



C2402-5 NOMINATIONS FOR THE REGISTER OF SIGNIFICANT TREES 2023 – 195 HIGH STREET, 6 DOUGLAS STREET – OUTCOMES OF CONSULTATION

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| Meeting date: | 14 February 2024 |
| Responsible officer: | Manager Strategic Planning and City Design |
| Voting requirements: | Simple Majority |
| Attachments: | <ol style="list-style-type: none">1. Nomination for addition – 6 Douglas Street, Fremantle2. Request for removal – 195 High Street, Fremantle3. Assessment – 6 Douglas Street, Fremantle4. Assessment – 195 High Street, Fremantle5. Heritage Assessment – 195 High Street, Fremantle6. Independent arborist report - 195 High Street, Fremantle7. Submission – 6 Douglas Street, Fremantle8. Submission – 195 High Street, Fremantle |

SUMMARY

In 2023, the City received two nominations pertaining to the Register of Significant Trees and Vegetation Areas (the Register):

- the inclusion of a Lemon Scented Gum, 6 Douglas Street, Fremantle,
- the removal of a Moreton Bay Fig, 195 High Street, Fremantle.

The City subsequently conducted assessments of the significance of each tree, including a heritage assessment, and commissioned an independent arborist's report for the tree located at 195 High Street, Fremantle.

Following these assessments, the City engaged with the landowners in accordance with the provisions of Local Planning Scheme No. 4 and Local Planning Policy 2.23 – Register of Significant Trees and Vegetation Areas (LPP2.23). In response, both landowners have provided submissions in relation to their respective trees.

This report recommends that Council does not include the Lemon Scented Gum at 6 Douglas Street on the Register, but retains the Moreton Bay Fig at 195 High Street on the Register with a commitment to revisit its position upon receipt of a formal redevelopment application for the site, provided that any proposal demonstrates other positive heritage outcomes and/or community benefit.



BACKGROUND

In 2023, the City received two submissions pertaining to its Register of Significant Trees and Vegetation Areas: one for the inclusion of a Lemon Scented Gum at 6 Douglas Street, Fremantle, and another for the removal of a Moreton Bay Fig at 195 High Street, Fremantle.

6 Douglas Street, Fremantle

The landowner has nominated a Lemon Scented Gum for inclusion on the Register of Significant Trees and Vegetation Areas. The tree is approximately 20 metres in height, 2.1 metres in circumference and 40 years old. The landowner considers that the tree has Visual/Aesthetic/Landmark, Heritage and Ecological Value, per the assessment criteria set out in LPP2.23.

The landowner states that tree is very large for a private garden in Fremantle and one of the largest in the area. The tree provides habitat and natural shade and is much loved by Douglas Street residents.

See Attachment 1 for the full nomination.

195 High Street, Fremantle

The landowner has requested the removal of a Moreton Bay Fig Tree from the Register of Significant Trees and Vegetation Areas. The landowner states that they have owned 195 High Street for 60 years and that the tree's presence is deterring potential buyers, creating financial hardship:

This property has been on the market for a number of years and each time an entity shows interest, they are put off by the registration of the tree on the Significant Tree Register. This coupled with the downturn in commercial economy in the City of Fremantle in general, is causing me great financial hardship.

The request notes that the tree poses other issues, including falling fruit and branches, which cause damage to infrastructure, clog drains, and create hazards:

Although in itself, it is a lovely tree, unfortunately it has no place on an inner-city commercial property.

It constantly drops fruit and small branches (a few years ago it actually dropped a very large limb that could have had serious consequences to person and property). The fruit and small branches clog up the gutters and drains on buildings and soak wells. They dirty the cars parked on the site and cause a slipping hazard to pedestrians.



I find it difficult to accept that I am forced to keep this tree when the Fremantle Council was allowed to remove most of their Moreton Bay Figs in St Johns Square for redevelopment.

This tree is in very close proximity to retaining walls, buildings and other infrastructure.

The landowner questions how the tree was registered without consent and argues that the proximity to buildings and infrastructure justifies its removal under local planning policies.

Additionally, the tree's impact on development potential is highlighted, with claims that it impedes the site's commercial viability:

- *The development potential of the site is severely restricted and prospects for retaining the tree in future development is very low.*
- *The tree is directly abutting buildings and infrastructure and has already caused some damage.*
- *The tree is not within an area of ecological value or in a biodiversity corridor.*

The submission proposes removal from the Register to facilitate property sale and suggests alternative options like transplanting the tree or using its seeds for propagation in a more suitable community parkland setting.

See Attachment 2 for the full request.

Assessment Process

The City's Local Planning Policy 2.23 – Register of Significant Trees and Vegetation Areas (LPP2.23) provides criteria for inclusion on the Significant Trees and Vegetation Areas Register. Following the two submissions, the City has conducted assessments on the significance of each tree following the process provided under LPP2.23. A heritage assessment was also undertaken, and an independent arborist's report commissioned for the tree located at 195 High Street. The assessments and arborist's report are provided in Attachments 4-6, with summaries provided below:

6 Douglas Street, Fremantle

Significant Tree Assessment:

Lemon-scented Gum (*Corymbia citriodora*)

Condition:

- The tree is a healthy specimen with ongoing viability.
- It is not a species considered a weed of national interest.



Significance Assessment:

i. Botanical/Horticultural Value:

- The tree is not of species rarity and has little horticultural or genetic significance.
- It is not of unique size, lacks scientific value, and is not endemic to Western Australia.

ii. Visual/Aesthetic/Landmark Value:

- The specimen is species-typical and does not represent a significant landmark.
- City officers do not consider it to have significant visual or aesthetic qualities.

iii. Heritage Value:

- The specimen has no known heritage value.

iv. Ecological Value:

- The tree provides habitat for birds but does not have nesting hollows identified.
- It has no pre-European connection or ecological significance and does not provide substantial canopy cover.

v. Potential of a Juvenile Tree:

- Not applicable; no comment provided.

Additional Considerations:

- Ongoing viability is assessed considering development potential, proximity to buildings/infrastructure, impact on neighbouring properties, and root structure attributes.
- Trees with limited prospect of long-term retention or lifespan will not be included.
- Ecological value assessment considers proximity to recognised ecological linkages or biodiversity corridors.

See Attachment 3 for the full assessment report.

195 High Street, Fremantle

Significant Tree Assessment:

Moreton Bay Fig (*Ficus macrophylla*)

- Height (approximate): 27+ metres
- Girth 1.4 metres above ground: three metres
- Age (approximate): 100+ years



Condition and Ongoing Viability:

- The tree is a healthy specimen with ongoing viability.
- Vitality is demonstrated through canopy density, foliage size, and colour.
- No observable decline patterns; active wound wood development.
- Historical removal of large diameter stems for building clearance, with regions of decay.
- Significant below-ground root system, impacting infrastructure; observed damage to walls.
- Approximately 100 years old, with a main stem diameter exceeding three metres and a crown of approximately 630 square metres.
- Heritage genetic significance related to local nurseryman Philip Webster, linked to the Proclamation Tree.

Significance Assessment:

- Botanical/Horticultural Value:**
 - Little horticultural or genetic significance in WA.
 - Not considered a remnant native to WA.
 - Outstanding for size and location but falls short of true-to-species potential in urban confines.
- Visual/Aesthetic/Landmark Value:**
 - Unique location in a confined urban setting.
 - High contribution to the visual landscape, outstanding for size and location.
 - Limited defining visual features; better than average for an urban setting.
- Heritage Value:**
 - Heritage genetic significance linked to Philip Webster, a local nurseryman.
 - Considered the progenitor of many Moreton Bay Fig trees in Fremantle.
 - A separate heritage report provides a comprehensive assessment.
- Ecological Value:**
 - Limited importance as a source of seed or propagating material.
 - Not a remnant native to Western Australia.
 - Provides significant urban canopy cover.
 - Classified as a reproductive host for Polyphagous Shot Hole Borer.
- Potential of a Juvenile Tree:**
 - Not applicable; no comment provided.

Ongoing Viability Considerations:

- Development potential comes with risks due to confined space and large root structures.
- Current damage to infrastructure; potential for disturbance to above-ground structures and below-ground urban structures.
- Preliminary assessments indicate tolerable risk thresholds, but further, in-depth assessments are needed.
- Tree owner responsibility for monitoring and maintenance.

Ecological Value Assessment:

- Proximity to recognised ecological linkages or biodiversity corridors is considered.

See Attachment 4 for the full assessment report.

Heritage Assessment:

Background:

- Moreton Bay Fig Tree, approximately 130 years old, located at 195 High Street, Fremantle.
- Planted by Fremantle nurseryman Phillip Webster in the late 1880s.
- Significant heritage recognition since the 1970s, listed on various heritage registers.
- Council agreement in 1995 with property owners for joint tree maintenance.
- In 2001, an application to fell the tree was refused by the Council due to its significant amenity value. This included considerable public comment received against this proposal including a petition with 499 signatures and 11 individually written submissions.
- In 2019, the tree was moved to the Significant Tree Register, aligning with State Government policy.

Heritage Comments:

- The heritage value of the Moreton Bay Fig Tree remains unchanged since the 2001 review.
- The tree continues to be of significance to Fremantle.
- Conservation approach for trees differs from built heritage due to the evolving nature of trees.
- The finite lifespan of trees may necessitate removal as part of care and maintenance.
- Some heritage-protected Moreton Bay Fig Trees in Fremantle were removed due to declining health.



- The arboricultural report confirms the good health of the tree at 195 High Street.
- Although its exact lifespan is uncertain, the tree is considered an exceptional specimen.

Recommendations:

- The heritage value of the tree has not diminished from when it was last reviewed in 2001, and it remains significant to Fremantle.
- Continuous maintenance and monitoring by an Arboriculturist is recommended.
- If the tree significantly declines, does not respond to treatment, and reaches the end of its life, removal can be considered.
- If removal occurs, material should be collected for propagation, and a replacement tree can be planted on-site.

See Attachment 5 for the full heritage assessment.

Independent arborist's report

This Preliminary VTA (Visual Tree Assessment) Report was prepared on 30 November 2023. A site visit inspection was conducted visually on 19 October 2023, without below ground or aerial examination. The report outlines the tree's health, structural status, and its potential for retention in the face of future development.

The report's executive summary indicates that the *Ficus macrophylla* has high retention value, displaying good health, seasonal growth, and a useful life expectancy of over 40 years. Structural issues like previous pruning, stem failures, and crossing stems can be addressed via ongoing tree management. The tree's root system, impacted by various factors, suggests it can be retained with careful planning.

The report emphasises the need for collaboration with arboriculture experts for future development. It lists considerations such as soil level changes, service alignments, building alignments, and canopy dimensions. Preliminary tree preservation considerations highlight the importance of protecting the Tree Protection Zone (TPZ) during construction, avoiding disturbance to roots, and implementing remedial measures.

To ensure the tree's retention, a comprehensive Tree Retention Plan is recommended, involving expert input, protection of the TPZ, and measures to minimise root and canopy impact. The report suggests selective pruning, supplementary watering, and potential remedial measures for both canopy and root zone. It also stresses the importance of ongoing arboricultural inspections during construction.



The report concludes that the tree's retention is feasible with timely and appropriate implementation of recommendations. It underscores the environmental, habitat, aesthetic, and amenity benefits provided by the tree, advocating for its preservation. The proposed management plan includes monitoring schedules, remedial pruning, and ongoing assessments for long-term health and safety. The recommendations are categorised into short-term, medium-term, and longer-term actions, emphasising the need for collaboration, an Arboricultural Management Plan (AMP), and ongoing monitoring to ensure the tree's longevity.

See Attachment 6 for the full independent arborist's report.

FINANCIAL IMPLICATIONS

The City's Parks and Landscapes team undertakes some maintenance associated with the Moreton Bay Fig at 195 High Street, Fremantle, amounting to a monthly expenditure of \$154, or \$1,848 per annum, for gutter and roof cleaning. Additionally, the car park on 195 High Street is swept on Mondays and the surrounding paving is washed throughout the year as part of routine operations. Further, the City conducts regular inspections of the tree, with notable proactive measures taken in the past few years that involved pruning limbs that encroached upon the roofline of the adjoining buildings, undertaking dead wooding, and lifting branches over the adjacent footpath and roadway. Unfortunately, the exact costing of this additional maintenance is unavailable.

LEGAL IMPLICATIONS

Local Planning Scheme No. 4 makes provision for the establishment of a register of significant trees and vegetation areas. *Local Planning Policy 1.7* (effectively) requires approval for removal of registered trees. Criteria for assessing nominations and removal of trees from the Register are addressed in *Local Planning Policy 2.23*.

Private property rights between neighbours apply independently of the scheme and policy provisions. Registration of a tree does not remove either the rights or obligations of neighbours, nor does it alter maintenance or responsible management responsibilities for it.

Under the *Local Government Act 1995*, Schedule 3.1, the City has the ability to respond to safety concerns over trees on private property through the issuing of a notice to the relevant property owner(s).

CONSULTATION



The owners of each tree were provided with the respective assessments and other applicable reports for comment. At the conclusion of the engagement period, a submission had been received from each landowner (the submission on 195 High Street, Fremantle has been summarised for brevity):

6 Douglas Street, Fremantle

I note that you do not give the height of the tree in your report.

In the built-up area of Fremantle North of South Street there are very, very few trees as large as this in the small suburban yards and town houses. In this context the tree is very significant.

You state the canopy cover is not significant and yet it shades several back gardens in summer depending on time of day.

In the 25 years I have lived here I have seen many trees removed.

Given all this I would respectfully ask yourself and the elected members to reconsider your decision.

195 High Street, Fremantle

Thank you for the opportunity to address the assessment reports concerning the application to remove the listing of the Moreton Bay fig tree at 195 High Street Fremantle (ID 19-04) from the Register of Significant Trees and Vegetation Areas.

Firstly, we acknowledge the significance of this magnificent tree, which has been a cherished part of our family's property for many years. The emotional connection to the tree is profound, and it is not without careful consideration that we approach the Council seeking its removal from the Register.

We understand the importance of preserving significant trees, but we also believe that, in certain cases, the well-being and quality of life of property owners should be given due consideration. Our family has a longstanding history with this property, dating back to the 1960s when it was purchased... and developed as a pharmacy.

The property, acquired long before any restrictions were imposed, has been subject to increasing limitations over time. The current restrictions, including the heritage listing of the house and the tree on the Register, significantly impact the development potential of the site. The combined area of the tree canopy and house footprint constitutes approximately 40% of the property, creating constraints that affect almost half of the site.

We wish to highlight the financial implications and challenges imposed by these restrictions, particularly in the context of the current commercial



environment in Fremantle. The Arborist report recommends extensive efforts to ensure the tree's protection and health, further adding to the burden on the landowner.

We propose the removal of the tree from the Register not as a desire to eliminate the tree but to provide future landowners with the flexibility to assess its feasibility within their development plans. This would enable a balanced decision, and the Council could collaborate with potential developers, offering incentives to retain the tree if desired.

We believe the Council should proactively support and promote the development of the City. Failure to encourage and enable full utilisation the site increases the likelihood of vandalism and vagrancy, posing a threat to its well-being. Furthermore, there is a growing risk of being unable to sustain the upkeep of the heritage house if development is constrained.

Should the tree be considered for future removal, inspiration can be taken from this tree by propagating and planting it in a parkland setting, creating a place where people can find shade for relaxation or children can engage in climbing. We envision this transformation could take place in the four-square park within the same locality, fostering a communal setting that encourages shared experiences. Accompanying the tree with a plaque, narrating its story and significance, and incorporating interpretation elements would enhance the overall experience for visitors.

It is requested that Council consider the human aspect of this request, recognising the long-standing contributions of the property owners to the community. We respectfully request that the Council re-evaluates the listing, taking into account the challenges posed by the tree's current location and its impact on the property's development potential and risks posed to infrastructure and persons.

In summary, this application to remove the Moreton Bay fig tree is grounded in the necessity to address uncertainties, financial burdens, and development constraints imposed by its inclusion in the Register. We respectfully request a thorough reconsideration, considering the points raised in this response and appreciate your courage, empathy, and respect in considering a favourable resolution that takes into consideration the unique circumstances of this property and its owners.

The submission on the Moreton Bay Fig at 195 High Street is supplemented by a detailed document addressing many aspects of the assessment, including the heritage assessment and independent arborist's report. Below is a summary of the points contained therein:



Significance and registration of the tree:

The tree's listing in the Register is based on the assumption that it is the progenitor of other significant trees in Fremantle. However, the absence of substantiated evidence supporting this claim raises uncertainty about the tree's heritage significance, and it is recommended to exclude this criterion until concrete evidence is presented.

In accordance with LPP 2.23, the nomination of trees must be authorised by the landowner. As has been communicated several times with staff at the Council, we have not authorised the listing, making it unauthorised under the current policy.

An application for removal was submitted in February 2023, expecting consideration by April 2023 in accordance with LPP 2.23. However, staff communication suggests a potential delay until February or March 2024. The delay is unacceptable, causing stress, financial repercussions, and negatively affecting the property's marketability.

It is agreed that the tree contributes to the visual landscape. However, this is due to its size and the fact that this is an inner-city commercial property. It therefore obviously stands out as would any tree on a private property in the commercial area of the City.

Independent arborist's report:

The Arborist Report indicates that the tree is currently in good health; however, as is mentioned in all of the reports, it has a limited lifespan and will eventually decline and die.

It is suggested that the tree may live for another 40 years; however, this would need to be nurtured, cared for and protected to a great extent for this to be a possibility. The Arborist is recommending a large scope of work which is beyond the means of the landowner at this time.

As stated in the Assessment Report, the tree is not a remnant native to Western Australia and is not of particular resistance to disease.

Please explain why the arborist's report has made no reference to the fact that the Shot Hole Borer infestation in the City and surrounds is very susceptible to Moreton Bay Fig species, and the implications this has on the future of the tree.

No reports have identified the presence of any significant wildlife habitats. Whilst heat island effect reduction is mentioned in the Arborist Report, this mainly relates to land within private property. A building with verandahs and awnings could offer similar shade.

The Arborist Report, though long-awaited, has limitations in its scope.

The report had a scope biased on the tree being retained rather than being objective and open to its retention and/or removal from the register. Why did it not include investigating the current extent of the root system, and the likely full extent of the root system should it remain and its effect on services and the foundations of the heritage house on the property? Please explain why the scope was limited as it did not provide any other advice than how to retain and maintain the tree.

The Arborist Report lacks below ground and aerial inspections, and its recommendations are solely focused on retention, omitting alternative scenarios. The Arborist Report's limitations must be acknowledged by decision makers in the context of this request.

The conclusion is not surprising given the scope of the report, which was to comment on the tree's health and structural status for ongoing maintenance.

Impacts on existing and potential development:

The Arborist's report states that: "The subject tree lends itself to future development of this site as the existing constraints... have created a unique opportunity that if developed in collaboration with a suitably qualified arboricultural consultant with experience in tree preservation of significant, historic, veteran trees the tree can be managed and maintained through the development process with limited loss to amenity..."

With due respect, an Arborist has no qualifications or expertise in relation to property development and is not a land developer. The comments made in respect to future development gives little attention to the diminished developable site area or other factors.

As well as the costs involved in carrying out all of the recommendations contained within the Arborist's Report, retention of this tree significantly impacts the development potential of this site. The total area of the site... measures 2,035m². ...the crown/canopy of... [the] tree extends approximately 470m², representing 23% of the site. The heritage-listed house footprint covers around 360m², constituting 17.7% of the site. The combined area of the tree canopy and house footprint is conservatively estimated at 810m², accounting for 40% of the site. The tree and heritage house footprint pose a notable constraint on site development potential, limiting the available land for development to almost half of the site.

Considering the options available to potential developers, we suggest a balanced evaluation of the tree's value in the context of the site. Collaboration with the City, offering incentives, and exploring a fair compensation strategy should be part of the decision-making process. Encouraging development in the area is seen as a means to address vagrancy, prevent vandalism, create employment opportunities, and foster an active commercial enterprise.

A dilemma arises regarding the owner's responsibility for the tree's preservation, especially when considering the restriction it imposes on rightful development. The fairness and equity of asking the owner to undertake preservation efforts without offering compensation is questionable. In the meantime, recommendations include providing assistance in maintaining the tree, potentially through substantial pruning, and regular upkeep of the hardstand areas beneath its canopy.

There is substantial damage to the retaining wall surrounding the tree and the paving around it has been lifted causing a trip hazard. This is recognised by the Officers' Assessment and Heritage Reports and the Arborist Report.

However, as stated in each report, inspection was limited to a visual inspection at ground level. No aerial or below-ground assessments have taken place. As stated in the reports, the assessments are not conclusive, and no assessment has been provided in relation to effects on building/services damages.

In terms of impacts, there is no mention in any of the reports regarding the amount of leaf and fruit fall that occurs. This affects guttering and clogs up drains in the car park area. As well as affecting amenity in terms of unsightliness and untidiness, the leaf and fruit fall also causes a potential slip hazard for pedestrians walking through the car park. The fruit, especially, tends to get squashed by car wheels.

...the Officer's report recognises the potential of the roots to cause disturbance through intrusion and soil displacement. However, no investigation by the City has taken place in regard to effects on sewerage, drainage and other below ground structures.

There have been no structural engineer reports to determine the impact the roots are having/would have on the surrounding buildings and associated infrastructure.

No indication of costs or responsibility for recommended actions has been provided, hindering a comprehensive feasibility assessment. In addition, would these actions be included as part of the current maintenance agreement between the Council and the landowner?

Beyond contribution towards cleaning of gutters, details are sought regarding how the Council has assisted with joint maintenance of the tree since 1995 to satisfy the agreement that is still in place.

Heritage assessment:

The following is an important quote from the Heritage Report which should be considered in the context of this application:

"The separation of heritage buildings, structures and artefacts from heritage trees is in keeping with State Government policy and reflects the need for a differing conservation approach to built heritage places and living heritage trees that grow, age and eventually decline and die."

The tree was excluded from the Heritage List and added to the Significant Tree Register, acknowledging the finite lifespan of trees and the possibility of replacement. This application aligns with the policy, allowing for delisting as is requested.

The Heritage Report makes reference to a previous proposal to demolish the tree in 2001 and a petition against the proposal. This petition from more than 20 years ago featuring signatures from disparate locations, lacks relevance to this current application.

Its acceptance as representative of the local community even at that time is also questioned given that addresses shown on the petition included residents from:

- all parts of the Perth Metropolitan Region (including Mullaloo, Mirrabooka, Roleystone, Coolbinia, Marmion, Orelia, Parkwood, Bayswater – there are too many to mention);*
- places out of the Perth region including Mandurah, Toodyay, Dardanup, Dunsborough and others;*
- out of the State of Western Australia including various towns in NSW, Queensland and South Australia; and*
- out of Australia including England, New Zealand.*

How is it clear from visiting the site that the heritage value of the Moreton Bay Fig Tree has not diminished or changed?

Clarification is sought on how the heritage value has supposedly remained unchanged since the last review in 2001.

OFFICER COMMENT

In assessing the suitability of nominated trees for inclusion and removal from the Register, the City is guided by Local Planning Policy 2.23 – Register of



Significant Trees and Vegetation Areas (LPP2.23) and the criteria for inclusion contained therein.

6 Douglas Street, Fremantle

The Lemon Scented Gum located at 6 Douglas Street, Fremantle is not deemed to meet the criteria contained in LPP2.23 for classification as a significant tree. City officers' recommendation that the tree is not included on the Register is consistent with this policy; however, the landowner has highlighted that large trees in small suburban backyards are scarce, particularly as numerous trees in the vicinity have been removed over the course of the last 25 years, and they request elected members to carefully consider their nomination.

195 High Street, Fremantle

The Moreton Bay Fig located at 195 High Street, Fremantle is deemed to meet the criteria contained in LPP2.23 for classification as a significant tree. However, the landowner would prefer that the tree is removed from the Register to address uncertainties, financial burdens, and development constraints imposed by its inclusion. City officers' recommendation is consistent with LPP2.23 – that the tree be retained on the Register – though there are several other factors to consider, including ongoing maintenance, and these are discussed in further detail below.

Tree protection:

Local Planning Policy 1.7 – Development Exempt from Approval Under Local Planning Scheme No. 4 (LPP1.7) sets out various uses and development that are exempt from the requirement to obtain development approval under Local Planning Scheme No. 4 (LPS4), including:

- 31. Removal of trees or vegetation areas except where those which are identified on the Register of Significant Trees or Vegetation Areas, or where required to be retained on a site through a condition of development approval.*

Therefore, the inclusion of the tree on the Register serves as the only form of protection that will ensure its preservation. The landowner has suggested that the tree be removed from the Register and that the City provide incentives and support to encourage any prospective developer to retain the tree. However, were the tree to be removed from the Register, there would be no regulatory impediment preventing its immediate removal, meaning that the tree's preservation is entirely contingent upon its inclusion on the Register. Furthermore, the City currently has no mechanism in place to incentivise the retention of the tree. This would necessitate the amendment or development of a Local Planning Policy, or an amendment to LPS4, which would have to be carefully considered and would take some time to establish.

Redevelopment:



The effect of the tree as a development constraint is not a consideration of its inclusion on the Register. However, it is acknowledged that any future development proposals would have to consider the tree in their design, as long as it remains on the Register. It must also be noted that a heritage-listed house (Category 2 on the City's Heritage List) stands on the western half of the site, which would almost certainly have to remain as well. It is set back approximately 16 metres from the street, meaning that the location of any new development proposed on the site would have to be carefully considered for this reason alone. Furthermore, if the tree is to be retained on the Register, the arborist's report mentions the possibility of strategically pruning the tree to facilitate further development, without compromising its integrity.

The financial ramifications of the tree's retention are not a valid planning consideration, nor a consideration under LPP2.23; however, Council may take those matters into account in its decision-making.

In view of the above, City officers further recommend that Council make a commitment to revisit its position upon receipt of a formal redevelopment application for the site, provided that any proposal demonstrates other positive heritage outcomes and/or community benefit. Although it is acknowledged that this does not provide the level of certainty that the landowner seeks, it is hoped that it will at least provide an assurance that Council is willing to consider any proposal for redevelopment of the site in a holistic manner and without prejudice.

Maintenance:

The planning framework for the registration of significant trees and vegetation areas, particularly LPP2.23, seeks to strike a balance between recognising trees/vegetation worthy of protection and allowing for specimens to be maintained without requiring further approvals. This is not only to ensure the ongoing health and longevity of registered trees/vegetation, but also to enable safe and responsible management by their owners, with the policy allowing for appropriate pruning or other maintenance.

The City's Parks and Landscapes team undertakes some maintenance associated with the Moreton Bay Fig at 195 High Street, Fremantle, amounting to a monthly expenditure of \$154, or \$1,848 per annum, for gutter and roof cleaning. Additionally, the car park on 195 High Street is swept on Mondays and the surrounding paving is washed throughout the year as part of routine operations.

Further, the City conducts regular inspections of the tree, with notable proactive measures taken in the past few years that involved pruning limbs that were encroaching upon the roofline of the adjoining buildings, undertaking dead wooding, and lifting branches over the adjacent footpath and roadway.



The landowner has questioned whether they should be responsible for tree preservation, given the development restrictions that it imparts, without some form of compensation. They have suggested that the City assist in general tree maintenance, substantial pruning, and upkeep of the surrounding paths and car park.

As noted in the Financial Implications section above, it is understood that the City has been helping with the management of the Moreton Bay Fig, predominantly through weekly sweeping, since an agreement with the landowners in 1995. Despite the absence of a formalised management plan and therefore the difficulties in estimating costs over time, the maintenance of the tree is already supported by the City. However, should Council wish to offer additional support, City officers would suggest that a management plan is prepared with indicative costings and reported back to Council in April 2024.

Notwithstanding, it is recommended that Council encourage the landowner to prepare a tree maintenance plan for the Moreton Bay Fig, setting out future maintenance requirements, including pruning, obstacle clearance and dead wood removal. Example templates for such a plan are available and can be provided to the landowner.

Registration of the tree:

When the Register of Significant Tree and Vegetation Areas was established, it was done by placing those trees that were included on the City's Heritage List onto the Register by notice under Clause 13A of the City's Local Planning Scheme No. 4, which includes a 21-day community engagement period. The City wrote to the owner of 195 High Street, Fremantle at their nominated postal address, to the effect that the tree was to be moved from the Heritage List to the new Register of Significant Trees and Vegetation Areas.

At its Ordinary Meeting on 27 February 2019, Council subsequently adopted LPP2.23 and authorised revisions to be undertaken to the City's Heritage List as follows:

2. *Adopt Local Planning Policy 2.23 – 'Register of Significant Trees and Vegetation Areas', with modification, in accordance with Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 part 2 clause 4...*
3. *Authorise for the following revisions to be undertaken to the City's Heritage List and Municipal Heritage Inventory:*
 - (a) *delete the following established trees and vegetation areas from the Heritage List and place them on the Register of Significant Trees and Vegetation Areas:*
 - *Tree, 11 Harvest Road, North Fremantle*
 - *Trees, 15 Harvest Road, North Fremantle*



- *Tree Grove, 21 Harvest Road, North Fremantle*
- *Trees, 45 Henderson Street, Fremantle*
- *Moreton Bay Fig, 195 High Street, Fremantle*

While LPP2.23 now requires any nomination for inclusion of a tree on the Register to be authorised by the owner(s) of the land on which the tree is located, LPP2.23 had not yet come into effect when the trees from the Heritage List were added to the Register, meaning that there was no requirement for authorisation by the landowners.

Annual consideration of nominations:

The City collects nominations for the addition of trees to the Register and requests for removal of trees from the Register throughout the year and considers them together on an annual basis. The submission from the owner of 195 High Street, Fremantle was received by the City in February 2023 and the annual update process was initiated in April 2023. The procedure for administering the Register of Significant Trees and Vegetation Areas states that:

A report on trees and vegetation areas requested for removal, along with any public submissions received will be submitted to Council annually (generally between February and April) for a decision on their removal from the Register.

However, the significant tree review process for 2023 has extended well beyond the initially projected timeline, primarily owing to challenges in procuring the necessary expertise from both internal and external sources for tree assessments. City officers are now acutely aware of this and will take account of it when undertaking any future tree protection initiatives.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required.



OFFICER'S RECOMMENDATION

Moved: Cr Fedele Camarda

Seconded: Cr Ingrid van Dorssen

Council:

- 1. Notes the submissions received in relation to the proposed inclusion of the Lemon Scented Gum at 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register and the proposed removal of the Moreton Bay Fig at 195 High Street, Fremantle from the same Register, as outlined in the report and attachments.**
- 2. Does not include the Lemon Scented Gum located at No. 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register.**
- 3. Retains the Moreton Bay Fig located at 195 High Street, Fremantle on the Significant Trees and Vegetation Areas Register.**
- 4. Advises the owner of 195 High Street, Fremantle that the City encourages them to prepare a tree maintenance plan for the Moreton Bay Fig setting out future maintenance requirements, including pruning, obstacle clearance and dead wood removal, noting the availability of example templates.**
- 5. Advises the owner of 195 High Street, Fremantle that while the City will continue to encourage the retention of the Moreton Bay Fig, Council will revisit its position on the tree's inclusion on the Significant Trees and Vegetation Areas Register upon receipt of a formal redevelopment application for the site, provided that any proposal demonstrates other positive heritage outcomes and/or community benefit.**

COUNCIL DECISION ITEM C2402-5 **(Officer's recommendation)**

Moved: Cr Fedele Camarda
Dorssen

Seconded: Cr Ingrid van

Council:

- 1. Notes the submissions received in relation to the proposed inclusion of the Lemon Scented Gum at 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register and the proposed removal of the Moreton Bay Fig at 195 High Street, Fremantle from the same Register, as outlined in the report and attachments.**



Carried: 8/0

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,
Cr Doug Thompson, Cr Ingrid van Dorssen**

OFFICER'S RECOMMENDATION

Moved: Cr Fedele Camarda

Seconded: Cr Ingrid van Dorssen

Council:

2. Does not include the Lemon Scented Gum located at No. 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register.

LOST: 0/8

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,
Cr Doug Thompson, Cr Ingrid van Dorssen**

OFFICER'S RECOMMENDATION

Moved: Cr Fedele Camarda

Seconded: Cr Ingrid van Dorssen

Council:

3. Retains the Moreton Bay Fig located at 195 High Street, Fremantle on the Significant Trees and Vegetation Areas Register.

LOST: 2/6

For:

Cr Ben Lawver, Cr Doug Thompson

Against:

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Frank Mofflin, Cr Ingrid van Dorssen**



OFFICER'S RECOMMENDATION

Moved: Cr Fedele Camarda

Seconded: Cr Ingrid van Dorssen

Council:

4. Advises the owner of 195 High Street, Fremantle that the City encourages them to prepare a tree maintenance plan for the Moreton Bay Fig setting out future maintenance requirements, including pruning, obstacle clearance and dead wood removal, noting the availability of example templates.

LOST: 1/7

For:

Cr Ben Lawver

Against:

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson, Cr Ingrid van Dorssen**

OFFICER'S RECOMMENDATION

Moved: Cr Fedele Camarda

Seconded: Cr Ingrid van Dorssen

Council:

5. Advises the owner of 195 High Street, Fremantle that while the City will continue to encourage the retention of the Moreton Bay Fig, Council will revisit its position on the tree's inclusion on the Significant Trees and Vegetation Areas Register upon receipt of a formal redevelopment application for the site, provided that any proposal demonstrates other positive heritage outcomes and/or community benefit.

LOST: 0/8

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,
Cr Doug Thompson, Cr Ingrid van Dorssen**



COUNCIL DECISION ITEM C2402-5
(Alternative motion)

Moved: Cr Andrew Sullivan

Seconded: Cr Doug Thompson

2. ~~Does not~~ **Includes** the Lemon Scented Gum located at No. 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register.

Carried: 8/0

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,
Cr Doug Thompson, Cr Ingrid van Dorssen

Reasons for Alternative Motion:

The tree is a landmark to the neighbourhood and provides significant visual and aesthetic value to everyone in our neighbourhood. This particular tree is one of the largest trees in the area and if the owner of the property wishes to protect the tree.

COUNCIL DECISION ITEM C2402-5
(Alternative motion)

Moved: Cr Jenny Archibald

Seconded: Cr Andrew Sullivan

3. a. ~~Retains~~ **Removes** the Moreton Bay Fig located at 195 High Street, Fremantle ~~on~~ **from** the Significant Trees and Vegetation Areas Register.
- b. *Request officers investigate and confirm whether there remains any restrictions under the Planning Scheme and Heritage Listing of the property for the fig tree at 195 High Street, once removed from the Register, and communicate results to the landowner within three months.*

Carried: 7/1

For:

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Andrew Sullivan,
Cr Fedele Camarda, Cr Frank Mofflin,
Cr Doug Thompson, Cr Ingrid van Dorssen

Against:

Cr Ben Lawver



Reasons for Alternative Motion:

At the Ordinary Council Meeting of 27th February 2019, the Local Planning Policy 2.23 "Register of Significant trees and vegetation areas" was adopted. The LPP 2.23 requires that inclusion of a tree on the Register is to be authorised by the owner(s) of the land on which the tree is located. At the time that trees formerly included on the Heritage List were transferred to the Register, the requirement for owner authorisation had not come into effect. The current owner (of some 60 years) of 195 High St had not given permission for the tree to be included on the Register and in the City's annual review of the Register has written to request that it be removed.

COUNCIL DECISION ITEM C2402-5

Council:

- 1. Notes the submissions received in relation to the proposed inclusion of the Lemon Scented Gum at 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register and the proposed removal of the Moreton Bay Fig at 195 High Street, Fremantle from the same Register, as outlined in the report and attachments.**
- 2. *Includes* the Lemon Scented Gum located at No. 6 Douglas Street, Fremantle on the Significant Trees and Vegetation Areas Register.**
- 3. a. *Removes* the Moreton Bay Fig located at 195 High Street, Fremantle *from* the Significant Trees and Vegetation Areas Register.**
 - b. Request officers investigate and confirm whether there remains any restrictions under the Planning Scheme and Heritage Listing of the property for the fig tree at 195 High Street, once removed from the Register, and communicate results to the landowner within three months***