agreement being prepared for a term of up to five (5) years (with consideration to grant a further term at the end of the period, depending on circumstances at that time) and on the condition that should Main Roads serve notice upon the proponent, all development and associated infrastructure shall be removed from Lot 252 Mather Road, at their own expense.

The on-site parking provision is therefore only considered acceptable subject to the 14 bays proposed on the adjoining Lot 252 remaining available and accessible to the use, at all times. Should, at any time in the future, the license agreement with MRWA cease or the applicant otherwise be given notice to remove the parking infrastructure by MRWA, the on-site parking provisions would no longer be acceptable to officers.

As such, officers have recommended appropriate conditions of approval that limit the validity of any approval to the availability of the parking infrastructure on the adjoining lot, which is also subject to a separate licence agreement with MRWA and any conditions/limitations they should impose on the arrangement.



Council is advised that the applicant has been made explicitly aware of these recommended conditions and is aware the validity of any approval will be subject to these; the applicant has acknowledged the risks and is willing to accept appropriate conditions to this effect, should the application be approved.

### **Noise**

Potential noise nuisance is perhaps the most sensitive of amenity considerations for the proposed land use and such concerns were also highlighted in submissions received on the proposal, as outlined above.

The applicant provided an Acoustic Report, prepared by Acoustic Engineering Solutions (dated 29 January 2024, Attachment 4) and a Harm Minimisation Policy, prepared by Ripple (dated 2023, Attachment 6) that provide operational (management) noise mitigation measures to maintain compliance with the relevant noise regulations applicable to the land use and its operation.

The acoustic report concludes that full compliance with the relevant noise regulations is able to be achieved for the operations of the brewery, where limited to, and detailed in section 3.4 of the report. The acoustic report has been reviewed by the City's Environmental Health team and found to be acceptable, subject to operations being limited to those detailed in the report.

Furthermore, the Harm Minimisation Policy provides more operational and managerial measures to mitigate any potential nuisance for nearby properties through staff training and responsibilities in the service and management of patrons and the carrying out of relevant duties within venue. The House Management Plan also outlines and requires an adherence to a code of conduct to respect its neighbours by minimising litter, noise and disturbance emanating from the licensed premises and responsibly care and manage patrons at the venue, including their departure from it.

All operational particulars and management practices outlined in the Acoustic Report and Harm Minimisation Policy will be secured through appropriate conditions of approval, including limiting operating hours, and be required to be implemented and adhered to at all times to maintain compliance with the relevant noise regulations and minimise the potential for any noise or other nuisance to affect neighbouring properties.

### **Liquor Licensing**

Should the subject application be approved, the applicant will be required to make application to the Department of Local Government, Sport and Cultural Industries for an appropriate liquor license approval. Any such application will be referred to the City for comment to ensure that the subject site has the appropriate land use approval.



## **CONCLUSION**

In conclusion, the proposal is considered acceptable to officers, on a conditional, time-limited (temporary) basis only, subject to the following key terms:

- (i) Any approval being limited to a time-limited (temporary) period of up to five (5) years only. At the end of this term, the applicant could apply to extend the approval timeframe, which would be considered under the circumstances at that time and the status of development within the adjacent structure plan area; AND
- (ii) Any approval to also be conditional on the proposed parking bays on the adjacent lot (Lot 252 Mather Road, Beaconsfield) remaining available and accessible by the use. Should MRWA give notice, at any time, and the use of these bays cease to be available, any approval would also cease to be valid at such a time.

Subject to the above and other appropriate conditions of approval, the proposal is considered to appropriately satisfy the relevant statutory requirements of LPS4 and relevant Council policies. Accordingly, the application is recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle

### Alcohol Management (SG50)

- Potential impacts of the proposed Licensed Premises are considered able to be appropriately managed

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil



## **OFFICER'S RECOMMENDATION**

### **Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Partial Temporary Change of Use to Brewery and Alterations and Additions to Existing Buildings at No. 3-5 (Lot 251) and part No. 7 (Lot 252) Mather Road, Beaconsfield, Beaconsfield, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 10 April 2024. It does not relate to any other development on this lot. It does not relate to any other development on these lots and must substantially commence within four years from the date of this decision letter.**
- 2. Notwithstanding condition 1, this approval is valid for a period of not more than five (5) years from the date of this decision or as otherwise restricted by the following conditions. Following this time, the Brewery use shall cease to operate and all associated infrastructure shall be removed from the site, unless otherwise approved, to the satisfaction of the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, the proposed areas of hardstand car parking (14 bays), vehicle access, circulation and bin store, shown on the approved plans on Lot 252 Mather Road, Beaconsfield (which are subject to a separate License Agreement with Main Roads Western Australia), shall be constructed and available to the Brewery for car parking/loading, vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle, on the advice of Main Roads Western Australia.**

**The 14 car parking bays and bin store on the adjacent Lot 252 Mather Road, Beaconsfield, shall be maintained and remain available to the Brewery use for the life of the development. Should the car bays and vehicle access on the adjacent Lot 252 Mather Road, Beaconsfield, no longer be available for use by the Brewery, this approval for the Brewery use and associated development, shall cease to be valid, unless otherwise approved, to the satisfaction of the City of Fremantle.**

- 4. The applicant shall, upon receipt of a notice from Main Roads Western Australia, remove the development and associated infrastructure from the adjacent Lot 252 Mather Road, Beaconsfield, at their own expense and to the satisfaction of the**



**City of Fremantle, on the advice of Main Roads Western Australia.**

- 5. The Brewery hereby approved shall have hours of operation that do not exceed the following:**
  - **Production/Brewing: Monday to Thursday, 9AM – 3PM; and**
  - **Open to Public: Wednesday to Sunday, 10AM – 10PM.**
- 6. Prior to occupation of the development hereby approved, all operational (managerial) noise mitigation measures and requirements of the Acoustic Report (prepared by Acoustic Engineering Solutions, dated 29 January 2024) and the Harm Minimisation Policy (prepared by Ripple Brewing, dated 2023) shall be implemented and upheld at all times, for the life of the development, to the satisfaction of the City of Fremantle.**
- 7. The approved waste management plan, prepared by Ripple Brewing (dated 23 January 2024), is to be implemented at all times, for the life of the development, to the satisfaction of the City of Fremantle.**
- 8. Prior to the lodgement of a building permit application for the development hereby approved, a plan detailing the provision of seven (7) Class 1 and 7 Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided, to the satisfaction of the City of Fremantle on the advice of the Department of Planning, Lands and Heritage (Heritage Services).**

**Prior to occupation of the development hereby approved the required bicycle racks must be installed in accordance with the approved plan and thereafter 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, 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.**
- 10. 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.**



- 11. 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.**
- 12. 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.**
- 13. 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.**
- 14. 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.**
- 15. Prior to the occupation of the development. any air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points shall be suitably located, screened or housed, to the satisfaction of the City of Fremantle.**
- 16. 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 proposed development on Lot 252 (No.7) Mather Road, Beaconsfield is temporary in nature. Please note a separate**





**License Agreement with Main Roads Western Australia is to be obtained prior to any commencement of works on Lot 252 (No.7) Mather Road, Beaconsfield.**

- (iii) The applicant is advised that as per the conditions of approval, should the landowner of Lot 252 Mather Road withdraw their agreement for the use of the car park, the land use must cease immediately.**
- (iv) If the temporary development is intended to continue beyond the approved five (5) year period, the applicant must submit a separate application for Development Approval to continue the use, which is to be considered under the principles of orderly and proper planning, inclusive of any changes to the planning framework and neighbouring land uses and existing circumstances at that time. The applicant is encouraged to lodge any such application three months (minimum) prior to the expiry of the approval and include details as to whether any part of the development site has been altered since its original approval.**
- (v) 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.**

- (ii) The proponent must:**
  - i. make application to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992;**
  - ii. once construction has been completed, make application to Environmental Health Services via Form 2 - *Application for a public building certificate*; AND**
  - iii. once construction has been completed, complete and submit Form 5 - *Certificate of Electrical Compliance for a Public Building* to Environmental Health Services.**



**Note: Section 1 does not apply to or in relation to building work, as defined in the *Building Act 2011* section 3, for which a building permit is required under that Act. For further information and a copy of the application form contact Environmental Health Services on 9432 9999 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**

- (iii) The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**
- (iv) 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/>.**

- (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) **A BA9 – Occupancy Permit application form is required to be submitted for the change of use. A Certificate of Building Compliance (BA18) must be submitted with the application and signed and completed by a Registered Building Surveyor Contractor (private sector). A list of Registered Building Surveyors can be obtained from the Western Australian Building Commission website - <https://www.commerce.wa.gov.au/building-commission>.**
- (vii) **Any works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, requires a separate approval from the City of Fremantle’s Infrastructure Business Services department who can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.**
- (viii) **The applicant is advised that any signage may be subject to a separate application for planning approval.**



**C2405-4 AINSLIE ROAD, NO. 2 (LOT 27), NORTH FREMANTLE - TWO STOREY SINGLE HOUSE WITH UNDERCROFT (ED DA0053/24)**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority  
**Attachments:**  
1. Amended Development Plans  
2. Site Photos

**SUMMARY**

**Approval is sought for a Two Storey Single House with undercroft garage at No. 2 (Lot 27) Ainslie Road, North Fremantle.**

**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:**

- **Heritage Areas**
- **Building Height**
- **Site Works (Retaining)**
- **Visual Privacy**

**The application is recommended for conditional approval.**

**PROPOSAL**

**Detail**

Approval is sought for a Two Storey Single House with Undercroft at No. 2 (Lot 27) Ainslie Road, North Fremantle. The proposed works include:

- Construction of a two-storey single house with an undercroft level for vehicle parking and storage.

The applicant submitted amended plans on 3 April 2024 including the following:

- Revised openings to Ainslie Street elevation across the ground and first floor to reflect the heritage vertical nature of windows and windows in walls of the heritage area;
- Increased extent of privacy screening to first floor rear terrace;
- Revised shadow diagrams with additional detail.

**Agenda – Ordinary Meeting of Council**  
**8 May 2024**



Amended development plans are included as Attachment 1.

**Site/application information**

Date received:	26 February 2024
Owner name:	Lisa Frances Turibaka
Submitted by:	Sia Architects Pty Ltd
Scheme:	Residential (R25)
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Vacant
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 use is a discretionary (A) use within the City Centre. The advertising period concluded on 28 March 2024, and three (3) submissions were received. The following issues were raised (summarised):

<b>Submitter Comment</b>	<b>Officer Comment</b>
<p>Concerns the front and rear terraces will afford overlooking of adjoining sites and compromise the privacy of these dwellings.</p>	<p>Visual privacy is discussed in detail in the officer assessment section below. It is noted that the front terraces only afford views over the front setback areas of neighbouring dwellings and are therefore fully compliant with the R-Codes.</p>
<p>Concerns over the impact of overshadowing and light reduction to neighbouring properties.</p>	<p>Overshadowing has been assessed by officers in accordance with the R-Code Volume 1 methodology and meets the deemed-to-comply requirements. In any event, it is observed by officers that the shadow that does result from the proposed development does not appear to fall over any sensitive major openings nor primary outdoor living areas of the adjoining southern dwellings.</p>
<p>Concerns given the levels of excavation needed for the undercroft/ basement level, may damage/undermine adjacent properties.</p>	<p>The applicant provided the following response to this concern:</p> <ul style="list-style-type: none"> <li>• Building setback to east boundary is 3 meters, giving ample buffer to any excavation.</li> <li>• On west boundary, the adjoining property is lower resulting a shallower excavation to basement level.</li> <li>• The ground underlay is rock, most likely to be self-supporting.</li> </ul>





	<ul style="list-style-type: none"> <li>• Initial construction investigation will result in the appropriate available procedure being taken to ensure shoring of the ground as required.</li> <li>• Any damage to adjoin property will be covered by the mandatory requirements imposed by building regulations and the mandatory 'dilapidation' report to be undertaken by the builder.</li> </ul> <p>Notwithstanding this, the development will need to adhere to all relevant requirements of the Building Act.</p>
<p>Concerns over the building height (effectively three storey), street setback, large full height windows, large double garage and the impact of these elements on the visual character of Ainslie Street.</p>	<p>Detailed comment on the building height, street setback and streetscape impact is provided in the officer assessment section below. It is noted that revised plans were provided amending the openings to the street elevation, introducing greater verticality to the windows to reflect the heritage vertical nature of windows in heritage areas.</p>

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:

- Heritage Areas
- Building Height
- Site Works
- Visual Privacy

The above matters are discussed below.



## **Background**

The subject site is located on the northern side of Ainslie Street in North Fremantle. The site has a land area of approximately 400m<sup>2</sup> and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed though is located within the North Fremantle Heritage Area.

The surrounding area is characterised by predominantly residential single houses between 1 and 2 storeys.

The applicant did attend a pre-lodgement meeting with City officers prior to the finalisation of the submitted development plans to seek advice on the proposed built form and the following changes were made to these initial plans prior to submission:

- Increased street setback of the upper floor an additional 1.8m further than initially proposed; and
- Increased setback of the upper floor terrace an additional 0.6m further from the street boundary than initially proposed.

It is noted that there is no other recent and/or relevant planning history for this property.

## **Heritage Areas**

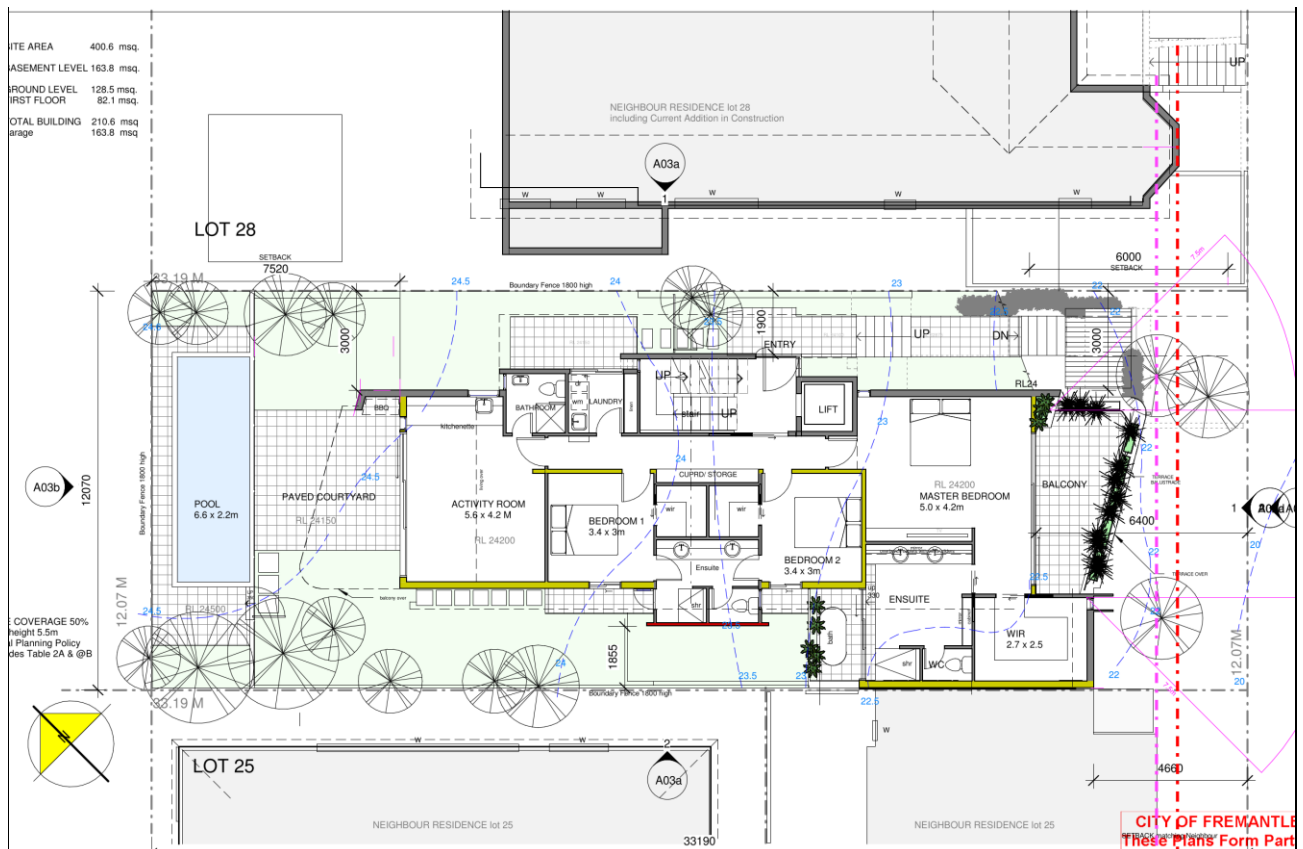
While the subject site is currently vacant and not individually heritage listed, the site is within the North Fremantle Heritage Area and therefore it is important to consider the proposed new dwelling under the Council's Local Planning Policy 3.6 - Heritage Areas (LPP 3.6) and in particular, the provisions of clause 3.6 of the policy relating to 'infill development (new buildings)'. The policy outlines the general intent for infill development as follows:

*'New buildings within a heritage area should respect and complement the heritage significance of the area. A respectful design approach gives special consideration to the siting, scale, architectural style and form, materials and finishes of the proposed development in relation to its neighbours, without copying historic detailing or decoration. New infill buildings should respond sympathetically to the heritage values of the heritage area as a whole, and also to that part of the heritage area in the vicinity of the proposed development. Imaginative, well designed and harmonious construction is encouraged. Professional architectural services can be of great assistance in formulating appropriate designs.'*

In summary, and in light of the amended development plans, officers have assessed the proposal and found it to be acceptable pursuant to LPP 3.6 as outlined in the following table that considers the new dwelling under the 'infill development' provisions of LPP3.6:



<b><i>Infill Development (New Buildings)</i></b>	
<b>Element</b>	<b>Officer comment</b>
<b><i>Siting and Scale</i></b>	
<p><i>(a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns.</i></p>	<p>The proposed street setbacks and setting of the proposed dwelling is considered acceptable as is consistent with the setback of adjoining buildings that are of a comparable height within the prevailing streetscape. The proposed street setback of all floors of the dwelling are greater than both the adjoining contemporary south-western dwelling (4 Rule Street) and the existing heritage dwelling to the north-east (4 Ainslie) which allows this heritage house to be viewed well from the street and will not impact or obscure its current setting (refer Figure 1 below and perspective imagery on the 'Street Views' plan (plan ref. A02b) of the development plans).</p> <p>It is also noted that the upper floor of the proposed dwelling is setback further from the street than the floor below (an additional 3.1m) resulting in less imposition of the existing streetscape vista and a respectful setback and backdrop to the eastern heritage listed dwelling at 4 Ainslie Road.</p>
<p><b>Figure 1.</b> extract of proposed ground floor plan showing street setback of proposed dwelling in context of the setback of the adjoining south-western dwelling (4 Rule Street, street setback line shown pink dashed) and the north-eastern heritage dwelling (4 Ainslie Road, street setback line shown red dashed).</p>	



**W RESIDENCE**  
 NSLIE ROAD North Fremantle WA

**GROUND FLOOR PLAN**  
 Date 13/11/2023

SHEET  
 A01b

SIA Sasha Ivanovich Architects  
 218 Palmer Street, Darlinghurst, NSW 2010  
 Telephone: (02) 9241 1000

CITY OF FREMANTLE  
 These Plans Form Part of

<p>(b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then the new infill development should also be (or present as) single storey (at least to the front section of the lot).</p>	<p>The bulk and scale is consistent with both of the adjoining properties.</p>
<p>(c) Have a plate height consistent with the original street pattern. New developments often propose a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.</p>	<p>The proposed plate heights have taken cues from the adjoining properties and responds appropriately to the topography of the site which slopes upward approximately 3m from the front of the site to the rear.</p>

<p><b>Building Form</b></p>	
<p>(a) New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form</p>	<p>The proposal does not attempt to mimic heritage details and sits within</p>



<i>of the prevailing streetscape without mimicking heritage detailing.</i>	a varied streetscape of contemporary and heritage listed dwellings
<i>(b) Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.</i>	The existing streetscape is varied with no consistent built form.
<i>(c) The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.</i>	The proposed dwelling is considered to respond appropriately to the form of the adjacent dwellings
<i>(d) Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent</i>	There is no consistency of façade forms across the streetscape
<i>(e) Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</i>	The existing streetscape is varied with no consistent built form scale, articulation or detail. The built form proposed is considered to be sympathetic to heritage dwellings located to the east of the site.
<b>Materials, Colours and Detailing</b>	
<i>(a) Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.</i>	The materials and level of detailing are considered appropriate and the design and street setback (increasing with height) is considered appropriate and will not dominate the streetscape or the adjacent heritage dwelling.
<i>(b) Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.</i>	No faux or mock heritage is proposed
<i>(c) Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical</i>	No glossy or dominating materials or colours are proposed



<p><i>precedent for their use can be demonstrated.</i></p>	
<p><b>Roofs</b></p>	
<p><i>(a) Traditionally roof lines are a predominant element of the streetscape. Additions should respond to and reinforce the existing characteristics of a streetscape or neighbourhood with regards to plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.</i></p>	<p>There is little consistency of roof form across the existing streetscape and the proposed roof form is consistent with the adjoining western dwelling.</p>
<p><i>(b) Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.</i></p>	<p>A contemporary roof form is proposed within a varied streetscape</p>
<p><b>Verandahs/Porches/Awnings</b></p>	
<p><i>(a) Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing</i></p>	<p>The proposed front terraces are considered a modern interpretation of these traditional elements</p>
<p><b>Doors and Windows</b></p>	
<p><i>(a) All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.</i></p>	<p>In accordance with the amended development plans, these plans have replaced the previously proposed large, frameless window openings to the street elevations with bi-fold, timber framed windows that achieve an appropriate level of verticality across the fenestration of these street elevations.</p>
<p><i>(b) Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.</i></p>	<p>The entry door is located to the side of the dwelling, however, the entry point is defined by a porte-cochere at the front of the dwelling and there is no established consistency of entries to dwellings across this section of the streetscape.</p>





**Building Height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Building Height – Local Planning Scheme No. 4 LPA3 – North Fremantle	<i>Building height shall be limited to a maximum of two storeys (maximum external wall height of 5.5 metres as measured from ground level with a maximum roof plain pitch of 33 degrees)</i>	7.5m (at a maximum)	2.0m (at a maximum)

As the proposal varies the maximum permissible heights prescribed by the North Fremantle Planning Area LPS4 provisions, the additional building height needs to be assessed under the discretionary criteria of clause 4.8.1 (variation to height requirements), outlined as follows:

*Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in Schedule 7, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following:*

- (a) the variation would not be detrimental to the amenity of adjoining properties or the locality generally,*
- (b) degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality,*
- (c) conservation of the cultural heritage values of buildings on-site and adjoining, and*
- (d) any other relevant matter outlined in Council’s local planning policies.*

The proposed building height is considered to meet the discretionary criteria of clause 4.8.1 of the LPS4 for the following reasons:

- The proposed upper floors of the dwelling are located such that they will not cast undue winter shade upon the adjoining southern properties, overshadowing is within R-Code deemed-to-comply requirements and notwithstanding, is not considered to adversely overshadow any primary outdoor living areas or habitable room windows of the southern neighbours). Similarly, walls of the dwelling are set back from lot boundaries in excess of R-Codes requirements and are heavily articulated along elevations to break up building bulk along each side elevation of the dwelling.
- From the street lot boundary to the rear boundary of the subject site, the topography of the site rises upward 2.7m across the site. The



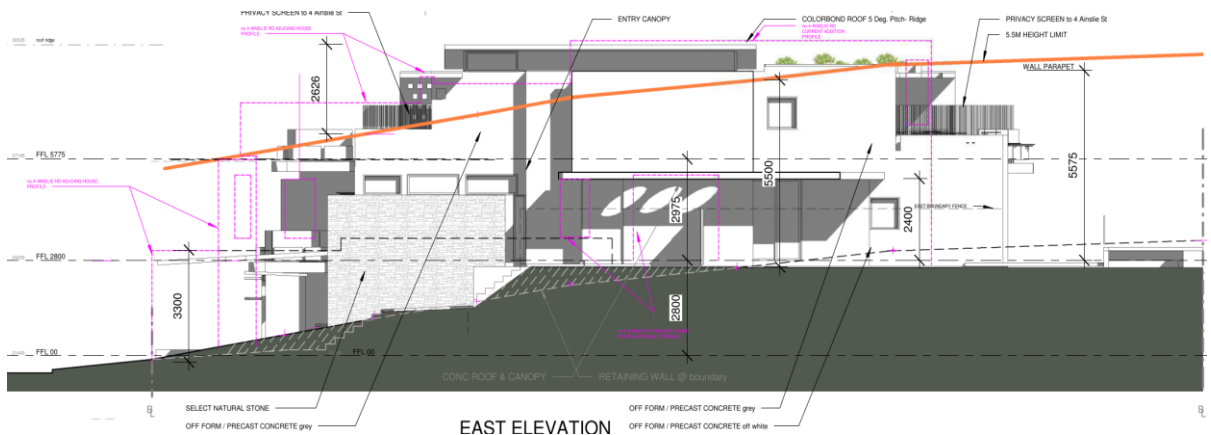
proposed dwelling design responds appropriately to the rise in topography across the site with the upper floor setback further from the street boundary (an additional 3.1m) from the floor below, reducing the building height toward the street boundary and thus have an acceptable siting within the streetscape (refer streetscape section discussion above and Figure 2 below).



**Figure 2.** Section plan that shows the stepping back of the upper floor from the street boundary and floors below.

- The proposed dwelling is generally consistent with the predominant height patterns of the locality and, in particular, the existing adjoining dwellings on either side of the subject site (refer South and North Elevation plans).

No. 4 Ainslie Road, to the north-east of the site, had a two-storey rear extension approved (application ref. DA0255/22 – currently under construction) which has an external wall height between 7.5m – 6.7m and due to the topography of the site, will sit higher than the proposed dwelling (refer Figure 3).



**Figure 3.** east elevation plan showing outline (shown pink) of adjoining dwelling building height relative to the proposed.



Similarly, the existing dwelling at No. 4 Rule Street (DA455/06), to the west of the site, has an external wall height of 7m where abutting the site. Due to the topography of the sites, the existing dwelling at 4 Rule Street will sit slightly below the proposed dwelling (refer Figure 4) and therefore creating a consistent, slight, height graduation from west to east across these three dwellings.



**Figure 4.** Western elevation showing outline of dwellings at 4 and 6 Rule Street (shown pink).

- The proposed building height, street setbacks and general built form of the dwelling is supported on heritage grounds and is considered to have limited detrimental impact upon the North Fremantle Heritage Area generally.

**Site Works / Retaining**

Retaining Wall	Setback Requirement	Proposed	Variation
East (max. retaining wall height: 0.8m)	1.0m	0m	1.0m
West (max. retaining wall height: 1.4m)	1.5m	0m	1.0m

The proposed site works, levels and retaining walls are supported under the design principles of the R-Codes for the following reason:

- The proposed dwelling considers and responds to the topography of the sloping site and is generally consistent with adjoining development; the excavation and fill is minimal and necessary in considering the sloping topography of the site (rising approximately 3m from the street boundary to the rear lot boundary).



**Visual Privacy**

<b>Opening/Terrace</b>	<b>Required Cone-of-Vision Setback</b>	<b>Proposed Cone-of-Vision Setback</b>	<b>Variation</b>
First Floor (view west) – Kitchen	N/A - window <1.0sqm and only opening across wall	N/A	N/A
First Floor (view east) – Dining	N/A - window <1.0sqm and only opening across wall	N/A	N/A
First Floor (view north-east) – Rear Terrace	7.5m	6m	2.2m  Not Supported – potential to overlook swimming pool / outdoor living area of 4 Ainslie Road – refer below
First Floor – (view west) Rear Terrace	7.5m	4.8m	2.7m  Supported under design principles – refer below.
First Floor – (view north-west) Rear Terrace	7.5m	Between 7.2 m– 6.1m	0.3m – 1.4m  Supported under design principles – refer below.
First Floor (view north-west) – Front Terrace	7.5	5.4m	2.1m  Not Supported – potential to overlook swimming pool / outdoor living area of 4 Ainslie Road – refer below.



With respect to the visual privacy variations identified above that require the exercise of discretion under the design principles of the R-Codes, please find the following (refer also Figures 5 & 6 below showing respective cone of vision assessments across the first floor and an aerial image of the subject site and surrounding properties):

*i. First Floor (view north-east to 4 Ainslie Road) – Rear Terrace*

The variation is not supported as, while the amended plans extended screening along the side elevation of the terrace, the cone-of-vision still encroaches over the adjoining site and is in close proximity to the sensitive pool area of this dwelling.

As such, a condition of approval is recommended to ensure sufficient screening or another appropriate design solution effectively addresses the visual privacy concerns and is made compliant with the R-Codes.

*ii. First Floor – (view west to 6 Rule Street) Rear Terrace*

The variation is supported as, while the cone-of-vision encroaches over the rear corner of the adjoining dwelling (No. 6 Rule Street), no openings nor outdoor living are overlooked and as such, the variation does not comprise the privacy of this dwelling (refer also, aerial and site photos).

*iii. First Floor (view north-east to 8 Rule Street) – Rear Terrace*

The variation is supported under the design principles of the R-Codes as the cone-of-vision, while encroaching over the site to the rear, only overlooks an area of parking hardstand on this adjoining site and does not impact any area of outdoor living or any major openings of this dwelling (there is only a single opening along the elevation of the rear dwelling that faces the subject site and this opening is beyond the subject site to the north, refer also, aerial and site photos).

*iv. First Floor (view north-west to 4 Ainslie Road) – Front Terrace*

The variation is not supported as, cone-of-vision may afford direct overlooking of major openings of the adjoining site (4 Ainslie Road) that are behind the street setback line.

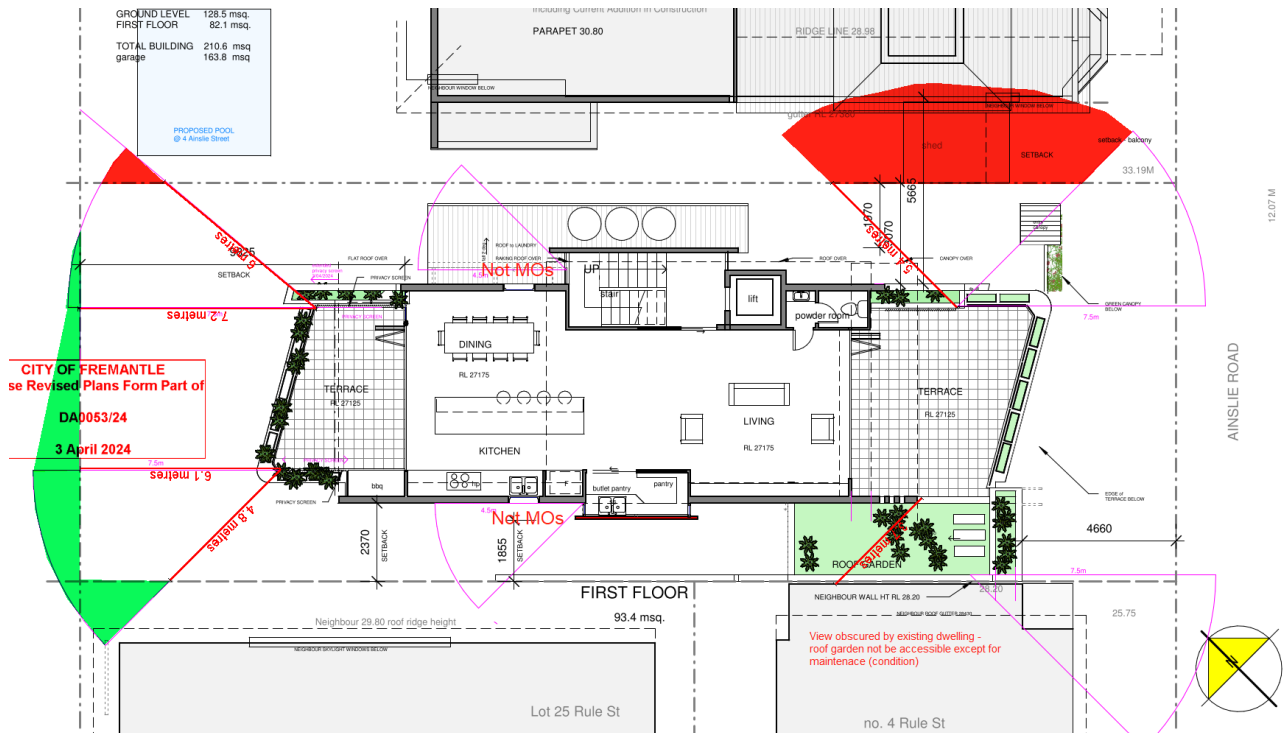
As such, a condition of approval is recommended to ensure sufficient screening or another appropriate design solution effectively addresses the visual privacy concerns and is made compliant with the R-Codes.

*v. First Floor (view west to 4 & 6 Rule Street) – Roof Garden*

The variation is not supported as the roof garden is habitable, it will afford direct overlooking from the rear of the roof garden over the



adjacent properties at 4 & 6 Rule Street. As such, a condition of approval is recommended that the roof garden is a non-habitable space and generally non-accessible except on an occasional basis for maintenance purposes only.



**Figure 5.** extract of first floor plan showing respective cone of vision assessments across the first floor of proposed dwelling, red highlight indicating where overlooking unacceptable to officers.





**Figure 6.** Aerial image of the subject site and surrounding properties.

**CONCLUSION**

In conclusion, with the exception of a number of visual privacy variations that are considered able to be addressed with appropriate conditions of approval (as discussed above), the proposal is considered to be generally well designed for its context and setting and appropriately address other relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore considered worthy of approval, subject to appropriate conditions of approval.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil



## **LEGAL IMPLICATIONS**

Nil

## **VOTING AND OTHER REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Two Storey Single House with Undercroft at No. 2 (Lot 27) Ainslie Road, North Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 20 February 2024 and 3 April 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 occupation/ use of the development hereby approved, the boundary walls located on the western and eastern elevations shall be of a clean finish in any of the following materials:**
  - coloured sand render,**
  - face brick,**
  - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 5. Prior to the lodgement of a Building Permit for the development hereby approved, revised and detailed drawings showing how the western elevations of the First Floor front AND Rear Terraces are to be screened or re-designed so as to prevent overlooking of the neighbouring property in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:**



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

**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.**

6. **The 'Roof Garden' shown on the First Floor Plan shall be non-habitable and non-accessible except on an occasional basis for maintenance purposes only, for the life of the development, to the satisfaction of the City of Fremantle.**
7. **Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
8. **Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.**
9. **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 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.**



**C2405-5      MAXWELL STREET, NO. 19 (LOT 176), BEACONSFIELD -  
DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION  
OF A TWO STOREY SINGLE HOUSE – (JD DA0017/24)**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority  
**Attachments:**  
1. Development Plans  
2. Heritage Impact Assessment  
3. Site Photos

**SUMMARY**

**Approval is sought for the demolition of an existing dwelling and the construction of a two storey Single house at No. 19 (Lot 176) Maxwell Street, Beaconsfield.**

**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:**

- **Demolition of a dwelling**
- **Primary street setback**
- **Lot boundary setback**
- **Sightlines**
- **Vehicular access**
- **Site works**
- **Solar access for adjoining sites**
- **Fences**

**The application is recommended for conditional approval.**

**PROPOSAL**

**Detail**

Approval is sought for the demolition of an existing dwelling and the construction of a two storey Single house at No. 19 (Lot 176) Maxwell Street, Beaconsfield (subject site). The proposed works include:

- Demolition of an existing dwelling and associated outbuildings/structures.
- Removal of the existing crossover.
- Construction of a new crossover.
- Construction of a two storey single house and garage
- Installation of a swimming pool.

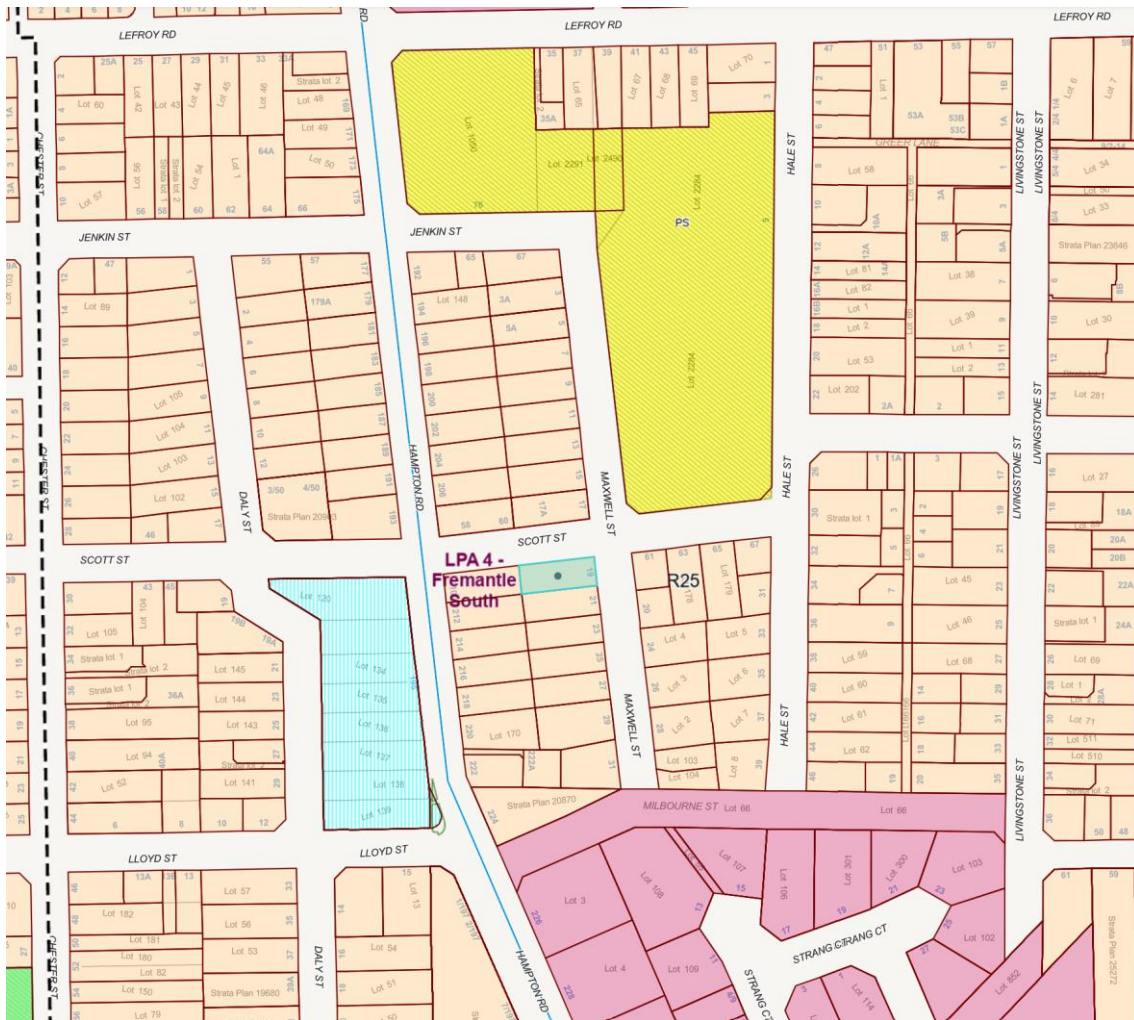




Development plans are included as attachment 1.

**Site/application information**

Date received: 19 January 2024  
 Owner name: Emily Jane Gibson & Steffen Konstantin Linke  
 Submitted by: Emily Jane Gibson  
 Scheme: Residential Zone R25  
 Heritage listing: South Fremantle Precinct Heritage Area  
 Existing land use: Single House  
 Use class: Single House  
 Use permissibility: P



**Figure 1 – Planning Context Map.**



**Figure 2 – Aerial image of the subject site.**

## **CONSULTATION**

### **External referrals**

Nil required.

### **City of Fremantle internal referrals**

*City of Fremantle Heritage*

The following comments (summarised) were provided in relation to the heritage impact of the demolition of the existing dwelling as well as the construction of the two storey Single house:

- Demolition of existing dwelling:
  - 19 Maxwell Street has little cultural heritage significance.





- It is not individually included on the Heritage List; it is not part of a significant heritage streetscape and it makes no contribution to the heritage character of the South Fremantle Precinct Heritage Area.
- Demolition of this house will have minimal impact on the heritage value of the South Fremantle Precinct Heritage Area.
- Proposed two storey Single house:
  - Maxwell Street and the adjacent parts of Scott Street have a mixed character with little heritage significance.
  - There is no distinctive pattern of heritage development to respond to and/or compliment.
  - The new house responds to established setback patterns in Maxwell Street and Scott Streets and fits with traditional development in the area that has a reduced setback on the secondary street.
  - The massing of the house respects the single storey scale of adjacent development in Maxwell Street by having a single storey section adjacent to Maxwell Street and a two-storey section set further back on the block where it will have little visual impact on the primary street.
  - The ground floor of the new house is lower than Maxwell Street which will decrease the prominence of the new house from the corner of Maxwell and Scott Streets.
  - The scale of development in Scott Street and the east side of Maxwell Street is varied with both one and two storey houses; the two storey section of the new house facing Scott Street will fit within the context of this surrounding development.
  - The surrounding development in Maxwell Street and the adjacent sections of Scott Street is mixed with a range of roof forms, proportions and openings.
  - The materials and colours used in the surrounding area are varied.
  - There is no established heritage character to respond to and/or compliment.
- Recommendation:
  - The works proposed in this application are acceptable as they will have no discernible impact on the heritage values of the South Fremantle Precinct Heritage Area.

### **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 7 March 2024, and one (1) submission was received. The following issues were raised (verbatim):

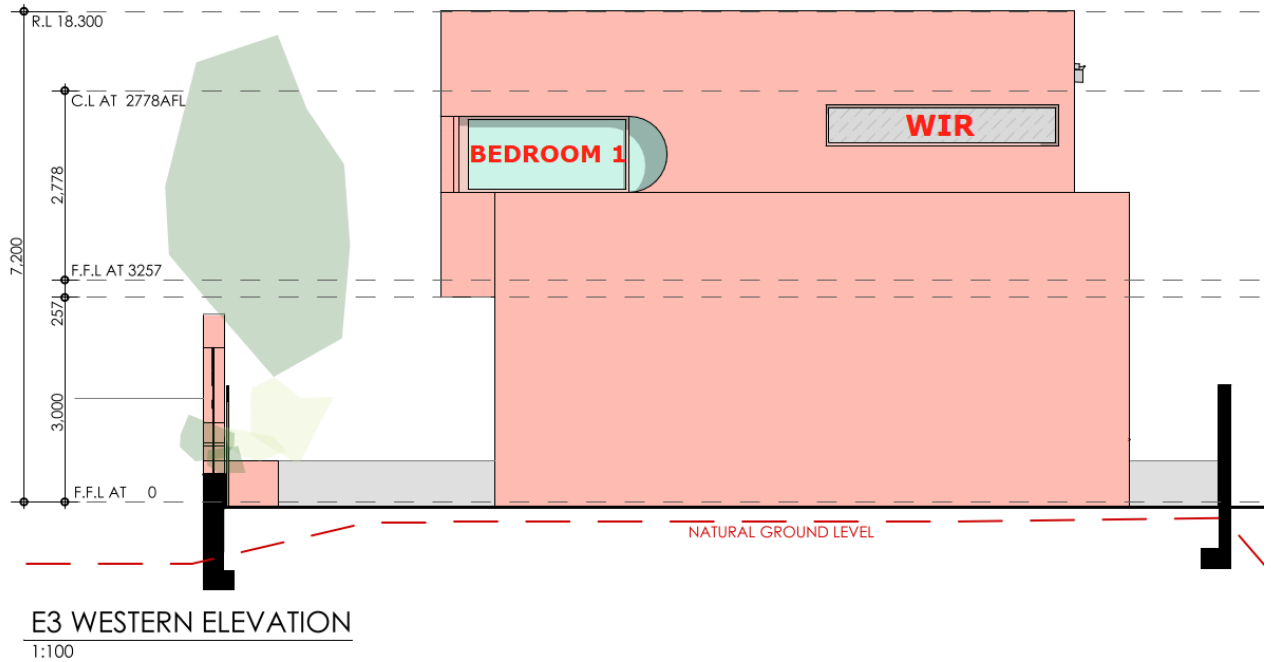
- *The west side of the proposed house has 2 windows which are of concern.*
- *As the owners of the property on the west side we would expect our visual privacy to be maintained.*



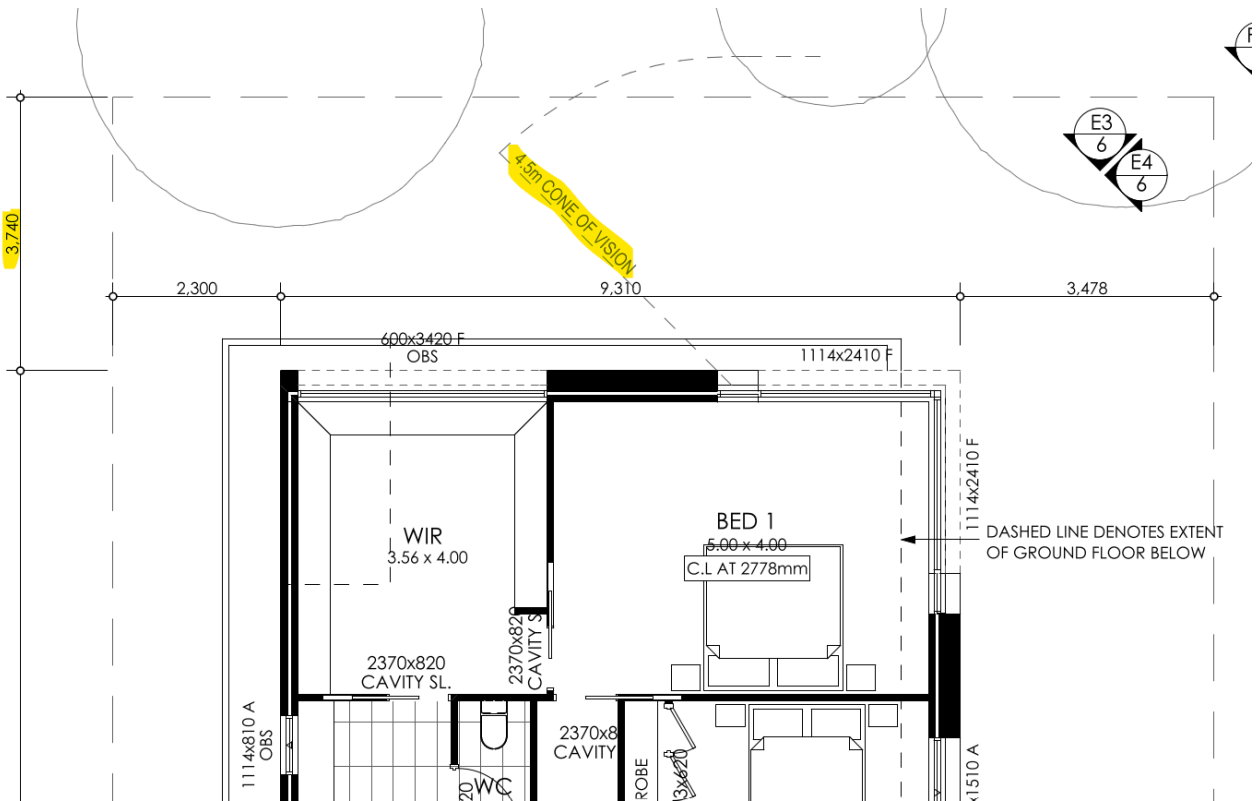
In response to the above, the following comments are provided by officers:

- The two windows referred to in the submission (Bedroom 1 and WIR) on the west elevation of the dwelling are illustrated by Figure 3 below.
- The submitter was advised that the window for the WIR will be obscured and will have a sill height above 1.6m. It is not a major opening and complies with the visual privacy requirements of the R-Codes.
- The window from bedroom 1 is subject to visual privacy requirements.
- The plans initially submitted with the application included a west boundary setback to the upper floor of 3.74m (4m to the bedroom 1 major opening which is recessed into the wall) as illustrated by Figure 4.
- This resulted in a variation to the deemed to comply setback requirement for visual privacy of 3.9m in lieu of 4.5m to a bedroom.
- The applicant was advised of the submission in relation to this variation. In response, the applicant advised that there was an error on the upper floor plan which illustrated the west lot boundary in the incorrect location. The correct setback was 4.44m (4.5m to the bedroom 1 major opening) as illustrated by Figure 5.
- An updated set of plans were received on 15 March 2024 which indicated that the major opening to bedroom 1 will achieve the 4.5m visual privacy setback requirements.
- The updated upper floor plan was cross referenced with the survey plan, site plan and ground floor plan. It is considered that the west lot boundary in relation to the upper floor is in the correct location on the updated plans which are included as attachment 1.
- The submitter was advised that the visual privacy now met the deemed to comply requirements of the R-Codes.
- As the major opening is deemed to comply, it is considered that the visual privacy of the adjoining lot to the west will be sufficiently maintained and does not require further assessment.

The remaining comments are addressed in the officer comment below.



**Figure 3** – West elevation of the proposed dwelling with the windows referred to in the submission.



**Figure 4** – Initial upper floor plan with the incorrect lot boundary location.

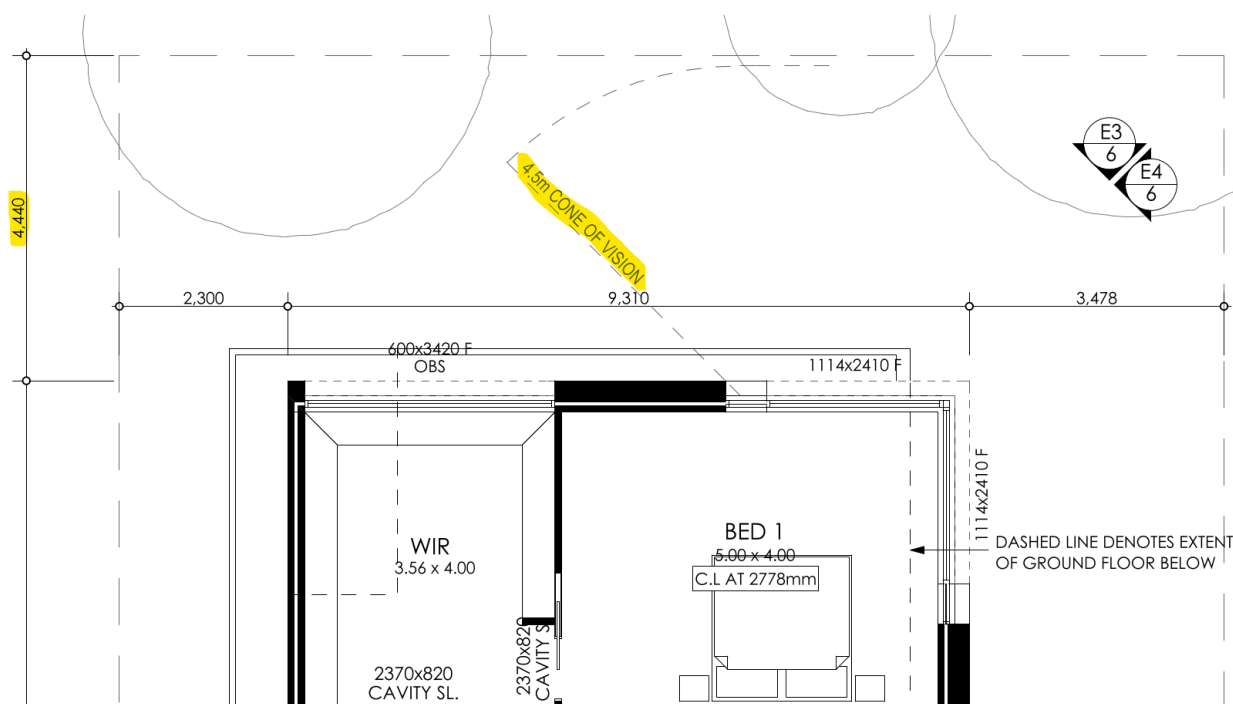


Figure 5 – Updated upper floor plan with the correct lot boundary location.

## 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:

- Demolition of a building
- Primary street setback
- Lot boundary setback
- Sightlines
- Vehicular access
- Site works
- Solar access for adjoining sites
- Fences

The above matters are discussed below.



### **Background**

The subject site is located on the corner of Scott Street and Maxwell Street (south west side of the intersection). The site has a land area of approximately 607m<sup>2</sup> and is currently occupied by a Single house which is proposed to be demolished as part of this application. The site is zoned Residential and has a density coding of R25. The site is located within the South Fremantle Precinct Heritage Area Heritage Area.

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

- WAPC159026 – Two (2) lot subdivision approval (expired as of 19/05/2023).
- Existing dwelling constructed between 1965 and 1975.

### **Land Use**

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

### **Demolition of Buildings and Structures**

LPS4 provides the following requirements for the demolition of buildings and structures –

*4.14.1 Council will only grant planning approval for the demolition of a building or structure where it is 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.*

The City's Heritage Officers have provided the following comments –

- *19 Maxwell Street has little cultural heritage significance.*
- *It is not individually included on the Heritage List; it is not part of a significant heritage streetscape and it does not contribute to the heritage character of the South Fremantle Precinct Heritage Area.*
- *Demolition of this house will make little impact on the heritage values of the South Fremantle Precinct Heritage Area.*

It is considered that the proposed demolition of a dwelling in a heritage area meets the requirements of clause 4.14.1 and as such can be supported. The Heritage Impact Assessment is included as attachment 2.

### **Primary street setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Setback (wall height >4m)	10m	3.48m	-6.52m

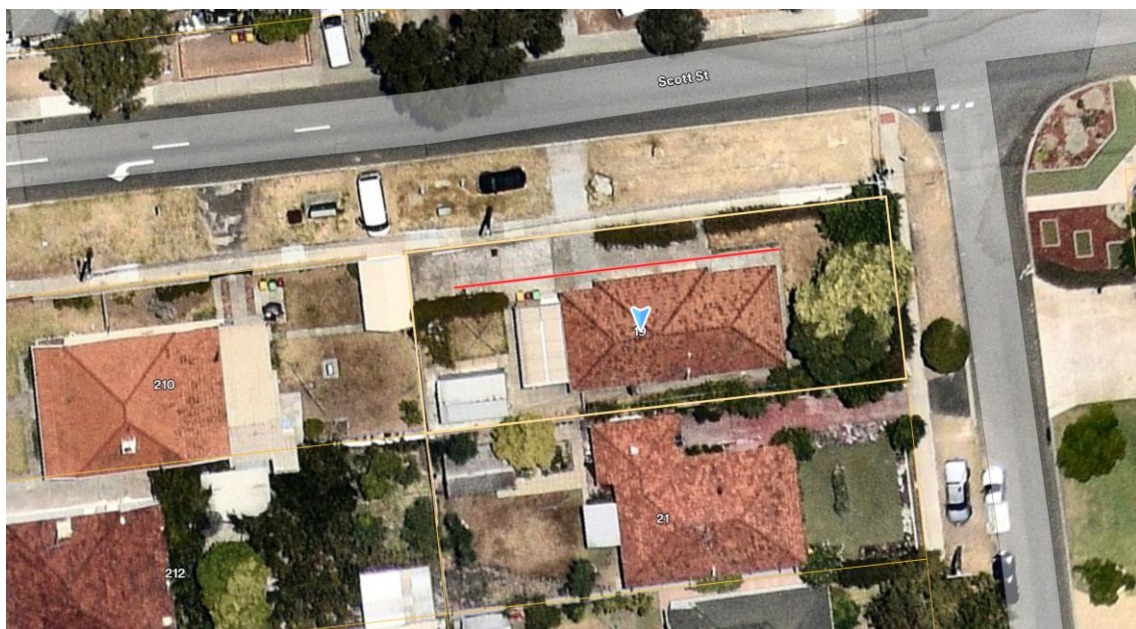
Local Planning Policy 2.9 (LPP2.9) varies the primary street setback deemed to comply requirements of the R-Codes.

The primary street setback is supported under the performance criteria of Local Planning Policy 2.9 Residential Streetscapes and the design principles of the R-Codes in the following ways:

- There are no other dwellings addressing the Scott Street as their primary street frontages between Maxwell Street and Hampton Road (i.e., there are no adjoining dwellings with the same primary street orientation).
- It is therefore considered that there is no prevailing streetscape (i.e., there are no properties adjoining either side of the subject site, fronting the same street and in the same street block).
- Under clause 1.2 of LPP2.9, variations to the deemed to comply street setback can be considered:

*iv. Where there is no prevailing streetscape;*

- Regardless of this, the primary street (Scott Street) setback of the proposed dwelling is generally consistent with the adjoining dwelling to the west.
- The proposed dwelling will not result in a protruding element into the streetscape as indicated by Figure 6 below.



**Figure 6** – The subject site addressing Scott Street with no prevailing streetscape (approx. setback of proposed dwelling indicated in red).





**Lot boundary setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
South lot boundary setback (kitchen / ground floor wall)	2.3m	1.5m	-0.8m

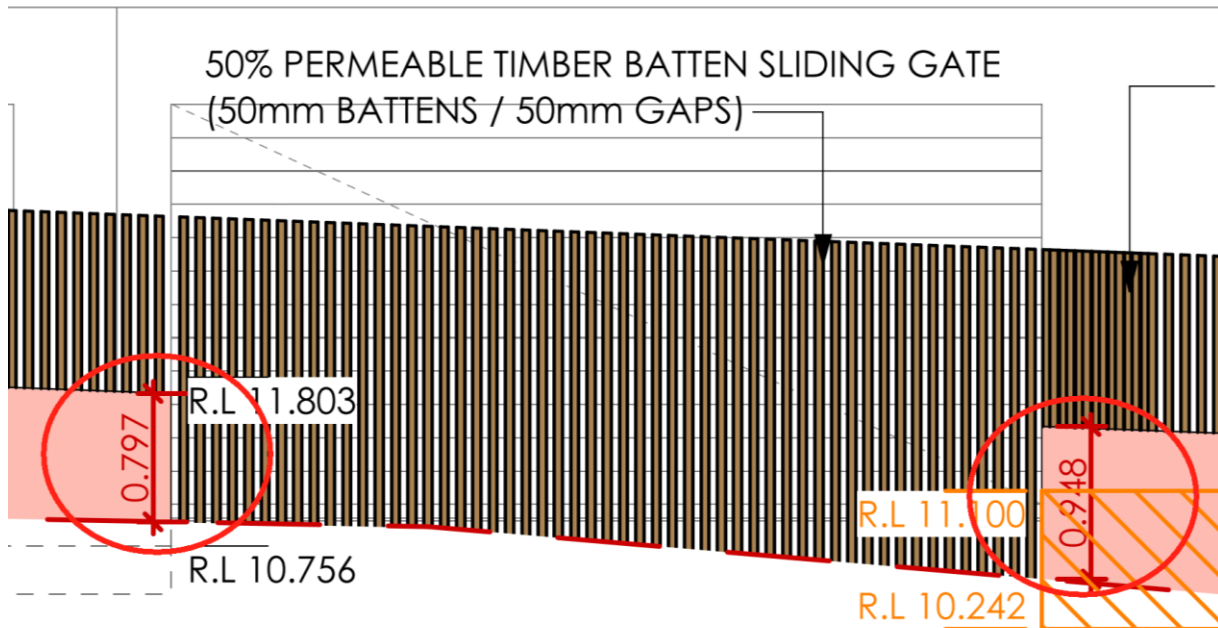
The lot boundary setback is considered to meet the Design principles of the R-Codes in the following ways:

- The additional setback of 2.3m in lieu of the 1.5m provided is required due to the major opening to the kitchen window (i.e., if this was not a major opening the setback would be deemed to comply). However, it is not considered that this major opening will result in any additional impact on the amenity of the adjoining property as the FFL is at ground level and there will be no visual privacy implications. It is therefore considered that the proposed 1.5m setback to the ground kitchen wall is sufficient to mitigate any potential impact resulting from building bulk and/or scale.

**Sightlines**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Sightlines to driveway that intersects a street	Walls, fences and other structures truncated or reduced to 0.75m in height within 1.5m	Fence to 2m in height (solid to 0.797m) within 1.5m of driveway	1.25m over height

A condition is recommended that the primary street fence shall be truncated or reduced to 0.75m height within 1.5m of vehicle access points and street corners in order to comply with the sightline requirements of the R-Codes.



**Figure 7** – The location of the driveway in proximity to the front fence.

**Vehicular access**

Element	Requirement	Proposed	Extent of Variation
Access	Secondary street	Primary street	Primary street in lieu of secondary street
Driveway width	3m minimum width	2.7m	Complies

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

- The existing vehicular access is taken from Scott Street which is the same street as the existing crossover as illustrated by Figure 8 below.
- The crossover will not result in a detrimental impact on the existing streetscape as it merely replaces an existing crossover to site today.
- The proposed single width vehicular access designed around the existing verge infrastructure (Street power pole, NBN box and other Telstra pits and domes) is safe, legible and aligned at a right angle to the street and is sufficiently setback (1m) from the existing verge infrastructure.
- The secondary street (Maxwell Street) features an approximate 1m decrease in ground level (from the street to the subject site) which would require a significant setback to the dwelling to allow for an appropriate driveway gradient.
- A condition is recommended that the existing crossover is removed and the verge reinstated.



- It is considered that the minor reduction in crossover width (2.7m in lieu of 3m) will still be sufficient for a vehicle to enter and exit the site at a time.
- The manoeuvrability of a vehicle in either space in the double garage to enter and exit the site appears satisfactory and manageable.



**Figure 8** – Existing crossover and the approximate location of the proposed crossover marked in red.

**Site works**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Retaining wall in street setback area	No greater than 0.5m above or below natural ground level	1.1m retaining above NGL (west end) 1.6m below natural ground level (east end)	0.6m above NGL -1.1m below NGL
Retaining on east side boundary	No greater than 0.5m below natural ground level	1.2m above natural ground level	0.7m



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

- The site works are considered necessary to stabilise the lot and provide a level surface for the development.
- The raised level of the site to facilitate the proposed dwelling is within 100mm-200mm of the existing ground level.
- The retaining is necessary to stabilise the difference in gradient between the street levels and the subject site.
- The proposed development responds appropriately to the existing contours of the site.
- The extent of retaining/excavating will have no detrimental impact on the adjoining properties as there will be no significant changes to the existing ground levels.
- A condition will be applied requiring the retaining walls to be contained entirely within the subject site.

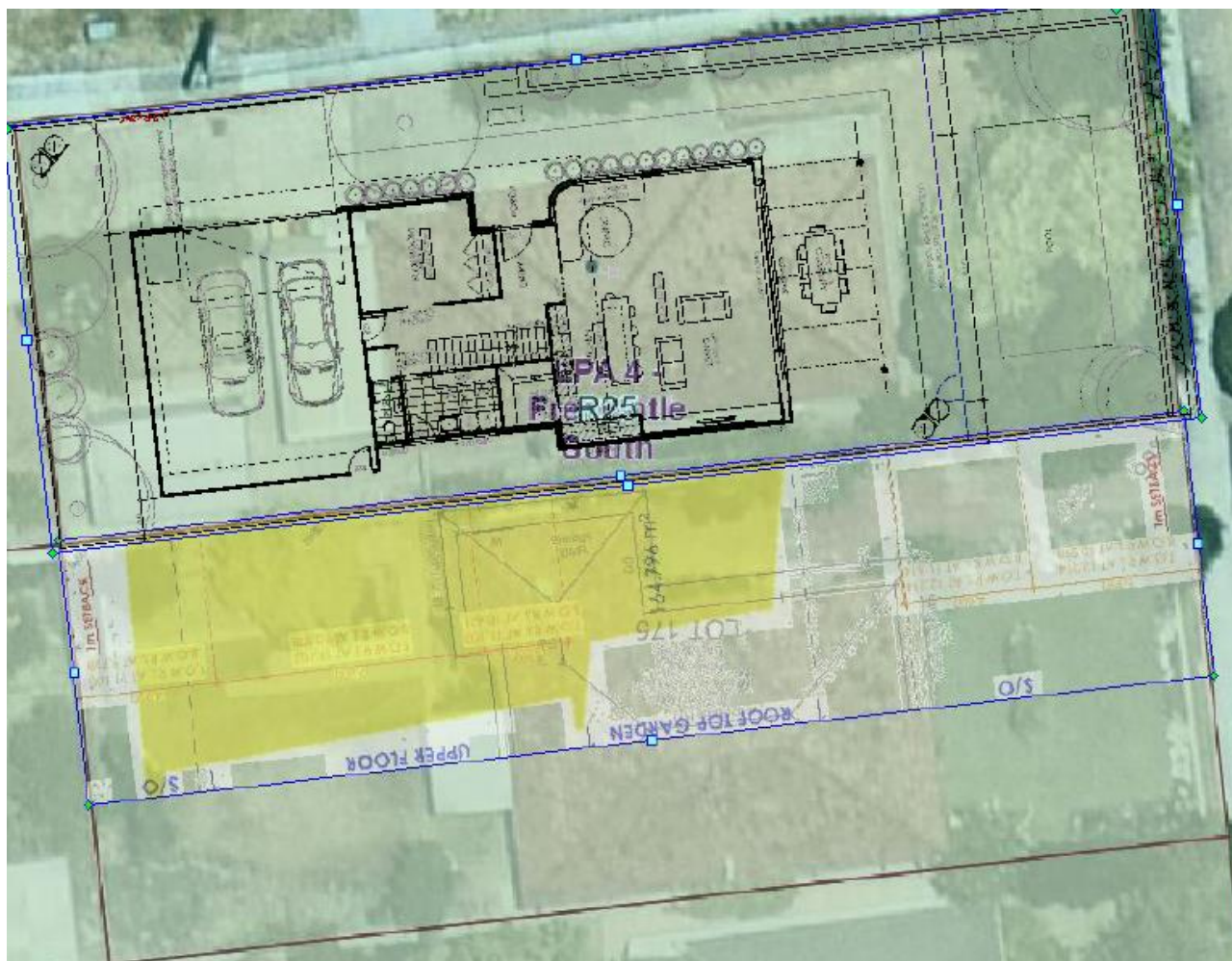
**Solar access for adjoining sites**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Overshadowing	25% of adjoining site / 151.75m <sup>2</sup>	26.85% / 163m <sup>2</sup>	1.85% / 11.25m <sup>2</sup>

The solar access for adjoining sites is considered to meet the Design principles of the R-Codes in the following ways:

- The proposed 1.85% variation to the deemed to comply is considered moderate and should not result in any significant amenity impact on the adjoining property.
- The approximate area of overshadowing is illustrated by Figure 9 below which will fall largely on the driveway and garage on the adjoining lot as well as a portion of area behind the garage and over the rear outbuilding.
- There is a kitchen window on the adjoining dwelling immediately to the south of the subject site. The original building plans on the adjoining lot were obtained, based on a 5.5m setback from the side boundary, and a sill height to the kitchen window of 2.1m, it is considered that the overshadowing should not completely overshadow the kitchen window during the darkest period of the year.
- It is considered that the major opening to the neighbour’s kitchen will still receive an adequate degree of sunlight at all times of the year and any significant restriction to solar access will be minimised due to the angle of the shadow cast across the adjoining site.
- The existing outdoor living area on the adjoining property to the south is located away from the area of overshadowing (to the south side of the lot) and will not be significantly overshadowed.
- There are no solar panels on the adjoining property’s dwelling.





**Figure 9** – Approximate extent of overshadowing illustrated in red.

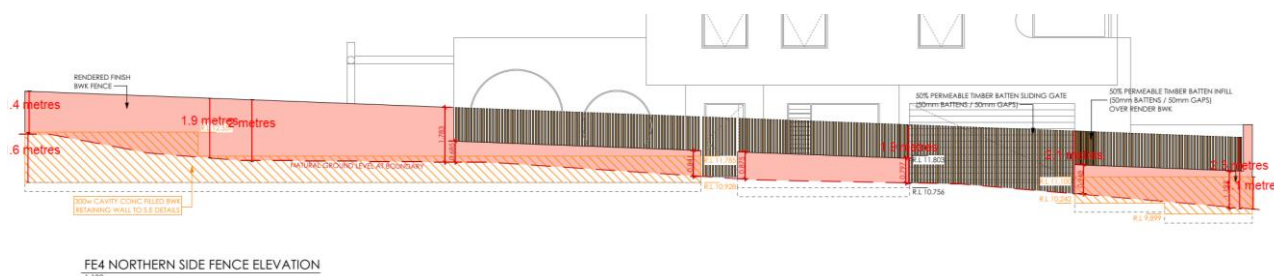
**Fences**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Primary Street maximum height	1.8m	1.4m-2.3m	Max. 0.5m
Visually permeable portion	1m	1.197m-2m	0.197m-1m

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

- The proposed variations to the provisions of LPP2.8 are relatively minor and are indicated in Figure 10 below.
- The portions of fence that are solid to 1.197m (as measured from the ground level of the footpath) is a result of the fall in ground level on the streetscape and the moderate fill proposed within the site.

- The solid portion of fencing is proposed to provide privacy to the outdoor living area located to the east of the dwelling (in the corner located on Scott/Maxwell Street intersection).
- The primary street fencing will adjoin the secondary street fencing on the adjoining lot to the west which is solid to 1.8m in height.
- The portion of Scott Street opposing the primary street fencing is characterised by a mix of high walls and solid fences.
- There is no clearly defined character of fencing in the surrounding area.
- It is considered that the fencing is of an acceptable design and scale and will contribute to the amenity of the area while providing privacy to the outdoor living area on the east side of the dwelling.



**Figure 10 – Primary street fencing located on Scott Street.**

## **State Planning Policy**

### *State Planning Policy 3.5 - Historic Heritage Conservation*

Clause 6.6 Development Control Principles of State Planning Policy 3.5 – Historic Heritage Conservation (SPP3.5) includes provisions for demolition and development in heritage areas. The proposed demolition of the existing dwelling and the construction of a Single house is consistent with clause 6.6 of SPP3.5 for the following reasons:

- The subject site is located within a heritage area however, it is not individually heritage listed.
- The existing dwelling has been assessed as having little heritage significance.
- The retention of the dwelling will provide little community benefit and will not contribute significantly to the heritage significance of the surrounding heritage area.
- The proposed dwelling is situated appropriately on the site such that it will not result in a protruding element into the established streetscape.
- The architectural design of the proposed dwelling is not attempting to mimic any historical heritage features of the surrounding area. It is considered to be a high quality design and will contribute to the character and amenity of the area.





**Local Planning Policy 3.6 – Heritage Areas**

<b>3.4 Demolition</b>	
<b>3.4.1 Intent</b>	<b>Officer Comments</b>
<p>Demolition is a permanent change that cannot be reversed: even removal of places with lower levels of individual heritage significance can cumulatively undermine the significance of a heritage area. Demolition of any building or structure on any site located in a Heritage Area requires development approval under the Local Planning Scheme. In considering a proposal for demolition on any site in a Heritage Area where the mapping of Contributory Places has not been completed and/or is incomplete, the Council shall determine whether any fabric located thereon qualifies as a Contributory Place and applications will be assessed against Clause 4.14 of Local Planning Scheme No. 4 with the following providing additional guidance.</p>	<p>The City’s Heritage Officers have provided the following comments –</p> <ul style="list-style-type: none"> <li>• <i>19 Maxwell Street has little cultural heritage significance.</i></li> <li>• <i>It is not individually included on the Heritage List; it is not part of a significant heritage streetscape and it makes no contribution to the heritage character of the South Fremantle Precinct Heritage Area.</i></li> <li>• <i>Demolition of this house will make little impact on the heritage values of the South Fremantle Precinct Heritage Area</i></li> </ul>
<b>3.6.2 Design Guidance</b>	<b>Officer Comments</b>
<p>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.</p> <ul style="list-style-type: none"> <li>• Demolition approval will not be considered on the grounds of economic or other perceived gain for the redevelopment of the land.</li> <li>• Condition of the place is not necessarily an acceptable reason for demolition.</li> </ul> <p>ii. 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.</p> <p>iii. The removal and replacement of asbestos or other hazardous materials from a place located within a heritage</p>	<p>As mentioned above, the subject site is not considered a contributory place. The demolition of the existing dwelling will have no significant impact on the heritage significance of the South Fremantle Precinct Heritage Area.</p> <p>No condition requiring an archival record of the place is considered necessary or appropriate.</p>



<p>area is supported if the removal involves the immediate replacement with a matching (but non-hazardous) material (e.g. flat asbestos wall sheeting with joint cover battens is replaced with flat fibre cement sheeting with joint cover battens in the same configuration – a replacement with timber weatherboards or fibre cement weatherboards would generally not be supported).</p> <p>iv. Where demolition of a heritage protected place is approved, an archival record prepared in a format approved by the City may be required as a condition of planning approval.</p>	
<p><b>3.6 Infill development (new buildings)</b></p>	
<p><b>3.6.1 Intent</b></p>	
<p>New buildings within a heritage area should respect and complement the heritage significance of the area. A respectful design approach gives special consideration to the siting, scale, architectural style and form, materials and finishes of the proposed development in relation to its neighbours, without copying historic detailing or decoration. New infill buildings should respond sympathetically to the heritage values of the heritage area as a whole, and also to that part of the heritage area in the vicinity of the proposed development. Imaginative, well designed and harmonious construction is encouraged. Professional architectural services can be of great assistance in formulating appropriate designs.</p>	<p><b>Officer Comments</b></p> <p>The proposed two-storey dwelling is considered to complement the South Fremantle Heritage Area.</p> <p>Maxwell Street and the adjacent parts of Scott Street have a very mixed character with little heritage significance. There is not considered to be a distinctive pattern of development which defines the surrounding area.</p> <p>A contemporary building such as the proposal is therefore considered to be appropriate in the context of the area.</p> <p>It does not appear that the proposed dwelling is attempting to mimic or copy any historic detailing or decoration rather it is responding to the heritage area as a whole by proposing a well-designed building that will compliment the area.</p>
<p><b>3.6.2 Design guidance</b></p>	
<p><b>Siting and Scale</b></p> <p>i. New infill development within a heritage area should:</p>	<p><b>Officer Comments</b></p> <p>The setback of the proposed dwelling is generally consistent with properties in the surrounding area. However, there is no prevailing streetscape (i.e., there’s no</p>



<p>a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns.</p> <p>b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then the new infill development should also be (or present as) single storey (at least to the front section of the lot).</p> <p>c) Have a plate height consistent with the original street pattern. New developments often propose a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.</p> <p>ii. New Infill development to secondary streets will be assessed on individual circumstances and merit. Issues to consider include:</p> <p>a) Prevailing streetscape and setbacks of the side street</p> <p>b) Avoiding a continuous wall and providing articulation of walls to a secondary street.</p> <p>c) Avoiding a two-storey height wall to the side street, unless the prevailing streetscape is predominantly two-storey.</p> <p>iii. Street setbacks deemed to comply with the above are specified in Schedule 1 for some areas.</p>	<p>adjoining properties with the same primary street).</p>
<p><b>Building Form</b></p> <p>The form of the building is its overall shape, size and the general arrangement of its main parts.</p> <p>i. New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing.</p> <p>ii. Where a building form is highly repetitive, significant departures in form</p>	<p><b>Officer Comments</b></p> <p>The surrounding area is characterised by a mix of single and two storey dwellings dating from the 1960’s to recent decades. There is no clearly defined character of houses in this area of the South Fremantle Precinct Heritage Area. The proposed dwelling is not attempting to mimic any heritage features which may have characterised the surrounding area. The proposed dwelling has been</p>



<p>will appear at variance to the streetscape and should not be introduced.</p> <p>iii. The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.</p> <p>iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.</p> <p>v. Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</p>	<p>designed to provide a contemporary addition to the streetscape. The design of the dwelling is considered to be of a high quality and will not have a dominant appearance on the streetscape (of which there is no clearly defined character).</p>
<p><b><i>Materials, Colours and Detailing</i></b></p> <p>i. Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.</p> <p>ii. Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.</p> <p>iii. Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical precedent for their use can be demonstrated.</p>	<p><b><i>Officer Comments</i></b></p> <p>The masonry construction in a soft, earthy colour palette will not provide any significant distraction or detrimental impact on the streetscape.</p> <p>The flat roof design will allow for the maintenance of views to the dwellings to the east (which have views towards the ocean).</p> <p>No glossy materials or finishes are proposed.</p>



<b>Other Elements</b>	<b>Officer Comments</b>
<p><i>Roofs</i></p> <p>i. Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.</p> <p>ii. Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.</p> <p><i>Verandahs / Porches / Awnings</i></p> <p>i. Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing.</p> <p><i>Doors and Windows</i></p> <p>i. All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.</p> <p>ii. Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.</p>	<p>There is no predominant character of buildings in the surrounding area.</p> <p>The major openings addressing the primary street are tall and arched and provide an interesting architectural feature for the street. It is not considered that this will detract from any perceived heritage character of this area.</p> <p>The front entry to the site/dwelling is clearly defined and addresses the street. The proposed dwelling will contribute to the character of the south side of Scott Street as the only adjoining dwelling located to the west has Scott Street as their secondary street (which features standard 1.8m solid dividing fence along that aspect).</p>

**CONCLUSION**

As discussed above, the proposed variations address the relevant design principles of the R-Codes and policy provisions with no significant impact to the amenity of the adjoining neighbours. As such, the proposed development is recommended for conditional approval.



## STRATEGIC IMPLICATIONS

### Green Plan 2020

1. The site will be cleared of all existing trees/vegetation.
2. A condition is recommended which will require a landscaping plan to be provided in accordance with the R-Codes.
3. No DA is required for the removal of trees on private land.

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATION

Nil

## VOTING AND OTHER REQUIREMENTS

Simple majority required.

## OFFICER'S RECOMMENDATION

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Demolition of existing Dwelling and Construction of a Two Storey Single House at No. 19 (Lot 176) Maxwell Street, Beaconsfield, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 15 March 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 application for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree, 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.**





- 4. Prior to lodgement of a Building Permit application for the development hereby approved, the primary street fence shall be truncated or reduced to 0.75m height within 1.5m of vehicle access points and street corners in order to provide adequate sight lines or otherwise comply with Clause 5.2.5 C5 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans and maintained for the life of the development to the satisfaction of the City of Fremantle.**
- 6. 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.**
- 7. 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.**
- 8. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 9. 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 demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
- ii. 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.**
- iii. An application for building permit for the swimming pool barrier must be submitted and building permit issued prior to filling the swimming pool with water.**



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



- **mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;**
- **vehicles;**
- **amplified acoustic systems; and**
- **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.**

- 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 the existing verge tree is to be protected during the construction process with a minimum 2.8x2.8m fencing enclosure.**



**C2405-6 FINAL ADOPTION – SCHEME AMENDMENT NO. 87 TO LOCAL PLANNING SCHEME NO. 4 – THE FREO ALTERNATIVE REVIEW**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Strategic Planning and City Design  
**Voting requirements:** Simple Majority  
**Attachments:**  
1. Schedule of Submissions  
2. Scheme amendment report

**SUMMARY**

**“The Freo Alternative”, was gazetted on 12 February 2019 and inserted Special Control Area 5.7 (SCA 5.7) into Local Planning Scheme No. 4 (LPS4) to permit small infill development in specified areas, subject to a sunset clause that would cause the SCA to expire after a period of five years.**

**The City has monitored and evaluated the developments created under the SCA provisions and has found that while they have been relatively successful, there have been few developments for several reasons, including the impact of COVID-19. City officers are confident in the merit of the Freo Alternative initiative and advocate for extension of the project to allow for further development, to thoroughly trial the SCA provisions. Consequently, Amendment No. 87 was prepared to amend sub-clause 5.7.7 of LPS4, which proposes keeping the SCA 5.7 provisions in place for a further seven-year period.**

**Public submissions received in response to Amendment No. 87 were varied in response. Supporters of the Freo Alternative and its extension highlight its potential to increase housing density, affordability, and environmental sustainability. Objectors express doubts about the effectiveness of the Freo Alternative, due to its limited uptake, and state concerns resulting from the developments. Other submitters advocate for a return to the original principles and intentions of the Freo Alternative, focusing on moderately-sized dwellings that promote the retention of gardens, urban forest canopy and neighbourhood character and amenity.**

**This report recommends that Council resolve to adopt amendment No. 87 to amend sub-clause 5.7.7 of LPS4 to extend the SCA provisions by a further seven years, subject to modification to reduce the maximum floor area for dwellings from 120m<sup>2</sup> to 90m<sup>2</sup> and set a minimum bedroom dimension of 3.0 metres. This adjustment is in response to submissions concerning loss of urban forest canopy, open space, and the need for a small housing typology. It also reflects the original intent of the amendment to foster housing diversity through modest homes and liveable spaces.**



**Should the application of the SCA be extended, a more comprehensive review would be undertaken after an extended trial period, to investigate whether The Freo Alternative development pathway could be streamlined and / or the SCA expanded to apply to a wider area, and if provisions could be further amended to achieve greater diversity of housing in established suburbs.**

**BACKGROUND**

The Freo Alternative began as a community engagement process that ran in late 2016, exploring the idea of smaller housing in Fremantle with the community. The purpose of the project was to find a community-led alternative to traditional infill development in residential suburbs that would address the deficiencies of making widespread increases to residential density codes (leading to loss of open space, loss of urban forest canopy etc.) and the need for diversity in housing to cater for the trend in smaller household size. From the community engagement process, eight themes were derived with an objective for each. Planning provisions were then built around these themes and objectives (detailed in Figure 1 below).

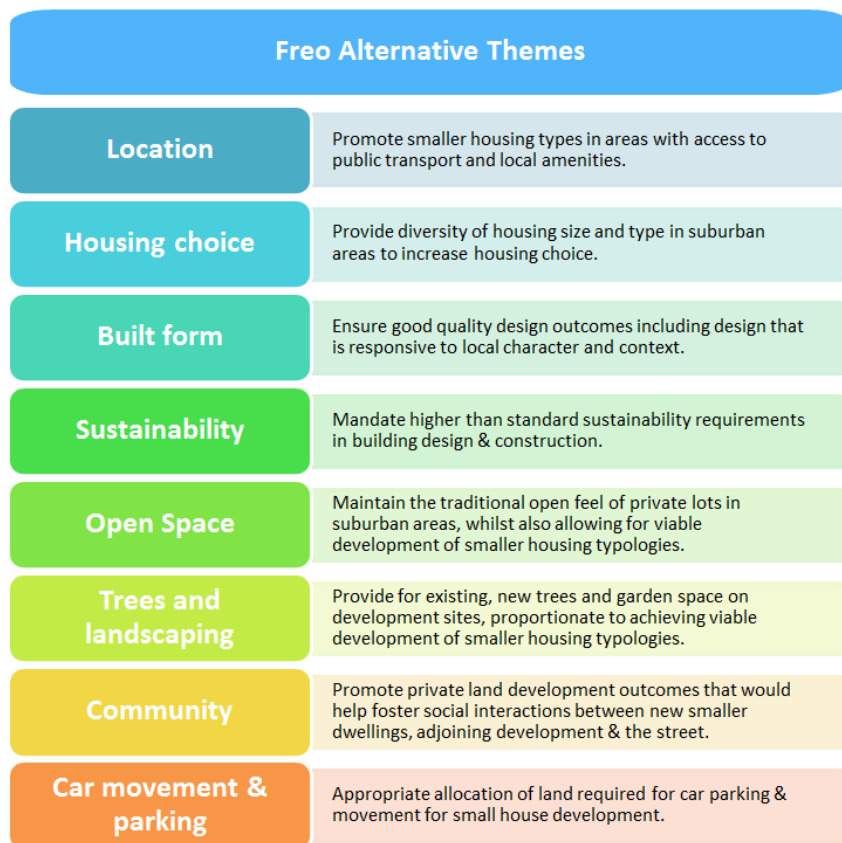


Figure 1. Community derived themes



**Amendment No. 63**

Amendment No. 63, which was gazetted on 12 February 2019, was based on The Freo Alternative themes and inserted Special Control Area 5.7 (SCA 5.7) into LPS4, specifying the requirements for small infill development and where it may be permitted. Several areas were considered, but the amendment ultimately included the areas shown in Figure 2 below. It is pertinent to note that the majority of these areas are subject to the R20 / R25 residential density code, with one area in the suburb of Fremantle, between High and Marmion Streets, coded R30.

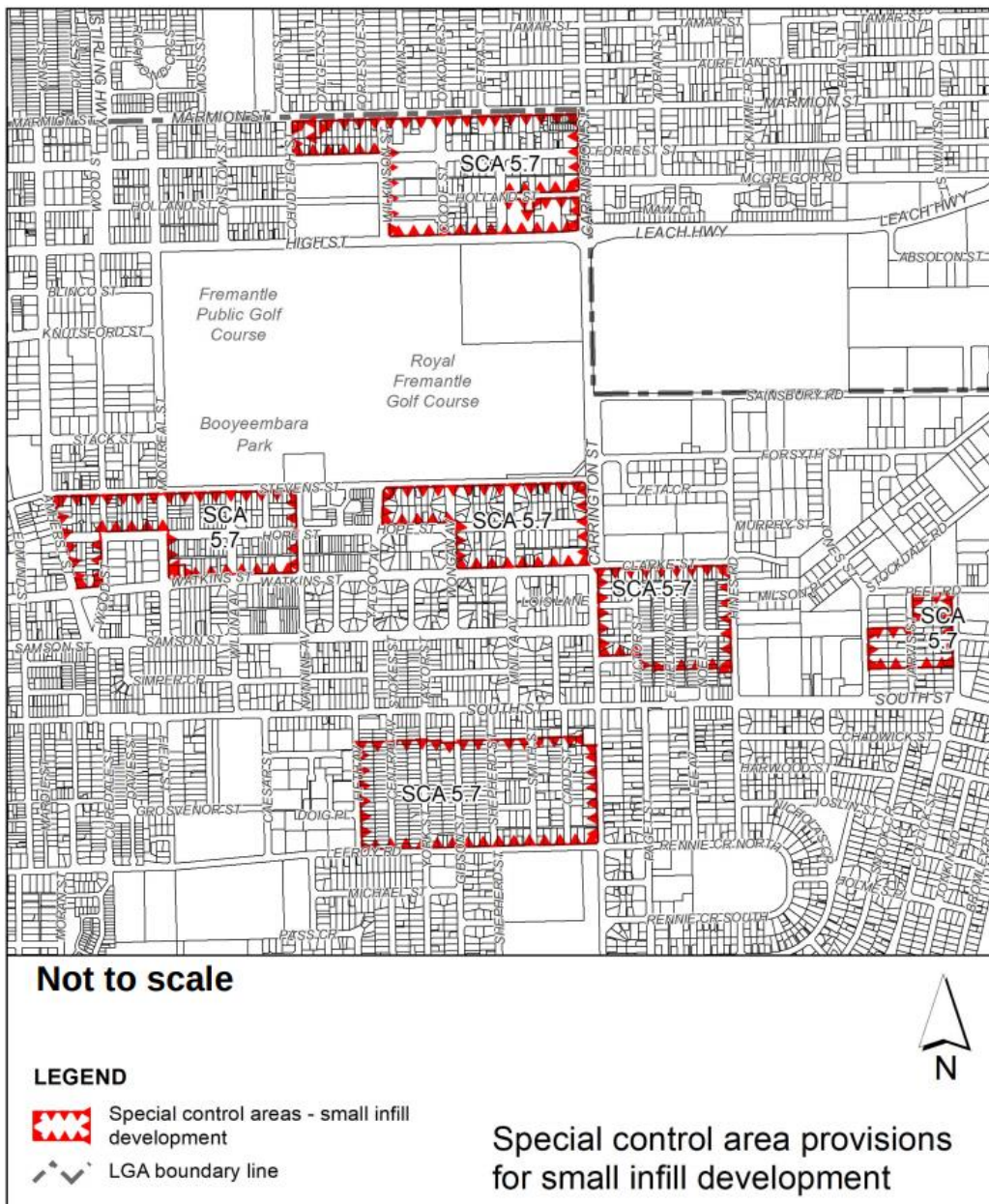


Figure 2. Special Control Area 5.7





Under The Freo Alternative provisions, in these areas a suspension of the R-Codes' minimum and average site area and plot ratio requirements can be considered for an alternative smaller housing type on land where the lot is over 600m<sup>2</sup> in area and specific planning requirements are adhered to. These specific planning requirements include:

- Maximum dwelling floor area of 120m<sup>2</sup>.
- Maximum number of dwellings – three dwellings, including any existing dwelling(s), on lots 750m<sup>2</sup> or less. On lots over 750m<sup>2</sup> one additional dwelling would be allowed for every 150m<sup>2</sup> in excess of 750m<sup>2</sup>.
- 70% open space requirement.
- A requirement for 25% of the site to be a deep planting zone.
- The requirement for planting or retention of a tree.
- Specific car parking requirements.
- Consideration required by the City's Design Advisory Committee.

These requirements are not capable of being varied under the City's Scheme and can only be applied to the development of grouped and / or multiple dwellings and do not apply to subdivision applications. However, subdivision, may be permitted once a development is complete.

Under the provisions of SCA 5.7, sub-clause 5.7.7 reads:

*"Clause 5.7 and associated sub-clauses shall cease to have effect on the date of the fifth anniversary after publication in the Gazette of the amendment introducing those provisions into the scheme."*

Accordingly, the Freo Alternative / Special Control Area (SCA) provisions expired on 12 February 2024.

The amendment was originally submitted to the WAPC without this sunset clause. However, the Minister for Planning asked for minor modifications prior to gazettal of the amendment and, as part of these, the sunset clause was added to the provisions.

Correspondence between City and DPLH officers indicates that the sunset clause was applied as it had previously been implemented in the City's Local Planning Scheme in 2011 on an amendment with provisions that were at variance to the Residential Design Codes. The City first asked that a sunset clause not be applied to enable review at a juncture the City considered appropriate. Failing this, the City asked for a 10-year sunset clause as a more appropriate term to trial the initiative. The reasons being that the amendment:

- a) only applied to relatively small areas
- b) proposed a significantly different approach to development than a conventional up-coding



- c) landowners would have their own priorities to consider for redevelopment.

These reasons coupled with a general design, approval and construction timeframe of around two years meant that uptake and construction would be limited within the five-year period, resulting in little opportunity to consider the operation of the dwellings much beyond the construction phase i.e., impacts on parking, liveability etc.

The City's concerns regarding the sunset clause and the request for a 10-year timeframe were noted. However, the DPLH considered that the nature of the project and the absence of broader strategic planning for the City meant that a five-year timeframe was preferred by WAPC. The intent of the sunset clause was to encourage the City to monitor the effectiveness of any outcomes of the amendment during this time and consider any further amendments, including extending the sunset clause, if it considered necessary.

### **Local Planning Policy**

Local Planning Policy 3.20 – Special Control Area Provisions for Small Infill Development (LPP 3.20) was adopted to support the SCA 5.7 provisions in LPS4. It is also based on the themes derived from community engagement on The Freo Alternative. It provides design guidance on some matters and, in a manner similar to the R-Codes, 'deemed-to-comply' and 'design principles' solutions for meeting the SCA provisions. The 'design principles' allow minor variations to be made to some of the SCA provisions where the solution demonstrates an appropriate outcome or offers some other benefit.

A more detailed background to The Freo Alternative / Special Control Area 5.7 is provided in item C2311-12, which was determined at the Ordinary Meeting of Council on 22 November 2023.

### **Medium Density Codes**

Medium Density Housing Codes, as an amendment to State Planning Policy 7.3 – Residential Design Codes (R-Codes), came into effect on 10 April 2024, including provisions that will allow for a staged transition to the new standards over a 24-month period. The purpose of the medium density housing code amendment is to deliver greater housing choice across the state to reflect changing lifestyles and housing needs, and to create more vibrant communities.

While the Medium Density Codes were originally intended to apply to all single houses and grouped dwellings coded R30 and above, revisions prior to their release have reduced the number of changes that apply to R30 and R40-coded Single Houses and Grouped Dwellings. These changes include:

- R30 – 40 Single House development standards per Part B of the R-Codes (2021 standards).
- R30 – 40 Grouped Dwelling development standards per Part C of the R-Codes with no:



- Minimum bedroom area or dimension
- Minimum primary living space area or dimension
- Minimum depth for a single aspect primary living space
- Courtyard proportions relative to adjoining wall height.
- Retain current 2021 open space standards in place of Part C site cover standards for a period of 24 months.
- Retain Planning Bulletin 112/2016 R-MD provisions for R25 – R40.
- The titles of Parts B and C will not refer to “Low” or “Medium” density.

To maintain opportunities for greater housing diversity, it is also proposed to:

- Maintain incentives for Small Dwellings and Accessible Dwellings in areas coded R30 and above.
- Enable Ancillary Dwellings (granny flats) associated with Grouped Dwellings or on strata lots under all density codings (previously only applicable to Single House sites) and remove the minimum 350m<sup>2</sup> lot size requirement.
- Delete deemed-to-comply provision 5.5.1 C1(v) in Part B which states: “ancillary dwelling is designed to be compatible with the colour, roof pitch and materials of the single house or grouped dwelling on the same lot”.

The Medium Density Codes cater to a different density cohort than SCA 5.7; The Freo Alternative is niche in that it allows for a smaller housing type in established low-density suburban areas.

### **Outcomes**

Since the gazettal of Amendment No. 63, there have been four developments approved under the SCA 5.7 provisions. Notably, all are located within a 250-metre radius of one another, though they vary in typology and layout. Their addresses, development application numbers, building typology, and development status are as follows:

- 11 Smith Street, Beaconsfield – DA0464/19 – Two three-bedroom, two-bathroom two storey dwellings behind an existing dwelling – Constructed and subdivided
- 5 Montgomery Street, Beaconsfield – DA0406/19 – Four three-bedroom, two-bathroom two storey dwellings – Constructed
- 148 Lefroy Road, Beaconsfield – DA0334/20 – Three two-bedroom plus additional bedroom / study, two-bathroom two storey dwellings behind an existing dwelling – Under construction
- 32 Smith Street, Beaconsfield – DA0193/22 – Two three-bedroom, two-bathroom two storey dwellings behind an existing dwelling – As yet unconstructed



## **FINANCIAL IMPLICATIONS**

Nil.

## **LEGAL IMPLICATIONS**

Nil.

The procedures for processing a standard amendment to a local planning scheme is provided for within the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Council's recommendation on this amendment will be forwarded to the Western Australian Planning Commission for final assessment and decision from the Minister for Planning. If approved, gazettal costs are borne by the City.

## **CONSULTATION**

In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the City's Local Planning Policy 1.3 – Community Consultation on Planning Proposals, a standard amendment requires a 42-day consultation period, and a complex amendment requires 60-days, with an additional seven days included to accommodate the Christmas and New Year holiday period.

Engagement on Amendment No. 87 was undertaken between 1 December 2023 and 24 February 2024 (85 days) due to the festive period. This included sending two separate letters in December and February to all property owners and occupiers within Special Control Area 5.7 and in a surrounding 250 metre radius. Direct notification was also given to those who had previously made submissions on Scheme Amendment No. 63 (The Freo Alternative / Small infill housing) and Local Planning Policy 3.20 – Special Provisions for Small Infill Development. A notice was placed in the Fremantle Herald on 2 December 2023 and a notice and information published on MySay Fremantle. City officers also held an information session at the Walyalup Civic Centre Library on 12 February which was attended by 12 community members.

Following the close of the engagement period, a total of 36 submissions had been received. In response to the question, "do you support the amendment to extend the provisions?" the following responses were recorded:

Response	Number of submissions
No	12
Yes	21
Neutral	3
TOTAL	36

As evidenced from the table above, the City received submissions expressing different views on the Freo Alternative, with some supporting its extension and



others opposing it. Most submissions were from property owners within the SCA and other residents of the City of Fremantle.

Of those received in objection, several submissions express doubts about the effectiveness of the Freo Alternative and question the limited uptake in five years due to construction cost, COVID-19, and scarcity of suitable lots available as a suitable rationale for extending the trial. They suggest that extending the initiative by seven years is excessive and may not yield significant results. They propose that it may be time to consider alternative approaches to address The Freo Alternative's failure to achieve its original aim of encouraging the development of smaller, more affordable dwellings. To date, only three-bedroom, two-bathroom dwellings have been constructed, which have not demonstrated any affordability benefits and have resulted in the removal of mature trees. Additionally, an extension of the trial without setting clear targets for success was questioned.

A number of submissions also raised concerns about the negative impact of Freo Alternative developments on existing residents' enjoyment of their homes, as well as scepticism about its effectiveness in promoting community spirit and participation. Residents share personal experiences, such as living next to developments under the Freo Alternative and facing negative impacts on their quality of life.

Several submissions detail the negative impact of further infill development in the subject areas and around future development areas, such as Gibson Park, Davis Park, and the former Beaconsfield TAFE site.

One submission also criticised the timing of the engagement period over the festive season and the clarity of the information provided for public comment, including the City's letter and accompanying information sheet.

In summary, the issues raised in submissions against the proposed amendment include: overdevelopment, loss of neighbourhood character, increased noise, parking congestion on sites and on surrounding streets, tree removal, construction noise and dust, occupancy numbers (one development is used for shared housing / FIFO worker accommodation), increased pressure on local amenities and schools, poorly designed buildings, decreased amenity for residents, and a loss of open space and urban forest canopy.

The Department of Education also expressed concern about the potential impact of increased residential infill on the capacity of local schools. They emphasise the need for balanced planning to ensure adequate schooling provision alongside residential growth.

Supporters of the Freo Alternative highlight its potential to increase housing density, affordability, and environmental sustainability, while addressing a housing need in the area. They also state that promoting diverse housing options, including smaller dwellings, offers a benefit to society by potentially



addressing housing affordability issues. They make the case that smaller dwellings can lead to more efficient land use, reduced environmental footprint, and a decreased reliance on cars. There are personal stories shared, indicating how smaller housing options could alleviate burdens on individuals, particularly those facing health challenges or financial constraints.

Some submissions also express satisfaction with The Freo Alternative, highlighting its contribution to providing diverse living options that support Fremantle's continued vibrancy.

Although generally supportive of The Freo Alternative, some submissions advocate for a return to its original principles and intentions, focusing on moderately sized dwellings that promote the retention of gardens and urban forest canopy. Suggestions for improvement include:

- removal of the 600m<sup>2</sup> lot size limit.
- reduce the maximum floor area for dwellings, e.g. 70m<sup>2</sup> or 90m<sup>2</sup> and perhaps limit the number of bedrooms in conjunction with a minimum bedroom dimension of 3.0 metres.
- require a minimum side setback.
- restrict the use of dwellings for short-term accommodation to maintain the integrity of established suburban communities.
- strengthen tree retention provisions.
- provide tours of existing developments.
- offer example design schemes / dwelling designs.
- ensure clarity in the design review process.
- expand the areas to which the SCA applies, including Hilton.
- consider more flexible design options.
- disincentivise developer-led solutions and promote the consideration of well-designed secondary and tertiary dwellings on existing sites; incentivise moderately sized dwellings that preserve the suburban feel and promote the retention of gardens and urban forest canopy, while allowing existing owners to unlock the potential of their land.

Many submissions, both in objection and support, advocate for preserving urban forest canopy and green space, expressing concerns about the loss of trees and the need for regulations to protect existing vegetation.

A full Schedule of Submissions is provided in Attachment 1.

### **OFFICER COMMENT**

Since the gazettal of Amendment No. 63, the trend of shrinking household size has continued, with little diversity in the housing typologies provided by





new developments in our suburbs. While the State’s Medium Density Code appeared to be a step in the right direction towards addressing this issue, it does not apply to suburbs with residential density codes below R30, such as those covered by SCA 5.7. It also has less impact on R30 and R40 residential density codes than originally proposed. While the provisions concerning ancillary dwellings have been loosened, an ancillary dwelling must remain in the same ownership as the primary dwelling. This removes any possibility of subdivision and therefore the potential for an individual to own their own modest home at a more affordable price point, which was one of the intents of The Freo Alternative.

Overall, there has been no significant change to state planning policy in the past five years and no other planning instrument deals with the issues that The Freo Alternative attempts to address, including a pathway to ownership of a smaller, more affordable home.

Despite delivering a small number of successful projects, the SCA provisions for small infill development are not as straightforward as standard infill housing to achieve.

A general design, approval and construction timeframe of around two years meant that uptake and construction would be limited within the five-year period, resulting in little opportunity to consider the operation of the dwellings much beyond the construction phase, i.e. impacts on parking, liveability etc.

Officers consider that the low rate of development under the SCA provisions can be attributed to several factors:

1. Available lots: SCA 5.7 is limited to specific established suburban areas (refer to Figure 2). For a development to be proposed within these areas, the lot must be available for sale or development, of sufficient size (>600m<sup>2</sup>), and have sufficient open space for development or allow for the demolition of an existing house.
2. Cost and time: Development under these provisions tends to be more expensive than standard single storey builds, as they require a bespoke design and two-storey development to meet open space (60-70%) and deep planting zone requirements. The planning approval process is lengthier due to requirements such as Design Advisory Committee assessments, while construction costs have increased markedly in the past four years.
3. Uncertainties stemming from the COVID-19 pandemic, including the subsequent economic downturn and abovementioned increase in construction costs.

While extending the provisions for an additional seven years will not directly mitigate the challenges posed by the first two factors, it is imperative not to overlook the potential value that The Freo Alternative holds. Despite the challenges of securing suitable sites in the SCA areas and the associated costs, there remains an opportunity not catered for by other planning instruments at both local and state government levels, i.e. the opportunity to introduce an alternative housing type in the City’s established suburbs. Extending the SCA provisions affords a prolonged timeframe for project scoping, design, and implementation, particularly crucial if



unfavourable economic conditions and uncertain construction cost and timeframes continue. The Freo Alternative initiative remains an opportunity to increase diversity and vibrancy in Fremantle's established suburban areas, whilst aligning with state and local strategic planning goals to increase infill development.

As urban forest canopy cover, open space, the original intent of the initiative, and the need for smaller housing typologies were raised and noted in a number of submissions, officers propose a refinement to the maximum floor area for dwellings. Currently set at 120m<sup>2</sup>, this limit had been established based on market research and aimed to accommodate either a generous two-bedroom or modest three-bedroom house. While the 120m<sup>2</sup> limit did not mandate that every dwelling must reach this size, as no minimum floor area was specified, assessment of developments approved under these provisions reveal a consistent trend towards maximising the 120m<sup>2</sup> threshold with three-bedroom designs, contrary to the intention of providing diversity in housing size.

To better align with the original intent of The Freo Alternative, it is recommended that the maximum floor area for dwellings should be revised down from 120m<sup>2</sup> to 90m<sup>2</sup> and be accompanied by a minimum bedroom dimension of 3.0 metres. This adjustment seeks to promote the development of smaller, most likely two-bedroom homes, which are more commodious than typical ancillary dwellings ("granny flats"), which are currently restricted to 70m<sup>2</sup> in floor area. It is believed that this would foster greater diversity in housing choice, while ensuring liveable bedroom sizes consistent with the Medium Density Codes. A reduced footprint may also make single-storey dwellings viable under the SCA provisions (all approved Freo Alternative developments so far are double-storey), which are more suitable for those with limited mobility and allow for ageing in place. Furthermore, a reduced dwelling footprint would also maintain more open space on a lot, which can promote the retention of urban forest canopy.

To implement this change, sub-clause 5.7.1 of the SCA provisions would be amended as follows:

"Any new dwelling shall have up to a maximum floor area of ~~120 m<sup>2</sup>~~ 90m<sup>2</sup> with a minimum bedroom dimension of 3.0 metres".

It is envisaged that if amendment No. 87 to LPS4 is gazetted to update sub-clause 5.7.7 and extend the applicability of the provisions for a further seven years, then further work would be done to review the remaining provisions and potentially the extent of SCA 5.7, particularly considering feedback from submitters and developers. Ideally, this would include streamlining the development approval process and include consideration of suggestions raised in submissions, including but not limited to:

- the 600m<sup>2</sup> lot size limit
- expanding the areas included in SCA 5.7
- side setback requirements



- improvements to increase tree retention, tree canopy coverage, and open space provision.

Such changes would likely require a further scheme amendment. LPP 3.20 would be retained and reviewed for currency. Matters that may require review in LPP 3.20 include sustainability measures and urban forest canopy. Sustainable technologies are constantly improving and there is now a move away from the use of natural gas as an energy source. There are also now significant concerns about the ongoing loss of urban forest canopy, as was expressed in the submissions.

It is therefore recommended that Council resolve to adopt amendment No. 87 to LPS4 to amend sub-clause 5.7.7, which will allow the SCA 5.7 provisions to apply for a further seven years, subject to modification to reduce the maximum floor area for dwellings from 120m<sup>2</sup> to 90m<sup>2</sup> and set a minimum bedroom dimension of 3.0 metres.

## **VOTING AND OTHER REQUIREMENTS**

Simple majority required.

## **OFFICER'S RECOMMENDATION**

### **Council:**

- 1. Note the submissions received on Amendment 87 to Local Planning Scheme No. 4 as detailed in Attachment 1.**
- 2. Pursuant to Regulation 41 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to support Amendment 87 to Local Planning Scheme No. 4 (Attachment 2) subject to modifications, as follows:**
  - a. delete 120m<sup>2</sup> from 5.7.1 a) and insert "90m<sup>2</sup> with a minimum bedroom dimension of 3.0 metres".**
- 3. Authorise the Mayor and the Chief Executive Officer to execute and affix the common seal of the City of Fremantle to the scheme amendment documentation and submit the amendment to the Western Australian Planning Commission with a request for the endorsement by the Minister for Planning.**



**C2405-7      PREPARATION OF AMENDMENT NO. 76 TO LOCAL PLANNING SCHEME NO. 4 – LOT 1488, 103 CARRINGTON STREET, LOTS 1, 2, AND 3, 396 HIGH STREET, LOT 1483, 386 HIGH STREET, LOT 51, 167 HOLLAND STREET, LOT 252, 169 HOLLAND STREET, AND LOTS 1-4 ON STRATA PLAN 65266, 171 HOLLAND STREET, FREMANTLE**

**Meeting date:** 8 May 2024  
**Responsible officer:** Manager Strategic Planning and City Design  
**Decision making authority:** Council  
**Attachments:**  
1. Proposed amendment document  
2. Modified amendment document (tracked changes)  
3. Modified amendment document (clean copy)

**SUMMARY**

**An amendment proposal has been lodged with the City on behalf of the owners of Lots 1 and 2 Carrington Street and Lots 3, 252, and 1483 High Street, Fremantle, seeking to increase the residential density coding over Lot 1488, 103 Carrington Street, Lots 1, 2, and 3, 396 High Street, Lot 1483, 386 High Street, Lot 51, 167 Holland Street, Lot 252, 169 Holland Street, and Lots 1-4 on Strata Plan 65266, 171 Holland Street from R30 to R160, and insert under clause 6.7, schedule 27 – Local Planning Areas (Development Requirements) a new Sub Area 6, containing development and built form controls that would apply to the subject lots.**

**The proposal also seeks to place an Additional Use site over Lots 1, 2, and 3 High Street to allow the consideration of Consulting Rooms, Office, and Restaurant / Café uses, subject to floorspace limitations, and to delete Special Control Area (SCA) 5.7 (small infill development) from the subject lots.**

**City officers consider the amendment proposal to be lacking in detail and justification in some areas, and that the provisions contained within are unnecessarily prescriptive, insofar as they remove potential flexibility in the design of any future development. However, the aim of the proposal is to increase the residential density permitted on the site to facilitate a variety of affordable housing and limited supporting commercial uses to cater to markets including students, NDIS participants, and those of a lower socio-economic standing. This is a desirable outcome, as it would provide a diversity in housing typology and affordability, which is lacking and would assist in combatting the current housing crisis.**

**In view of this, officers recommend that Council endorse the preparation of a modified version of the amendment proposal (see Attachments 2 and 3), to:**



- **include additional background information and justification**
- **cap additional uses at 320m<sup>2</sup> net floor area and restrict them to the ground level only**
- **include a provision setting minimum building heights within Area 2 of Sub Area 6 (see Attachment 2 for proposed plan) of two storeys for single houses and grouped dwellings, and three storeys for multiple dwellings**
- **include provisions permitting an extra two storeys within Area 2, subject to:**
  - **the provision of at least 15% social and / or affordable housing within the development that is designed and constructed to Platinum standard, as defined in Livable Housing Australia's Livable Housing Design Guidelines, to incentivise the provision of additional social and / or affordable housing**
  - **the development being of distinctive architecture befitting its location and exceptional design quality meeting, at the highest possible standard, the principles of good design under the direction of the City's Design Advisory Committee**
- **include a provision requiring that development demonstrates housing diversity by providing a range of dwelling sizes that cater for different household types, with the proportion of each dwelling size evidenced by local demographics, market demand, and neighbourhood character, to ensure inclusivity and that the development meets the varied needs of residents**
- **remove some of the more onerous building height and built form provisions in favour of the Residential Design Codes of WA to allow greater flexibility in how the site may be developed**
- **include a provision requiring that at the time of subdivision and / or development, an acoustic assessment prepared by a suitably qualified acoustic engineer is provided to the satisfaction of the City to determine road noise levels and any mitigation measures necessary, in accordance with State Planning Policy 5.4 – Road and Rail Noise**
- **delete the provision permitting a 50% reduction in car parking associated with commercial uses to allow this matter to be assessed and any parking reductions to be applied at Council's discretion**
- **include a provision requiring that at the time of subdivision and / or development, provision is made for a minimum six-metre-wide laneway between Holland Street and Carrington Street, across Lot 252 Holland Street and the northern extent of Lots 1 and 3 High Street**



- **make other general refinements to the wording of the proposed scheme provisions.**

## **BACKGROUND**

The subject lots are located on the north-western corner of the intersection of High and Carrington Streets and have a total area of 1.33 hectares. Lots 1, 2, 3 and 1483 High Street, and Lot 252 Holland Street are currently vacant, having been gradually cleared of a mixture of aging housing stock from 2015 to 2020. Lot 1488 Carrington Street is developed with a service station, which has been disused since approximately 2008 and has since fallen into dereliction. Lot 51 Holland Street is developed with an early 1960s single-storey detached house, while Lots 1-4 on Strata Plan 65266 are developed with four single-storey detached units built in 2012.

The land has a gentle downward slope from east to west, with a high point of 32 metres AHD at the intersection of Carrington and High Streets to 25 metres AHD on the western edge of lots 51, 252, and 1483. There is a retaining wall of approximately one metre in height on the western boundary of Lot 1488 and another retaining wall of similar height running partway through the centre of Lot 252 on a north-south axis. Several mature eucalyptus trees stand along the northern boundary of Lot 252 and through the western extent of the lot, between Holland and High Streets.

The western boundary of the site borders the Holland Street pocket park and an existing grouped dwelling development. The Royal Fremantle Golf Course and the Fremantle Public Golf Course are located to the south, on the opposite side of High Street. South-east of the site is the Fremantle Cemetery. The land to the east, on the opposite side of Carrington Street, in the City of Melville, is developed with a mixture of single houses and grouped dwellings, while an extensive linear park runs eastward along McGregor Street. The land to the north of the site, on the opposite side of Holland Street, is developed with grouped dwellings and low-rise (two-storey) apartments.

Redevelopment of the lots has been discussed since early 2018, when the Department of Communities undertook investigations into their potential and prepared a concept plan incorporating a mix of grouped and multiple dwellings, with some ground floor commercial and retail tenancies fronting onto Carrington Street.

The concept plan indicated buildings ranging from two storeys on Holland Street to four storeys on High Street (across Lots 252, 1483, and 1-4 on Strata Plan 65266), and an eight-storey building on the corner of High and Carrington Streets (over Lots 1, 2, and 3). This building was envisaged to contain commercial tenancies at ground level, while the buildings immediately to the north (on Lot 1488) were envisaged to incorporate ground level retail. A potential community building was also identified on the north-west corner of the subject site (on Lot 51), adjacent to Holland Park. The concept plan indicated that due to





the slope of the site, several buildings could utilise undercroft parking, which would preserve a large area of open space and the mature eucalyptus trees on Lot 252. An access driveway was shown running south from Holland Street, along the edge of the open space, then turning east to run along the northern edge of Lots 1 and 3 to Carrington Street.

Subsequent to the concept plan, a draft local planning scheme amendment and structure plan were lodged with the City for initial comment in May 2019. City officers provided detailed comment to the applicant; however, for reasons unknown the project was placed on hold until further contact was made in early 2023.

At this time, discussions took place between the applicant, the City and the Department of Planning, Lands and Heritage (DPLH), which culminated in advice from the DPLH that a structure plan or other planning instrument, such as a local development plan, were not warranted due to the size of the site and that an amendment to the Scheme would suffice. The applicant was further advised that a scheme amendment could incorporate development controls to deal with built form and access matters, in the absence of any subsequent planning instruments.

A draft of Amendment No. 76 was lodged with the City in May 2023 and initially sought to increase the residential density code over the site from R30 to R100, rezone Lots 1, 2, and 3 High Street to the Mixed Use zone, and delete Special Control Area (SCA) 5.7 (small infill development) from the site. City officers considered that the change in density had not been sufficiently justified, while specific development controls were absent. Furthermore, the application of a Mixed Use zone was queried, as it could potentially permit a wide range of land uses, some of which may not be suitable for the site, and would effectively create an “out of centre” commercial development, which would be inconsistent with the provisions of State Planning Policy 4.2 – Activity Centres.

Further discussions then took place centred around appropriate development controls and the applicant was advised to consider a Local Planning Area Sub Area to apply these through the Scheme. It was also agreed that as the intention was not to facilitate a full range of commercial land uses on the site, application of an Additional Use site would be more appropriate to facilitate the desired allied health uses, a management office, and a small café primarily for the benefit of future residents.

The proposal has since been modified to include:

- nine specific building envelopes across the site
- a building height limit for each building envelope
- an access easement between Holland Street and Carrington Street across Lot 252 Holland Street and Lots 1 and 3 High Street
- application of an Additional Use site permitting Consulting Rooms, Office, and Restaurant/Café with a combined floorspace limitation of 500m<sup>2</sup>



- general built form guidance
- a 50% reduction in parking requirements for any commercial uses.

### **FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

Nil.

### **CONSULTATION**

Community engagement on amendments to the scheme is required under the provisions of the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*.

### **OFFICER COMMENT**

Data from the 2021 Census indicates that Australian household size continues to decline, while household composition changes, with the number of single-person households increasing. Despite these factors, the development and real estate industries continue to drive the delivery of large single houses and grouped dwellings, meaning that there has been little diversity in the housing typologies provided by new developments in our suburbs. Escalating living costs are also driving demand for more affordable and / or “right-sized” housing.

The aim of the proposal is to increase the residential density permitted on the site to facilitate a variety of affordable housing and limited (supporting) commercial uses to cater to markets including students, NDIS participants, and those of a lower socio-economic standing. The proposed density coding of R160 would facilitate the provision of smaller dwellings, which promotes affordability, responds to market demographics, and provides housing options for increasing sectors of society. These are all desirable outcomes that would assist in combatting the current housing crisis.

Notwithstanding, City officers consider the amendment proposal to be lacking in detail and justification in some areas, and that the provisions contained within are unnecessarily prescriptive, insofar as they remove potential flexibility in the design of any future development. In view of this, officers have drafted a modified version of the amendment proposal, which includes additional background information and justification and seeks to:

- include provisions permitting an extra two storeys within Area 2, subject to:
  - the provision of at least 15% social and / or affordable housing within the development that is designed and constructed to Platinum standard, as defined in Livable Housing Australia’s Livable Housing Design Guidelines,



- to incentivise the provision of additional social and / or affordable housing
- the development being of distinctive architecture befitting its location and exceptional design quality meeting, at the highest possible standard, the principles of good design under the direction of the City's Design Advisory Committee
- include a provision requiring that development demonstrate housing diversity by providing a range of dwelling sizes that cater for different household types, with the proportion of each dwelling size evidenced by local demographics, market demand, and neighbourhood character, to ensure inclusivity and that the development meets the varied needs of residents
- cap additional uses at 320m<sup>2</sup> net floor area and restrict them to the ground level only.

In addition, the modified version of the amendment proposal includes the following changes:

- removal of some of the more onerous building height and built form provisions in favour of the Residential Design Codes of WA, which would allow greater flexibility in how the site may be developed
- provisions requiring minimum building heights in Area 2, including two storeys for single houses and grouped dwellings, and three storeys for multiple dwellings to encourage development at or close to the proposed R160 density code
- inclusion of a provision requiring that at the time of subdivision and / or development, an acoustic assessment prepared by a suitably qualified acoustic engineer is provided to the satisfaction of the City to determine road noise levels and any mitigation measures necessary, in accordance with State Planning Policy 5.4 – Road and Rail Noise
- deletion of the provision permitting a 50% reduction in car parking associated with commercial uses to allow this matter to be assessed and any parking reductions to be applied at Council's discretion
- inclusion of a provision requiring that at the time of subdivision and / or development, provision is made for a minimum six-metre-wide laneway between Holland Street and Carrington Street, across Lot 252 Holland Street and the northern extent of Lots 1 and 3 High Street
- other general refinements to the wording of the proposed scheme provisions.

The original version of the amendment proposal is provided in Attachment 1, while a tracked changes version of the modified proposal is included in Attachment 2. A "clean" copy of the modified document is also provided in Attachment 3 to aid reading.



It is recommended that Council resolves to prepare the modified proposal as an amendment to Local Planning Scheme No. 4, in the interests of maximising the development potential of the site, including the provision of diverse, and social and/or affordable housing.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.

## **OFFICER'S RECOMMENDATION**

- 1. Council, pursuant to section 75 of the *Planning and Development Act 2005*, resolve to prepare an amendment to City of Fremantle Local Planning Scheme No. 4, subject to the modifications detailed in Attachment 2, to:**
  - a. Amend the density coding of Lot 1488, 103 Carrington Street, Lots 1, 2, and 3, 396 High Street, Lot 1483, 386 High Street, Lot 51, 167 Holland Street, Lot 252, 169 Holland Street, and Lots 1-4 on Strata Plan 65266, 171 Holland Street, Fremantle from R30 to R160.**
  - b. Amend clause 6.2, schedule 2 – Additional Uses by allowing the consideration of Consulting Rooms, Office, and Restaurant/Café uses on 396 High Street, Fremantle.**
  - c. Amend clause 6.7, schedule 7 – Local Planning areas (Development Requirements) by inserting a new Sub Area 6 including development and built form controls pertaining to building height, tree retention, noise mitigation, and pedestrian and vehicular access.**
  - d. Delete Special Control Area 5.7 from Lot 1488, 103 Carrington Street, Lots 1, 2, and 3, 396 High Street, Lot 1483, 386 High Street, Lot 51, 167 Holland Street, Lot 252, 169 Holland Street, and Lots 1-4 on Strata Plan 65266, 171 Holland Street, Fremantle.**
  - e. Amend the Scheme Map accordingly.**
- 2. Council consider the Amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):**
  - a. The amendment is not addressed by the Fremantle Local Planning Strategy**
  - b. The amendment relates to development that is of a scale, or will have an impact, that is significant relative to development in the locality.**



- 3. Council, pursuant to section 83A of the *Planning and Development Act 2005*, resolve to submit the proposed local planning scheme amendment, as referred to in resolution 1 above, to the Minister for Planning seeking approval to advertise that amendment.**



**C2405-8 PLANNING INFORMATION REPORT - MAY 2024**

**1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY**

**Meeting date:** 8 May 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:** 8 May 2024  
**Responsible Officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority  
**Attachments:** Nil

Applications that have been determined by the Metro Inner-South JDAP and/or are JDAP/Council determinations that are subject to an application for review at the State Administrative Tribunal are included below.

<b>1. Application Reference</b>
DAPV001/24
<b>Site Address and Proposal</b>
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)
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• Application to vary the approved development was received on 8 January 2024.</li> <li>• 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.</li> <li>• Due to regulation changes, this proposal is no longer a JDAP application, and will be determined by the WAPC.</li> <li>• At the time of writing this report, a determination had not been made.</li> </ul>





<b>2. Application Reference</b>
DAP001/24
<b>Site Address and Proposal</b>
3B Keegan Street, O'Connor – Single storey Retail and Warehouse development
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• Application for development was received on 23 January 2024.</li> <li>• A responsible authority report with a recommendation for approval was supported by Council in April 2024.</li> <li>• A DAP meeting was scheduled for 1 May 2024. At the time of writing this report, a determination had not been made.</li> </ul>

<b>3. Application Reference</b>
DAPV002/24
<b>Site Address and Proposal</b>
28 Cantonment Street, Fremantle – Variation to Approval (Proposal to delete Public Art contribution condition)
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• Application for development was received on 21 March 2024.</li> <li>• A Responsible Authority Report is part of this agenda for Council.</li> <li>• At the time of writing this report, a DAP meeting had not been scheduled.</li> </ul>

**OFFICER'S RECOMMENDATION**

**Council receive the following information reports for May 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.**



## **12.2 Strategic and general reports**

Nil.



## **12.3 Committee and working group reports**

Nil.



## 12.4 Statutory reports

### **C2405-9 ADVERTISING OF THE PROPOSED DIFFERENTIAL RATE FOR THE 2024/25 FINANCIAL YEAR**

<b>Meeting date:</b>	8 May 2024
<b>Responsible officer:</b>	Director City Business
<b>Voting requirements:</b>	Simple Majority
<b>Attachments:</b>	1. Objects and Reasons for Differential Rates for the 2024/25 financial year

#### **SUMMARY**

**The purpose of this report is for Council to consider approval for advertising the proposed differential rate categories, rate in the dollar and minimum payment as detailed in the Objects and Reasons for differential rates (shown in Attachment 1) for the 2024/25 budget, in accordance with the provisions of the *Local Government Act 1995*.**

**This report recommends that Council endorse the proposed 2024/25 differential rate categories, rate in the dollar and minimum payment and approve advertising of the proposed 2024/25 differential rates.**

#### **BACKGROUND**

The power to raise local government property rates is set out under the *Local Government Act 1995 (Act)*. In adopting its annual budget, the Council must consider its current Strategic Community, Corporate Business and Long-Term Strategic Plans and, subject to the rating provisions under the Act, the Council is at liberty to use its rating powers to raise rate revenue at the level it determines appropriate. To determine this level requires the Council to assess the current and future service needs, aspirations of the community and their capacity and willingness to pay for those services.

#### **FINANCIAL IMPLICATIONS**

Differential rates represent a strategic approach to rating which is Council's major revenue source.

#### **LEGAL IMPLICATIONS**

Under the *Local Government Act 1995* section 6.33 and 6.34 allows Council to impose differential rates and minimum payment. Section 6.36 requires Council to give notice of certain rates before imposing

#### **CONSULTATION**

This recommendation is the City's intention to advertise the proposed differential rates for public comment prior to the adoption of the 2024/25 budget.



This advertising will occur for a minimum 21 days and allows ratepayers the ability to consider the proposed rates in the dollar and make any submissions prior to Council adopting the proposed rate as part of the budget adoption process.

### **OFFICER COMMENT**

The past 5 years have seen the City experience significant milestones in the completion of a once in a generation revitalisation of the City Centre as well the unprecedented impacts of a global pandemic on the City's discretionary revenue sources.

Since that time global economic conditions have driven rapid inflation and increasing cost pressures across most developed economies. Western Australia has not been immune to this, and Local Governments have had to absorb significant increases to the cost-of-service delivery and wage growth.

Positively, the march quarter of 2024 has seen CPI for Perth fall to 3.4% however this remains above the Reserve Bank of Australia's target range for inflation with expenditure items such as housing, health, education and insurance still creating some cost challenges across the economy.

While inflation appears to have peaked and is now returning to more manageable levels it may still take some time to return to the Reserve Bank's target inflation rate which suggests ongoing inflationary pressures will remain in some areas across the Western Australian economy for the foreseeable future.

In the context of local government, while some inflationary pressure may be beginning to ease, costs associated with delivery of construction and other services will remain high in the short term due to those contracts commencing or being entered into in prior years when inflation was still high. As such there will likely be a lag of 2-3 years before local governments will realise the reduction in costs associated with falling inflation.

While the City will have to continue to navigate these high costs, we must also remain focused on investing in the renewal of our existing assets.

An important indicator of the City's financial health is our asset sustainability ratio. This ratio provides a guide on the level of investment that should be made in to maintaining our physical assets.

Noting that it is a guide only, the ratio suggests that if our investment is at least equal to the depreciation of our existing assets then it is likely our assets are being adequately maintained.

These assets – parks, footpaths, buildings, library, roads, facilities etc – are worth over \$500 million and the City needs to ensure an adequate program to maintain them, as any delay will present a financial burden for coming future generations. The City has been working towards achieving the recommended target ratio range



of between 90 – 110% (a renewal spend of at least 90% of the value of depreciation) and hopes to achieve this in the coming years.

For the City of Fremantle this means continuing to work towards the investment of at least \$10 million into the renewal of its existing assets. A key objective for the forward financial plan is to close the gap on this target. For 2024/25 the City is proposing to invest close to \$8 million in the renewal of its existing assets which represents strong progress towards this key financial goal.

In addition to strong investment into the renewal of existing assets, the City is also planning for the delivery of a program of new projects and initiatives that add value for local communities both in the City Centre and across our suburbs. In 2024/25 the city is proposing to invest just over \$6 million in the delivery of projects and initiatives that meet both the needs of our growing community and the ongoing operational requirements of service delivery.

The 2024/25 financial year will also see the commencement of planning and design for a major renewal of electricity infrastructure in the South Fremantle area with the delivery of the multi-year Targeted Underground Power Project (TUPP) by Western Power. The City will be required to make a substantial investment into this project which will see substantial benefits for properties located within the project area. While this has not impacted the proposed differential rates, properties within the project area will be subject to a service charge to aid in the delivery of the project. Property owners will be consulted as Western Power continues to make information about the project available.

Estimated service charges have been determined based on a GRV range that each property falls within, the number of properties that fall within that range, and the total project cost that City is required to recover. The service charge for each GRV range is calculated based on the minimum charge calculated within each category. Service charges will be payable annually over a 7-year period.

The total project cost is currently estimated at \$16.5 million, which incorporates \$2.5 million in interest being payable due the requirement to forward fund the project with a loan. The table below provides an overview of estimated service charges per property associated with the project, noting that costs may be subject to change pending any scope or cost changes applied to the project by Western Power.





Number of properties	GRV Range	Total Service Charge per category	Total Service Charge per property	Annual service charge per property
1320	Less than 28,000	\$7,788,000	\$5,900	\$842.86
1057	Between 28,000 and 100,000	\$7,293,300	\$6,900	\$985.71
45	Between 100,000 and 1,000,000	\$1,125,000	\$25,000	\$3,571.43
3	More than 1,000,000	\$291,000	\$97,000	\$13,857.14
	Total (incl. interest)	<b>\$16,497,300</b>		

All funds collected via the service charge will be placed in a reserve and drawn upon to fund the project.

Noting the focus on growing investment into to our renewal program, the 2024/25 budget and proposed RIDs remains predicated as it did in 2023/24, on the achievement of the following core objectives for the community.

- Deliver core services and facilities to our community.
- Enable residential development to get more people living in our city.
- Build key city centre deals to attract investment and build our future prosperity.

The 2024/25 budget will also continue to move the City closer towards building the necessary financial capacity to achieve these objectives and make good on the City’s longer term financial strategy which seeks to:

- Strengthen our focus on investment into renewal in line with the value of asset depreciation.
- Build reserves to fund and deliver new capital projects alongside major developments to encourage and attract residential investment in the City centre.
- Continue to grow councils discretionary spend on new, renewal and operating projects to \$15 million.

**Rating Information**

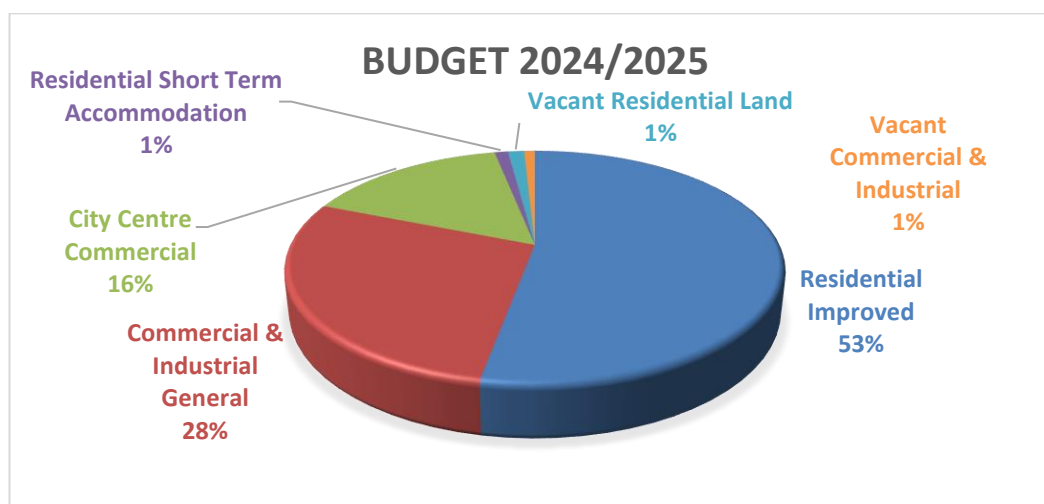
As per the previous comments on the current economic climate and the City’s strategic objectives associated with closing the gap on our asset renewal target, the following section provides information regarding rating for the 2024/25 financial year.

The following table and chart provides an overview of the rate revenue and rate in the dollar included in the current (2024/25) draft budget.



Rate Description	Budget 2024/2025	Rate in the Dollar	Proposed Minimum Payment
<b>Residential Improved</b>	33,584,616	0.083489	\$1,738
<b>Commercial &amp; Industrial General</b>	17,840,682	0.113216	\$1,738
<b>City Centre Commercial</b>	10,021,974	0.113216	\$1,738
<b>Residential Short Term Accommodation</b>	660,735	0.113176	\$1,738
<b>Vacant Residential Land</b>	806,311	0.144207	\$1,685
<b>Vacant Commercial &amp; Industrial</b>	527,137	0.166978	\$1,738

Specified Area Rates	Rate in the \$	Minimum Payment
<b>CBD Security Levy</b>	0.001456	N/A
<b>Leighton Maintenance</b>	0.006299	N/A



It is recommended that the proposed differential rate categories, rate in the dollar and minimum payment as detailed in the attached 2024/25 Objects and Reasons for differential rates and outlined above be endorsed and advertised.

As part of the process for the 2024/25 draft budget it is proposed to continue to apply differential rating.

Before Council can impose differential rates across the City, Council must advertise the proposed differential rates for a minimum of 21 days. The advertising period can occur up to two months prior to adoption of the budget. This period of advertising allows ratepayers the ability to consider the proposed rates in the dollar and make any submissions prior to Council adopting the proposed rate as part of the budget adoption process.

Public advertising of the proposed rate in dollar and minimum payment does not bind Council to these when adopting the 2024/25 budget. The advertising process does not prohibit Council from amending the rate in the dollar and minimum payment at budget adoption. The proposed advertising date is 11 May 2024.



**VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

**OFFICER’S RECOMMENDATION**

**Council:**

- 1. Endorse the proposed 2024/25 differential rate categories, rate in the dollar and minimum payment as outlined below and detailed in the Objects and Reasons for differential rates, provided in Attachment 1.**

<b>RATE CATEGORY</b>	<b>RATE IN THE \$</b>	<b>MINIMUM PAYMENT</b>
<b>Residential Improved</b>	0.083489	\$1,738
<b>Commercial and Industrial General</b>	0.113216	\$1,738
<b>Vacant Commercial and Industrial</b>	0.166978	\$1,738
<b>City Centre Commercial</b>	0.113216	\$1,738
<b>Vacant Residential Land</b>	0.144207	\$1,685
<b>Residential Short-Term Accommodation</b>	0.113176	\$1,738
<b>SPECIFIED AREA RATES</b>	<b>RATE IN THE \$</b>	<b>MINIMUM PAYMENT</b>
<b>CBD Security Levy</b>	0.001456	N/A
<b>Leighton Maintenance</b>	0.006299	N/A

- 2. Approve the advertising of the 2024/25 differential rate categories, rate in the dollar and minimum payment as outlined in part 1.**
- 3. Approve the advertising of the proposed service charges for the South Fremantle Targeted Underground Power Project as outlined below.**

<b>Number of properties</b>	<b>GRV Range</b>	<b>Total Service Charge per category</b>	<b>Total Service Charge per property</b>	<b>Annual service charge per property</b>
1320	Less than 28,000	\$7,788,000	\$5,900	\$842.86
1057	Between 28,000 and 100,000	\$7,293,300	\$6,900	\$985.71
45	Between 100,000 and 1,000,000	\$1,125,000	\$25,000	\$3,571.43
3	More than 1,000,000	\$291,000	\$97,000	\$13,857.14
	Total (incl. interest)	<b>\$16,497,300</b>		

**Agenda – Ordinary Meeting of Council  
8 May 2024**





### **13. 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.

### **14. 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.

### **15. 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.

### **16. Confidential business**

Members of the public may be asked to leave the meeting while confidential business is addressed.

Nil.

### **17. Closure**