



# Agenda

## Planning Committee

Wednesday 7 June 2023 6pm



## Notice of Planning Committee Meeting

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 7 June 2023** in the Council Chamber, Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in blue ink, appearing to read "Russell Kingdom".

Russell Kingdom  
**Director Planning, Place and Urban Development**

31 May 2023



## Table of Contents

1.	Official opening, welcome and acknowledgement .....	5
2.	Attendance, apologies and leaves of absence .....	5
3.	Disclosures of interests by members.....	5
4.	Responses to previous questions taken on notice .....	5
5.	Public question time.....	5
6.	Petitions.....	5
7.	Deputations.....	6
7.1	Special deputations.....	6
7.2	Presentations.....	6
8.	Confirmation of minutes .....	6
9.	Elected member communication.....	6
10.	Reports and recommendations.....	7
10.1	Deferred items .....	7
PC2306-1	REFERRED ITEM -SWANBOURNE STREET, 29 (LOT 5) FREMANTLE – ALTERATIONS AND ADDITIONS (TWO STOREY) TO EXISTING SINGLE HOUSE (JZ DA0018/23).....	7
10.2	Committee delegation .....	26
PC2306-2	AMHERST STREET, NOS. 34-38 (LOTS 1823, 1209, 1212, AND 1217) AND STACK STREET, NOS. 2-4 (LOTS 1223 AND 1222), FREMANTLE – RECONSIDERATION S31 - 55 GROUPED DWELLINGS) (JL DAP001/22).....	26
PC2306-3	BLINCO STREET, NO. 59 (LOT 1), FREMANTLE – 12 GROUPED DWELLINGS – (CM DAP002/23).....	58
PC2306-4	FREEMAN LOOP, NO. 23 (LOT 1 SP 69777), NORTH FREMANTLE - VARIATION TO DA0146/20 (ALTERATIONS AND CHANGE OF USE TO SMALL BAR) (ED VA0006/23) .....	96



PC2306-5	CLIFF STREET, NO. 6 (LOT 4) FREMANTLE – CHANGE OF USE TO MULTIPLE DWELLINGS AND ADDITIONS AND ALTERATIONS TO EXISTING BUILDING (JZ DA0012/23).....	103
PC2306-6	QUEEN VICTORIA STREET, NOS. 239-245 (LOT 13), NORTH FREMANTLE - ADDITIONS AND ALTERATIONS TO EXISTING BUILDING AND CHANGE OF USE TO OFFICE, SHOP AND CAFE/RESTAURANT (ED DA0085/23).....	119
PC2306-7	DOURO ROAD, NO. 9 (LOT 23), SOUTH FREMANTLE – SINGLE STOREY SINGLE HOUSE AND ANCILLARY DWELLING – (CM DA0014/23) .....	134
PC2306-8	WALKER STREET, NO. 31 (LOT 55), SOUTH FREMANTLE – ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE – (CM DA0066/23).....	153
PC2306-9	INFORMATION REPORT - JUNE 2023 .....	167
10.3	Council decision .....	169
PC2306-10	PRECINCT STRUCTURE PLAN – 140 STIRLING HIGHWAY, NORTH FREMANTLE.....	169
11.	Motions of which previous notice has been given .....	220
12.	Urgent business .....	220
13.	Late items.....	220
14.	Confidential business .....	220
15.	Closure .....	220



## **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 leaves of absence**

Cr Su Groome - apology

## **3. Disclosures of interests 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.

## **4. Responses to previous questions taken on notice**

There are no responses to public questions taken on notice at a previous meeting.

## **5. 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.

## **6. Petitions**

Petitions to be presented to the committee.

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



## **7. Deputations**

### **7.1 Special deputations**

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

There are no special deputation requests.

### **7.2 Presentations**

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

## **8. Confirmation of minutes**

### **OFFICER'S RECOMMENDATION**

**The Planning Committee confirm the minutes of the Planning Committee meeting dated 3 May 2023**

## **9. Elected member communication**

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



## 10. Reports and recommendations

### 10.1 Deferred items

**PC2306-1      REFERRED ITEM -SWANBOURNE STREET, 29 (LOT 5)  
FREMANTLE – ALTERATIONS AND ADDITIONS (TWO  
STOREY) TO EXISTING SINGLE HOUSE (JZ DA0018/23)**

**Meeting Date:** 7 June 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1. Amended Development Plans  
2. Site Photos  
3. Previous Development Plans Dated 11 April 2023

#### **SUMMARY**

**Approval is sought for two storey additions and alterations including a roof top terrace addition to an existing single house at No. 29 (Lot 5) Swanbourne Street, Fremantle.**

**The proposal is referred to the Planning Committee (PC) 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:**

- **Overshadowing (First and Upper floors)**
- **Boundary walls (South – Ground floor)**
- **Lot boundary setbacks (South – First floor)**

**The application was originally referred to the 3 May 2023 Planning Committee with a recommendation for refusal for the following reason:**

***The proposal is inconsistent with the design principles of the Residential Design Codes in respect to the building height, visual privacy and solar access for the adjoining property and are considered to cause an unacceptable amenity impact upon the adjoining southern property with excessive overshadowing of primary outdoor living area and habitable room openings.***

**At the Planning Committee held on 3 May 2023, the Council resolved as follows:**



***'Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the additions and alterations to the existing Single house at No. 29 (Lot 5) Swanbourne Street, Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to reduce the impact of overshadowing on the southern neighbour's outdoor living area.'***

**In response, the applicant has provided amended plans (dated 15 May 2023). It is considered that the amendments address the concerns raised in the previous proposal and the reasons for deferral provided above. Therefore, the amended proposal is recommended for conditional approval.**

## **PROPOSAL**

### **Detail**

Approval is sought for two storey additions and alterations to an existing single house at No. 29 (Lot 5) Swanbourne Street, Fremantle. The proposed works include:

- Demolition of the rear single storey modern additions of existing dwelling;
- New ground floor extension providing an additional living room and study room;
- New first floor extension providing an additional bedroom with ensuite; and
- New roof terrace addition to upper floor

The applicant submitted amended plans on 11 April 2023 including the following:

- Southern boundary wall shortened in length from 15.0m in length and 3.3m in height and lowered to a total of 12.58m in length and 3.0m in height;
- New open pergola structure addition to first floor;
- Reduced setback to the north by 15mm (from 1.8m to 1.785m) to shift the first floor more north and increase the setback to the south (from 0.9m to 1.5m), to improve solar access for the southern adjoining neighbour; and
- Roof terrace shifted North and provided with 1.6m privacy screening





The applicant submitted additional amended plans on 15 May 2023 after the May Planning Committee. The proposal was referred back to the administration for the purpose of addressing the adverse overshadowing impacts upon the southern neighbour that were considered evident by officers in the previous plans.

These plans included the following changes:

- Removal of upper floor addition (roof terrace)
- Relocation of the first floor further East and added a trellis style framed structure to the addition
- Reduction in the overall overshadowing of the neighbouring southern lot's outdoor living area from (79.5% to 69.5%), representing a 10% (6.0m<sup>2</sup>) reduction in the overshadowing of the southern lot calculated.
- Reduction in the footprint of the first floor by approx. 10m<sup>2</sup>

The details of these amendments and analysis of their net effect on the neighbouring property are discussed further in the Report.

Amended development plans are included as attachment 1.

**Site/application information**

Date received:	17 January 2023
Owner name:	David Hugh Jones and Mary Louise Jones
Submitted by:	Georgia Jeps
Scheme:	R25
Heritage listing:	Individually Listed Category 3
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



## **CONSULTATION**

### **External referrals**

Nil required.

### **Internal referrals**

The heritage impact of the proposal is deemed acceptable as it will have limited impact on the heritage significance and values of the subject site and on the streetscape of Swanbourne Street. Refer to the Heritage Assessment section of this report for further discussion.



## **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the application proposed variations to the R-Codes and policy provisions. The advertising period concluded on 2 March 2023, and 2 submissions were received, with one supporting the proposal. The following issues were raised (summarised):

- The ground floor additions provided with boundary walls will create a sense of confinement through added building bulk and will significantly impact on the adjoining property's ability to access adequate sunlight and ventilation and will abut the primary outdoor living area.
- The first floor and roof terrace additions with reduced lot boundary setbacks, will introduce mass building bulk and impact the amenity of southern adjoining property.
- The roof terrace addition will have a visual privacy impact, overlooking the primary outdoor living area of the southern adjoining property.
- The rear additions will have a detrimental impact on the solar access and ventilation owing to the southern adjoining property's primary outdoor living area.

An excerpt of the submission is provided as follows:

*I strongly reject the development application in its current form.*

*The proposed development shows no consideration for the adverse impacts on my property, and so I recommend the following points for consideration:*

- *The first floor's footprint should be shifted north towards the boundary of 27/27a Swanbourne Street. The reasons for this are:*
- *The first floor could then meet the deemed to comply provisions of Table 2a of Section 5.1.3 of the R-Codes;*
- *The first floor would abut unhabitable areas on 27a Swanbourne Street, not leading to a scale and bulk impact, nor would it overlook 27a Swanbourne Street's primary outdoor living area;*
- *By shifting the first floor's footprint north, this would significantly reduce the extent of overshadowing on our property, particularly as the proposed development's shadow casts directly over our property's outdoor living area.*
- *The roof terrace be completely removed from the plans. The reasons for this are:*
- *The roof terrace overlooks our property's primary outdoor living area and a habitable ancillary studio dwelling;*



- *The roof terrace likely also overlooks 27 Swanbourne Street's primary outdoor living area, located at the western rear of the property.*
- *If the applicant desires a roof terrace, it would need to be relocated to the front (eastern end) of the property, so as not to not overlook neighbouring properties' outdoor living areas.*

*For the reasons given above, I am completely opposed to the development as outlined in the attached plans.*

*I will never agree to the viewing deck as shown. I want setback requirements to be observed on the southside of the building. I want the issues of view loss, visual privacy and overshadowing to be significantly addressed. I trust that Council will follow up on matters rigorously.*

In response to the above, the applicant submitted revised plans on 11 April 2023, to address the concerns of visual privacy from the roof terrace and the boundary wall length, by providing written responses and further justification to the issues raised by the objection and planning assessment items (see attachments), including the following changes:

- Southern boundary wall shortened in length from 15.0m in length and 3.3m in height and lowered to a total of 12.58m in length and 3.0m in height;
- New open pergola structure addition to first floor;
- Reduced setback to the north by 150mm (from 1.8m to 1.785m) to shift the first floor more north and increase the setback to the south (from 0.9m to 1.5m), to improve solar access for the southern adjoining neighbour; and
- Terrace shifted North and provided with 1.6m privacy screening.

Following referral of the application back to the administration at the 3 May 2023 Planning Committee, further amended plans (dated 15 May 2023) were provided by the applicant to address this matter, including the following changes:

- Removal of upper floor addition (roof terrace)
- Relocation of the first floor further East and added a trellis style framed structure to the addition
- Reduction in the overall overshadowing of the neighbouring southern lot's outdoor living area from (79.5% to 69.5%), representing a 10% (6.0m<sup>2</sup>) reduction in the overshadowing of the southern lot calculated.
- Reduction in the footprint of the first floor by approx. 10m<sup>2</sup>

It is considered the amended drawings seek to address the concerns provided in the neighbour submission related to boundary walls, lot boundary setbacks overshadowing, and visual privacy with the level of discretion reduced, therefore the amended drawings were not readvertised to the adjoining neighbours.



Detailed comments on the lot boundary setbacks, overshadowing and visual privacy elements of the proposal are provided in the officer assessment section 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:

- Overshadowing (First floor)
- Boundary walls (South – Ground floor)
- Lot boundary setbacks (South – First floor)

The above matters are discussed below.

### Background

The subject site is located on the western side of Swanbourne Street. The site has a land area of approximately 311m<sup>2</sup> and is currently an existing single storey single house. The subject site slopes downward from the street to the rear of the site by approximately 1-1.5m. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed.

There is no relevant planning history applicable to the subject site.

### Boundary wall

Element	Requirement	Proposed	Extent of Variation
Boundary wall (south)	1.0m	Nil	1.0m

It is noted there is no change from the previous submitted development plans dated 11 April 2023.

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

- The proposed boundary wall enables more effective use of space on the site as it creates an enhanced private outdoor living area (OLA) for the northern area of the subject property;

- The proposed boundary wall is considered a minor departure from the deemed-to-comply requirement of LPP 2.4 CI IV (i) as the total wall length is 12.58m (580mm above the length requirement) and the height of the wall is to a maximum of 3.0m which as a result reduces the building bulk of the development; and
- In relation to overshadowing, the southern boundary wall is considered acceptable as the extent to overshadowing is caused by the additions of floors above (first floor). See further discussion of this below.

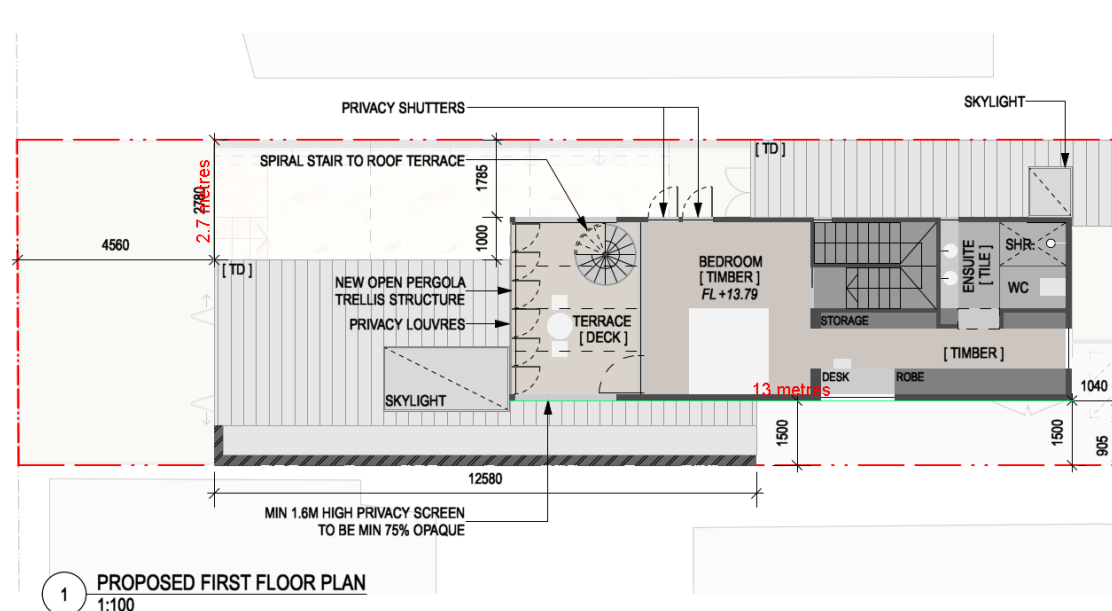
### Lot Boundary Setback

Element	Requirement	Proposed	Extent of Variation
First Floor (South)	1.5m	1.17m	-0.33m

### First Floor (Southern Setback)

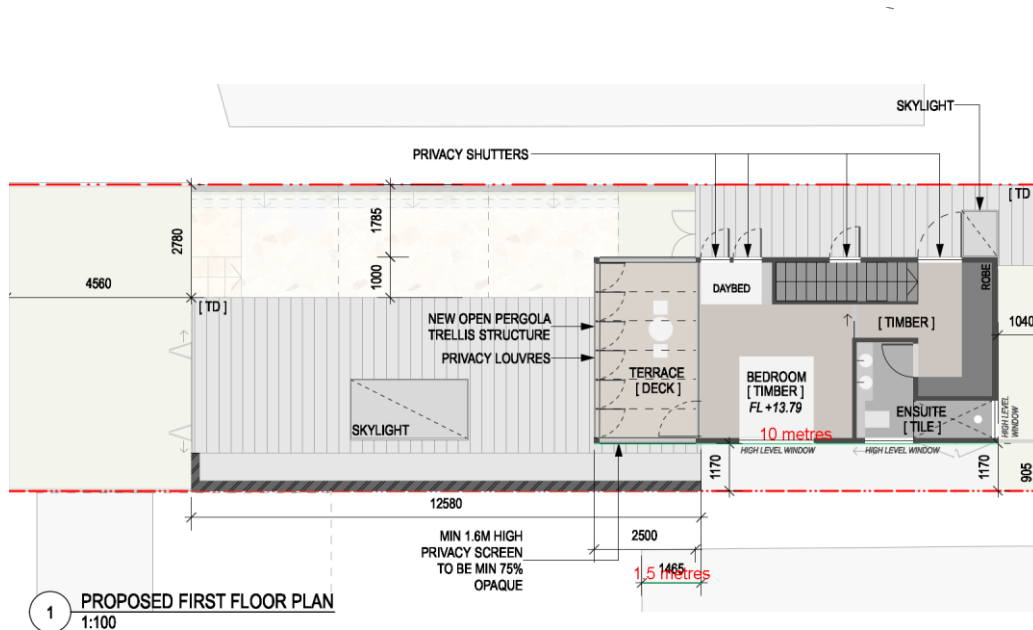
The southern boundary setback to the first floor is considered to meet the Design principles of the R-Codes in the following ways:

- In relation to overshadowing, the overall length of the proposed first floor addition has been reduced in length in the amended drawings, from a total of 13.0m to 10.0m – which has reduced the extent of overshadowing owing to the southern adjoining property's OLA and can therefore be supported by City Officers (see Figures 1 and 2 in comparison below).



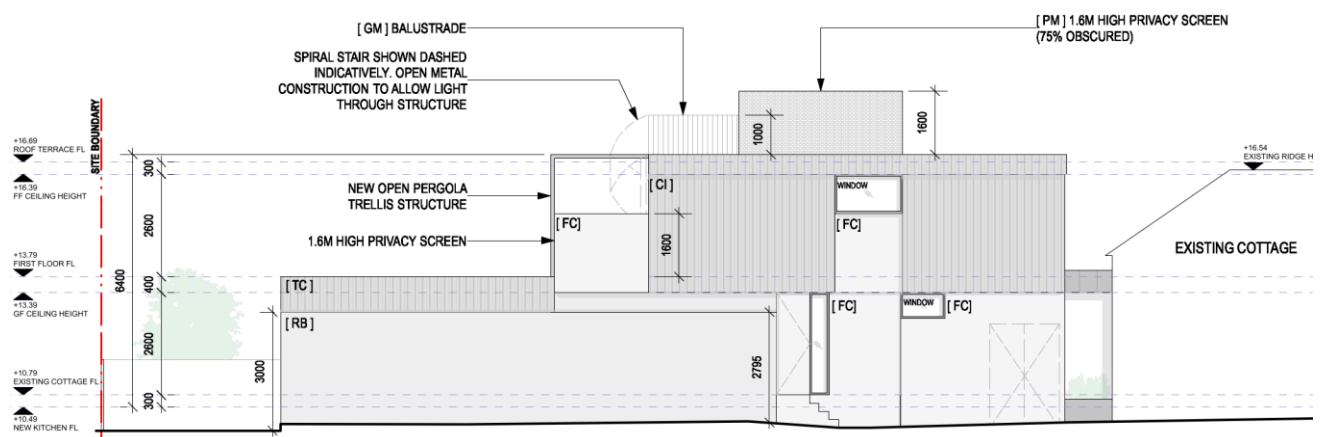
**Figure 1:** Previous drawing dated 11 April 2023 showing proposed First Floor Addition with a total length of 10.0m.



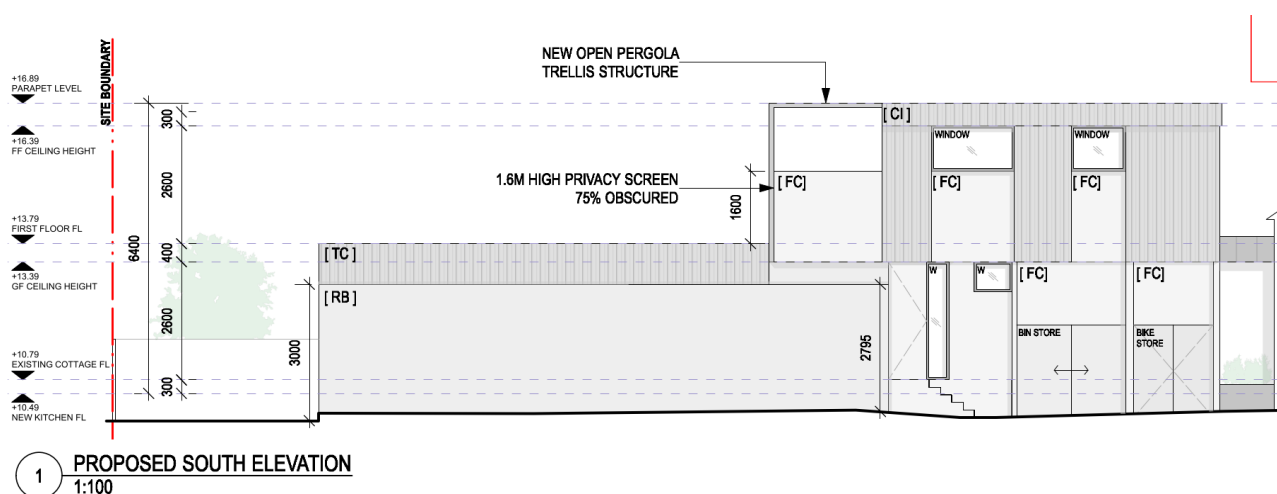


**Figure 2:** Amended drawing dated 15 May 2023 showing proposed First Floor Addition with a total length of 10.0m.

- The lesser setback to the southern boundary enables more effective use on site as it creates an enhanced private OLA for the subject property, whilst mitigating the extent to overshadowing to the southern adjoining property.
- The lesser setback minimises the impact of building bulk and as a result the amenity of the southern adjoining neighbour; by opening up the wall through an open pergola design (see Figure 4 below). As a result, the mass of the wall which extends for 10.0m in length and 6.4m in height to the first floor addition is reduced in size and form, which is an improvement from the previously submitted drawings dated 11 April 2023 (see Figure 3 below).



**Figure 3:** Previous First Floor Addition Design – Drawings dated 11 April 2023, showing extent of wall length and building bulk.



**Figure 4:** Amended First Floor Addition Design – Drawings dated 15 May 2023, showing reduction in wall length and removal of upper floor (roof terrace).

It should be noted that all other lot boundary setbacks either comply or exceed the deemed-to-comply requirements of the R-Codes.

### Solar Access (South)

Element	Requirement	Proposed	Extent of Variation
Maximum Permissible Overshadowing of Adjoining Sites (R-Codes 5.4.2)	Max. 25% of shadow cover of adjoining site: No. 31 Swanbourne Street (Site Area: 311m <sup>2</sup> )	54% (168m <sup>2</sup> )	21.3% (90.19m <sup>2</sup> )

The proposal is considered to meet the design principles of the R-Codes in the following ways:

- It is evident the applicant has taken steps to improve the overshadowing impact on the southern adjoining neighbour by the following ways;
  - Removing the roof terrace in the design to reduce overshadowing and building bulk,
  - Shifting the first-floor addition further east to cast the shadow over a portion of the built form of the southern adjoining property rather than the entire outdoor living area (OLA),
  - Reduction in the overall footprint of the first-floor addition by approx. 10m<sup>2</sup> to reduce impact of overshadowing on adjoining southern neighbour.



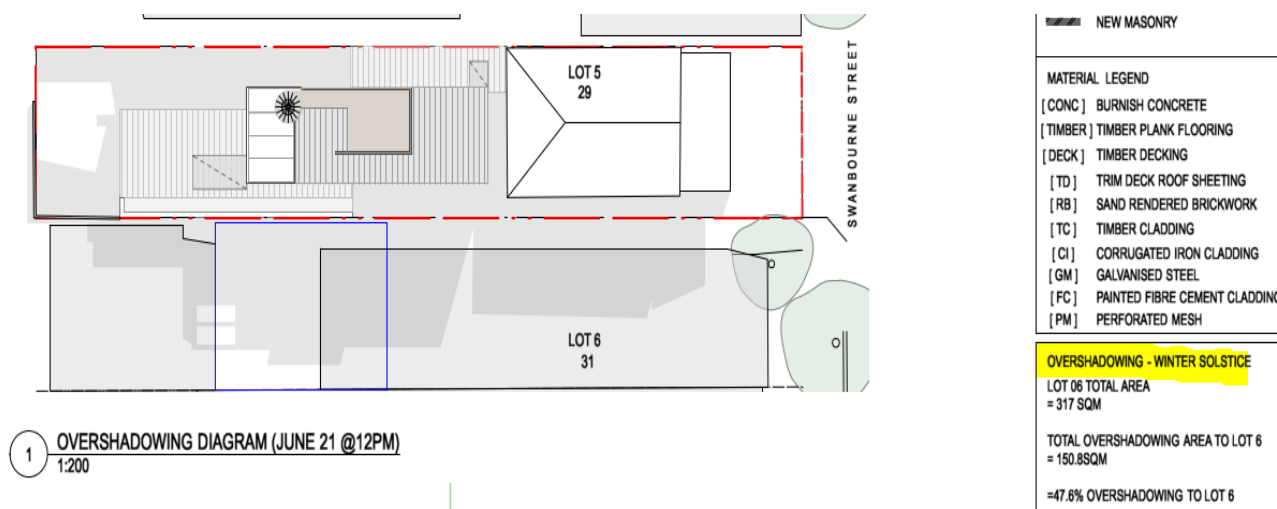


- The redesign of the proposed additions shift the shadow cast over the southern adjoining neighbour's site, from the majority of the OLA (a sensitive, private habitable space) to the built form and existing roof areas of the adjoining covered patio and house which are non-sensitive areas of the adjoining dwelling – see Figures 4 and 5 in comparison (below).
- It is considered that the amended design has improved the overall shadow cast over the southern adjoining neighbour's OLA by a reduction of approximately 10% from the previous submitted plans dated 11 April 2023 – (69.5% in lieu of 79.5%).
- It is also important to note that the east-west oriented lots such as those on Swanbourne Street, with lot widths of 8m or less are considered narrow lots, and some overshadowing is inevitable for development proposals above a single storey. Therefore, consideration has been given to the proposed rear alterations and additions to exceed the deemed-to-comply requirement of the R-Codes.

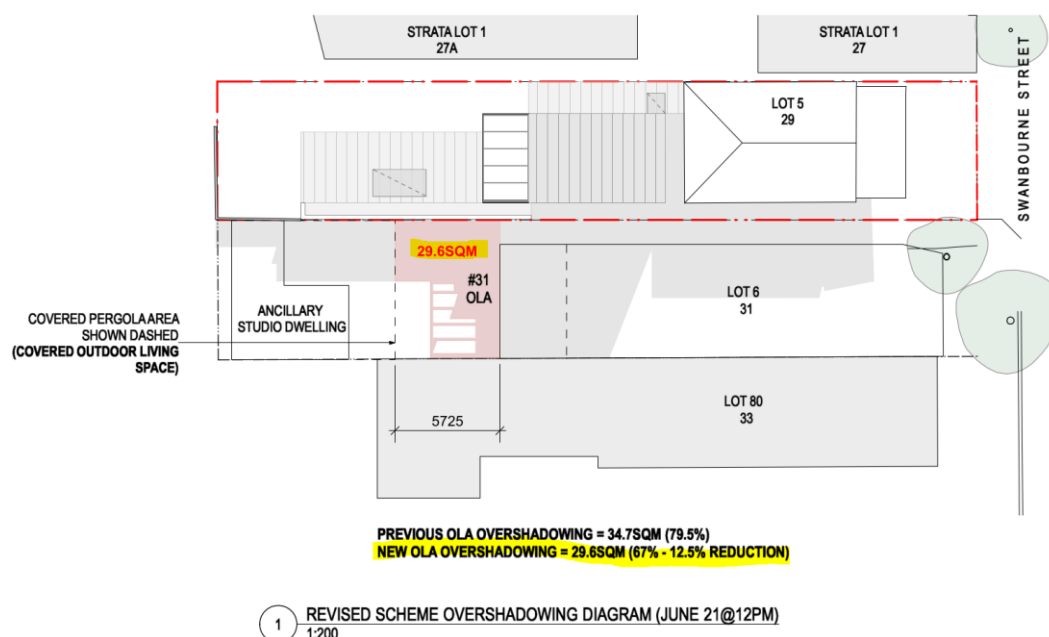
It is considered that the new amended plans dated 15 May 2023, seek to address the concerns related to overshadowing over the southern adjoining neighbour's property, by relocating the shadow from the adjoining neighbour's OLA to extend over the built form rather than the entire OLA, (see Figures 5 and 6 below in comparison).

The amended drawings dated 15 May 2023, are considered to meet the requirements of the design principles of the R-Codes, by shifting the overshadowing from the first floor additions away from the OLA and onto predominantly roof cover of the southern adjoining neighbour.

This has been achieved by reducing the total area of the first floor addition from 56m<sup>2</sup> in area to 46m<sup>2</sup>, (see Figures 3 and 4 above in comparison).



**Figure 5:** Amended Plans dated 11 April 2023 showing Overshadowing Assessment showing the existing OLA (shown in blue box above figure 4 of No.31 Swanbourne Street.



**Figure 6:** Amended Plans dated 15 May 2023 showing Overshadowing Assessment and the existing OLA.



The amended plans submitted dated 15 May 2023 have revised the design to meet the requirements of the design principles of the R-Codes by removing certain design elements such as the upper floor roof terrace and shifting the first floor addition further east to cast the shadow over more of the southern adjoining neighbour's built form rather than the OLA. Therefore, with these design elements being addressed, this overshadowing variation can be supported by City Officers.

### **Heritage Assessment**

As the proposed development is Level 3 Heritage Listed. It is subject to assessment against LPP 3.6 – Heritage Areas Local Planning Policy. As outlined in LPP 3.6, the intent of additions and alterations to existing buildings is as follows:

*When altering or adding to a place with heritage protection, the goal is for an outcome that does not reduce the cultural heritage significance of the place (whether this significance is individual to the site, or part of the broader significance of the area) and ideally, enhances it. This generally involves changing as little as possible but as much as necessary in order to retain the cultural heritage significance of the place and maintain its utility. Because the significance of each place and its context is different, assessment of the suitability of proposals requires that each proposal should be assessed on its own merits.*

The proposal was reviewed and as noted above, the heritage impact of the proposal is deemed acceptable as it will have limited impact on the heritage significance and values of the place. City Heritage Officers provided the following comments;

*We have assessed the DA for 29 Swanbourne Street – two storey addition to the rear of single storey cottage and can advise that there are no heritage issues. The new addition allows for the original cottage to remain with its roof form intact. There is a separation between the original cottage roof form and the two storey section of the addition and there will be minimal impact to the streetscape.*



In accordance with LPP 3.6, new development in heritage areas needs to satisfy the following criteria (assessment against relevant criteria outlined below):

*3.5 Additions and Alterations (to existing buildings)*

Element	Officer comment
<b>General</b>	
i. Alterations and additions in heritage areas should respond sympathetically to the heritage values of the area as a whole and that part of the heritage area in the vicinity of the proposed development, with changes designed and sited in a manner that retains, conserves, respects and complements the heritage significance of the place and area.	In accordance with the heritage comments provided by City Heritage Officers, the proposed additions and alterations are considered to comprise changes to the place which are able to be supported.
ii. Alterations and additions to contributory places should seek to change as little as reasonably possible.	The proposed rear additions and alterations will retain the existing Heritage listed single house and comprise changes to the place which are able to be supported.
<b>Siting and scale</b>	
v. Double storey additions to a contributory building may be considered where: <ul style="list-style-type: none"> <li>• they are located to the rear of the original building;</li> <li>• they do not alter the original building roof line;</li> <li>• they are constructed so that the roof of the new addition is independent from the original building's roof form;</li> <li>• the roof form of the addition is not visible from the street (a minor variation to this may be permitted based on a proposal's impact on the streetscape); AND</li> <li>• if the addition is attached to the original building, in order to allow the</li> </ul>	<p>The proposed additions and alterations are located to the rear of the original heritage listed building;</p> <p>The rear additions does not alter the original building's roof form.</p> <p>The rear additions will provide separation between the original cottage roof form and the two storey section of the addition and therefore, there will be minimal impact on the original building's roof form</p> <p>The rear additions will not detract from the existing streetscape and therefore there will be minimal impact caused by the additions.</p> <p>The rear additions provide a separation wall between the original building and the new rear additions and will not detract from the original built form the cottage on the subject site.</p>



<p>original building to retain its original form, then this is to:</p> <ul style="list-style-type: none"> <li>o Be via a linked pavilion, or</li> <li>o Have side external walls of the extension set in from the side walls of the original building, or</li> <li>o Be supported by a material change at the junction of the old and new</li> </ul>	
<b>Form</b>	
<p>i. Additions to places within a heritage area must respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape and existing building, without falsely mimicking heritage detailing.</p>	<p>The additions contribute to the streetscape in a positive manner, through a contemporary, sympathetic design.</p>
<p>ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.</p>	<p>The two-storey addition will sit behind the roof line of the existing dwelling and is largely concealed from the existing streetscape due to the sloping of the site from the street to the rear.</p> <p>The addition responds to and interprets the scale, form and articulation of existing and nearby buildings.</p>
<p>iii. The treatment of additions in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. of an addition should relate to the existing contributory building and to its neighbours.</p>	<p>In accordance with the attached heritage comments, the proposed additions are subservient to the main house in form and are deemed as acceptable.</p>
<p>iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.</p>	<p>The façade of the main dwelling will be maintained and extended as existing.</p>



<p>v. Contemporary addition designs should respond to, and interpret, the scale, articulation and detail of the existing and nearby buildings in a modern, innovative and sympathetic way.</p>	<p>In accordance with heritage comments provided by City Heritage Officers, the proposed additions are considered acceptable.</p>
<p><b>Roofs</b></p>	
<p>i. 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.</p>	<p>The rear additions will retain the original roof form and reinforce the existing streetscape.</p>
<p><b>Materials, Colours and Detailing</b></p>	
<p>i. Significant original or early materials and detailing to contributory places should be retained and conserved. Where it can be demonstrated that original fabric has been previously removed or unsympathetically altered, restoration/reconstruction of the street front facades to their original form and detailing is strongly encouraged. This should be based on documentary and/or physical evidence such as remaining traces of earlier fabric and old plans and photographs</p>	<p>The proposed rear additions and alterations will retain the existing Heritage listed single house and comprise changes to the place which are able to be supported.</p> <p>No changes to the original built form of the existing dwelling as a part of the additions and alterations.</p>
<p>ii. Intrusive finishes to heritage buildings should be removed. Intrusive finishes could be aesthetically intrusive or physically intrusive such as cement render or acrylic paints.</p>	<p>As above.</p>



<p>iii. It is recommended that paint finishes or rendered finishes to previously unpainted or un-rendered surfaces on heritage buildings be avoided. Further, glossy materials or finishes on heritage buildings should be avoided unless there is a historical precedent for their use.</p>	<p>As above.</p>
<p>iv. Use of original colours (based on physical inspection or paint scrapes) or traditional colours is encouraged. Where a contemporary paint colour scheme is being considered 16/66 for a contributory building in a heritage area, consideration should be given to the traditional tonal contrasts and façade detailing. Monochromatic schemes are not appropriate on heritage buildings and should be avoided.</p>	<p>The colour scheme is considered acceptable from a heritage perspective.</p>

## **Demolition of Buildings and Structures**

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

1. *has limited or no cultural heritage significance, and*
2. *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 confirmed that the two storey rear additions and alterations to the existing Level 3 Heritage Listed Single house at 29 Swanbourne Street, will have no discernible impact on the original cottage or built form as there is a separation between the original cottage roof form and the new rear two storey extension. Furthermore, the additions and alterations will have minimal impact on the streetscape of Swanbourne Street.

On the basis of the above, the demolition of the existing buildings on the subject site is supported pursuant to clause 4.14 of the City's LPS4.



### **Front Gate Addition**

It is noted the proposal includes modifications to an existing primary street fence to allow a new single onsite car parking bay. These modifications will include the addition of a front pedestrian gate to be made visually permeable and two solid piers to a height of 1.9m.

A condition requiring the pedestrian gate as indicated on the approved plans to swing into the subject site only when opened and not impede on the adjoining road reservation, if the application was being supported then an appropriate condition could be imposed to ensure the above would be met.

### **CONCLUSION**

In accordance with the above assessment, as amended is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Two Storey Additions and Alterations Addition to existing Single house at No. 29 (Lot 5) Swanbourne Street, Fremantle, as detailed on plans dated 15 May 2023, for the following reasons:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 15 May 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. 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. The pedestrian access and / or vehicle gate, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.**
- 4. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**
- 5. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 6. Prior to occupation/use of the development hereby approved, the boundary wall located on the southern boundary 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.**

**ADVICE NOTES:**

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**
- iii. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**



## 10.2 Committee delegation

**PC2306-2 AMHERST STREET, NOS. 34-38 (LOTS 1823, 1209, 1212, AND 1217) AND STACK STREET, NOS. 2-4 (LOTS 1223 AND 1222), FREMANTLE – RECONSIDERATION S31 - 55 GROUPED DWELLINGS) (JL DAP001/22)**

<b>Meeting Date:</b>	7 June 2023
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Amended Development Plans</li><li>2. Schedule of Submissions – Amended Plans</li><li>3. Amended Planning Report prepared by applicant (Urbis)</li><li>4. Site Photos</li><li>5. Previous DAP Determination letters and Refused Plans</li><li>6. Revised Landscaping plan</li><li>7. Revised Traffic Impact Statement</li><li>8. Revised Waste Management Plan</li><li>9. Indicative retaining plan</li><li>10. Design Advisory Committee Minutes (May 2023)</li></ol>

### SUMMARY

**At its meeting held 23 November 2023 the Metro Inner South Joint Development Assessment Panel (JDAP) refused DAP001/22 which was for a fifty six (56) Grouped dwellings at Nos. 34-38 Amherst Street and Nos. 2-4 Stack Street, Fremantle (subject site).**

**Subsequently, the applicants lodged an application for review (appeal) of the above decision of JDAP to the State Administrative Tribunal (SAT). SAT has ordered a reconsideration of DAP001/22 and as such an amended application has been submitted.**

**The amended application includes the following changes:**

- **Removed crossover treatments for the dwellings on the southern portion fronting Amherst Street and introduction of a Mews Road option.**
- **Increased landscaping of Amherst Street verge area**
- **New footpath configurations to Amherst Street. This involves moving the footpath from directly at the front of the subject sites to western edge of the mews road.**
- **Allocating 6 visitor bays internal and 11 bays to verge areas of the development site.**



- **Reconfiguring unit layouts to improve solar access for the following units:**
  - **Units A - lots 8, 25, 33- 45**
  - **Unit G2 - lot 35**
  - **Units F – lots 13 and 21**
  - **Units H – lots 22-24**
  - **Units C – lots 9-12**
  - **Units E – lots 26-32**
- **Changed E type units from 3 bed to 2 bed dwellings.**
- **Two new pocket parks within development with communal facilities.**
- **Introduce new 'G2' dwelling layout to increase potential for land use other than Residential.**
- **Reduce net number of dwellings from 56 to 55.**
- **Indicative location of vehicle gates at the internal road entry points to Amherst and Stack Streets, in addition to a pedestrian access gate to Amherst Street (opening within the site).**
- **Amended paving details to internal common property.**

**As the development value exceeds \$10 million, the application is required to be determined by the JDAP. The City's Responsible Authority Report (RAR) is referred to Planning Committee for comment.**

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

## **PROPOSAL**

### **Detail**

Approval is sought for the construction of 55 Grouped dwellings at Nos. 34-38 Amherst Street and Nos. 2-4 Stack Street, Fremantle. The proposed works include:

- Demolition of existing buildings spanning the subject sites;
- Site works;
- Construction of 55 Grouped dwellings, with ten housing typologies, (two to three storeys);
- Internal private roads;
- Two communal parklets; and,
- Provision of common property and verge landscaping.



The primary issues presented and discussed in this assessment include comprise:

- Knutsford Street East Local Structure Plan (specifically relating to the developments interface, residential density, provision of non-residential land use, adaptability, public open space contributions);
- Primary street setbacks (to Amherst and Stack Street facing Grouped dwellings);
- Garage width;
- Outdoor living area; and
- Visitor parking

Amended development plans are included as attachment 1.

***Planning Committee previous recommendation***

Prior to refusal by the JDAP in late 2022, Planning Committee reviewed the proposal and provided the following recommendation –

1. *Does not support the proposed demolition of existing buildings and construction of 56 Grouped dwellings at Nos. 34-38 Amherst Street and Nos. 2-4 Stack Street, Fremantle on the following grounds:*

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

*Council therefore recommends refusal under the Metropolitan Region Scheme and Local Planning Scheme No. 4*

2. *In the event that the JDAP considers granting an approval, the following amendments to the Officers recommendation are provided without prejudice.*



Amended Condition 9 –

9. *Prior to the issue of a building permit, a detailed landscaping plan that addresses onsite landscaping in common property, including information relating to species selection, 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, and shall include deep root planting areas for a minimum of 42 medium sized trees located within the private roads, and where trees are not possible in due to confined space, alternative methods of providing adequate canopy cover, including vegetated trellises shall be provided. The landscaping shall be implemented prior to the occupation of the development and be maintained for the life of the development to the satisfaction of the City of Fremantle.*

Amended Condition 11 –

11. *Prior to the issue of a building permit for the development hereby approved, an outdoor lighting plan that details safe lighting for pedestrian and vehicular access through the common property, including on the street side of all entrance gates, must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties and shall be maintained for the life of the development.*

Add an additional condition

*Prior to the issue a building permit drawings and specifications are to be provided to the City demonstrating a 4.0m floor to ceiling height for the ground floors of Lots 44 and 45 (Type G dwellings) to the satisfaction of the City of Fremantle.*

Add an additional condition

*Prior to the issue of a building permit for the development hereby approved, a detailed hard landscaping plan and specification that addresses the construction, paving and kerb details, levels and falls, the safe integration of pedestrian, cycling and vehicular movements, and CPTED and universal access design principles shall be submitted to and be approved by the City of Fremantle. The plan shall include pedestrian steps between 'Laneway A' and 'Laneway B'. All gates between the private roads and the public streets shall be held open between sunrise and sunset as a minimum, and the gates shall be readily accessible for pedestrian, visitor and emergency access and egress at all times.*



Add an additional Advice Note

*In relation to the onsite landscaping, the City anticipates a satisfactory landscape plan would include the provision of at least 21 trees in 'Road A', 6 trees in 'Road B', 2 trees in 'Road C', 8 trees in 'Road D', and 5 trees in the Laneways. The City also anticipates that the Condition 9 requirement for alternative methods generating canopy cover would be satisfied where vertical vegetation and/or vegetated trellising is provided in the Laneways and Road C.*

Amended Advice note 2 –

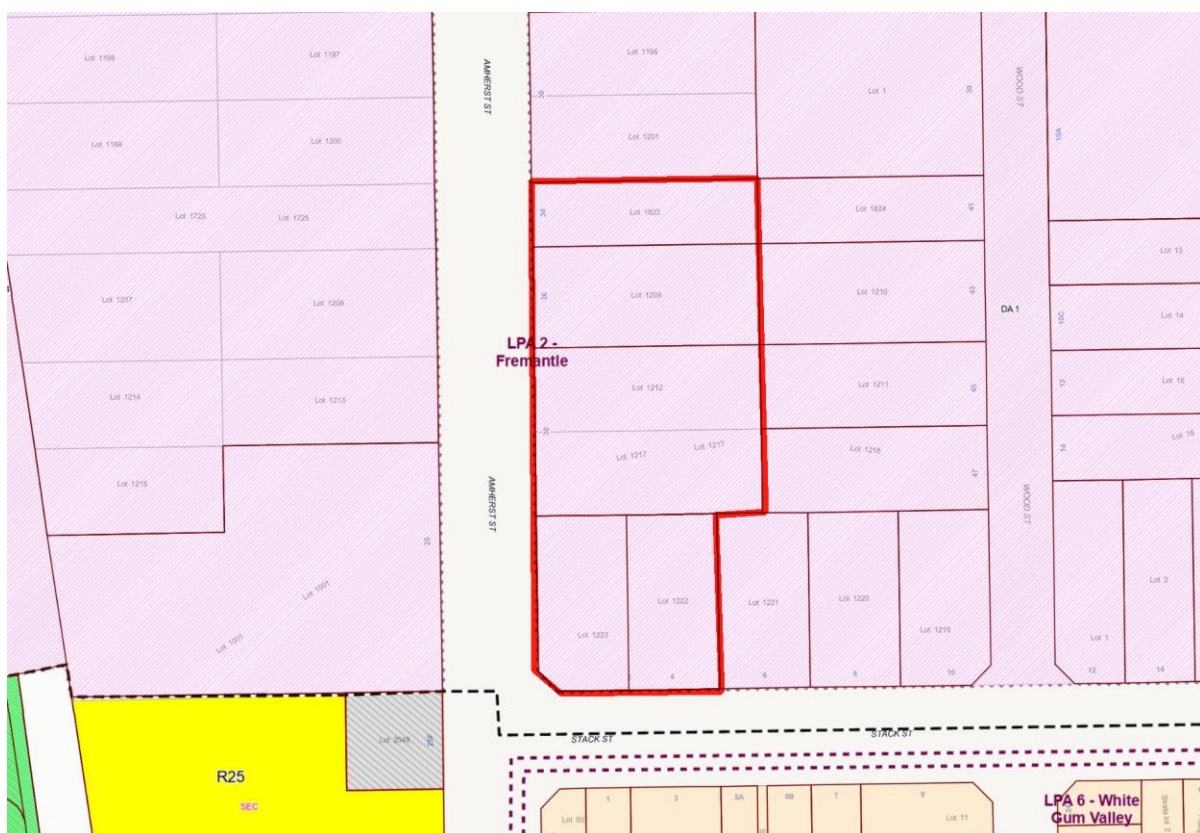
*With regard to Condition 3, the City advises that the closely spaced crossovers proposed to service lots 36-44 are inconsistent with the type of streetscape function and character required for the precinct and will not be approved in the form shown. Likewise, the final configuration of any proposed crossovers and visitor parking bays in the verge will need to be further explored and implemented to reduce the impact of any paved/hardstand areas in the public realm. Prior to issuing any permits for verge works/treatments in the Amherst St and Stack St road reserves abutting the subject site, the City requires further information and detail/ methodologies be developed in consultation with the City and the community, and agreed to the satisfaction of the City. These elements may include (though are not limited to) the following:*

- *Mitigation of the visual impact of crossovers serving individual narrow lots along Amherst Street;*
- *Improvement in the verge landscaping and amenity to ensure a safe and welcoming environment for pedestrians, cyclists and visitors to the precinct;*
- *Explore the consolidation of vehicle access point where possible, including consideration of a slip lane/mews to replace the closely spaced repetition of crossovers;*
- *Provision of water permeable surface for new paving to reduce hardstand surface;*
- *Introduction of advanced specimen verge trees and landscaping sufficient to offset new hardstand areas and the limited canopy cover achievable within the development;*
- *Review the provision of public and visitor parking to improve the overall availability and design of parking abutting the site taking into consideration the need for new visitor parking, the surrounding urban environment and the overall transport function of the local streets; and,*
- *Other relevant verge beautification works/ modifications to improve verge amenity.*



### Site/application information

Date received: 26 May 2022  
Owner name: The Trustee for Latenza 3 Unit Trust  
Submitted by: Urbis  
Scheme: Development Zone  
Heritage listing: Not Listed  
Existing land use: Various industrial and warehouse uses  
Use class: Grouped dwellings  
Use permissibility: P



### OFFICER'S RECOMMENDATION

#### Council:

- 1. SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of existing buildings and construction of 55 Grouped dwellings at Nos. 34-38 Amherst Street and Nos. 2-4 Stack Street, Fremantle, subject to the conditions outlined in the responsible authority report.**



**State Administrative Tribunal Reconsideration –  
Responsible Authority Report**  
(Regulation 12)

<b>DAP Name:</b>	Metro Inner-South JDAP
<b>Local Government Area:</b>	City of Fremantle
<b>Summary of Modifications:</b>	<ul style="list-style-type: none"> <li>• Reduced number of Grouped dwelling forms 56 to 55.</li> <li>• Introduction of Mews access way to Amherst Street.</li> <li>• Review of internal unit layout to several units.</li> <li>• Landscaping and communal facilities introduced.</li> <li>• Two Pocket parks introduced.</li> <li>• Landscaping to Amherst Street and Stack Street verge areas.</li> </ul>
<b>Applicant:</b>	Urbis
<b>Owner:</b>	The Trustee for Latenza 3 Unit Trust Pty Ltd
<b>Value of Development:</b>	\$21.5 million <input checked="" type="checkbox"/> Mandatory (Regulation 5) <input type="checkbox"/> Opt In (Regulation 6)
<b>Responsible Authority:</b>	City of Fremantle
<b>Authorising Officer:</b>	Ms Chloe Johnston, Manager Development Approvals
<b>LG Reference:</b>	DAP001/22
<b>DAP File No:</b>	DAP/22/02244
<b>SAT File No (DR reference):</b>	DR211/2022
<b>Date of Decision under Review:</b>	23 November 2022
<b>Application for Review Lodgement Date:</b>	30 November 2022
<b>Attachment(s):</b>	<ol style="list-style-type: none"> <li>1. Amended Development Plans</li> <li>2. Schedule of Submissions – Amended Plans</li> <li>3. Amended Planning Report prepared by applicant (Urbis)</li> <li>4. Site Photos</li> <li>5. Planning Committee Minutes</li> <li>6. Previous DAP Determination letters and Refused Plans</li> <li>7. Amended Landscaping plan</li> <li>8. Traffic report</li> <li>9. Waste Management Plan</li> <li>10. Indicative retaining plan</li> </ol>





	11. Design Advisory Committee Minutes (May 2023)	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

### Responsible Authority Recommendation

That the Metro Inner South Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 211 of 2022, resolves to:

**Reconsider** its decision dated 23 November 2022 and **SET ASIDE the decision and APPROVE** DAP Application reference DAP/22/02244 and amended plans (UDS0.00J, UDS0.01J, UDS1.00E, UDS2.00E, UDS2.01E, UDS2.03E, UDS2.04E, UDS2.05D, UDS3.00G, DA01.00I, DA01.01Y, DA01.02K, DA01.03H, DA01.04I, DA01.05I, DA01.06J, DA02.01H, DA02.02H, DA02.03G, DA03.01G, DA04.01D, DA04.02H, DA06.01G, DA4.A.01J, DA4.02J, DA4.A.03J, DA4.A.04J, DA4.A.05J, DA4.A.06J, DA4.C.01J, DA4.C.02J, DA4.C.03J, DA4.C.04J, DA4.C.05J, DA4.D1.01K, DA4.D1.02K, DA4.D1.03K, DA4.D1.04K, DA4.D1.05K, DA4.D.01L, DA4.D.02L, DA4.D.03L, DA4.D.04L, DA4.D.05L, DA4.E.01L, DA4.E.02L, DA4.E.03L, DA4.E.04L, DA4.E.05L, DA4.E.06L, DA4.E.07L, DA4.E.08L, DA4.F.01K, DA4.F.02K, DA4.F.03K, DA4.F.04K, DA4.F.05K, DA4.G2.01E, DA4.G2.02E, DA4.G2.03E, DA4.G2.04E, DA4.G.01E, DA4.G.02E, DA4.G.03E, DA4.G.04E, DA4.G.05E, DA4.H.01D, DA4.H.02D, DA4.H.03D, DA4.H.04D, DA4.H.05D, DA4.H.06D, DA4.H.07D (dated 1 May 2023) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Local Planning Scheme No.4, subject to the following conditions:

### Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.



3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site with the exception of approved landscaping works.
4. The pedestrian access and vehicle gates, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.
5. The development hereby permitted shall be finished and maintained generally in accordance with the approved colour/building finishes schedule dated 1 May 2023 to the satisfaction of the City of Fremantle. Any modification to the approved schedule is to be approved by the City of Fremantle.
6. Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required.

If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the commencement of construction works to the satisfaction of the City of Fremantle on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.

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

7. Prior to submission of a building permit for the development hereby approved, 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.
8. Prior to submission of a building permit for the development hereby approved, a detailed landscaping plan that addresses onsite landscaping in common property, on private lots and in the verge, including information relating to species selection, reticulation, details of existing vegetation to be retained, design of car parking, pedestrian pathways and vehicle access and treatment of landscaped and hard surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.



9. Prior to submission of a building permit for the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:

- Estimated waste generation
- Proposed storage of receptacles
- Collection methodology for waste
- Details of waivers to be provided to indemnify the City from damages that may occur in relation to waste collection
- Additional management requirements to be implemented and maintained for the life of the development.

The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.

10. Prior to submission of a building permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
11. Prior to the issue of a building permit or Demolition Permit, a Construction and Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:
- a) Use of City car parking bays for construction related activities;
  - b) Protection of infrastructure and street trees within the road reserve;
  - c) Security fencing around construction sites;
  - d) Gantries;
  - e) Access to site by construction vehicles;
  - f) Contact details;
  - g) Site offices;
  - h) Noise - Construction work and deliveries;
  - i) Sand drift and dust management;
  - j) Waste management;
  - k) Dewatering management plan;
  - l) Traffic management; and
  - m) Works affecting pedestrian areas.



Dewatering application must include:

- Written approval from department of Water and Department of Park and Wildlife
- Dewatering impact report
- Demonstrated compliance with Swan Trust Policy SRT/DE6
- Before discharge into the City's storm water system, they need to have a sediment control and weekly monitoring plan.

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

12. Prior to submission of a building permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.
13. Prior to occupation for the development hereby approved, the common property, private lot and verge 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.
14. Prior to the occupation of the development hereby approved, all on site 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.
15. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to existing Industrial, Commercial, and Warehouse uses and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.
16. Prior to the occupation of the development hereby approved, vehicle crossovers, off site car parking and the access mews shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.



17. 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.
18. Prior to occupation of the development, the cost of any street trees approved for removal in order to accommodate vehicle access to the site must be paid to the City, in addition with the cost of six replacement trees on the verge in accordance with LPP1.10 Construction Sites, to the satisfaction of the City of Fremantle.
19. 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. The City advises that the required landscaping plan should address the applicable provisions within Design Element 5.3.2 – Landscaping of the Residential Design Codes – Volume 1.
- ii. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site will require final approval from the City. Queries relating to the detailed design of these works should be directed to the City's Technical Officer, Parks and Landscape via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.

As part of future crossover permits and other approval processes for verge landscaping and parking installation on Amherst and Stack Street's, early engagement with the City is required to ensure the design is satisfactory. Any additional ways to reduce hardstand and install greater planting is strongly encouraged.

- iii. 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.
- iv. 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.



- v. Prior to commencement of development the existing tree within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction (the Tree Protection Zone is to comprise 2.8m x 2.8m fencing enclosures for each verge tree). Additional information with regard to the tree protection zone requirements can be found here:  
<https://www.fremantle.wa.gov.au/residents/trees-and-verges>.
- vi. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New crossovers shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.
- vii. The applicant is required to maintain the adjacent verge in accordance with the City's Verge Garden Policy which can be found on the City website at:  
<https://www.fremantle.wa.gov.au/resident-perks>
- viii. 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. The City's crossover specifications can be found via the following link:  
<https://www.fremantle.wa.gov.au/crossovers>.
- ix. 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. The City's crossover specifications can be found via the following link: <https://www.fremantle.wa.gov.au/crossovers>.
- x. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the **Amherst / Stack** road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).
- xi. 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.



- xii. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

The Infrastructure Business Services department can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.

- xiii. 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>

- xiv. 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.

- xv. 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.



- xvi. The applicant is advised that where contamination is detected, the site is required to be reported to the Department of Water and Environmental Regulation and remediated in accordance with the requirements of that Department. For further information, please see the Department fact sheet on Identifying and Reporting Contaminated sites available online at [https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact\\_sheets\\_tech\\_advice/Fact\\_sheet\\_1.pdf](https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact_sheets_tech_advice/Fact_sheet_1.pdf)
- xvii. All noise from the proposed development must comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended), such as:
- a. mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;
  - b. vehicles; and,
  - c. amplified acoustic systems

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.

- xviii. To protect surrounding land uses from the likelihood of dust impacts during development, the procedures details in the Department of Water the Environmental Regulation's "[A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities](#)" 2011 should be used, integrating the below conditions:
- a) The demolition works area, that will be disturbed by machinery, must be pre-watered to reduce dust being emitted during works;
  - b) Dust must be monitored during demolition works and managed, using sufficient watering down, wind barriers or other dust control methods;
  - c) Works must not be commenced, or must cease, if adverse weather conditions, such as high winds, exist that would cause sand/dust to be blown off the property;
  - d) Following demolition, the property must be kept fenced to prevent unauthorised vehicle movement on the land causing dust to be emitted;
  - e) Following demolition, the vacant land must be hydro-mulched or chemically stabilised to prevent windblown dust. If the land is to be left vacant for an extended period, hydromulch with grass seed and fertiliser should be included in the spray. Organic stabiliser can also be added to the mix to provide amore stable base for the germination of seeds.





All apparatus for the treatment of sewage and liquid waste (septic systems/wash down bays) must be decommissioned, removed and disposed of at a licenced facility in accordance with the *Health (Miscellaneous Provisions) Act 1911*, the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*, the *Environmental Protection Act 1986* and the *Environmental Protection (Controlled Waste) Regulations 2004*.

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

**Details: outline of development application**

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Urban
Local Planning Scheme	City of Fremantle Local Planning Scheme No.4
Local Planning Scheme Zone/Reserve	Development Zone
Structure Plan/Precinct Plan	Knutsford Street East Structure Plan (Precinct 5)
Structure Plan/Precinct Plan Land Use Designation	Mixed Use/Residential
Use Class (proposed) and permissibility:	Grouped dwelling - Permitted
Lot Size:	10,301m <sup>2</sup>
Net Lettable Area (NLA):	N/A
Number of Dwellings:	55
Existing Land Use:	Warehouse
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 checked="" 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:

Approval is sought for the demolition of existing buildings and construction of 55 Grouped dwellings at Nos. 34-38 Amherst Street and Nos. 2-4 Stack Street, Fremantle.

Proposed Land Use	Grouped dwelling
Proposed Net Lettable Area	N/A
Proposed No. Storeys	2-3
Proposed No. Dwellings	55

Additionally, there are four internal private roads (Roads A-D), three internal private laneways (Laneways A-C), two pocket parks (450m<sup>2</sup>) with communal BBQ facilities, 6 visitor car bays internal to development and a green strip (eastern edge), all of which are intended to be common property. Within the area allocated for these roads, lanes and walkways are some areas for landscaping, in addition to several access gates. It is noted that a 2.6m high retaining wall is located between Laneways A and B and lots 9 to 25 due to the topography of the site.

Amended plans were submitted on 1 May 2023, with the following amendments made:

- Removed crossover treatments for the dwellings on the southern portion fronting Amherst Street and introduction of a Mews Road option,
- Introduction of a Mews Road replacing the original crossovers to lots 35-43 with an increased landscaping of Amherst Street verge area,
- New footpath configurations to Amherst Street. This involves moving the footpath from directly at the front of the subject sites to being merged into the new Mews Road on Amherst Street;
- Allocating 6 visitor bays internal
- Allocating 11 bays to verge areas of the development site,
- Reconfiguring unit layouts to improve solar access to outdoor living areas (OLA) for the following units:
  - Units A - lots 8, 25, 33- 45
  - Unit G2 - lot 35
  - Units F – lots 13 and 21
  - Units H – lots 22-24
  - Units C – lots 9-12
  - Units E – lots 26-32
- Changed 'E' type units from 3 bed to 2 bed dwellings,
- Two new pocket parks within development with communal facilities,
- Introduce a new 'G2' dwelling layout to increase potential for land use other than Residential,
- Reduce net number of dwellings from 56 to 55,



- Indicative location of vehicle gates at the internal road entry points to Amherst and Stack Streets, in addition to a pedestrian access gate to Amherst Street (opening within the site);
- Amended paving details to internal common property.

## **Background:**

### History of Application

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

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

Subsequently, the applicant submitted an application for review (appeal) of the above decision of JDAP to the State Administrative Tribunal (SAT). The following SAT proceedings have transpired:

- 30 November 2023 – SAT appeal lodged by applicant;
- 19 December 2022 – City advised submitters to DAP/22/02244 (DAP001/22) of SAT appeal;
- 8 February 2023 - Directions hearing at SAT occurred and mediation session was scheduled.
- 22 February 2022 - A mediation session was held between the applicants and DAP which City officers were invited to attend.

Pursuant to section 31(1) of the *State Administrative Tribunal Act 2004* (WA) the respondent was invited to reconsider its decision on or before 30 June 2023. The City is required to submit its Responsible Authority Report (RAR) by no later than 8 June 2023 to JDAP.



On 1 and 4 May 2023 the applicant submitted amended plans, additional information/justification for their proposal and an amended planning assessment against both 2021 and 2023 R-Codes.

See '**Attachment 1**' below for copy of amended plans.

#### Application to the State Administrative Tribunal

The State Administrative Tribunal (SAT) has made orders inviting the decision-maker, under Section 31 of the *State Administrative Tribunal Act 2004* (SAT Act) to reconsider its decision. The decision-maker may:

- affirm the previous decision,
- vary the decision, or
- set aside the decision and substitute a new decision.

#### **Legislation and Policy:**

##### Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
  - Schedule 2, Part 8, Clause 64 – Advertising applications;
  - Schedule 2, Part 9, Clause 66 – Consultation with other authorities;
  - Schedule 2, Part 9, Clause 67 – Matters to be considered by local government;
  - Schedule 2, Part 9, Clause 68 – Determination of applications; and,
  - Schedule 2, Part 9, Clause 70 – Form and date of determination
- City of Fremantle Local Planning Scheme No. 4
  - Cl. 3.2.1(h) Objectives of the Development Zone
  - Cl. 5.2 Development Areas
  - Schedule 7 – Development Areas
    - DA1 – Knutsford Street East Structure Plan (Precinct 5)

##### State Government Policies

- Residential Design Codes Volume. 1
- Medium Density Codes 2023 - Residential Design Codes Volume. 1 (not gazetted)

##### Structure Plans/Activity Centre Plans

- Knutsford Street East Structure Plan (Precinct 5)

##### Local Policies

- LPP 1.3: Community Consultation on Planning Proposals
- LPP 1.10: Construction sites
- LPP 2.9: Residential Streetscape Policy



## **Consultation:**

### Public Consultation

The original application was advertised in accordance with the methodology in LPP1.3: Community Consultation on Planning Proposals. Advertising consisted of:

- Signs on site (one facing Amherst Street; one facing Stack Street);
- MySay website;
- Letters to owners/residents of properties within 200m radius of subject site;
- Advertisement in the Fremantle Herald newspaper;
- Precinct group notification; and,
- 'Talk to a Planner' session, held on 7 July 2022.

This application was advertised from 9 June until 13 July 2022, with 31 submissions being received. All submissions originally received objected to the proposal and the key issues and/or comments raised in the original submissions are key planning issues raised are summarised below.

- Generic design, architecture, and materials are proposed and are inconsistent with the intent for, and context and character of, the locality per the vision and objectives of the Knutsford East Local Structure Plan.
- Poor public realm and street interaction which doesn't enhance the surrounding urban environment
- Lack of quality landscaping and community green space and deep planting zones. Lack of space for medium-large trees.
- Proposal is underwhelming and sets a poor precedent and is a setback in the development of the precinct. Other nearby developments better reflect the design standards suitable to the locality and better reflect the character of the area. The development doesn't meet the potential for the site (e.g., development up to four storeys in height).
- Traffic and visitor parking issues (insufficient visitor parking provided). Traffic intensified since High Street upgrades, and traffic is greater than that discussed by the proposal. Amherst Street is significantly busier.
- Insufficient dwelling diversity (e.g., no one/two bedroom dwellings, affordable housing, or Multiple dwellings proposed).
- Development proposes an overall lack of amenity – solar access universal access, CPTED design.

A full summarised schedule of the original submissions can be viewed in the original RAR report which is accessible on the DAP website ( [DAPs agendas and minutes - Department of Planning, Lands and Heritage \(dplh.wa.gov.au\)](https://dap.wa.gov.au)).

The S31 amended plans were advertised between the 4<sup>th</sup> and 18<sup>th</sup> May 2023. 49 submissions were received, of which 31 object and 17 support the amended proposal. In summary the objecting submissions. A copy of the new submissions can be viewed in Attachment 2.



### Referrals/consultation with Government/Service Agencies

The original application was referred to the following agencies. The amended plans have not been referred and the previous commentary is still applicable to the amended proposal. The relevant external agencies were as follows:

- Department of Water and Environmental Regulation (DWER);
- Water Corporation;
- Western Power; and,
- Public Transport Authority

All previous advice and recommended conditions have been included and addressed in the Officers recommendation. For a copy of the original external authority response please refer to the original RAR report in the DAP's website.

### Design Advisory Committee

Notwithstanding the proposal has not previously been reviewed by the City's Design Advisory Committee (DAC) as the proposal was not seeking height or density bonuses per the Structure Plan, however due to the reasons for refusal being based on SPP7.0 and the level of community concern regarding design the City's DAC has reviewed this version of the proposal. The DAC's comments are included as an attachment to this report.

### **Planning Assessment:**

The amended proposal has been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies, and Knutsford Street East Structure Plan as 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:

- Knutsford Street East Local Structure Plan;
- Primary street setbacks (to Amherst and Stack Street facing Grouped dwellings);
- Garage width;
- Outdoor living areas; and
- Visitor parking

These matters are outlined and discussed below.

### Local Structure Plan

With regards to the re assessment of the amended plans against the provisions of the Knutsford Street East Local Structure Plans (KSELSP) the proposal essentially remains unchanged from the original report assessment against KSELSP.



The following main changes to the original plans are presented for consideration:

- Removed crossover treatments for the dwellings on the southern portion fronting Amherst Street,
- Introduction of a Mews Road option in lieu of crossovers on Amherst Street,
- Increased landscaping of Amherst Street verge area,
- New footpath configurations to Amherst Street. This involves moving the footpath from directly at the front of the subject sites to western edge of the mews road;
- Allocating 6 visitor bays internal and 11 bays to verge areas of the development site,
- Reconfiguring unit layouts to improve solar access for the following units:
  - Units A - lots 8, 25, 33- 45
  - Unit G2 - Lot 35
  - Units F – lots 13 and 21
  - Units H – lots 22-24
  - Units C – lots 9-12
  - Units E – lots 26-32
- Changed E type units from 3 bed to 2 bed dwellings,
- Two new pocket parks within development with communal facilities,
- Introduction of a new 'G2' dwelling layout to increase potential for land use other than Residential,
- Reduction of dwellings from 56 to 55,
- Indicative location of vehicle gates at the internal road entry points to Amherst and Stack Streets, in addition to a pedestrian access gate to Amherst Street (opening within the site);
- Amended paving details to internal common property and Mews Road.

The key provisions of KSELSP which were originally considered acceptable by officers remain unchanged or improved. There are no areas of concern that have been introduced with the amendments proposed.

The south-western interface to Amherst Street is considered to have been improved with the Mews Road option servicing lots, rather than the original multiple individual crossover approach. The Mews allows for a consolidated area for revegetation of the verge area, which also assists in reducing building bulk impacts of the double garage doors for the dwellings on these lots. The Mews Road allows for significant revegetation of this portion verge area the Mews allows for significant revegetation of this portion verge area.

The introduction of G2 type unit to Lot 35 is also considered a positive addition. This change will help improve the potential for non-residential land uses to operate from site with this lot being serviced by the new rear parklet area offering an opportunity for a potential food and beverage use.



The introduction of the two internal parklets equalling to approximately 380m<sup>2</sup> of communal area provides recreation space for smaller dwellings and creates additional opportunity for deep soil planting and introduction of large trees. This communal space is for the internal use of residents, noting that the development proposes common property only and POS contribution will still be required through the subdivision process.

### Residential Design Codes

On 23 February 2023 the Department of Planning, Lands and Heritage (DPLH) publicly released the deferred gazettal Residential Density Codes (2023) Volume 1 (Medium Density Codes). In conjunction to this new state planning policy, DPLH also released *Planning Bulletin 114/2023 (PB114)*, in order to provide further detail about when to apply the R-Codes to their full extent and the relationship with existing local planning frameworks.

PB114, cl 4.2 specifically outlines how decision makers should assess applications when assessing development application which were submitted prior to public release of the 2023 R-Codes. Specifically, PB114 states that when assessing grouped dwellings (all codings) the R-Codes Vol.1 2021 is the version of the R-Codes applicable during the 'deferred gazettal period'. This is the version of the R-Codes that the proposal was originally assessed against.

However, PB114 also states that,

*'In accordance with clause 2.5.4 of the R-Codes Vol.1 2021, any development application, that meets the deemed-to-comply provisions of the R-Codes Vol.1 2021 (including as modified by local planning instruments) and the relevant provisions of the applicable local planning scheme shall not be refused. Where deemed-to-comply provisions are not met, an assessment of the application primarily against the relevant design principles (of the R-Codes Vol.1 2021) should be undertaken and, in accordance with clause 67(2) of the deemed provisions, due regard be had for the relevant provisions of the R-Codes Vol.1 2023'.*

The refused proposal required design principle assessments against the following design elements:

- Primary street setbacks (to Amherst and Stack Street facing Grouped dwellings);
- Vehicle sightlines;
- Garage width;
- Visitor parking;
- Landscaping; and,
- Outdoor living area.



All of the above design elements still require design principle assessments, with the exception of Vehicle sightlines and Landscaping Design as the amended proposal has been amended to meet the Deemed to comply requirements.

Where the proposal requires a Design principle assessment against the R-Codes 2021 in accordance with PB114, due regard to the 2023 R-Codes is also undertaken. Both relevant design principles of the 2021 and 2023 R-Codes will be outlined in table format below each Design Element assessment.

- Primary street setbacks (to Amherst and Stack Street facing Grouped dwellings)

Provision	Requirement	Amended Proposal	Merit based assessment
<b>Type D and D1 (Lots 1-3 and 14-20)</b>			
Ground floor	5m	2m	3m
Upper floor	7m	4m	3m
<b>Type G2 and G (lots 35, 43 and 44)</b>			
Ground floor	5m	1m	4m
Upper floor	7m	1.4m - 2.5m	4.5m – 5.6m
<b>Type A (Lots 36 – 42)</b>			
Ground floor	5m	0.5m – 1m	4m - 4.5m
Upper floor	7m	1.6m	5.4m
<b>Type F (Lot 55)</b>			
Ground floor	5m	1m – 1.6m	4m -3.4m
Upper floor	7m	1.7m	5.3m

2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>▪ contribute to, and are consistent with, an established streetscape</li> <li>▪ provide adequate privacy and open space for dwellings;</li> <li>▪ accommodate site planning requirements such as parking, landscape and utilities; and</li> <li>▪ allow safety clearances for easements for essential service corridors.</li> </ul> <p>P2.2 Buildings mass and form that:</p>	<p><b>Equivalent Provision: 3.3 Street Setback</b></p> <p>P3.3.1 Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>▪ are consistent with the existing or future streetscape and local character;</li> <li>▪ provide sufficient space for tree planting and other landscaping, as well as community interaction</li> <li>▪ Provide adequate privacy and open space for dwellings;</li> <li>▪ Accommodate site planning requirements such as parking, and utilities; and</li> <li>▪ Allow safety clearances for easements for essential service corridors.</li> </ul>



2021 R-Code Design Principle	2023 R-Code Design Principle
<ul style="list-style-type: none"> <li>▪ uses design features to affect the size and scale of the building;</li> <li>▪ uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>▪ minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</li> <li>▪ positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</li> </ul>	<p>P3.3.2 Buildings mass and form that:</p> <ul style="list-style-type: none"> <li>▪ uses design features to affect the size and scale of the building;</li> <li>▪ provide the opportunity for building articulation, such as well-defined entries, varying setbacks across the building width, verandahs, porches and balconies;</li> <li>▪ uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>▪ minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</li> <li>▪ positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework</li> </ul>

The setbacks to the ground and upper floors of the development are considered to meet the design principle criteria in the following ways;

- As there is no prevailing residential streetscape per the City's LPP, there is no existing residential precedent for this block and it is not unreasonable for this proposal, given the density expected on site, to set it own consistent streetscape.
- The development is considered to be generally compatible and consistent with the setbacks of nearby developments in the Knutsford Street precinct recently developed with very similar density and housing typologies,
- The varying setbacks provide adequate stepping and articulation of built form on both ground floor and upper floor elevations, whilst providing clear definable entrance ways to each respective dwelling.



- Garage width

Provision	Requirement	Proposal	Merit based assessment
Garage width – Lot 35 (Type G2)	60% of 9m frontage (5.4m)	5.9m (65% of frontage)	0.5m (5% of frontage)
Garage width – Lots 36-42 (Type A)	60% of 8.5m frontage (5.1m)	5.9m (69.5% of frontage)	0.8m (9.5% of frontage)
Garage width – Lot 43 (Type G)	60% of 9m frontage (5.4m)	5.9m (65% of frontage)	0.5m (5% of frontage)

### 2021 R-Code Design Principle

P2 Visual connectivity between the dwelling and the streetscape should be maintained and the effect of the garage door on the streetscape should be minimised whereby the streetscape is not dominated by garage doors.

### 2023 R-Code Design Principle

#### Equivalent Provision: 3.6 Streetscape

P3.6.1 The design of dwelling facades, street walls and fences in the street setback area contributes positively to streetscape, context and local character.

P3.6.2 The building design addresses street frontages and provides opportunity for passive surveillance and social interaction.

P3.6.3 Dwelling and building entries are:

- Accessible and protected from the weather;
- Well-lit for safety and amenity, without opportunity for concealment, and designed to enable passive surveillance of the entry from within the lot.

•

P3.6.4 Visual connectivity between the dwelling and the streetscape should be maintained and the effect of the garage on the streetscape should be minimised whereby the streetscape is not dominated by garages.

P3.6.5 The height of street walls and fences allows for passive surveillance of the street from the development whilst balancing the need for privacy of private open space and the impact of traffic noise, where located on a primary distributor, district distributor or integrator arterial road.



Officers consider these amended plans to meet the design principles of the R-Codes for the following reasons;

- The amended proposal includes all dwellings that propose access directly from public streets to incorporate landscaped verge areas and/or a permeable ground interface.
- The design proposed allows for both activity and passive surveillance. This is done via other openings on the elevations, and large upper floor balconies enabling sufficient social interaction and active surveillance over Stack and Amherst Street.
- The majority of the site is not proposed to be fenced and where it is to be fenced only small areas incorporating 1.2m high fencing is proposed.
- The amended development provides clear defined dwelling entrances which are easily accessible and protected for pedestrians. A condition of approval is recommended to ensure adequate lighting is provided within the site to improve legibility and safety within the development.
- The introduction of the Mews access allows for improved landscaping treatment to the south western portion of Amherst Street. The verge beautification will help improve and soften the visual connectivity of the dwellings fronting Amherst Street for Lots 35-43, while maintaining vehicle access. Furthermore, the Mews option and verge beautification will assist with softening any amenity impacts created by garage door dominance on the Amherst Streetscape.

• Outdoor living areas

Provision	Requirement	Proposal	Merit based assessment
Type A	4m x 4m dimension	4.2m x 4.2m	Complies
	Area: 16m <sup>2</sup>	23m <sup>2</sup>	Complies
Type C	4m x 4m dimension	3m x 4.7m	1m
	Area: 16m <sup>2</sup>	14.5m <sup>2</sup>	1.5m <sup>2</sup>
Type D and D1	4m x 4m dimension	4m x 5.4m	located within primary street setback area
	Area: 20m <sup>2</sup>	20m <sup>2</sup>	
Type E	4m x 4m dimension	4.35m x 3.4m	located within primary street setback area
	Area: 16m <sup>2</sup>	19m <sup>2</sup>	
Type F	4m x 4m dimension	4.7m x 4.2m	Complies
	Area: 16m <sup>2</sup>	23m <sup>2</sup>	
Type G and G2	4m x 4m dimension	4.7m x 9m	Complies



	Area: 16m <sup>2</sup>	49m <sup>2</sup>	Complies
--	------------------------	------------------	----------

2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P1.1 A consolidated outdoor living area is provided to each single house and grouped dwelling which provides space for entertaining, leisure and connection to the outdoors that is:</p> <ul style="list-style-type: none"> <li>▪ Of sufficient size and dimension to be functional and usable;</li> <li>▪ Capable of use in conjunction with a primary living space of the dwelling;</li> <li>▪ Sufficient in uncovered area to allow for winter sun and natural ventilation into the dwelling;</li> <li>▪ Sufficient in uncovered area to provide for landscaping, including the planting of a tree(s); and</li> <li>▪ Optimises use of the northern aspect of the site.</li> </ul>	<p><b>Equivalent Provision: 1.1 Private Open Space - Design Principles</b></p> <p>P1.1.1 Dwellings are designed to have direct access to private open space which provides for entertaining, leisure and connection to the outdoors that is:</p> <ul style="list-style-type: none"> <li>▪ of sufficient size and dimension to be functional and usable for the intended number of dwelling occupants;</li> <li>▪ is sited, oriented and designed for occupant amenity, including consideration of solar access and natural ventilation appropriate to the climatic region; and</li> <li>▪ capable of use in conjunction with a primary living space of the dwelling.</li> </ul> <p>P1.1.2 Private open space allows for sufficient uncovered area to:</p> <ul style="list-style-type: none"> <li>▪ permit winter sun and natural ventilation into the dwelling; and</li> <li>▪ provide for soft landscaping, including the planting of a tree(s) and deep soil area.</li> </ul> <p>P1.1.3 Balconies balance the need for outlook, solar access and natural ventilation with:</p> <ul style="list-style-type: none"> <li>▪ visual privacy considerations;</li> <li>▪ acoustic and noise impacts; and</li> <li>▪ local climatic considerations such as high winds.</li> </ul> <ul style="list-style-type: none"> <li>•</li> <li>• P1.1.4 Increasing the area of communal open space commensurate with a decrease in private open space may be appropriate where there is an explicit intent to facilitate communal living and it can be demonstrated that the communal open space:</li> </ul>



2021 R-Code Design Principle	2023 R-Code Design Principle
	<ul style="list-style-type: none"> <li>is of high amenity and provided with quality landscaping;</li> <li>Is easily accessible and equitable for all dwellings within the development; and</li> <li>meets the needs of the occupants and provides opportunities for social interaction.</li> </ul>

The amended development has reduced the discretion sought, with only three (3) of the proposed ten (10) housing typologies requiring a design principle assessment for this Design Element.

The amended proposal is considered to adequately meet the above Design principle criteria for the following reasons:

- All dwellings have direct access to a private open space, albeit at varying sizes, from an internal primary living space.
- These private open space areas are of a useable size which will cater for a variety of outdoor activities by the future occupants of such housing typologies.
- Each dwelling, except for the 'E' type dwellings (7 dwellings in total), incorporate two OLA's options (ground floor level outdoor areas and a balcony).
- Whilst it would be ideal for every dwelling's OLA to have direct solar access all year round, it has been demonstrated that more than 70% of the proposed dwellings are able to achieve solar access for a 2-hour period between 9am and 3pm on 21 June, darkest day of the Winter Solstice, which is considered reasonable.
- Communal space is provided within the site to enable additional outdoor living and recreation for dwellings.
- Visitor Car Parking

Provision	Requirement	Amended Proposal	Assessment
Visitor parking	Dwellings	6 bays onsite	Shortfall of 8 onsite visitor car bays
	Visitor bays		
	0 - 3		
	4		
	5 - 8		
	9 - 12		
	13 - 16		
	17 +		
	1 additional bay for every 4 dwellings or part thereof		
	55 Grouped dwellings proposed. Therefore, 14 visitor bays required.		



2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P3.1 Adequate car parking is to be provided on-site in accordance with projected need related to:</p> <ul style="list-style-type: none"> <li>• the type, number and size of dwellings;</li> <li>• the availability of on-street and other off-street parking; and</li> <li>• the proximity of the proposed development to public transport and other facilities.</li> </ul> <p>P3.2 Consideration may be given to a reduction in the minimum number of on-site car parking spaces for grouped and multiple dwellings provided:</p> <ul style="list-style-type: none"> <li>• available street parking in the vicinity is controlled by the local government; and</li> <li>• the decision-maker is of the opinion that a sufficient equivalent number of on-street spaces are available near the development.</li> </ul> <p>P3.3 Some or all of the required car parking spaces located off-site, provided that these spaces will meet the following:</p> <ol style="list-style-type: none"> <li>i. the off-site car parking area is sufficiently close to the development and convenient for use by residents and/or visitors;</li> <li>ii. any increase in the number of dwellings or possible plot ratio being matched by a corresponding increase in the aggregate number of car parking spaces;</li> <li>iii. permanent legal right of access being established for all users and occupiers of dwellings for which the respective car parking space is to be provided; and</li> </ol>	<p><b>Equivalent Provision:</b></p> <p>P3.1 Adequate car parking is to be provided on site in accordance with projected need related to:</p> <ul style="list-style-type: none"> <li>• the type, number and size of dwellings;</li> <li>• the availability of on-street and other off-street parking; and</li> <li>• the proximity of the proposed development to public transport and other facilities.</li> </ul> <p>P3.2 Consideration may be given to a reduction in the minimum number of on-site car parking spaces for grouped and multiple dwellings provided:</p> <ul style="list-style-type: none"> <li>• available street parking in the vicinity is controlled by the local government; and</li> <li>• the decision-maker is of the opinion that a sufficient equivalent number of on-street spaces are available near the development.</li> </ul> <p>P3.3 Some or all of the required car parking spaces located off site, provided that these spaces will meet the following:</p> <ol style="list-style-type: none"> <li>i. the off-site car parking area is sufficiently close to the development and convenient for use by residents and/or visitors;</li> <li>ii. any increase in the number of dwellings or possible plot ratio being matched by a corresponding increase in the aggregate number of car parking spaces;</li> <li>iii. permanent legal right of access being established for all users and occupiers of dwellings for which the respective car parking space is to be provided; and</li> <li>iv. where off-site car parking is shared with other uses, the total aggregate parking requirement for all such uses, as required by the R-Codes and</li> </ol>



<b>2021 R-Code Design Principle</b>	<b>2023 R-Code Design Principle</b>
iv. where off-site car parking is shared with other uses, the total aggregate parking requirement for all such uses, as required by the R-Codes and the scheme being provided. The number of required spaces may only be reduced by up to 15 per cent where the non-residential parking occurs substantially between 9 am and 5 pm on weekdays.	the scheme being provided. The number of required spaces may only be reduced by up to 15 per cent where the non-residential parking occurs substantially between 9am and 5pm on weekday

Notwithstanding the previous support by officers of 11 visitor bays, the introduction of 6 onsite visitor parking bays is considered to be an improved outcome and again is supported for the following reasons:

- Each dwelling is provided with two onsite car bays.
- There is sufficient available off-site parking available nearby to the subject site given the size of the road reserves in the area allowing on street parking.  
 Additionally, residential visitors less likely to conflict with customers or staff of businesses which operate during typical business hours.
- In addition to the on site visitor parking, the applicant has also indicated on-street parking in their landscaping proposal. The visitor bays proposed on Amherst Street are likely to cause sightline issues for vehicles existing from Roadway D and are not supported. While the 4 bays to the northern verge area on Amherst Street are not supported by the City for traffic safety reasons, the introduction of the other 7 new street bays (1 on Amherst Street and 6 on Stack Street) around the immediate frontages of the property will also assist with providing adequate parking facilities for the development.
- The subject site is located within reasonable walking distances to high frequency public transport options and potential future cycling infrastructure along Amherst Street.

### **Conclusion:**

The applicant has submitted amended plans for JDAP's consideration, with regard to the reasons for refusal. In assessing the proposal, officers advise that discretions sought have been reduced and design measures have been taken that improve the proposal from that previously considered by JDAP.

It is noted that while further improvements could easily be explored with regards to land and housing typology mix, housing adaptability or design quality, the proposal generally meets the targets set by the Structure plan and the provisions of the planning framework as they are today.





More specifically, in assessing the amended proposal against the 2021 R-Codes, the development meets many of the Deemed to comply criteria. In instances where design principle assessments are required, due regard has been given to the design principles of the 2023 Medium Density Codes and as outlined, above, is considered to meet these provisions.

Therefore, the application recommended for approval, subject to the recommended conditions.



**PC2306-3 BLINCO STREET, NO. 59 (LOT 1), FREMANTLE – 12 GROUPED DWELLINGS – (CM DAP002/23)**

<b>Meeting Date:</b>	7 June 2023
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Development Plans &amp; Landscaping Plans</li><li>2. Transport Impact Assessment</li><li>3. Waste Management Plan</li><li>4. Sustainability Report</li><li>5. Combined DAC Minutes (DR1, DR2, DR3)</li><li>6. Applicants' response to DR2 Comments</li><li>7. Submission Table</li></ol>

**SUMMARY**

**Approval is sought for 12 grouped dwellings at No. 59 (Lot 1), Blinco Street, Fremantle.**

**As the proposed development value exceeds \$2 million, the applicant opted under Regulation 6 of the *Planning and Development (Development Assessment Panel) Regulations 2011*, for the application to be determined by the Metro-Inner South Joint Development Assessment Panel (JDAP). The City's Responsible Authority Report (RAR) is referred to Planning Committee for review and endorsement of the recommendation.**

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

**PROPOSAL**

**Detail**

Approval is sought for the construction of 12 Grouped Dwellings at Lot 1 (No. 59) Blinco Street, Fremantle. The proposal consists of 4 two-storey grouped dwellings and 8 three-storey grouped dwellings, with a range of 3 to 4 bedrooms per dwelling. A communal laneway at the rear provides vehicular access to each grouped dwelling.

The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes), Local Structure Plan and Local Planning Policies. These discretionary assessments include the following and are discussed in detail in the RAR.

- Adaptive reuse
- Primary Street Setback
- Secondary Street Setback
- Outdoor Living Area

- Landscaping
- Visitor Parking

Development plans are included as Attachment 1. The Responsible Authority Report (RAR) and associated attachments are included with this report.

**Site/application information**

Date received:	13 March 2023
Owner name:	Western Australian Land Authority
Submitted by:	Element WA
Scheme:	Development Zone (Mixed Use Residential R60/100)
Heritage listing:	Not Listed
Existing land use:	Vacant
Use class:	Grouped Dwellings
Use permissibility:	Permitted





**OFFICER'S RECOMMENDATION**

**Council:**

- 1. SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the twelve (12) grouped dwellings, subject to conditions, for the reasons outlined in the Responsible Authority Report (RAR).**



**Form 1 – Responsible Authority Report**  
(Regulation 12)

<b>DAP Name:</b>	Metro Inner-South JDAP	
<b>Local Government Area:</b>	City of Fremantle	
<b>Applicant:</b>	Element	
<b>Owner:</b>	Western Australian Land Authority	
<b>Value of Development:</b>	\$8 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
<b>Responsible Authority:</b>	City of Fremantle	
<b>Authorising Officer:</b>	Manager Development Approvals	
<b>LG Reference:</b>	DAP002/23	
<b>DAP File No:</b>	DAP/23/02454	
<b>Application Received Date:</b>	13 March 2023	
<b>Report Due Date:</b>	9 June 2023	
<b>Application Process Timeframe:</b>	<b>Statutory</b> 90 Days + Additional 1 week from original submission date	
<b>Attachment(s):</b>	12. Development Plans & Landscaping Plans (1 <sup>st</sup> Set Amended) dated 5 May 2023 13. Transport Impact Assessment 14. Waste Management Plan 15. Sustainability Report 16. Combined DAC Minutes (DR1, DR2, DR3) 17. Applicants' response to DR2 Comments 18. Submission Table	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections



## Responsible Authority Recommendation

That the Metro Inner South JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02454 is appropriate for consideration as a "Grouped dwelling" land use and compatible with the objectives of the zoning table in the City of Fremantle Local Planning Scheme No. 4; and
2. **Approve** DAP Application reference DAP/23/02454 and accompanying plans (DA2-01-RevC; DA2-02-RevC; DA2-03-RevC; DA2-04-RevC; DA3-01-RevC; DA3-02-RevE; DA3-03-RevD; DA6-01-RevB dated 5 May 2023) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Local Planning Scheme No. 4, subject to the following conditions:

## Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
4. The pedestrian access and vehicle gates, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site
5. Prior to lodging an application for a building permit, 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.

All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.



6. Prior to lodging an application for a building permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, including a physical sample board or materials, is to be submitted and approved to the satisfaction of the City of Fremantle, on the advice of the City's Design Advisory Committee.
7. Prior to lodging an application for a building permit, for the development hereby approved, amended plans are to be submitted and approved detailing the incorporation of windows to the following rooms:
  - a. A window facing the communal laneway on Bedroom 3 of Lot 8 with an aggregate glazed area not less than 10 per cent of the bedroom 3 internal floor area and
  - b. An openable window to the ground floor bathrooms on Lots 1, and 7. to the satisfaction of the City of Fremantle.
8. Prior to lodging an application for a building permit for the development hereby approved, amended plans are to be submitted and approved showing the designated 'terraces' on the ground floor of Lots 1-7 be amended to be consist of not more than 50 per cent impervious surfaces and the tree planting areas be a minimum of 2m x 2m, in accordance with Clause 5.3.2 C2.2 i and ii of State Planning Policy 7.3 – Residential Design Codes Volume 1, to the satisfaction of the City of Fremantle.
9. Prior to lodging an application for a building permit, a final detailed landscaping and reticulation plan for onsite and verge landscaping, including the following information:
  - a. species selection,
  - b. reticulation,
  - c. details of existing vegetation to be retained,
  - d. dimensions of verge car parking bays,
  - e. location of universal pedestrian access along the Montreal Street verge,
  - f. details regarding the trellis in the communal laneway,
  - g. details regarding hardstand and pathway surfaces and materials,
  - h. implementation of tree guards within the communal laneway,
  - i. treatment of landscaped surfaces (i.e. mulch, lawn, etc), and
  - j. designated bin hardstand, located on the Blinco Street verge, to be a sufficient length to accommodate all bins in a single filemust be submitted to and approved by the City of Fremantle.
10. Prior to lodging an application for a building permit, for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.



11. Prior to lodging an application for a building permit, for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 1.2 metres above natural ground level as per clause 5.2.4/C4 6.2.3 C3 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle
12. Prior to lodging an application for a building permit, or Demolition Permit a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:
  - a) Use of City car parking bays for construction related activities;
  - b) Protection of infrastructure and street trees within the road reserve;
  - c) Security fencing around construction sites;
  - d) Gantries;
  - e) Access to site by construction vehicles;
  - f) Contact details;
  - g) Site offices;
  - h) Noise - Construction work and deliveries;
  - i) Sand drift and dust management;
  - j) Waste management;
  - k) Dewatering management plan;
  - l) Traffic management; and
  - m) Works affecting pedestrian areas.

Dewatering application must include:-

- Written approval from department of Water and Department of Park and Wildlife
- Dewatering impact report
- Demonstrated compliance with Swan Trust Policy SRT/DE6
- Before discharge in to the City's storm water system, they need to have a sediment control and weekly monitoring plan.

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

13. 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. The City's crossover specifications can be found via the following link:  
<https://www.fremantle.wa.gov.au/crossovers>.
14. Prior to the occupation of the development hereby approved, all on site 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.





15. Prior to the occupation of the development, the approved landscaping, including any verge landscaping approved by the City shall be completed in accordance with the approved plans or any modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas onsite and on the verge are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.
16. Prior to occupation of the development hereby approved, all boundary walls 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.
17. Prior to occupation of the development the bicycle racks, as indicated on the approved plans, must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.
18. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

### **Advice Notes**

1. A 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.
2. 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 department who can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.
3. Earthworks and importation of clean fill are to be appropriately managed so as to avoid re-contaminating this site. For example, a barrier membrane could be installed along the site boundary to prevent the incorporation of any undesired fill material back onto the site. Further advice on this should be sought from the Department of Water and Environmental Regulation.
4. The applicant is advised to prepare a 'Planning Condition Schedule' that outlines how each of the above conditions have been addressed, with specific reference to plans and/or other supporting documentation where relevant and share this with officers to assist City officers in the clearance of relevant conditions.



5. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.
6. 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.

7. 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.

8. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Blinco Street and Montreal Street road reserves. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).
9. 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.
10. The applicant is advised that where contamination is detected, the site is required to be reported to the Department of Water and Environmental Regulation and remediated in accordance with the requirements of that Department. For further information, please see the Department fact sheet on Identifying and Reporting Contaminated sites available online at [https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact\\_sheets\\_tech\\_advice/Fact\\_sheet\\_1.pdf](https://www.der.wa.gov.au/images/documents/your-environment/contaminated-sites/Fact_sheets_tech_advice/Fact_sheet_1.pdf).



11. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.

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

- a minimum of 2.0 metres in the case of verge trees
  - a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment's or street furniture), and
  - a minimum of 1.0 metre in the case of power poles, road name and directional signs.
12. In regards to the condition relating to primary street fencing, 'Visually permeable' is defined by the Residential Design Codes as: In reference to a wall, gate, door or fence that the vertical surface has:
- Continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area
  - Continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or
  - A surface offering equal or lesser obstruction to view;
- As viewed directly from the primary street.

13. In regards to the condition relating to verge landscaping, the applicant is advised that the City does not support the use of compacted crushed limestone gravel in the verges as a pedestrian treatment and the City suggests possible alternative of concrete based finishes be considered.

14. Maintenance of the adjacent verge should occur in accordance with the City's Verge Garden Policy which can be found on the City website at: <https://www.fremantle.wa.gov.au/resident-perks>

15. The applicant is advised that upon application to subdivide the site, a condition requiring a contribution of public open space may be imposed. In accordance with the structure plan, the City's preference will be for the landowner/applicant to provide cash in lieu to the local government for the sum equivalent to 10 per cent of the land, being that portion of the land that would otherwise be provided as open space to contribute to the upgrade and maintenance needed due to the additional population using the reserves.



**Details: outline of development application**

Region Scheme	Metropolitan Region Scheme (MRS)
Region Scheme - Zone/Reserve	Urban
Local Planning Scheme	Local Planning Scheme No.4 (LPS4)
Local Planning Scheme - Zone/Reserve	Development Area - Knutsford Street East Local Structure Plan
Structure Plan/Precinct Plan	Knutsford Street East Local Structure Plan
Structure Plan/Precinct Plan - Land Use Designation	Precinct 2 – Mixed Use/ Residential R60/100
Use Class and permissibility:	Grouped Dwelling - Permitted
Lot Size:	1175m <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 type="checkbox"/> N/A <input checked="" 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:**

Approval is sought for the construction of 12 Grouped Dwellings at Lot 1 (No. 59) Blinco Street, Fremantle. The proposal consists of 4 two-storey grouped dwellings and 8 three-storey grouped dwellings, with a range of 3 to 4 bedrooms per dwelling.

The ground and third floor of each dwelling consists primarily of bedrooms with the first floor generally consisting of the primary living area. This allows for the future reconfiguration of ground floor spaces into home offices, consultancy rooms or other uses with universal access provided to the street.

The proposal also includes a communal laneway which gains access from Blinco Street. This ensures that vehicular access to the townhouses is not directly from Montreal or Blinco Street and is intended to be a shared space for both vehicles and pedestrians. Each dwelling contains 2 on-site car parking bays for the use of the dwellings, bringing it to a total of 24 car parking bays. Most of the dwellings consist of double garages gaining access from the communal laneway, with the exception of Lots 1, 9, 10 and 11 having access from both the



communal laneway and/or from the adjoining existing common property (72F Knutsford Street, Fremantle).

Proposed Land Use	Grouped Dwelling
Proposed Net Lettable Area	N/A
Proposed No. Storeys	3
Proposed No. Dwellings	12

Development plans can be viewed at attachment 1.

### **Background:**

#### Subject Site

The subject site comprises of one (1) lot with a total land area of 1,175m<sup>2</sup> located at No. 59 (Lot 1) Blinco Street, Fremantle. Historically, the subject site and surrounding land has been used for industrial land uses.

In summary, the site is described as follows:

1. Zoned 'Urban' under the MRS and 'Development Zone' under LPS4
2. Is located on a corner site with dual lot frontage to Blinco Street and Montreal Street.
3. Is located within Local Planning Area 2 – Fremantle under LPS4.
4. Is located within Development Area 1 (DA1) - Knutsford Street East Local Structure Plan (KSELSP). The subject site is located within Precinct 2 of the structure plan area, proposed to be Mixed Use Residential R60/100.
5. Is currently a largely vacant site which is currently being utilised as temporary car parking associated with the adjoining construction site at 76 Knutsford Street, Fremantle.
6. The immediate locality surrounding the subject site is zoned Residential R25 to the north, Parks and Recreation Reserve under the MRS to the east facilitating the Fremantle Public Golf Course and Development Zone to the south and west. Refer Figure 1 below for site context map.



**Figure 1 - Site Context Map**

**Legislation and Policy:**

Legislation

1. *Planning and Development Act 2005*
2. *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations)
3. *Planning and Development (Development Assessment Panels) Regulations 2011* (the DAP Regulations)
4. *City of Fremantle Local Planning Scheme No.4* (LPS4)

State Government Policies

1. State Planning Policy 7.0 – Design of the Built Environment (SPP7.0)
2. State Planning Policy 7.3 – Residential Design Codes Volume 1 2021 (R-Codes)
3. State Planning Policy 7.3 – Residential Design Codes Volume 1 Deferred Gazettal 2023 (R-Codes 2023 (deferred gazettal))
4. Planning Bulletin 114/2023 – State Planning Policy 7.3 – Residential Design Codes Volume 1 and 2: Deferred Gazettal, Special Transition Period and Relationship with Pre-Existing Local Planning Frameworks (Planning Bulletin 114/2023)



### Structure Plans/Activity Centre Plans

1. Knutsford Street East Local Structure Plan (KSELSP)

### Local Policies

1. Local Planning Policy 1.3 – Community Consultation on Planning Proposals (LPP1.3)
2. Local Planning Policy 1.9 – Design Advisory Committee & Principles of Design (LPP1.9)
3. Local Planning Policy 2.4 – Boundary Walls in Residential Development (LPP2.4)
4. Local Planning Policy 2.9 – Residential Streetscape Policy (LPP 2.9)
5. Local Planning Policy 2.24 – Waste Management Plans for New Development (LPP2.24)

### **Consultation:**

#### Public Consultation

Having regard to the Regulations and to LPP1.3, the proposal was advertised for a period of 14 days, plus 7 additional days due to the Easter holiday period from 27 March 2023 to 18 April 2023. Notification was undertaken via the following methods:

- a) Letters to all landowners and occupiers immediately surrounding the subject site, and that will be impacted by the discretion sought; and
- b) Signage on site.

Eight (8) submissions were received on the proposal, all being in support of the proposal and nil being objections. An attachment is included with each of the submissions received (verbatim) on the proposal.

#### Referrals/consultation with Government/Service Agencies

### **Department of Water and Environmental Regulation**

The proposal was externally referred to the Department of Water and Environmental Regulation (DWER) due to the historic use of the subject site for industrial purposes.

DWER advised that the site was classified as decontaminated under the *Contaminated Sites Act 2003* on 14 January 2013. Based on this information, the site is considered suitable for residential development and therefore DWER have no objection to the proposed development of the site. However, given the potential risks associated with the remaining asbestos-containing materials within the road verge, DWER recommends that the approval include an advice note ensuring clean fill is appropriately managed to avoid re-contamination of the site. In response to





DWER's comments, an advice note has been recommended for the applicants information.

### Design Review Panel Advice

The proposed development was presented to the City of Fremantle Design Advisory Committee (DAC) on two separate occasions, once prior to lodgement of the development application in December 2022 (DR1), and then in April 2023 (DR2) after the application was formally lodged in March 2023.

Amended plans were submitted to the City on 5 May 2023 addressing comments made by the DAC in DR2 and were subsequently referred to the DAC members for final comments on the amended proposal (DR3). The full combined set of DAC meeting minutes (DR1, DR2 and DR3) can be found at attachment 5.

The DAC considered the development against the 10 Principles of Design within LPP1.9 – Design Advisory Committee & Principles of Design and SPP7 – Design of the Built Environment and in response to the comments made by the DAC at its' second meeting (DR2) (refer attachment 5), the applicant submitted amended plans, and provided a response to each of the DAC comments made. These plans are the final set of plans considered in this RAR.

The following table summarises the response and changes made by the applicant in response to DR2 and the DACs final comments on the proposal (DR3).

The applicants' full response to DR2 can be viewed at attachment 6.

**Table 2 – Changes made by the applicant in response to DR2 & the DAC comments on final set of plans (DR3) (Refer to attachment's)**

<b>Principle 2 – Landscape Quality</b>	
1. The front doors of the houses on Lots 10 and 11 have been retained facing the public laneway to the west but have incorporated flexible ground floor space to facilitate communal engagement and activation.	Internal laneway – vision as a shared space with pedestrian priority, scale and greening The DAC acknowledges that the activation and the appearance of the internal laneway has improved through the inclusion of the semi-permeable garage doors, additional ground level soft landscape and street furniture. The DAC requests that the plans be amended to note the "semi-permeable garage door", as per the elevations, instead of "solid garage".





<p>2. All garage doors have been changed to a partially visually permeable design to provide for safe visibility and visual interest, whilst maintaining privacy for residents when needed.</p> <p>3. The final detailed design of both the overhead trellis and the associated plant species selection will be informed by objective to achieve shade in summer, and access to winter sun. The designs can be appropriately addressed at detailed design building permit stage, via a condition of any development approval.</p> <p>4. It is anticipated that tree guards will be installed within the private lane, with the specification to be determined at detailed design building permit stage, via a condition of development approval.</p> <p>5. Additional landscaping has been introduced to the private laneway, particularly along the western length and at the southern end. The incorporation of street furniture including a park bench and table has been added to the south end of the laneway with the new communal alfresco area.</p> <p>6. Additional landscaping has been introduced on the eastern side of the dwelling on Lot 8, along its laneway frontage, along with additional landscaping at the</p>	<p>However, the DAC remains concerned that the design of the internal laneway has not yet fully achieved the vision of a “shared space with pedestrian priority and scale” and with sustainable “greening”.</p> <p>Currently only Lot 12’s front door faces the internal laneway.</p> <p>The DAC reiterates the comment from DR2 that for Lots 10 and 11, the dwellings’ front doors should be re-oriented to face the development’s internal laneway to generate greater activation of this space by people (the residents and visitors accessing this development), and to provide a legible street address for these dwellings that is clearly part of the Blinco Street development.</p> <p>The DAC understands that the laneway to the west of the Applicant’s site will provide vehicular access to car parking at the rear of the dwellings on lots in the ‘East Village at Knutsford’ development, and therefore the Applicant’s current design with Unit 10 and 11’s front doors facing this vehicular laneway appears as an anomaly and disbenefits the Applicant’s development.</p> <p>To further activate the internal laneway and elevate it as a legible address for dwellings, rather than merely a driveway, the DAC requests that the Applicant also considers reorientating Lots 8 and 9 and for the dwellings and front doors to face this space and with garages accessed off the western laneway.</p> <p>The DAC considers that the activation of the internal laneway of the development can be prioritised over the Public Access Way since the latter will include sufficient pedestrian activity and opportunities for passive surveillance from the openings that are part of Stage 1 Montreal Commons and the dwellings on Lot 7 (including its front door) and Lot 8 (the dwelling’s side elevation if re-orientated).</p> <p>The DAC reiterates that the dwellings’ outdoor living areas that are accessible from the primary living spaces do not all meet the R-Codes minimum spatial and/or dimensional requirements or, for some</p>
---	---



<p>southern end of the laneway where it meets the proposed pedestrian easement.</p> <p>7. A balanced approach to soft landscaping and functional paved areas is proposed for the ground floor terraces. The soft landscaped areas have been sized to accommodate a tree. These areas have been sized to accommodate an outdoor table and chair set and have direct sliding door access from the adjacent bedrooms. In this regard the extent of the paved area is proposed to be retained.</p> <p>8. The provision of visitor bike racks in the verge is supported by the proponent. It is noted that the works within the road reserve will need separate approval from the City of Fremantle, and this can be pursued as part of the final detailed design</p>	<p>dwellings, the permitted outdoor living area without permanent roof cover.</p> <p>At DR2, the DAC suggested that the internal laneway, if appropriately designed as a high quality landscaped communal open space with opportunities for residents' activity and interaction, could be used as 'compensation' space and help to justify the variations sought for the current provisions for the private outdoor living areas of the dwellings.</p> <p>Design of the trellis and location of trees for unobstructed canopy growth in the internal laneway The DAC requested consideration of the design of the overhead trellis to ensure unobstructed space for the trees to grow to maturity with a full canopy and provide further shade in the internal laneway.</p> <p>Other comments The DAC is satisfied with the responses on the tree guard protection, soft landscape and design of the ground floor terraces of Lots 1 to 7, and provision of visitor bike racks in the verge.</p>
<p><b>Principle 5 – Sustainability, Principle 6 – Amenity and Principle 10 – Aesthetics</b></p>	
<p>1. The ground floor to ceiling height of the western bedrooms of dwellings on Lot 10 and 11 have been increased to 3.m with direct and flush access to the more public western laneway. This has resulted in the introduction of additional adaptable space for the development in lieu of increasing the 3m height of existing adaptable spaces.</p>	<p>Ground floor adaptability of dwellings The DAC is satisfied with the response regarding the ground floor finished floor level to ceiling height of the western bedroom of the dwellings on Lots 10 and 11. However the DAC doesn't consider this western laneway will be "more public" considering its function primarily is to provide vehicular access to carparking at the rear of the lots in the East Village development and to Lot 2 Montreal Commons further to the south.</p> <p>The DAC requests that the finished floor level for the western dwellings be noted on the Level 1 plan.</p>



<p>2. Additional shading to the east and west facing windows on the second floor has been incorporated. Details of shading devices can be accommodated via a condition of development approval to require the final elevations, including materials, colours and fixtures to the City's satisfaction prior to building permit.</p>	<p>Solar protection and articulation of the elevations facing the internal laneway  The DAC suggested consideration of additional solar protection of the east and west facing glazing and to assist with the further articulation of the elevations facing the internal laneway.</p> <p>The Level 2 bedroom of dwellings on Lots 2 to 7 includes full height glazing facing west with a very small overhang. The DAC recommends that more generous shade or screening is provided to these windows to minimize heat gain and energy consumption.</p> <p>The DAC seeks clarification on whether additional louvred shade panels or louvred glazing is proposed on Level 2 of the eastern and western elevations of the dwellings on Lots 2 to 7.</p> <p>Access of natural light and ventilation to bathrooms  The DAC suggests that for Lots 1, 7 and 12, the Applicant considers including a window for the ground floor bathrooms for the access of natural amenity.</p>
<p><b>Principle 8 – Safety</b></p>	
<p>1. Lots 1 &amp; 12 northern ground floor bedrooms have introduced full height windows facing Blinco Street to enable better access to northern sunlight and provide passive surveillance to the street.</p> <p>2. The window has been considered and the currently proposed arrangement maintained.</p> <p>3. This has been incorporated. The north facing wall has been changed to visually permeable brick work.</p>	<p>The DAC is satisfied with the responses regarding the additional opening for passive surveillance opportunities to the Blinco Street from the north facing ground floor bedroom of dwellings on Lots 1 and 2.</p> <p>The north facing "hit and miss" brick wall for Lot 1's ground level flexible space is also supported.</p>



**DAC Concluding remarks**

The DAC acknowledges the improvements to the design, as outlined above, since DR2 in April 2023.

However, the DAC strongly recommends the Applicant considers the advice to improve the opportunity for residents' communality to develop in the central shared laneway and to justify the variations sought for the current provisions for the private outdoor living areas of the dwellings; suggestions include the re-orientation of specific Lots and dwelling frontages to address this space with front doors, and a resolved design for the trees and planting on the trellis structure and for both to be viable. These improvements should help to fulfill the vision for the residents of this development of an inviting "shared space with pedestrian priority and scale" and "greening".

With regards to amenity and aesthetics, the DAC recommends the Applicant provides clarification on the introduction of the louvred elements in openings, and further improvement to the solar protection of the west facing glazed openings of the eastern block of three-storey townhouses. Furthermore, additional openings in bathrooms are suggested for the access of natural amenity.

Officers consider that the applicant has generally addressed the requirements of SPP7.0, with further commentary against the specific sections of the R-Codes elaborated on below.

Given the proposal seeks variations to the outdoor living area requirements of the R-Codes, (refer planning assessment for further comment), the City, on the advice of the DAC and in accordance with a design principle assessment, recommends the applicant reconsider the landscaping and tree planting areas on the ground floor terraces of lots 1 – 7. The applicant has noted that the ground floor is to be paved to accommodate for a dining table, however, the City notes that paving the entire terrace is not required and that there is sufficient room on upper floor balconies which abut kitchens and living areas, to provide for tables and chairs. Additional landscaping and sufficient tree planting areas will improve the overall amenity and sustainability of the proposal whilst still enabling the space to be functional and useable. A condition of approval has been recommended to address this. Furthermore, a condition has been recommended requiring the applicant to provide final landscaping plans to the City which will address tree guards, landscaping species and DAC comments surrounding the trellis.

The amended development plans indicate that the dwellings have not been re-oriented and maintain front frontages to the southern lot boundary. The DAC noted the benefits of re-orientating the dwellings on lot 8 and 9 so that the front doors face the internal communal laneway. To create further passive surveillance and interaction with the proposed communal laneway, a condition has been recommended to ensure that windows are provided on the ground floor of Lot 8, bedroom 3.



The City notes the DAC's comments with regards to ventilation of the ground floor bathrooms on Lots 1, 7 and 12 and therefore the condition incorporates the requirements for windows to the bathroom of Lots 1 and 7. It is noted a window to the bathroom of lot 12 is difficult to be achieved due to fire separation requirements under the National Construction Code (NCC) and is therefore not included in the condition.

Internal technical advice

***Engineering Infrastructure***

The existing pram ramp located on Montreal Street is proposed to be removed for car parking, so it is unclear where the pedestrians will cross when this is removed. For this reason, an amended landscaping plan is recommended via a condition of approval, to indicate where universal access will be provided for pedestrians to access the other side of Montreal Street.

The proposed verge parking bays and bike racks as indicated on the proposed verge landscaping plan are supported in principle, however it is recommended that a condition be imposed requiring bay dimensions be included on the final landscaping plans for approval to ensure compliance with the relevant Australian Standards.

In addition to the above, general conditions surrounding demolition/construction management, construction of crossovers to the City's specifications and approval and vehicular circulation have been recommended.

***Parks & Landscape***

The proposal to provide extensive landscaping on the City's verge is supported in principle and will be subject to detailed design and approval prior to installation.

Further detail will be required to be provided on an updated landscaping plan, including details of tree guards being installed within the laneway to protect trees once they are planted and to ensure plant species selection are shade tolerant. As noted above, a condition has been recommended requiring the applicant to provide final landscaping plans to the City which will require the applicant to provide further detail regarding on site landscaping also, including tree guards, details regarding the laneway trellis and height of the wires above the ground level, and landscaping species.

***Environmental Health***

General advice notes have been recommended to ensure the applicant is aware of the requirement to comply with the *Environmental Protection (Noise) Regulations 1997* during construction, as well as ensuring sand drift is managed and contaminated sites requirements monitored.



### ***Waste Management***

LPP2.14 requires the provision of a waste management plan (WMP) to accompany any residential development application which comprises 4 or more grouped dwellings. In accordance with LPP2.14, a WMP was submitted with the application.

Due to residential waste being collected with a side arm vehicle, the proposed arrangement on the verge which includes double stacked bins, will not be suitable. The layout will need to be amended to be single width and a condition of approval is recommended to update the Waste Management Plan. The modifications to the verge bin pick-up location will result in a proposed street tree to be relocated, which will be dealt with through the condition of approval for a final detailed landscaping plan.

### **Planning Assessment:**

The subject site is zoned Mixed Use Residential R60/100 under the Knutsford Street East Local Structure Plan (KSELSP). Grouped Dwellings are a 'P' (permitted) use within the structure plan, meaning that the use is permitted providing the use complies with the relevant development standards and requirements of the Scheme and the Structure Plan.

The proposal has been assessed against all the relevant legislative requirements of the Scheme and State and Local Planning Policies and seeks a number of variations to the R-Codes and City's Local Planning Policies, which are outlined below.

Where the proposal seeks variation to the deemed-to-comply requirements of the R-Codes 2021 which remain in force, a design principle assessment is undertaken under these Codes. In accordance with Planning Bulletin 114/2023, additional comment is provided against the design principles of the new 2023 R-Codes which have been given due regard.

The below matters have been identified as key considerations for the determination of this application:

- Adaptive reuse
- Primary Street Setback
- Secondary Street Setback
- Outdoor Living Area
- Landscaping
- Visitor Parking

The above and all other relevant matters, including general built form, traffic, the proposals compliance with objectives of the KSELSP are discussed in further detail below.

Where an element has not been mentioned, it is considered to be deemed to comply.

### Objectives and Principles of the KSELSP

The proposed development has been assessed to be consistent with the objectives and principles of the KSELSP. Table 3 below outlines the objectives and principles as outlined in Clause 2.1.2 of the KSELSP.

**Table 3 – Assessment against the objectives and principles of the KSELSP**

Objective	City's comment
<b>Integration</b> <i>Ensure the new community is integrated with the existing residential community and the proposed new adjoining communities, with particular attention to the interface.</i>	<p>The proposal sets an appropriate interface with Knutsford and Blinco Streets and ensures the existing residential community are integrated with the new development.</p>
<b>Permeability</b> <i>Facilitate social integration by promoting access through the site, particularly for cyclists and pedestrians.</i>	<p>The development seeks permeability and social interaction through the provision of visually permeable front fencing enabling social interaction, adaptable ground floors and through the provision of bike racks and universal accessibility.</p>
<b>Green Links</b> <i>Promote accessibility between Booyeembarra Park and the proposed green spaces within and adjacent to the Swanbourne Street Structure Plan area.</i>	<p>The proposed verge and onsite landscaping assists with green links and accessibility through the precinct.</p>
<b>Community</b> <i>Enhance and support existing public open space areas and provide for Knutsford Street to act as a community focal point and to foster social interaction by linking Monument Hill Park to the Golf course and Booyeembarra Park.</i>	<p>The proposed development directly addresses the golf course across the road and links with the adjoining development next door. Each dwelling on Montreal Street has direct visitor access to the street and has outdoor space on multiple levels to provide activity along the street.</p> <p>The development may also be subject to provision of cash in lieu of POS on site,</p>





	which can be used to enhance facilities in nearby public spaces.
<b>Diversity</b> <i>Promote a mix of land uses and a range of housing types to meet the housing needs of a wide range of the community.</i>	This proposal seeks to provide a different option from the multiple dwellings constructed on the adjoining site by providing a grouped dwelling development with a range of 3 to 4 bedrooms per dwelling.
<b>Efficiency</b> <i>Take advantage of the site's proximity to existing urban areas and established community and service infrastructure by providing for development at a range of residential densities.</i>	The proposal is consistent with the zoning specified in the KSELSP by providing a density of R80.
<b>Environment</b> <i>Remediate the site to where it is suitable for residential and community use.</i>	In accordance with the KSELSP and the advice from DWER, the proposal is suitable for residential and community use.
<b>Identity</b> <i>Endeavour to instill a 'Fremantle identity' with some relationship to the site's history and its industrial character.</i>	The proposals design contributes to the residential character of the Knutsford precinct and together with stage 1 (76 Knutsford Street) the developments acknowledge the industrial heritage within the area.
<b>Economic Development</b> <i>Provide opportunities for existing and new local commerce, shops, light industry and home based employment which expand upon the exiting employment opportunities in the area.</i>	<p>The development will provide opportunities for adaptive reuse of the ground floor that have direct connection to the public street which enables for the development to adapt to provide for uses such as consultancy rooms, home businesses, offices, and the like.</p> <p>In addition, stage 1 of the development located on the adjoining property at 76 Knutsford Street provides for apartments and a ground level Restaurant/Café which is capable of adaptive reuse.</p>
<b>Amenity</b> <i>Create an urban environment which satisfies the lifestyle, aesthetic and security aspirations of its residents and workers.</i>	The proposal is considered to provide a good amenity outcome for the residents while still providing appropriate passive and active security and surveillance measures for the residents.





<b>Innovation</b> <i>Promote flexible land use solutions for residential, mixed use and home based employment opportunities.</i>	<p>The proposal promotes flexible land use solutions through the adaptive reuse of the ground floor which enables for the development to adapt to provide for uses such as consultancy rooms, home businesses, offices, and the like.</p>
<b>Urban Design</b> <i>Adopt appropriate urban design principles, including from the WAPC's Liveable Neighbourhoods approach, and the Design WA suite of documents which strive to achieve a built form that promotes the preceding principles.</i>	<p>Refer to section of report above.</p>
<b>Adaptability</b> <i>Encourage the retention of existing buildings and businesses and the introduction of new business and built form which is able to adapt to a range of land uses over time to meet the changing needs of the community.</i>	<p>Refer 'Built Form &amp; Adaptive Reuse' section of this report for the proposals assessment against adaptability/adaptive reuse.</p>
<b>Sustainability</b> <i>Achieve a balance between social, economic and environmental considerations and lead by example in the adoption of environmental best practice with a focus on sustainability in built form and land use and services</i>	<p>The applicant has provided a sustainability report (attachment 4) which outlines the proposals Environmental Sustainable Design (ESD) initiatives proposed throughout the development and states that it will pursue a formal One Planet Living recognition through Bioregional Australia's One Planet Living framework.</p>



**Built Form & Adaptive Reuse**

The built form requirements are provided in the KSELSP as per the table below. It is noted that the proposal is compliant with the building height and density requirements as identified under the KSELSP and the R-Codes but seeks variation to the floor to ceiling heights required for adaptive reuse.

<b>Provision</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Assessment</b>
Building Height (KSELSP)	2 Storeys (min) 4 storeys (max)	2 to 3 storeys	Complies
Density (KSELSP)	Density between R60 (min) / R100 (max)	R80	Complies
Lot sizes (Table 1, R-Codes)	Min – 100m <sup>2</sup> Avg – 120m <sup>2</sup>	Min – 114m <sup>2</sup> Avg – 147.9m <sup>2</sup>	Complies
Floor to ceiling heights (ground floor)	4.2 metres	3.086 metres	Variation

Under the KSELSP, all ground floors are to be designed in the form of adaptable buildings, which includes a minimum floor to ceiling height of 4.2 metres. The proposal seeks a variation to this requirement with a floor to ceiling height of 3.0 metres in lieu of 4.2 metres. The variation is supported for the following reasons:

- The applicant has designed the ground floor to consist primarily of bedrooms that are accessible directly from the street. The spaces also include a bathroom to allow for the ground floor to be converted into office spaces or consulting rooms and the like. There is no requirement for patrons or customers to have to go through the dwelling to access this space, and there is alternate access for residents meaning the spaces can be easily separated.
- Dwellings 1 to 7 have clear access fronting onto Montreal Street with all dwellings also being universally accessible with no significant level changes.
- The primary street fencing proposed allows for sufficient visual permeability which establishes a clear entry point to the ground floor to make the entry and access legible for visitors.
- In addition to the above, the adjoining site at 76 Knutsford Street (Stage 1), has provided for sufficient ground floor commercial space (68m<sup>2</sup> Restaurant/café land use), whilst these dwellings allow for business uses like offices and consulting rooms to occur.
- It is also noted that the ceiling height of the western bedrooms of dwellings Lots 10 and 11 have been increased to 3.4 metres with direct access to the public laneway so while less obviously accessible, also provide some opportunity.



Primary Street Setback

The following table outlines the proposals compliance with the primary street setback requirements in accordance with LPP2.9 – Residential Streetscape.

Provision	Requirement	Proposal	Assessment
Primary Street Setback - Montreal Street (LPP 2.9)	5.0 metres (wall height 4m or less)  7.0 metres (wall height greater than 4m)	2.694 metres (ground floor)  1.0 metres (terrace on first floor)  1.6 metres (terrace on second floor)	Variation – see comments below

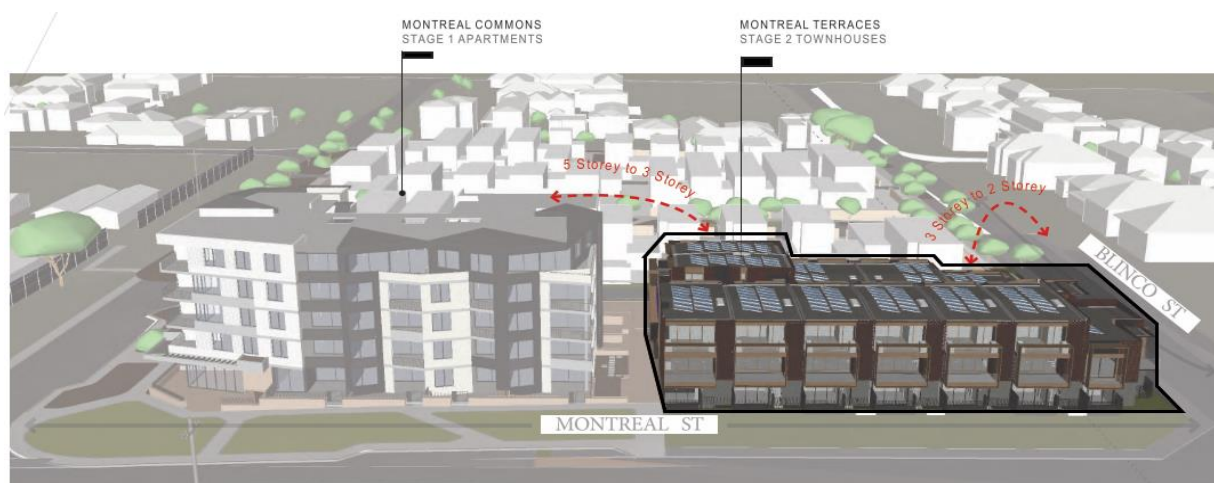
It is noted the proposal seeks a primary street setback variation to Montreal Street.

Clause 1.2 of LPP2.9 permits variations to the primary street setback requirements if the development meets at least one of the following criteria:

- i. *The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- ii. *The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- iii. *The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- iv. *Where there is no prevailing streetscape; or*
- v. *Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape.*

The proposed setback is deemed to meet the above criteria in the following ways:

- The proposed setback of the building is consistent with the setback of buildings within the prevailing streetscape, noting that the adjacent development at 76 Knutsford Street (ref: DAP/20/01854 & DAP006/20) has an approved 2.0 metre setback to Montreal Street with a building height of 17.60 metres. Figure 2 below, which is a perspective provided by the applicant, demonstrates the proposals context in comparison to the adjoining approved mixed-use development at 76 Knutsford Street.



**Figure 2** – Proposed development in context of the adjoining approved development at 76 Knutsford Street

- The development is also located across the road from the Fremantle Public Golf Course, and therefore the proposal will not have an adverse impact on the amenity and does not pose an inconsistency with the prevailing built form directly across the road from the subject site.

### Secondary Street Setback

Provision	Requirement	Proposal	Assessment
Secondary Street & truncation Setback – Blinco Street	1.0 metres	0.0 metres – 1.0 metres	Variation – see comments below

i. 2021 R-Code Design Principle	ii. 2023 R-Code Design Principle
<p>P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>Contribute to, and are consistent with, an established streetscape;</li> <li>Provide adequate privacy and open space for dwellings;</li> <li>Accommodate site planning requirements such as parking, landscape and utilities and</li> <li>Allow safety clearances for easements for essential service corridors.</li> </ul> <p>P2.2 Buildings mass and form that:</p>	<p>P3.3.1 Buildings are set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>i. are consistent with the existing or future streetscape and local character;</li> <li>ii. provide sufficient space for tree planting and other landscaping, as well as community interaction;</li> <li>iii. provide adequate privacy to the dwellings;</li> <li>iv. accommodate site planning requirements such as parking and utilities; and</li> </ul>



i. <b>2021 R-Code Design Principle</b>	ii. <b>2023 R-Code Design Principle</b>
<ul style="list-style-type: none"> <li>• Uses design features to affect the size and scale of the building;</li> <li>• Uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>• Minimises the proportion of the façade at the ground level take by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</li> <li>• Positively contributes to the prevailing or future development context and streetscape outlined in the local planning framework.</li> </ul>	<ul style="list-style-type: none"> <li>v. allow safety clearances for easements for essential service corridors and sightlines.</li> </ul> <p>P3.3.2 Buildings mass and form that:</p> <ul style="list-style-type: none"> <li>i. uses design features to affect the size and scale of the building;</li> <li>ii. provide the opportunity for building articulation, such as well-defined entries, varying setbacks across the building width, verandahs, porches and balconies;</li> <li>iii. uses appropriate minor projections that do not detract from the character of the streetscape;</li> <li>iv. minimises the proportion of the façade at ground level taken up by building services, vehicle entries, parking supply, blank walls, servicing infrastructure access, meters and the like; and</li> <li>v. positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.</li> </ul>

The deemed to comply requirement for a secondary street setback on lots zoned R80 is 1m. It is noted that majority of the secondary street setback complies with the 1.0 metre requirements, with the variation occurring where portions of Lot 1 project.

The R-Codes Clause 5.1.2 design principles for street setbacks require the relevant authority to consider a variation to the secondary street setback to ensure it contributes to, and is consistent with an established streetscape, provides adequate open space and accommodates for site planning requirements such as parking, landscape and utilities.

In addition to the above, Clause 2.3.2 – Interface Considerations of the KSELSP states that special consideration must be given to the interface between the structure plan area, and existing (and/or proposed) development or land uses on adjoining land. Land to the north of Blinco Street is generally characterised by residential development, comprising older housing stock with a residential density of R25. The KSELSP states that development adjoining the existing residential areas should demonstrate appropriate interface and transition.



In considering the secondary street setback variation sought, the design principles of the R-Codes as outlined in Clause 5.1.2 P2.1 and the interface considerations of the KSELSP are considered to be met as follows:

- The secondary street setback will not have a negative impact on the streetscape of adjoining properties, particularly the existing residential located across the road on Blinco Street given the existing verges are of a substantial width creating a buffer between the existing residential and the new development proposed at 59 Blinco Street. The KSELSP states that there is a substantial physical separation between the development on the opposite side of Blinco Street as a result of the wide road reserves. The landscaping of the road reserves will help to ease the transition from the existing and proposed new development in the structure plan area and provide an attractive interface. To ensure the verges are landscaping in accordance with the approved plans, a condition of approval has been recommended.
- The dwellings proposed enable for sufficient open space and site planning requirements such as on-site car parking for each of the dwellings (noting there is a variation to visitor parking, refer to parking and traffic section of this report for further discussion in this regard).

In addition to the above, the City is to have due regard to the design principles of the R-Codes 2023 (deferred gazettal) in accordance with Planning Bulletin 114/2023. The proposal is considered to meet the additional design principles of the R-Codes 2023 (deferred gazettal) in the following ways:

- The R-Codes 2023 (deferred gazettal) states that proposal provides for sufficient space for tree planting and other landscaping. Noting the proposal seeks a variation to the landscaping requirements (refer landscape assessment below), a condition has been recommended to ensure the ground floor terraces are amended to ensure the provision of soft landscaping is provided given the ability for outdoor living (table and chairs etc) to be undertaken in the balconies adjoining dining and kitchen areas on upper floors and a sufficient planting area (2m x 2m) is provided for the trees.
- The proposed secondary street setback variation allows for the opportunity for the building articulation including well defined entry points, varying setbacks along the building width, and includes verandahs, porches, and balconies.



Outdoor Living Area

The below table outlines the proposals compliance with the outdoor living area requirements of the R-Codes.

Provision	Requirement	Proposal	Extent of variation
<b>Outdoor living area (m<sup>2</sup>)</b>  Table 1 & CI 5.3.1, R-Codes	a. 16m <sup>2</sup>	<b>Lot 1</b> a. 15.4m <sup>2</sup> b. 3.5m x 4.6m c. In secondary street setback area d. Complies	<b>Lot 1</b> a. 0.6m <sup>2</sup> b. 0.5m width c. Secondary street d. –
	b. Minimum dimensions 4m x 4m		
	c. Behind street setback area	<b>Lots 2 - 7</b> a. 17m <sup>2</sup> b. 3.5m x 4.4m c. In primary street setback area d. Complies	<b>Lots 2 - 7</b> a. – b. 0.5m width c. Primary street d. –
	d. 2/3 (10.6m <sup>2</sup> ) uncovered	<b>Lots 8 &amp; 9</b> a. 12m <sup>2</sup> b. 2.65m x 6.5m c. Complies d. Complies	<b>Lots 8 &amp; 9</b> a. 4m <sup>2</sup> b. 1.35m width c. – d. –
		<b>Lots 10 &amp; 11</b> a. 16m <sup>2</sup> b. 3.6m x 8.5m c. Complies d. <2/3	<b>Lots 10 &amp; 11</b> a. – b. 0.9m width c. – d. <2/3
		<b>Lot 12</b> a. 15.4m <sup>2</sup> b. 3.5m x 5m c. In secondary street setback area d. <2/3	<b>Lot 12</b> a. 0.6m <sup>2</sup> b. 0.5m width c. Secondary street d. <2/3





2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P1.1 A consolidated outdoor living area is provided to each single house and grouped dwelling which provides space for entertaining, leisure and connection to the outdoors that is:</p> <ul style="list-style-type: none"> <li>▪ Of sufficient size and dimension to be functional and usable;</li> <li>▪ Capable of use in conjunction with a primary living space of the dwelling;</li> <li>▪ Sufficient in uncovered area to allow for winter sun and natural ventilation into the dwelling;</li> <li>▪ Sufficient in uncovered area to provide for landscaping, including the planting of a tree(s); and</li> <li>▪ Optimises use of the northern aspect of the site.</li> </ul>	<p><b>Equivalent Provision: 1.1 Private Open Space - Design Principles</b></p> <p>P1.1.1 Dwellings are designed to have direct access to private open space which provides for entertaining, leisure and connection to the outdoors that is:</p> <ul style="list-style-type: none"> <li>▪ of sufficient size and dimension to be functional and usable for the intended number of dwelling occupants;</li> <li>▪ is sited, oriented and designed for occupant amenity, including consideration of solar access and natural ventilation appropriate to the climatic region; and</li> <li>▪ capable of use in conjunction with a primary living space of the dwelling.</li> </ul> <p>P1.1.2 Private open space allows for sufficient uncovered area to:</p> <ul style="list-style-type: none"> <li>▪ permit winter sun and natural ventilation into the dwelling; and</li> <li>▪ provide for soft landscaping, including the planting of a tree(s) and deep soil area.</li> </ul> <p>P1.1.3 Balconies balance the need for outlook, solar access and natural ventilation with:</p> <ul style="list-style-type: none"> <li>▪ visual privacy considerations;</li> <li>▪ acoustic and noise impacts; and</li> <li>▪ local climatic considerations such as high winds.</li> </ul> <ul style="list-style-type: none"> <li>•</li> <li>• P1.1.4 Increasing the area of communal open space commensurate with a decrease in private open space may be appropriate where there is an explicit intent to facilitate communal living and it can be demonstrated that the communal open space: <ul style="list-style-type: none"> <li>▪ is of high amenity and provided with quality landscaping;</li> <li>▪ Is easily accessible and equitable for all dwellings within the development; and</li> </ul> </li> </ul>





2021 R-Code Design Principle	2023 R-Code Design Principle
	<ul style="list-style-type: none"><li>meets the needs of the occupants and provides opportunities for social interaction.</li></ul>

The proposed outdoor living areas for each of the 12 dwellings seek variations to the minimum dimensions required, size, location and uncovered requirements of the R-Codes.

In considering variations to the deemed-to-comply requirements for outdoor living areas, the development must demonstrate compliance with the design principles as outlined in Clause 5.3.1 of the R-Codes.

Given the outdoor living areas all vary in size and variation sought, the discussion below is broken into the different lots.

### ***Lots 1 – 7 & 10 – 12***

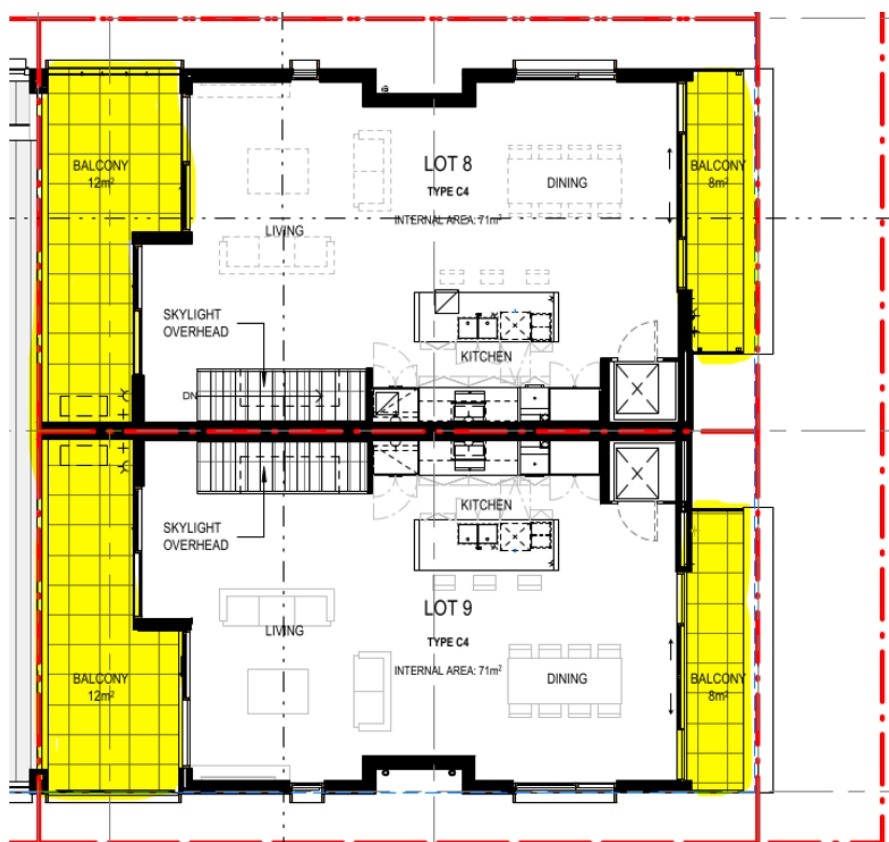
The outdoor living areas of lots 1 – 7 and 10 – 12 are supported by the City in accordance with the design principles for the following reasons:

- The outdoor living areas provided are consolidated area which is of sufficient size and dimension to be functional and useable. Noting these dwellings either comply with the required area (17m<sup>2</sup> & 16m<sup>2</sup>) or represent a minor departure from the deemed to comply requirement (15.4m<sup>2</sup>).
- The variation to the dimensions of 4m x 4m are considered minor and still allow for sufficient room to be functional and useable and are capable of use in conjunction with the primary living area of the dwelling.
- Each dwelling contains multiple terraces/outdoor areas across each level, for example, Lot 1 contains a terrace on the ground floor, two terraces on the first floor and Lot 7 contains a terrace on the ground floor, two terraces on the first floor and a terrace on the second floor.

### ***Lots 8 & 9***

It is noted that lots 8 and 9 primary outdoor living areas seek a 12m<sup>2</sup> area in lieu of 16m<sup>2</sup> deemed-to-comply, however, the outdoor living areas of lots 8 and 9 are supported by the City in accordance with the design principles for the following reasons:

- There are two terraces located on the first floor which connect to the primary indoor living area. The secondary balconies are 8m<sup>2</sup>, bringing the total outdoor living area to 20m<sup>2</sup> (refer to figure 4 below). Whilst the areas are disconnected, they are both connected to the primary living and dining area with large sliding doors which enable integration between the indoor and outdoor spaces.



**Figure 4 – Lot 8 and 9 outdoor living areas**

In addition to the above, the City is to have due regard to the design principles of the R-Codes 2023 (deferred gazettal) in accordance with Planning Bulletin 114/2023. Noting that they refer to private open space in lieu of outdoor living areas, the design principles talk to the provision of soft landscaping, deep soil area and balconies having outlook, solar access and natural ventilation.

The proposal is considered to meet the additional design principles of the R-Codes 2023 (deferred gazettal) in the following ways:

- Design principle P1.1.2 talks to soft landscaping, and whilst the provision of soft landscaping as currently proposed does not comply with the deemed to comply requirements of the 2021 R-Codes, a condition has been recommended to ensure additional landscaping is provided within the ground floor terraces of lots 1-7. This will ensure that the landscaping requirements comply with the current R-Code provisions. This will enable for sufficient soft landscaping and an increase in the tree planting area to satisfy the design principles of the 2023 R-Codes.
- The proposed outdoor living areas being balconies allow for outlook, solar access, being oriented east in most cases and some being oriented north and west, and natural ventilation.



Notwithstanding the above, it is also noted that the application proposes a communal laneway, with the intent to be a shared pedestrian and vehicular access laneway. The laneway consists of largely paving, broken up with vegetation, with the southern end of the laneway proposing shared barbecue and seating facilities.

Landscaping

Provision	Requirement	Proposal	Assessment
Tree requirement  (C 5.3.2, C2.2, R-Codes)	1 tree per dwelling (12 trees)	1 per dwelling = 12 trees	Complies
Tree planting area	2m x 2m	Min. 1.5m x 1.5m	Variation
Landscaping within the street setback area	Not more than 50 per cent impervious surfaces	>50 per cent	Variation

2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P2 Landscaping of open spaces that:</p> <ul style="list-style-type: none"> <li>• Contribute to the appearance and amenity of the development for the residents;</li> <li>• Contribute to the streetscape;</li> <li>• Enhance security and safety for residents;</li> <li>• Contribute to positive local microclimates, including provision of shade and solar access as appropriate; and</li> <li>• Retains existing trees and/or provides new trees to maintain and enhance the tree canopy and local sense of place.</li> </ul>	<p><b>Equivalent Provision:</b></p> <p>P1.2.1 Site planning allows for:</p> <ul style="list-style-type: none"> <li>i. site responsive and sustainable landscape design; and</li> <li>ii. the retention of existing trees on the subject site and adjoining properties.</li> </ul> <p>P1.2.2 Provision of trees and high quality landscaping:</p> <ul style="list-style-type: none"> <li>i. enhances the built form, streetscape and pedestrian amenity, as viewed from the street;</li> <li>ii. provides shade and amenity for communal streets and parking areas; and</li> <li>iii. contributes to the visual appeal, comfort and amenity of the development, in particular private open space and communal open space and outlook from habitable rooms.</li> </ul>



2021 R-Code Design Principle	2023 R-Code Design Principle
	P1.2.3 Development provides sufficient deep soil area to sustain healthy tree and plant growth, providing for an increase in urban tree canopy over time, and assist in managing the quantity and quality of stormwater.

The proposed landscaping for each dwelling seeks variations to the minimum tree planting area, in addition to the required pervious surface within the primary street setback area. In its current form, the landscaping within the street setback area is proposing greater than 50 percent impervious surfaces and the minimum tree planting area requirement being less than 2m x 2m and is not supported.

This element of the proposal does not demonstrate compliance with the design principles of the current R-Codes and the 2023 R-Codes (deferred gazettal) and therefore a condition has been recommended which requires the applicant to provide amended plans reconsidering the landscaping, which ensures the proposal can be supported under a design principle assessment.

Having regard to the planning assessment above for the variations to the outdoor living areas, primary street setback and secondary street setback, it is noted that the City is supportive of these variations on the basis that the design principles for these elements rely on sufficient landscaping to be provided.

It is for this reason that the City recommends a condition requiring, prior to the lodgement of a building permit amended plans be submitted detailing the terraces on the ground floor of lots 1-7 be amended to consist of not more than 50 per cent impervious surfaces and a sufficient tree planting area to be provided in accordance with the R-Codes.

### Car parking and traffic

The following table outlines the proposals compliance with the requirements for car parking in accordance with the R-Codes and LPS4.

Provision	Requirement	Proposal	Assessment
On-site car parking spaces	2 per dwelling (total 24 bays)	2 per dwelling (total 24 bays)	Complies
On-site visitor car parking spaces	3 bays required	Nil proposed	Variation – 3 bay shortfall



2021 R-Code Design Principle	2023 R-Code Design Principle
<p>P3.1 Adequate car parking is to be provided on-site in accordance with projected need related to:</p> <ul style="list-style-type: none"> <li>• the type, number and size of dwellings;</li> <li>• the availability of on-street and other off-street parking; and</li> <li>• the proximity of the proposed development to public transport and other facilities.</li> </ul> <p>P3.2 Consideration may be given to a reduction in the minimum number of on-site car parking spaces for grouped and multiple dwellings provided:</p> <ul style="list-style-type: none"> <li>• available street parking in the vicinity is controlled by the local government; and</li> <li>• the decision-maker is of the opinion that a sufficient equivalent number of on-street spaces are available near the development.</li> </ul> <p>P3.3 Some or all of the required car parking spaces located off-site, provided that these spaces will meet the following:</p> <ul style="list-style-type: none"> <li>v. the off-site car parking area is sufficiently close to the development and convenient for use by residents and/or visitors;</li> <li>vi. any increase in the number of dwellings or possible plot ratio being matched by a corresponding increase in the aggregate number of car parking spaces;</li> <li>vii. permanent legal right of access being established for all users and occupiers of dwellings for which the respective car parking space is to be provided; and</li> </ul>	<p><b>Equivalent Provision:</b></p> <p>P3.1 Adequate car parking is to be provided on site in accordance with projected need related to:</p> <ul style="list-style-type: none"> <li>• the type, number and size of dwellings;</li> <li>• the availability of on-street and other off-street parking; and</li> <li>• the proximity of the proposed development to public transport and other facilities.</li> </ul> <p>P3.2 Consideration may be given to a reduction in the minimum number of on-site car parking spaces for grouped and multiple dwellings provided:</p> <ul style="list-style-type: none"> <li>• available street parking in the vicinity is controlled by the local government; and</li> <li>• the decision-maker is of the opinion that a sufficient equivalent number of on-street spaces are available near the development.</li> </ul> <p>P3.3 Some or all of the required car parking spaces located off site, provided that these spaces will meet the following:</p> <ul style="list-style-type: none"> <li>v. the off-site car parking area is sufficiently close to the development and convenient for use by residents and/or visitors;</li> <li>vi. any increase in the number of dwellings or possible plot ratio being matched by a corresponding increase in the aggregate number of car parking spaces;</li> <li>vii. permanent legal right of access being established for all users and occupiers of dwellings for which the respective car parking space is to be provided; and</li> <li>viii. where off-site car parking is shared with other uses, the total aggregate parking requirement for all such uses, as required by the R-Codes and the scheme being</li> </ul>



<b>2021 R-Code Design Principle</b>	<b>2023 R-Code Design Principle</b>
viii. where off-site car parking is shared with other uses, the total aggregate parking requirement for all such uses, as required by the R-Codes and the scheme being provided. The number of required spaces may only be reduced by up to 15 per cent where the non-residential parking occurs substantially between 9 am and 5 pm on weekdays.	provided. The number of required spaces may only be reduced by up to 15 per cent where the non-residential parking occurs substantially between 9am and 5pm on weekday

As noted the table above, the proposal seeks a variation to the requirement for visitor car parking under the R-Codes. There are nil bays proposed in lieu of 3 bays required to be deemed-to-comply. It should be noted that the subject site is located within 'Location B' under the R-Codes, meaning it is outside of the Transperth high frequency public transport zone.

In considering a variation to visitor parking, the City must be satisfied that the proposal demonstrates compliance with the design principles as outlined in Clause 5.3.3 of the R-Codes which requires consideration to be given to the availability of street parking within the vicinity controlled by the local government is available near the development.

Noting the above, the shortfall of three (3) visitor parking bays provided on-site is supported under the design principles of the R-Codes and the City's LPS4 for the following reasons:

- The development, in its current form, will be solely used for residential development, therefore will unlikely generate a high level of visitors to the site as opposed to a commercial development would. However, noting the proposal incorporates ground floor adaptation for other commercial uses, it is considered that the uses that would occupy the ground floors would have sufficient car parking within the verge and would not generate a high level of visitors if adapted.
- The verge landscaping proposal indicates that the provision of five (5) on-street car parking bays are intended to be provided along the adjacent Montreal Street reserve. In addition to this it is noted that there is an existing availability of on-street carparking within the vicinity of the subject site and located within 100m of the site on the adjacent Montreal Street verge.

Whilst the site is not specifically located within an identified Transperth high frequency public transport zone, there is access to public transport within a 5-minute walk (route 502 bus stop) that connects the site to Fremantle Train Station.



In addition to the above, the City is to have due regard to the design principles of the R-Codes 2023 (deferred gazettal) in accordance with Planning Bulletin 114/2023. The proposal is considered to meet the design principles of the R-Codes 2023 (deferred gazettal) Part C, P2.3.3 in the following ways:

- Design principle P2.3.2 requires, in addition to the design principles discussed under the current R-Codes, that adequate provision or parking for various modes of transport including bicycles, motorcycles, scooters and cars is provided. The proposal demonstrates that bike racks will be provided on the Blinco Street verge, in addition to the verge parking indicated on the verge landscaping plan.

With regards to the traffic impact of the proposal, the applicant has submitted a Transport Impact Statement (TIS), prepared by KCTT in support of the proposal. The report concludes that the proposed development is expected to generate up to 72 vehicular movements per day with a forecasted impact of around 10 vehicular movements per hour in the peak hour. The report states that the surrounding road network would easily absorb the traffic generated from the development and assumes that it is consistent, or lower than the traffic generated from the current car parking use available on site.

On the basis of the above assessment, the City is satisfied that the through the availability of public transport, bicycle parking, compliance with occupiers parking, and provision of verge parking that the visitor parking shortfall can be supported. A condition has been recommended to ensure the bicycle racks are installed prior to occupation.

### **Conclusion:**

Approval is sought for twelve (12) grouped dwellings at Lot 1 (No. 59) Blinco Street, Fremantle, which range from two to three storeys in height and proposes a communal laneway through the middle of the site.

The proposed development seeks variations to some development controls with respect to adaptive reuse, secondary and primary street setbacks, boundary walls, outdoor living areas, landscaping and visitor parking. The majority of these variations are supported under a design principle assessment in accordance with the current R-Codes and the 2023 R-Codes (deferred gazettal). Where design elements are not supported after a design principle assessment, they are considered to be of a minor nature and can be mitigated through the imposition of appropriate planning conditions.

Overall, the City is supportive of the proposed development as it is consistent with the objectives and principles of the KSELSP and is deemed to meet the discretionary criteria where sought subject to conditions and advice notes.

On this basis, it is therefore recommended that the application be approved, subject to appropriate conditions of development approval.





**PC2306-4      FREEMAN LOOP, NO. 23 (LOT 1 SP 69777), NORTH  
FREMANTLE - VARIATION TO DA0146/20 (ALTERATIONS  
AND CHANGE OF USE TO SMALL BAR) (ED VA0006/23)**

<b>Meeting Date:</b>	7 June 2023
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Original Decision Notice and Approved Plans (dated 14 July 2020)</li><li>2. Site Photos</li><li>3. Acoustic Assessment (March 2023)</li><li>4. Original Application Acoustic Report (July 2020)</li></ol>

**SUMMARY**

**Approval is sought for a variation to planning approval ref. DA0146/20 (Change of Use to Small Bar) at No. 23 Freeman Loop, North Fremantle. Specifically, the application seeks to modify Condition 6(a) of the existing Development Approval (dated 5 August 2020) which currently reads as follows:**

***6. The installation and practices regarding amplified music is to be in accordance with the Herring Storer Acoustic Report (July) and the Leighton Beach Bar's Noise Management Plan, dated 9 July 2020. Specifically:***

***a) Internally, music to be limited to background noise levels of a maximum of 80 dB(A) throughout the venue. Doors are to remain "normally closed" (i.e., not propped open).***

**The application seeks to modify the above condition to allow the external doors to be propped open on the condition that music levels will be restricted to 70 dB(A) so as to maintain compliance with the *Environmental Protection (Noise) Regulations 1997* as is supported by the Acoustic Assessment (Prepared by Herring Storer Acoustics, dated March 2023) that has been submitted with the application.**

**No other variation is sought to the original development approval, including to the approved plans.**

**The proposal is referred to the Planning Committee (PC) due to the nature of comments received during the notification period that cannot be addressed through conditions of approval.**

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





## PROPOSAL

### Detail

Approval is sought for a variation to planning approval ref. DA0146/20 (Change of Use to Small Bar) at No. 23 Freeman Loop, North Fremantle. Specifically, the application seeks to modify Condition 6(a) of the existing Development Approval (dated 5 August 2020) which currently reads as follows:

6. *The installation and practices regarding amplified music is to be in accordance with the Herring Storer Acoustic Report (July) and the Leighton Beach Bar's Noise Management Plan, dated 9 July 2020. Specifically:*
  - a. *Internally, music to be limited to background noise levels of a maximum of 80 dB(A) throughout the venue. Doors are to remain "normally closed" (i.e., not propped open).*

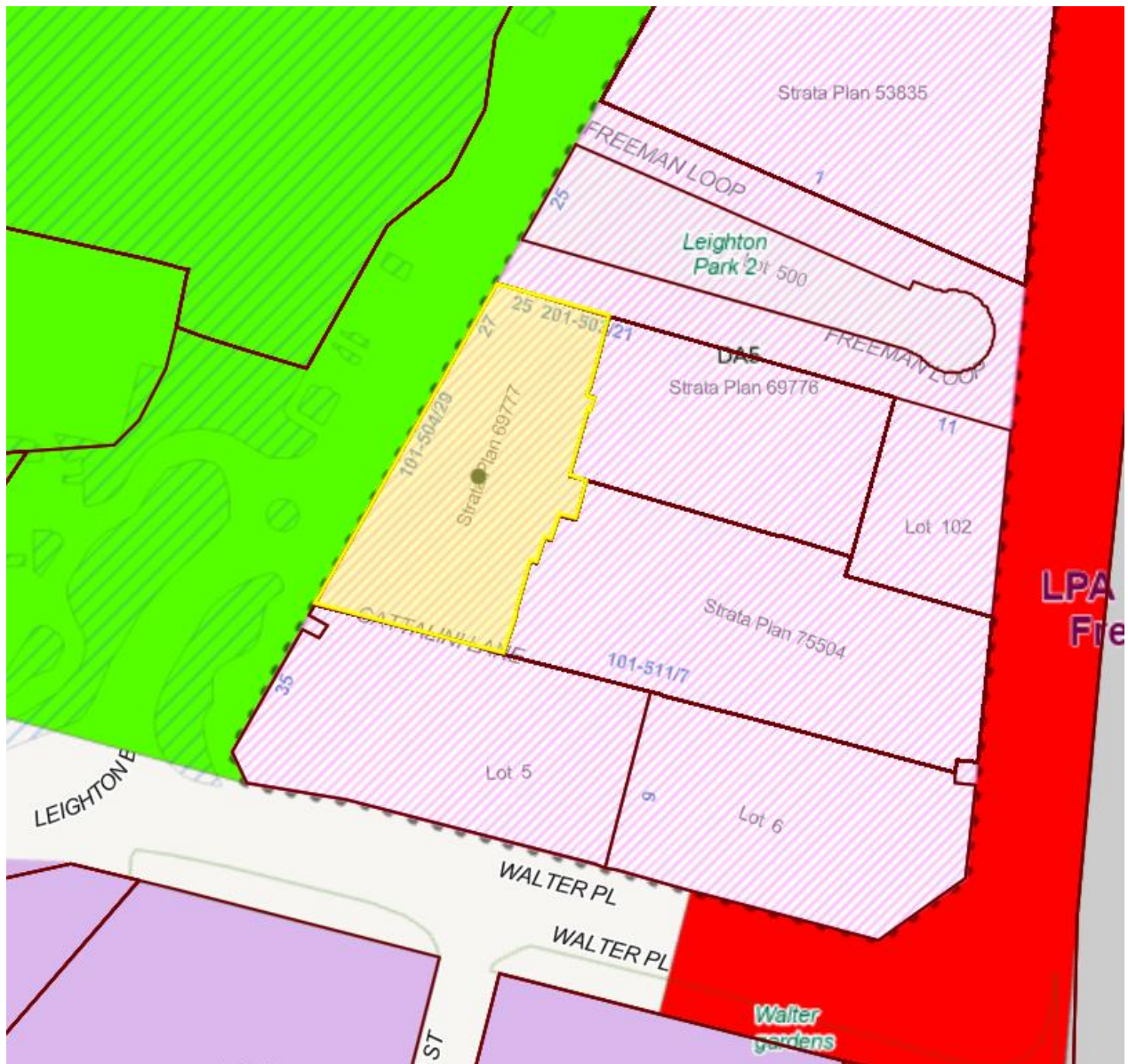
The application seeks to modify the above condition to allow the external doors to be propped open on the condition that music levels will be restricted to 70 dB(A) so as to maintain compliance with the *Environmental Protection (Noise) Regulations 1997* as is supported by the Acoustic Assessment (Prepared by Herring Storer Acoustics, dated March 2023) that has been submitted with the application.

No other variation is sought to the existing approval.

The original decision notice and approved plans can be found at Attachment 1. Please note the original approved plans (dated 14 July 2023) are not modified as part of this application and therefore no changes to the approved plans are considered as part of this application, only to the conditions of approval of the original decision notice.

### Site/application information

Date received:	14 April 2023
Owner name:	Freo Holdings (Aust) Pty Ltd
Submitted by:	Freo Holdings (Aust) Pty Ltd
Scheme:	Development Area DA5
Heritage listing:	North Fremantle Heritage Listed
Existing land use:	Small Bar
Use class:	Small Bar
Use permissibility:	Not listed – Development Zone



## 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*. The advertising period concluded on 28 April 2023, and five (5) submissions were received. The following issues were raised (summarised):

- Concerns were raised about the noise impact upon the residential amenity of these residential dwellings that sit above or nearby the subject site.
- Existing concerns regarding operating and patron noise from the venue already causes adverse noise impacts upon nearby dwellings, disrupting the quiet enjoyment of these residents and the use of balconies. Should the doors be able to remain open, this impact will be exacerbated.
- Submitters recommend the Small Bar use should be located in an area without such proximity to residential dwellings to avoid such noise related impacts.

Officer comment on the noise impact concerns is provided in the officer comment section 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. This application specifically to only one main consideration which is noise impacts and residential amenity which is discussed below.

### **Background**

The subject building is located on the corner of Leighton Beach Boulevard and Freeman Loop in North Fremantle. The site is zoned Development Area DA5 and the tenancy forms part of an existing five storey Mixed use development with residential multiple dwellings (apartments) above the ground floor of the building with non-residential uses on the ground floor. The subject tenancy is on the ground floor of the building at the corner of Leighton Beach Boulevard and Freeman Loop. The tenancy has an area of approximately 247m<sup>2</sup> and currently operates as a Small Bar. The subject site is not individually heritage listed but is located within the North Fremantle Heritage Area.



This application seeks a variation to an existing conditional planning approval (ref. DA0146/20 – Alterations and Change of Use to Small Bar) which was granted approval by the City's Planning Committee at its meeting on 5 August 2020. Specifically, this application seeks a variation to Condition 6 of the development approval which specified further recommendations to mitigate potential noise impacts upon adjoining residences and to ensure the small bar operated in accordance with the *Environmental Protection (Noise) Regulations 1997*.

### **Noise Impact**

As part of the original application for *Alterations and Change of Use to Small Bar* (ref. DA0146/20) at the subject site, an Environmental Noise Assessment report (prepared by Herring Storer Acoustics, dated 3 July 2020 (see attachments) was submitted in support of the application. This report outlined that the proposed small bar would be able to operate in accordance the *Environmental Protection (Noise) Regulations 1997* as required, if a number of additional recommendations were implemented and/or adhered to, specifically:

- (a) *Internally, music to be limited to background noise levels of a maximum of 80 dB(A) throughout the venue. Doors are to remain "normally closed" (i.e., not propped open).*
- (b) *No amplified music source is permitted outside of the venue (i.e.: in the alfresco area) at any time.*
- (c) *No live music, DJs, TVs, or similar are permitted to perform on the premises*
- (d) *Speakers to be resiliently mounted in the venue.*
- (e) *A sound limiter to be installed for the in-house sound system, calibrated to ensure a maximum volume of 80 dB(A) throughout the internal areas.*

As such, the application was supported on the basis the above recommendations formed part of the conditions of approval (Condition No. 6 of Development Approval ref. DA0146/20) and these conditions, where relevant, remain applicable and enforceable for the small bar approval and operation. It should be noted that this noise assessment was based on the assumed operating noise levels generated by the small bar as it was obviously not currently operating at the subject site.

The applicant is now seeking to amend part (a) of the above conditions which requires doors of the venue to remain "normally closed" (i.e., not propped open) at all times. The applicant has advised they are seeking this amendment because now that they have been under operation for a few months, they have found that during the hours the outside alfresco area is open, it is difficult for staff to continually have to open and close the door when delivering food and drinks to alfresco patrons and/or when collecting used items from these tables. The applicant also advised that any noise that is generated in the alfresco area is from



the alfresco patrons and not from the venue and therefore there is no difference in noise emission from the venue by having doors open.

To support this request and as part of this variation application, the applicant has provided an Acoustic Assessment (prepared by Herring Storer Acoustics, dated March 2023) that has assessed whether the small bar could operate within the *Environmental Protection (Noise) Regulations 1997* while removing the requirement to keep the doors of the venue "normally closed" while operating. As the small bar is now operating, this report assessed noise levels on-site on 3 March between 6pm and 7pm.

The report concludes:

*Based on the noise levels on site, with the music levels within the small bar set at 70 dB(A), the noise emissions associated with the small bar are not affected by the music and therefore comply with the Assigned Noise Levels stipulated by the Environmental Protection (Noise) Regulations 1997.*

*Hence, if operating conditions of the bar are desired to be altered to allow external doors to be propped open, the music levels internally are to be restricted to 70 dB(A).*

Officers have reviewed the report and have not identified any technical issues with its accuracy.

The City has offered to check noise from the property of a noise complainant so it could independently verify whether the noise from the venue exceeds assigned levels, however at the time of writing this report, the complainant has declined the offer.

It is therefore considered that Condition 6 of the original development approval can be modified to remove the requirement that door remain "normally closed" on the basis that music levels are limited to a maximum of 70 dB(A) throughout the internal areas of the venue, noting the resulting impact is not considered to be significant.

## **CONCLUSION**

Per the above assessment, the proposal is considered to appropriately address the relevant statutory planning requirements of the LPS4 and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil





## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

- 1. APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Variations to Planning Approval for DA0146/20 (Alterations and Change of Use to Small Bar) granted 5 August 2020 at No. 23 (Lot 1 SP69777) Freeman Loop, North Fremantle, subject to the same terms and conditions, except whereby modified by the following condition(s):**

**Condition No. 6 of the Planning Approval dated 5 August 2020, be deleted and replaced with the following condition(s):**

- 6. The installation and practices regarding amplified music is to be in accordance with the Herring Storer Acoustic Report (July) and the Leighton Beach Bar's Noise Management Plan, dated 9 July 2020. Specifically:**
  - b) Internally, music to be limited to background noise levels of a maximum of 70 dB(A) throughout the venue.**
  - c) No amplified music source is permitted outside of the venue (i.e.: in the alfresco area) at any time.**
  - d) No live music, DJs, TVs, or similar are permitted to perform on the premises**
  - e) Speakers to be resiliently mounted in the venue.**
  - f) A sound limiter to be installed for the in-house sound system, calibrated to ensure a maximum volume of 70 dB(A) throughout the internal areas.**

**Advice note:**

- i. The amendment to Condition 6 hereby allows the door to venue to remain open.**



**PC2306-5      CLIFF STREET, NO. 6 (LOT 4) FREMANTLE – CHANGE OF USE  
TO MULTIPLE DWELLINGS AND ADDITIONS AND  
ALTERATIONS TO EXISTING BUILDING (JZ DA0012/23)**

**Meeting Date:** 7 June 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1. Amended Development Plans  
2. Site Photos

**SUMMARY**

**Approval is sought for the additions and alterations to the existing building at No. 6 Cliff Street, Fremantle, and a change of use to Multiple Dwellings for three apartments.**

**The proposal is referred to the Planning Committee (PC) 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 Volume 2 (R-Codes) and Local Planning Policies. These discretionary assessments include the following:**

- **On site car parking**
- **Land use**
- **Building height**

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

**PROPOSAL**

**Detail**

Approval is sought for the additions and alterations to the existing building at No. 6 (Lot 4) Cliff Street, Fremantle, and a change of use to Multiple Dwellings for three apartments. The proposed works include:

- Internal fit out of existing tourist accommodation into three self-contained apartments on the ground floor, first floor and upper floor;
- The addition of fire rated windows into the southern boundary wall; and
- The addition of the previously approved upper floor addition to a height of 14m above ground level (of which was previously approved to a height of 14m in past application DA0209/21).

The applicant submitted amended plans on 9 March 2023 including the following:

- The removal of the roof terrace to the upper floor addition, with the new height being to a finished floor level of 14.0m.

Development plans are included as attachment 1.

**Site/application information**

Date received:	16 January 2023
Owner name:	White Holdings Pty Ltd
Submitted by:	Rob Fittock
Scheme:	City Centre Zone
Heritage listing:	Level 1B, West End Heritage Area
Existing land use:	Tourist Accommodation
Use class:	Multiple Dwellings
Use permissibility:	P







## **CONSULTATION**

### **External referrals**

#### *Heritage Service (DPLH)*

The application was originally referred to Heritage Services as the subject site is located within the Fremantle West End and is an individually Heritage Listed site. The originally design was not supported by DPLH as it did not meet the requirement of the City's Local Planning Policy 3.21 – The West End Heritage Area.

Therefore, the applicant revised the proposed development and submitted amended plans dated 9 March 2023 including the following;

- The removal of the roof terrace to the upper floor addition.

DPLH considered these amended development plans in the context of Wilhelmsen House and found that they have no objection to the proposal.

#### *Fremantle Ports (FA)*

The application was referred to the Fremantle Ports as the subject site sits within the Fremantle Port Buffer Area 2. Fremantle Ports have advised they have no objection to the proposal, subject to the proposed design to meet the requirements of Area 2 with regard to the standard built form. These matters can be dealt with as relevant conditions and advice notes.

### **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 discretion with regard to the provision of onsite car parking for the proposed land use. The advertising period concluded on 20 April 2023, and 3 submissions were received. The following issues were raised (summarised):

- Concerns with the height of the proposed upper floor addition (mezzanine and roof deck) being overly excessive, appear bulky and unattractive when viewed from the immediate streetscape;
- Concerns related to the provision of onsite parking to accommodate for six proposed dwellings;
- Concerns related to the waste management plan, with regards to waste bin placement, potentially disrupting surrounding businesses and placing bins in and around the rear laneway; and
- Noise concerns and disruption related to the proposed roof deck and its impact on the surrounding locality and local businesses.



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

- The upper floor addition was previously approved within DA0209/21 (to a finished floor level of 14.0m) and is considered to meet the requirements of local planning policies and LPS4 (see further comments in the building height assessment below),
- The development is proposing three (3) dwellings and not six (6) dwellings on site and is therefore seeking provision for a shortfall of 3 car parking bays, not 6 bays.
- The property will not include a common use entertainment area and noise impact is to be conditioned by the City.
- Given the scale of this proposal, the waste generation is not considered to be significant and not likely to result in significant amenity impacts.

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 element objectives of Residential Design Codes Volume 2 (R-Codes) or policy provisions and need to be assessed under the Design principles:

- On site car parking
- Land use
- Building height

The above matters are discussed below.

#### **Background**

The subject site is located on the western end of Cliff Street. The site has a land area of approximately 119m<sup>2</sup> and is currently an existing Tourist Accommodation Building. The site is zoned City Centre under LPS4. The site is individually heritage listed and located within the West End Heritage Area.

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

- Approval was granted for the change of use to Tourist Accommodation and additions and alterations to the existing Building, DA0209/21.



## **Land Use**

A Multiple dwelling is a 'D' use in the Residential Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. In considering a 'D' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

- (a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) The compatibility of the development with its setting including 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*
- (y) Any submissions received on the application.*

The proposed development is considered to address the above matters for the following reasons:

- The proposed use is considered to meet the objectives of the Scheme as it will provide additional housing within the City Centre.
- The use in itself is not considered to impact the cultural heritage significance of the existing building.
- The use is compatible with the locality of the surrounding area within the City Centre, supporting the objectives of the centre.
- The size of the dwellings is considered to pose less of an environmental noise impact, as the units are to be self-contained and not used by large groups of people who may make noise.
- The submissions received mostly regarding building bulk and visual obstruction to the streetscape, are addressed in the officer comments below.

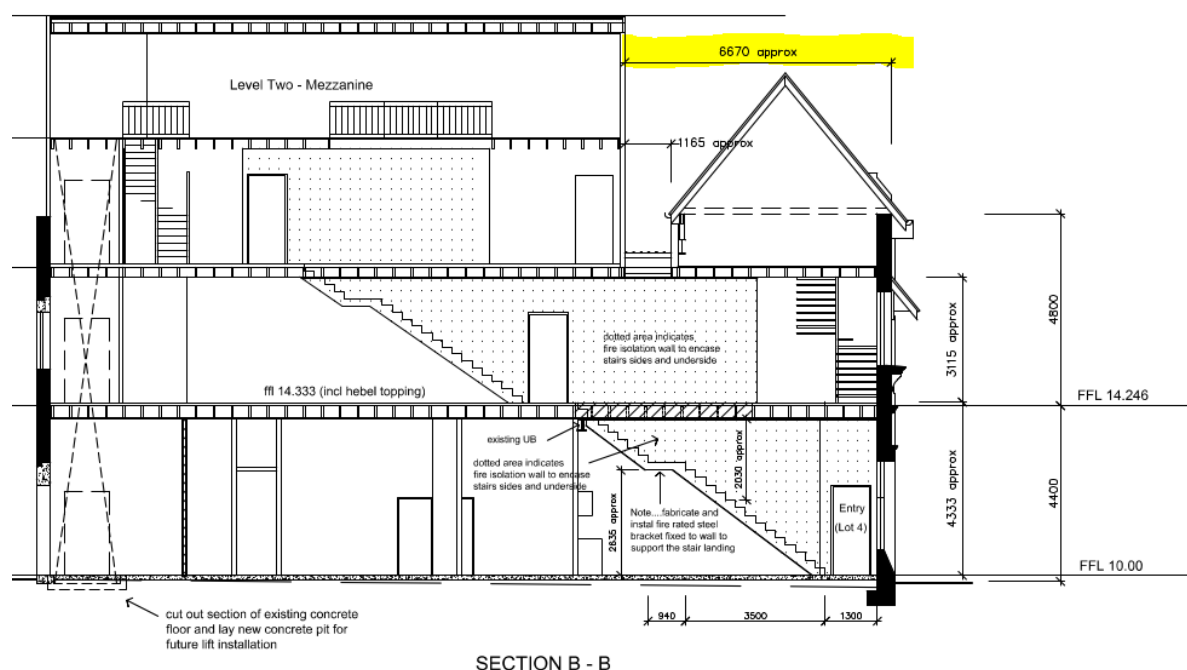


## **Building Height**

The subject site is located within Sub Area 1.3.1 of LPS4, and is therefore subject to the height requirements of Schedule 7. Height is limited to a maximum height of 3 storeys (11m external wall height), however Council may consent to an additional storey in accordance with the provisions in the below table.

<b>Element</b>	<b>Officer Comment</b>
The upper level being sufficiently setback from the street so as to not be visible from the street (s) adjoining the subject site,	The upper floor is setback to satisfy this requirement (setback 6.6m from the primary street), refer to the diagram below – Figure 1.
Maximum external wall height of 14* metres,	The building proposes a wall height of 14m.
That the proposal is consistent with predominant, height patterns of adjoining properties and the locality generally,	<p>There are a number of properties within the locality of the subject site with a similar or greater height;</p> <p>11 Cliff Street – Building of comparable height (see figure 3 below).  39 High Street – Highest visible point (three storeys)  6 High Street – Building of comparable height.</p> <p>The increase in building height to 14m is consistent with the locality as depicted above, as there is a pattern of buildings in the surrounding area of comparable height.</p>
The proposal would not be detrimental to the amenity of adjoining properties or the locality,	<p>The additional height to the building will not impact on the amenity of the adjoining properties, as the addition is setback from the primary street and the adjoining Phillimore Chambers building.</p> <p>This reduces the significance of the built form and will limit the impact of building bulk on the primary street.</p> <p>See figure 2 below demonstrating the visibility of the addition from the street.</p>

<p>The proposal would be consistent, if applicable, with conservation objectives for the site and locality generally, and</p>	<p>The proposed addition has been assessed by City Heritage Officers and DPLH and is supported by both parties, indicating that it would not have a significant impact on the heritage significance of the West End Heritage Area and adjoining individually State Heritage listed areas.</p>
<p>Any other relevant matter outlined in Council's local planning policies.</p>	<p>The subject site has been assessed against the West End Policy – LPP 3.21 further in this report.</p>

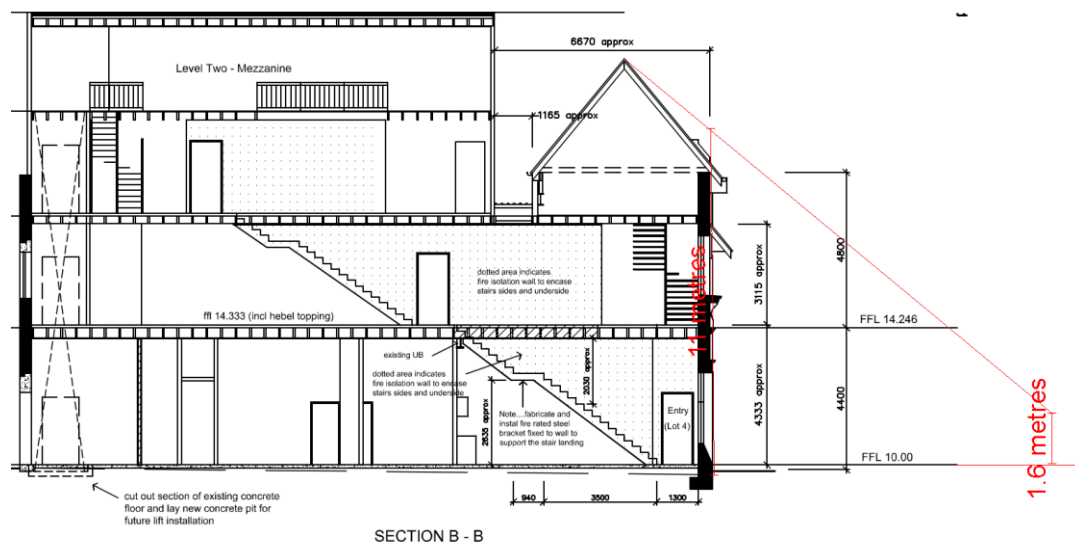


**Figure 1:** Annotated plan showing the setback of the upper floor addition to the primary street (Cliff Street).

In conjunction with LPS4, 'visible from the street' is defined as follows;

*Based on an assumed line of sight measured at a perpendicular angle from the subject land's lot boundary into the adjoining street for the width of the street and 1.6 metres above ground level.*

The below diagram (Figure 2) illustrates that the proposed upper floor addition will not be 'visible from the street' as defined in LPS4. The measurement is taken from the opposite side of the street and from a height of 1.6m, noting a permissible wall height of 11.0m at the front of the property boundary of 6 Cliff Street.



**Figure 2:** Annotated plan showing the visibility of the upper floor addition from the street as per the requirements of LPS4.



**Figure 3:** View South toward Cliff Street from Phillimore Street – showing height of opposite property (11 Cliff Street)





**Figure 4:** Perspective diagram (from DA0209/21), showing the addition as viewed from Phillimore Street (grey strip above Phillimore Chambers parapet).

### **Residential Design Codes Adaptive Reuse**

The application is subject to assessment against Design Element 4.13 of Volume 2 of the Residential Codes (R-Codes). The acceptable outcome is subjective in nature and the below assessment expands using the design guidance criteria. Ultimately, there is an acceptance by the Codes, that while some elements may be difficult to achieve, balance should be struck between the amenity of residents and protection of heritage values.

Below are the element objectives for Clause 4.13

*New additions to existing buildings are contemporary and complementary and do not detract from the character and scale of the existing building.*

*Residential dwellings within an adapted building provide good amenity for residents, generally in accordance with the requirements of this policy.*

In assessing the proposal against the above objectives an assessment against the relevant design guidance criteria is provided.



In this instance it is considered this proposal does meet the criteria of the design elements, for the following reasons;

- The building has existing 3.5m floor to ceiling heights and dual aspect windows allowing sufficient ventilation through each of the three proposed dwellings. Furthermore, the actual proposed room dimensions are spacious and generous – the bedroom for example, being 20m<sup>2</sup> and minimum dimension 3.9m<sup>2</sup>. This scale of the heritage building ensures appropriate internal amenity for residents while allowing space for servicing.
- The large western and eastern facing windows will enable light to penetrate deeper into the floor plan of the proposed units.
- The dual aspect windows are east-west facing, with the bedrooms facing toward the west and the kitchen and living areas facing west – with the dining and living room spaces being equipped with an atrium / light well to introduce passive solar gain.
- It is however noted that the units to the ground floor are only serviced by the internal atrium windows. In addition to this, the development will need to meet the National Construction code requirements for solar access and ventilation for the proposed bedrooms, which has been reviewed by the City and is capable of compliance.
- With regards to visual amenity between No. 4 and No. 6 Cliff Street, it is acknowledged that habitable room windows look into the internal atrium and as such internal visual privacy is compromised between these two buildings. The impact could be easily mitigated with installation of reverse sash windows with the bottom panel being fixed and obscured to a minimum of 1.6m from the finished floor level.
- With regards to acoustic amenity given the site's location in the City Centre, it is warranted to impose a condition alerting future occupants to potential noise from the Port Operations.
- It is acknowledged that given the existing building covers the entire site there is limited opportunity for onsite carparking and landscaping to be improved or enhanced onsite.
- With regards to no onsite car parking it is acknowledged that the existing Office use has a shortfall of onsite bays today, and this change of use would reduce that existing deficiency to three (3). Furthermore, the subject site is located within walking distance of ticked on-street and longer term parking within the locality, it is also noted the subject site is located in close proximity to the Fremantle train station and bus port, which will provide the availability of public transport for future residents of the site.
- It is acknowledged that the existing built form significantly limits the ability to incorporate deep soil planting opportunities and, in these instances, the most common form of landscaping is internal pot planting.
- The ability to incorporate some form of landscape treatment into the atrium is encouraged, but this would need to be well considered to prevent loss of solar access to internalised habitable rooms of each dwelling.





Taking all of the above into consideration, City Officers have considered the development to meet the element objectives of the R-Codes.

### **New Residential Developments In The City Centre Zone - Noise From An Existing Source LPP 2.18**

The application is subject to assessment against Local Planning Policy 2.18. The acceptable outcome is that the development meets the requirements of this Policy, therefore the below assessment expands on the areas where the proposed development does not meet the requirements of this Policy.

Below is the objective of LPP 2.18:

*The objective of this policy is to address the issue of noise when considering new residential developments in the City Centre zone in close proximity to existing noise producing uses.*

In assessing the proposal against the above objective an assessment against the relevant design measures (Appendix 1) is provided.

In this instance it is considered this proposal does meet the criteria of the design measures, however, in relation to the impact of noise on the surrounding land uses to address sound attenuation this is to be conditioned.

### **West End**

As the subject site is located within the West End Heritage Precinct it is subject to the requirements of the Local Planning Policy 3.21, West End Heritage Area Policy. The site is located on the border of Precinct (A) The High Streets and (C) The Quay Edge. The proposal is generally considered to meet the requirements of this policy.

Provision	Requirement	Assessment
1.2.1	Places which are individually listed on the City's Heritage List or on the State Register should conserve elements contributing to their individual significance as well as the collective significance of the buildings of the West End.	City Heritage Officers and DPLH have supported the design and it is considered to have no discernible impact on the heritage significance of the West End Heritage Precinct.
2.1.5	Discretionary land uses, as listed in the Zoning Table of the Local Planning Scheme, are compatible with surrounding uses and mixed-use environment.	The subject site is considered to meet the objectives of the Scheme as it will provide additional



		housing within the City Centre and compliments surrounding land uses.
3.1.4	Development reflects the building height and proportions characteristic of the West End.	In accordance with the above building height assessment, the subject site is considered to reflect the height of buildings in the surrounding locality of the West End.
4.1.2	Existing vistas, views and skyline are retained or enhanced.	The subject site is considered to maintain the existing visual connection to the streetscape, by limiting the overall height of the upper floor addition to a comparable height to surrounding buildings.
4.1.3	The general roofscape and form of the precinct are maintained.	It is considered the proposed works will be limited in visibility when viewed from the street due to its proposed height and therefore, will maintain the current roofscape of the West End precinct.
5.1.1	New development reflects the classical proportions and character of adjacent building and the streetscape whilst remaining discernible as contemporary. The contrast should be clear but subtle.	The subject site is supported by both City Heritage Officers and DPLH and is considered to have no discernible impact on the heritage significance of the West End Heritage Precinct.
6.1.1	New development (including additions) does not diminish the legibility of original building type.	It is considered the subject site will not obscure or diminish the existing characteristics of the original building,



		and the legibility will be preserved as the addition is setback significantly from the primary street setback.
6.1.2	New development is compatible with the precinct, sits comfortably alongside existing buildings, and assists in interpreting the history of the area.	It is considered the subject site preserves the area's character by not detracting from the original characteristics and built form of the surrounding buildings and therefore, does not disrupt the visual and historical context of Cliff Street through a relatively simple design.

### **Heritage Impact**

City Heritage Officers have assessed the proposed works to the subject site, and it is considered there will be no discernible impact to the Level 1B Heritage listed building. The internal fit out and changes to the layout will not damage significant building fabric or result in a reduction of the heritage values of the place.

From a heritage perspective the proposed works are supported as they will have no impact on the heritage significance of the West End Heritage Area or the 'aesthetic' value of Commercial Buildings 6 – 8 Cliff Street.

### **Waste Management**

The applicant submitted a waste management plan (WMP) with the development proposal indicating that the proposed bins will be placed on Phillimore Street for collection, to minimise the impact on Cliff Street.

It is noted that a submitter has objected toward bins being placed in and around surrounding businesses and the rear laneway. Therefore, it is considered that the collection from Phillimore Street is the most efficient location for bin collection to be serviced and to limit the impact on surrounding businesses.

### **Fremantle Ports buffer**

The application was referred to the Fremantle Ports as the subject site sits within the Fremantle Port Buffer Area 2. Fremantle Ports have advised they have no objection to the proposal, subject to the proposed design to meet the requirements of LPP 2.3 (4.2) Area 2 with regard to the standard built form. Generally, the requirements of CI 4.2 relate to windows and openings and air conditioning units. In accordance with this policy, it is recognised that this



requirement – the adaptation and reuse of buildings of heritage significance is not always possible. Therefore, the relevant conditions and advice notes have been imposed in City Officers recommendation.

## **CONCLUSION**

In accordance with the above assessment, the proposed change of use to multiple dwellings and additions and alterations to the existing building, is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, change of use to multiple dwellings and additions and alterations to existing building at No. 6 (Lot 4) Cliff Street, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 9 March 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. 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. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**



- 4. Prior to occupation/ use of the development hereby approved, the boundary wall located on the northern and southern boundaries 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.**
- 5. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 6. 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.**
- 7. Prior to the issue of a Building Permit for the development hereby approved, a report shall be submitted by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures to limit noise impact on adjoining properties to within the requirements of the Environmental Protection (Noise) Regulations 1997. Any noise attenuation measures identified in the submitted report shall be installed and maintained for the life of the development hereby approved to the satisfaction of the City of Fremantle.**
- 8. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:**
  - (a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.**
  - (b) Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
  - (c) Roof insulation in accordance with the requirements of the Building Codes of Australia.**



**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 in the future the adjoining courtyard to the south of the site may be developed up to the property boundary, resulting in the proposed windows being blocked.**
- iii. The applicant/owner is advised that the premises must comply with the Environmental Protection (Noise) Regulations 1997.**



**PC2306-6 QUEEN VICTORIA STREET, NOS. 239-245 (LOT 13), NORTH FREMANTLE - ADDITIONS AND ALTERATIONS TO EXISTING BUILDING AND CHANGE OF USE TO OFFICE, SHOP AND CAFE/RESTAURANT (ED DA0085/23)**

**Meeting Date:** 7 July 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended Development Plans  
2. Site Photos  
3. Acoustic Report

**SUMMARY**

**Approval is sought for additions and alterations to existing building and change of use to Office, Shop and Cafe/Restaurant at No. 239-245 (Lot 13) Queen Victoria Street, North Fremantle.**

**The proposal is referred to the Planning Committee (PC) 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) and Local Planning Policies. These discretionary assessments include the following:**

- **On Site Car and Bicycle Parking**
- **Land Use**

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

**PROPOSAL**

**Detail**

Approval is sought for additions and alterations to an existing building and change of use to Office, Shop and Cafe/Restaurant at No. 239-245 (Lot 13) Queen Victoria Street, North Fremantle. The proposed works include:

- Demolition of non-original rear lean-to additions to rear and new rear additions to original building;
- New door openings to northern (carpark) façade and general restoration of all building facades including painting;
- Internal doors blocked up and one staircase enclosed within existing building;
- Internal existing rooms on ground floor sub-divided and fitted out as bathrooms;
- Rear alfresco and new louvre roof additions to rear garden area plus landscaping; and



- Change of use from the existing Shop (former 'Trish's Antiques' store) to Office, Shop and 4 x small Café/Restaurant tenancies.

The applicant submitted amended plans on 5 April 2023 including the following:

- Clarification that the proposed general 'Food and Beverage' tenancies are to be nominated as 'Restaurant/Café' land uses as per LPS4.

Amended development plans are included as Attachment 1.

### **Site/application information**

Date received:	14 March 2023
Owner name:	Estate of Louise Hoffman & Toby Freund
Submitted by:	McGees Property
Scheme:	Neighbourhood Centre Commercial
Heritage listing:	Individually Listed Category L2, adjacent State Heritage Place (North Fremantle Town Hall (fmr)) and North Fremantle Heritage Area
Existing land use:	Shop
Use class:	Office, Shop, Restaurant/Cafe
Use permissibility:	P, D, A respectively





## **CONSULTATION**

### **Internal referrals**

#### ***Heritage***

The demolition of the framed lean-to at the rear of the shops will have minimal impact on the heritage values of the place as this part of the building has undergone modification over time and is an area of lesser heritage significance on the site.

The street façade of the building will not be physically altered, with proposed changes limited to repainting. Originally this building would have been unpainted with red face brickwork and rendered dressings and details. The long-term conservation aim for this place should be to remove paint from the exterior masonry to improve the presentation of the place and allow the solid walls to breathe. However, as the paint surface is currently in fair condition with little preparation required, repainting the façade is acceptable as it will not further reduce the ability of the wall to breathe and naturally expel moisture.

The north elevation which was originally a party wall prior to the demolition of the adjacent shops in the 1950s/60s, appears to have been fully rendered. The addition of new openings at ground floor level on this wall will have minimal impact on the place and its authenticity.

The internal adaptation of this two-storey commercial building with residences above has generally been sensitively handled with the retention of key features and elements such as staircases and fireplaces. Further detail should be provided to show how original door openings are to be blocked up in a way that will retain original fabric such as architraves, interpret the original openings and potentially allow the original configuration of the buildings to be reinstated in future if required.

The installation of wet areas inside a solid walled traditional construction building will need to consider how to reduce the impact of moisture and rising damp on the solid masonry walls and embedded timbers. Further detail can be provided at building licence stage.

Generally, the works proposed in this application are acceptable with conditions as they will have only a minor impact on the heritage values of 243 and 245 Queen Victoria Street and the North Fremantle Precinct Heritage Area subject to conditions of approval.



### *Environmental Health*

The applicant has provided an Acoustic Report which is recommended to be secured via conditions of approval to ensure compliance with the *Environmental Protection (Noise) Regulations 1997 (as amended)*.

The recommendations from the Acoustic Report include:

- *Area developed as per Appendix A plans, including 3.5-metre-high rear wall and 2.4 metre high shipping container for Tenancy 5;*
- *Alfresco area shall not be licensed for the consumption of alcohol;*
- *Alfresco area shall be limited to no more than 100 patrons;*
- *Alfresco area is to be closed after 10.00pm; and*
- *Only background style music is permissible, and the music selected shall have minimal bass content. The level shall be initially set to no more than 65 dB(A) at 1 metre from in front of each speaker (assumed to be no more than 3 speakers in total) and shall be controlled by a noise limiting device. Settings for the limiter shall be within a locked cabinet and adjustable by management only. Speakers shall ideally be positioned at low level.*

### *Infrastructure*

No significant concerns have been raised in relation to traffic and/or infrastructure related matters, noting that minor conditions and advice notes have been recommended to ensure compliance with relevant standards.

### **External referrals**

#### *Heritage Service (DPLH)*

The application was referred to Heritage Services as the subject site is adjacent to a State Heritage Listed Place (North Fremantle Town Hall (fmr)). Heritage Services advised the have no objections to the proposal with the following advice:

#### *Findings:*

- *The proposal is for a change of use and alterations to 239-245 Queen Victoria Street, North Fremantle, which is opposite North Fremantle Town Hall (fmr).*
- *The proposal comprises alterations to the existing building and alfresco additions to the rear.*
- *North Fremantle Town Hall (fmr) is a fine example of Federation Free Classical architecture and is a landmark in North Fremantle and an important part of the streetscape of Stirling Highway.*



*Advice:*

- *The proposal does not impact the identified cultural heritage significance of North Fremantle Town Hall (fmr).*

*DPLH Other Regional Road (ORR)*

The application was referred to DPLH for comment as the site is affected by a Regional Road (other) reservation. DPLH have advised that they have no objection to the proposal on ORR planning grounds.

**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 involves discretionary land uses and a car parking shortfall. The advertising period concluded on 28 April 2023, and two (2) submissions were received. The following issues were raised (summarised):

- The area is saturated with cafes, restaurants, and bars; the addition of such many cafes/restaurants would not quite benefit the area, in fact could be detrimental for excessive competition with existing businesses. The addition of more diversified services and businesses such as grocery store, convenience store, bookshop, specialty shops etc. would, on the opposite, greatly benefit the North Fremantle area and community, creating a much-needed town centre feeling;
- Concerns about the noise impacts from the proposed uses and from the alfresco area were raised and cited impacts of other existing uses within the local; and
- The additional hospitality venues will create further pressure on the already stressed parking availability in the area particularly in the evenings.

Detailed officer comment on the acceptability of the land uses proposed, parking provision/availability and noise impacts are provided in the officer comment section below.

**OFFICER COMMENT**

**Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. The following elements of the proposal require the exercise of discretion with regard to the requirements of Local Planning Scheme No. 4:

- Land Uses
- On Site Car & Bicycle Parking



The above matters and other notable matters such as managing the impact of noise which are to be considered in the determination of the application, are discussed below.

### **Background**

The subject site is located on the western side of Queen Victoria Street in North Fremantle. The site has a land area of approximately 1075m<sup>2</sup> and is currently a vacant Shop. The site is zoned Neighbourhood Centre and has a density coding of R25. The site is individually heritage listed (category L2 – Considerable Significance) and is located within the North Fremantle Heritage Area.

It is noted that the subject site is not adjoined by any residential properties and is separated from the closest residential properties to the west by Jewell Parade at the rear (west) of the subject site. It is also noted that both properties to the south and north of the subject site (which includes a publicly accessible car park) are under the same ownership as the subject site.

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

### **Land Use**

A 'Shop' is a 'D' use within the Neighbourhood Centre Zone and a 'Restaurant/Café' is an 'A' use within this zone that means that the uses are not permitted unless the use is not permitted unless the Council has exercised its discretion and has granted development approval after giving special notice (advertising) in accordance with clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2.

The City's LPS4 provides that development within the Neighbourhood Centre Zone shall:

- i. provide for weekly and convenience retailing including small-scale shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare, and community facilities which serve the local community, consistent with the local—serving role of the centre;*
- ii. encourage the provision of suitable and accessible services to residents of the locality;*
- iii. ensure that development is not detrimental to the amenity of adjoining owners or residential properties, and*
- iv. conserve places of heritage significance the subject of or affected by the development.*



The proposed development is considered to address the above matters for the following reasons:

- All the proposed uses are discretionary within the Neighbourhood Centre Zone however are consistent with the uses preferred uses outlined in point (i) above.
- The development will provide an appropriate mix of uses including office, shop and restaurant/café that will be accessible and service the residents of the locality.
- The proposed rear additions and alterations to the existing building are minor in nature and are not considered to impact any adjoining owners or nearby residential properties. The potential noise impacts of the proposal are discussed in the following sections of the report, with an acoustic report provided that demonstrates the ability of the development to comply with relevant noise regulations.
- Both DPLH Heritage Services and CoF Heritage have deemed the proposal acceptable and it shall conserve places of heritage significance the subject of or affected by the development.

With respect to the submitter's comments that the area is saturated with cafes, restaurants, and bars; the concentration of specific land uses within an area is not a material planning consideration as it is understood this is largely driven by the market. Notwithstanding, the development will provide a mix of land uses including office, shop and restaurant/café which are all considered appropriate and complementary to the Neighbourhood Centre Zone.

### **On Site Car & Bicycle Parking**

The following table provides an assessment of the on-site car and bicycle parking pursuant to Table 2 of the City's LPS4 for each land use for the proposed development including for the existing building and land use:

<b>Existing On-Site Car Parking</b>			
<b>Element</b>	<b>Required</b>	<b>Provided</b>	<b>Shortfall</b>
Former 'Shop' (343.5m <sup>2</sup> NLA)	1 bay per 20m <sup>2</sup> NLA = 17 Bays	8	9



Proposed On Site Car Parking			
Office (115.5m <sup>2</sup> GLA)	1 bay per 30m <sup>2</sup> GLA = 3.85 (4) Bays	9 shared on site total bays	22 bay shortfall
Shop (147.5m <sup>2</sup> NLA)	1 bay per 20m <sup>2</sup> NLA = 7.3 (7) Bays		
Restaurant/Café (100m <sup>2</sup> Alfresco Dining Area)	1 per 5m <sup>2</sup> Dining Area = 20 Bays		
<b>TOTAL REQUIRED: 31</b>		<b>9</b>	<b>22</b>
Bicycle Parking			
Element	Required	Provided	Shortfall
Office (115.5m <sup>2</sup> GLA)	class 1 or 2: 1 per 200 m <sup>2</sup> gla  class 3: 1 per 750 m <sup>2</sup> GLA over 1000 m <sup>2</sup> GLA	0	1 Class 2 & 2 Class 3





Shop (147.5m <sup>2</sup> NLA)	1 per 300m <sup>2</sup> GLA  =  0		
Restaurant/Café (100m <sup>2</sup> Alfresco Dining Area)	class 1 or 2: 1 per 100 m <sup>2</sup> public area  class 3: two  =  3		
<b>TOTAL REQUIRED:</b>  <b>1 Class 2 &amp; 2 Class 3</b>		<b>0</b>	<b>1 Class 2 &amp; 2 Class 3</b>

### *Car Parking*

With respect to the on-site car parking shortfall of 22 bays, in accordance with clause 4.7.3.1 of the City's LPS4, Council may waive or reduce car parking requirements subject to the following:

*i) The availability of car parking in the locality including street parking:*

Public street parking is available in nearby streets including both along Queen Victoria Street and the adjacent Harvest Road. The subject site also abuts a commercial parking area (on adjacent site 261 Queen Victoria Street, refer aerial image above) which is owned by the same landowner and contains approximately 30 additional car parking bays which available to the public and shared between land uses.

*vi) The availability of public transport in the locality;*

The subject site is considered to have excellent public transport accessibility as it is located within a 250m buffer of high frequency bus routes along Queen Victoria Street and is also within the 800m buffer of the North Fremantle Train Station. The subject site is also considered highly accessible by bicycle or walking from within the local area.



- iv) *Any car parking deficiency or surplus associated with the existing use of the land,*

The existing land use (shop) that occupies the property operates under the current circumstances with a car parking shortfall of 9 bays.

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

The proposal involves restoration works to the existing heritage building which is considered to have a positive impact on the conservation of the heritage place and the provision of additional on-site car parking would have no benefit, if not be detrimental to the built form outcomes for the heritage place.

#### *Bicycle Parking*

With respect to the bicycle parking shortfall, it is considered that the three (3) bays required can be secured through appropriate conditions of approval and there is ample space in the rear alfresco area or adjacent the side of the building to provide these.

#### **Noise Impact**

One potential amenity impact that has been considered is the potential for noise to be generated by the proposed uses and how this may affect nearby residential properties, particularly those to rear (west) of the subject site which are on the opposite side of Jewell Parade that the subject site abuts.

Notwithstanding, the application and proposal is accompanied by an Environmental Noise Assessment (prepared by Lloyd George Acoustics) that confirms, subject to some additional recommendations, the proposed land uses can operate in full compliance with the *Environmental Protection (Noise) Regulations 1997 (as amended)* as they are required to adhere to at all times.

Officers have reviewed the report and found the proposal acceptable subject to all the recommendations of the report being secured through appropriate conditions of approval as will be recommended should the application be approved.



## CONCLUSION

In accordance with the above assessment, the proposal as amended is considered to appropriately address the relevant statutory planning requirements of the LPS4 and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

## STRATEGIC IMPLICATIONS

### Strategic Community Plan 2015-25

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

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

Nil

## OFFICER'S RECOMMENDATION

**Council:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Additions and Alterations to Existing Building and Change of Use to Office, Shop and Cafe/Restaurant at No. 239-245 Queen Victoria Street, North Fremantle subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 5 April 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the lodgement of a Building Permit application, further information/details shall be submitted to, and approved by the City of Fremantle on the following aspects of the works hereby approved:**
  - Original internal openings to be blocked up will be interpreted and can be reversed in future when no longer required with minimal making good required.**



- **Regard shall be paid to the design of the new internal bathrooms to ensure they will not cause deterioration of original building fabric from moisture and rising damp.**
- 4. **The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**
- 5. **The rear alfresco area shall be closed no later than 10:00PM each night.**
- 6. **Prior to the lodgement of a Building Permit application, details of how the recommendations contained in the Environmental Noise Assessment prepared by Lloyd George Acoustics (Ref: 23037954-01) are to be implemented into the design/operation of the development are to be submitted and approved to the satisfaction of the City of Fremantle.**

**All such recommendations must be installed and/or implemented at all times, for the life of the development, to the satisfaction of the City of Fremantle.**

- 7. **Prior to the lodgement of a Building Permit application for the development hereby approved, a plan detailing the provision of two (2) Class 2 and one (1) Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided to the satisfaction of the City of Fremantle.**

**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.**

- 8. **Prior to submission of a Building Permit application of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing, at a minimum, the following:**
  - **Estimated waste generation**
  - **Proposed storage of receptacles**
  - **Collection methodology for waste**
  - **Additional management requirements to be implemented and maintained for the life of the development.**



- 9. Prior to the issue of a building permit, 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. 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. 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.**
- iii. The proponent must:**
  - a. 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;**
  - b. once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate; AND**
  - c. once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.**



**Note that 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).**

- iv. 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 9999 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**

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

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

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



- vii. All noise from the proposed development must comply with the requirements of the Environmental Protection (Noise) Regulations 1997 (as amended), such as:
- a. mechanical service systems like air-conditioners, exhaust outlets, motors, compressors, and pool filters;
  - b. vehicles;
  - c. amplified acoustic systems; and
  - d. patron noise.

Applicant to implement all recommendations of the acoustic report prepared as part of the Development application to minimise the potential noise impacts on noise sensitive receivers.

- viii. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).
- ix. The applicant is reminded of their obligations under the Acoustic Report, which includes the following measures:
- *Area developed as per Appendix A plans, including 3.5-metre-high rear wall and 2.4 metre high shipping container for Tenancy 5;*
  - *Alfresco area shall not be licensed for the consumption of alcohol;*
  - *Alfresco area shall be limited to no more than 100 patrons;*
  - *Alfresco area is to be closed after 10.00pm; and*
  - *Only background style music is permissible, and the music selected shall have minimal bass content. The level shall be initially set to no more than 65 dB(A) at 1 metre from in front of each speaker (assumed to be no more than 3 speakers in total) and shall be controlled by a noise limiting device. Settings for the limiter shall be within a locked cabinet and adjustable by management only. Speakers shall ideally be positioned at low level.*





**PC2306-7 DOURO ROAD, NO. 9 (LOT 23), SOUTH FREMANTLE – SINGLE STOREY SINGLE HOUSE AND ANCILLARY DWELLING – (CM DA0014/23)**

**Meeting Date:** 7 June 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended Development Plans  
2. Site Photos  
3. Internal Heritage Impact Assessment  
4. Applicants Streetscape Assessment  
5. Submission 2

**SUMMARY**

**Approval is sought for a Single house and ancillary dwelling at Lot 23 (No. 9) Douro Road, South Fremantle.**

**The proposal is referred to the Planning Committee (PC) 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:**

- **Primary street setback**
- **Secondary street setback**
- **Boundary wall (south)**
- **Car parking**

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

**PROPOSAL**

**Detail**

Approval is sought for a Single storey Single house and Ancillary dwelling at 9 Douro Road, South Fremantle. The proposed works include:

- A two-bedroom, two-bathroom single house; and
- A one-bedroom, one-bathroom ancillary dwelling with a separate living area, linked to the proposed single house by a shared laundry; and
- An underground basement.

The applicant submitted amended plans on 13 March 2023 and then further amended plans on 13 May 2023 including the following changes:

- Reduction in height of the primary and secondary street fencing to comply with *Local Planning Policy 2.8 – Fences*; and
- Incorporation of an additional car parking bay.

The 2<sup>nd</sup> set amended development plans are included as attachment 1.

### Site/application information

Date received: 30 January 2023  
 Owner name: Leah Angela Campana  
 Submitted by: Nathan Steele  
 Scheme: Residential (R25)  
 Heritage listing: Individually Listed Category 3 and South Fremantle Precinct Heritage Area  
 Existing land use: Single House  
 Use class: Single House  
 Use permissibility: Permitted



### CONSULTATION

#### External referrals

Nil required.



## **Internal referrals**

### Heritage

The development proposal has been reviewed against Heritage principles and policies due to its status on the Heritage List and location within the South Fremantle Heritage Area.

The heritage concern with this proposal is the potential for the future loss of significant heritage fabric that would occur if 9 Douro Road were subdivided as this would leave a portion of the eastern porch of the house on the western lot. This issue needs to be resolved before work commences on the new house to ensure that all of the heritage building is adequately protected.

Construction of the new house on the eastern garden of 9 Douro Road will conceal the eastern elevation of the house and remove its contribution to the character of Walker Street, however, Walker Street is the secondary street and an effort has been made to mitigate this issue by cutting away the north-west corner of the new house to ensure that the east side of the house will be visible from Douro Road. Douro Road is the primary street elevation for this house.

If the sub-division issue is resolved, then no heritage fabric will be lost as part of these proposed works. The retention of the house and the original limestone wall on the Douro Road and Walker Streets site boundaries is a positive heritage outcome.

The proposed new single storey house complies with the policy for infill development in LPP3.6 Heritage Areas.

The works proposed in this application are acceptable with conditions as they will have only a minor impact on the heritage values of 9 Douro Road and the South Fremantle Precinct Heritage Area.

As noted above, the City has concerns with regards to the current lot boundary configuration overlapping the existing heritage buildings verandah. Therefore, after discussion with the applicant, a condition has been recommended to address these concerns. Refer to officer comment section for further discussion.

### Engineering Infrastructure & Parking

The proposal seeks approval for a new crossover located on Douro Road and will result in the loss of an on-street parking bay and relocation of a street sign.

There are no issues with the removal of the parking bay, however, the owner/builder will be required to pay for the sign relocation upon completion of the crossover construction. To ensure the applicant addresses these concerns through a crossover permit, relevant advice notes have been added.



## **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 seeks discretion to the deemed-to-comply requirements of the R-Codes and the City's policies. The advertising period concluded on 24 March 2023, and two (2) submissions were received.

Noting that two submissions were received, after liaising with the applicant, one of the submitters chose to withdraw their objection. A copy of the retained submission can be viewed in the attachments.

The following issues were raised (summarised):

- Concerns with regards to the southern boundary wall and stormwater run-off from the roof of the boundary wall.
- Concerns regarding the proposed secondary and primary street fencing.
- Clarification on the current lot arrangement and whether the proposal will be considered as a grouped dwelling or a single house development.
- Concerns regarding the provision of 2 car parking bay in lieu of 3 given there is an ancillary dwelling component proposed.
- Concerns with regards to the proposed dwelling fitting in with the streetscape and the heritage listing of the adjoining property at 9 Douro Road (Lot 22).
- Concerns regarding the current location of the bin store and location of air conditioning units to be screened from the street.
- Concerns regarding the primary and secondary street setbacks of the proposal.
- Comments regarding the proposal not meeting the landscaping provisions of the R-Codes.

In response to the above, the City's officers have the following comments:

- With regards to the concerns raised regarding the boundary wall and stormwater runoff, the City notes that whilst there is no gutter annotated on the development plans, a standard condition imposed requires the applicant to ensure stormwater is contained on site and this will be further required at the building permit stage.
- With regards to the fencing, it is noted the applicant submitted amended plans addressing the concerns raised, and the fencing now complies with the City's LPP2.8. In addition, a condition has been recommended to ensure compliance with height and visual permeability of the fencing.
- With regards to the concerns about the location of the bin store and air conditioning units, the City notes the location of the bin store within the secondary street setback, and therefore a condition has been recommended to ensure the new bin store location and air conditioning units are relocated to be screened from the street.



- With regards to the comments raised regarding landscaping, under the R-Codes, 1 tree per dwelling is required, and given the proposal seeks to retain an existing tree on site, this satisfies the deemed-to-comply requirements.

All other matters, including boundary wall, secondary and primary street setbacks, car parking and heritage are discussed below.

In response to the above, the applicant also submitted a streetscape assessment of the proposal which is included as an attachment.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Primary street setback
- Secondary street setback
- Boundary wall (south)
- Car parking
- Vehicular access

The above matters are discussed below.

### **Background**

The subject site is located on the corner of Douro Road and Walker Street. The site has a land area of approximately 455m<sup>2</sup> and is currently a vacant lot. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and located within the South Fremantle Heritage Area. Whilst it is noted that the subject lot is vacant, the adjoining property at Lot 22 (No. 9 Douro Road) consists of a dwelling which is Level 3 heritage listed and the verandah of the heritage dwelling overlaps the lot boundary between Lot 22 and Lot 23, No. 9 Douro Road.

Both lots 22 and 23 are currently under the same ownership. The proposal seeks to develop the vacant adjoining Lot 23 as a Single house with an ancillary dwelling. To ensure the existing heritage dwellings' verandah is protected from demolition should the lots be sold off, a condition has been recommended requiring the lot boundary to be realigned prior to the lodgement of a building permit so that the existing heritage dwelling is wholly contained within Lot 22, and the new proposed dwelling is wholly contained within Lot 23.

It is noted that both lots 22 and 23 have a current lot size of 450m<sup>2</sup>. Under the R-Codes, R25 zoning allows for a minimum lot size of 300m<sup>2</sup> meaning a boundary realignment will still enable the lots to comply with the minimum and average lot sizes under the R-Codes.

Figure 1 below shows the lot boundary's location in relation to the existing heritage dwelling on Lot 22.



**Figure 1** – Location of current lot boundary which intersects the existing heritage dwelling

A search of the property file has revealed no planning history relevant to the assessment of this application.



### Primary street setback

Element	Requirement	Proposed	Extent of Variation
Primary street setback (Douro Road)	7.0m	3.0m	4.0m

The proposal seeks a primary street setback variation of 3.0 metres in lieu of 7.0 metres as prescribed under LPP2.9. Under LPP2.9, variations to the primary street setback may be considered subject to the proposed development meeting at least one of the following criteria:

- i. *The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- ii. *The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- iii. *The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- iv. *Where there is no prevailing streetscape; or*
- v. *Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape*

Where it does not specifically meet one of the criteria, the design principles of the R-Codes apply. The primary street setback supported for the following reasons:

- The primary street setback is consistent with other setbacks within the broader streetscape including 5 Douro Road which is also a corner lot, 10, 14, 15, 24 and 26 Douro Road which have primary street setbacks ranging from approximately 1.8m, 1.5m to nil. Refer to figure 2 below which shows aerials of the existing setbacks within Douro Road.





**Figure 2 – Douro Street setbacks**

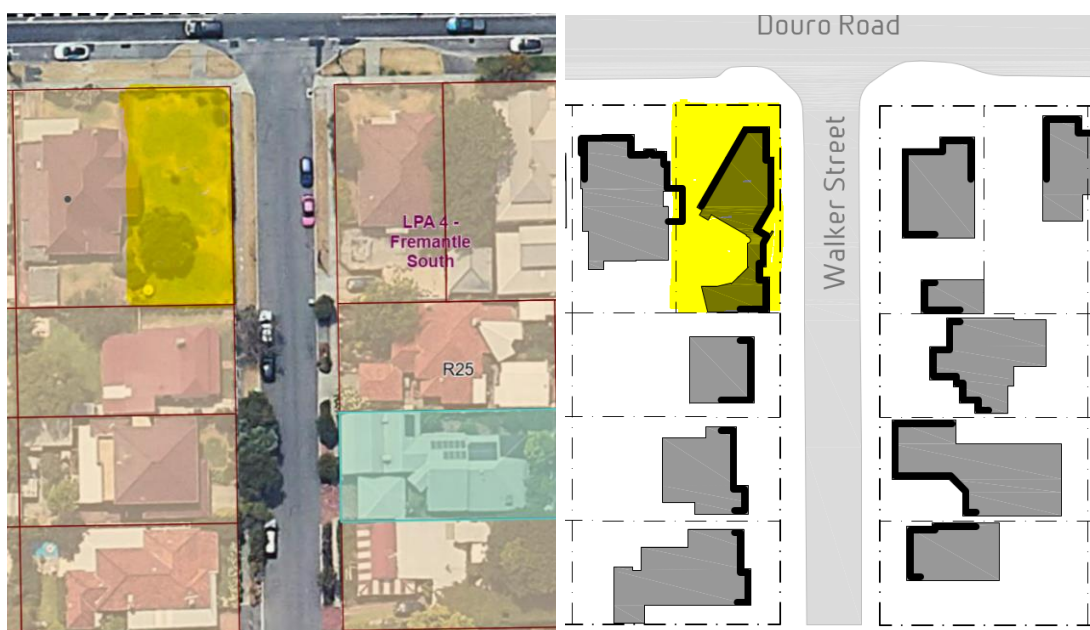
- The reduced setback allows for adequate privacy and open space for the dwelling and enables the existing large tree on site to be retained.
- The reduced setback, whilst it sits in front the adjoining heritage dwelling when viewed from Walker Street, has an overall mass and form that uses design features to minimise the impact on the streetscape. Being single storey, including a carport in place of a double garage and the angled design allows for views to the heritage dwelling when approaching from the east.

### Secondary street setback

Element	Requirement	Proposed	Extent of Variation
Secondary street setback (Walker Street)	1.5m	0.85m	0.65m

The proposal is considered to satisfy the design principles in the following ways:

- The reduced secondary street allows for adequate privacy and open space for the dwelling.
- It is also noted that the reduced setback allows for the retention of the existing tree located on site and allows space for the design to incorporate the diagonal element to maintain views of the existing heritage dwelling.
- The reduced secondary street setback, whilst is not consistent with the setback of dwellings within the immediate prevailing Walker Street, it is consistent with dwellings further along the Walker Street, noting that 6 Walker Street has a nil primary street setback (refer to aerial below).



**Figure 3** – Walker Street prevailing setbacks

- The overall mass and scale of the proposed building has incorporated design features, being a single storey with a skillion roof, ensuring that the scale is consistent with the street. The wall height of fronting Walker Street is 2.4 metres and enables the building to be of an appropriate mass and form consistent with the Walker Street streetscape and not detract from the heritage adjoining heritage building or drawn attention to the reduced streetscape.

Overall, the primary and secondary street setback variations to LPP2.9 and the R-Codes are supported by the City as the design of the dwelling is sympathetic to the existing heritage dwelling located at 9 Douro Road, and allows for the retention of the existing tree on site. The setbacks are deemed to be consistent with the setbacks in the broader Douro Road and Walker Street precincts. The reduced setbacks, overall, will not have adverse amenity impacts on adjoining landowners or the locality owing to its bulk and scale being a single storey development.

#### **Lot boundary setback (south)**

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (south)	1.0m	0.0m (boundary wall)	1.0m

The boundary wall is considered to meet the Design principles of the R-Codes and as outlined in LPP2.4 in the following ways:

- The boundary wall is unlikely to have adverse impacts on the amenity of the adjoining property as the boundary wall, whilst located on the sites southern lot boundary, still allows for direct sun to major openings to habitable rooms and outdoor living areas of the adjoining property. The overshadowing caused by the dwelling, complies with the deemed-to-comply requirements of the R-Codes and will only overshadow the adjoining property's side of the house. Refer to images below which shows where the overshadowing will occur. Whilst it is noted in the image that there is a window which may be impacted, the boundary wall proposes a height of 2.2 metres, and the setback of the adjoining property being over 3.0 metres means that the window will only be impacted by a minor portion of the shadow (2.2 metres x 1.5 metres = 3.3 metres).
- Whilst the boundary wall is visible from Walker Street, it is located behind the secondary street setback line and being a corner lot, the boundary wall enables the dwelling to achieve an effective use of space for the outdoor living area, and also enables for the retention of the existing tree on site.



**Figure 2 – Location of overshadowing**

### Parking

Element	Requirement	Proposed	Extent of Variation
Car parking	3 bays	2 bays	1 bay

The proposal seeks to provide for 2 car parking bays in lieu of 3 required under the R-Codes. Three bays are required due to the site not being located within a Transperth High Frequency Zone, and the proposed ancillary dwelling requiring an additional bay. The car parking variation is considered to meet the Design principles of the R-Codes in the following ways:

- Whilst the subject site does not fall within a designated High Frequency Zone, there is existing bus routes available within 100 metres of the subject site (bus 532 route).



- The subject site is also within walking distance from South Terrace which provides for a mix of land uses including cafes, restaurants, bars and shops, and is within walking distance to South Beach and parks including Wilson Park and Parmelia Park. Further to this, the site has access to cycle paths along South Beach which connect to Fremantle town centre and beyond.
- There is also sufficient amount of on-street car parking available within proximity of the subject site, noting there are bays located along Douro Road directly in front of the existing site.

### **Vehicular Access**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Vehicular access	From a secondary street where no right-of-way or communal street exists (Walker Street)	Primary street (Douro Road)	See comments

The proposed development seeks to gain vehicular access from the primary street, being Douro Road, in lieu of the secondary street (Walker Street). The vehicular access variation is considered to meet the Design principles of the R-Codes in the following ways:

- The proposed vehicular access provides legible access to the dwelling and minimal crossovers, noting the proposal seeks 1 crossover for the dwelling.
- The vehicular crossover allows for vehicles to safely access the site noting the crossover location complies with Clause 5.3.5 C5.3 and the Australian Standards (AS2890.1) with regards to being a sufficient distance from the Douro/Walker Street intersection.



## Heritage

As the proposed development is located within the South Fremantle Heritage Area, it is subject to assessment against LPP 3.6 – Heritage Areas Local Planning Policy. As outlined in LPP 3.6, the intent of infill development (new buildings) is 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.*

The proposal has been assessed against LPP 3.6, and the heritage impact of the proposal is deemed as acceptable as it will have limited impact on the heritage significance and values of the South Fremantle Precinct Heritage Area. This is elaborated on further against the criteria of the policy below.

Table 1 – Assessment against LPP 3.6 – Infill Development (new buildings)

Element	Officer Comment
<b>Siting and Scale</b>	
<p>New infill development within a heritage area should:</p> <ul style="list-style-type: none"> <li>a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns.</li> <li>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 new infill development should also be (or present as) single storey (at least to the front section of the lot)</li> <li>c) Have a plate height consistent with the original street pattern. New</li> </ul>	<p>The proposed new dwelling at 9 Douro Road is single storey which is consistent with the bulk and scale of the adjoining heritage dwelling and surrounding development. In addition to being single storey, and design of the dwelling ensures the impacts on the existing dwelling are mitigated and enables views to the heritage dwelling to be maintained down Douro Road. Figure 4 shows a perspective of the proposal in relation to the heritage dwelling.</p>



<p>development often proposes 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><b>Figure 4</b> – Perspective of proposal in context of the existing heritage dwelling</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> <ul style="list-style-type: none"> <li>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.</li> <li>ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.</li> <li>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.</li> <li>iv. Symmetry or asymmetry of facades in the prevailing</li> </ul>	<p>The proposal is sympathetic to the predominant form of the prevailing streetscape without mimicking heritage. The cutting away of the north-west corner of the house enables the new dwelling to respect the existing heritage dwelling.</p> <p>The proposal is considered to respond to, and interpret the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</p>





streetscape is an element of form to be kept consistent. 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.	
<b>Materials, Colours and Detailing</b>	
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.	The materials and detailing are considered to be appropriate and will not visually dominate the streetscape or adjacent heritage buildings.
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.	The proposal does not seek to 'mock' or propose 'faux' heritage and the form and scale of the development, including being single storey ensures the proposal is consistent with the character of the area.
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.	The materials and colour of the proposed development are deemed as appropriate.



<b>Roofs</b>	
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.	It is noted that the roof form does not depict a traditional roof form of the streetscape but the overall design of the proposed dwelling fits within the streetscape. The roof shape enables the views of the adjoining heritage property to be maintained.
Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.	As above.
<b>Verandahs/Porches/Awnings</b>	
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.	The proposed dwelling has been designed in a way to ensure the verandah of the adjoining heritage dwelling is still visible when looking west down Douro Road. Whilst the proposal doesn't seek the inclusion of a verandah or porch, it is considered to be appropriate as it mitigates the impacts on the adjoining heritage dwelling.
<b>Doors and Windows</b>	
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.	Majority of the windows and doors have a vertical emphasis.



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.	While setback from the street elevation, the front door addresses Douro Road. It is located on the diagonal part of the dwelling, which complements the adjoining heritage dwellings' front door which is also on the side of the dwelling.
--	---

## CONCLUSION

In accordance with the above assessment, the proposal as amended is considered to appropriately address the relevant statutory requirements of the LPS4, the R-Codes and relevant Local Planning Policies, and is therefore recommended for approval, subject to conditions.

## STRATEGIC IMPLICATIONS

N/A

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

Nil

## OFFICER'S RECOMMENDATION

**Council:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Single Storey Single House and Ancillary Dwelling at No. 9 (Lot 23) Douro Road, South Fremantle, as detailed on plans dated 13 May 2023, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 13 March 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to lodgement of a building permit for the development hereby approved, the lot boundary between lots 23 and 22 (No. 9) Douro Road are to be legally realigned to ensure all buildings are wholly contained within the new lot boundaries. The new certificates of title are to be submitted to the satisfaction of the City of Fremantle.**



- 3. 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.**
- 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 issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 0.9 metres above natural ground level, to a maximum height of 1.2 metres as per clause 2.1 of the City of Fremantle Local Planning Policy 2.8 – Fences, and thereafter maintained 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 occupation/ use of the development hereby approved, the boundary wall located on the southern lot boundary 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.**
- 8. Prior to the issue of a Building Permit for the development hereby approved, amended plans showing the bin storage area and air-conditioning units being relocated to minimise any visual impact on the occupants of nearby properties and screened from view from the street must be submitted and approved to the satisfaction of the City of Fremantle.**

**Advice notes:**

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.**



- iii. **The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**
- iv. **The applicant is advised that the relocation of the street sign on the Douro Road verge to facilitate the new crossover will be at the full cost of the applicant/owner.**
- 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. **The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**  
**The applicant is advised that the /The new/ modified vehicle crossover shall be separated from any verge infrastructure by:**
  - **a minimum of 2.0 metres in the case of verge trees**
  - **minimum 1.0m from pram ramp.**
  - **Minimum 6m clearance from truncation of intersection to edge of crossover.**
  - **a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment's or street furniture), and**
  - **a minimum of 1.0 metre in the case of power poles, road name and directional signs.**



**PC2306-8 WALKER STREET, NO. 31 (LOT 55), SOUTH FREMANTLE –  
ADDITIONS AND ALTERATIONS TO EXISTING SINGLE  
HOUSE – (CM DA0066/23)**

**Meeting Date:** 7 June 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Development Plans  
2. Site Photos  
3. City of Fremantle Heritage Impact Assessment  
4. Applicants response to submissions

**SUMMARY**

**Approval is sought for additions and alterations to the existing Single house at 31 Walker Street, South Fremantle.**

**The proposal is referred to the Planning Committee (PC) 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:**

- **Primary Street Setback**
- **Lot boundary Setback (north and west)**
- **Fencing (Primary)**
- **Vehicular access**

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

**PROPOSAL**

**Detail**

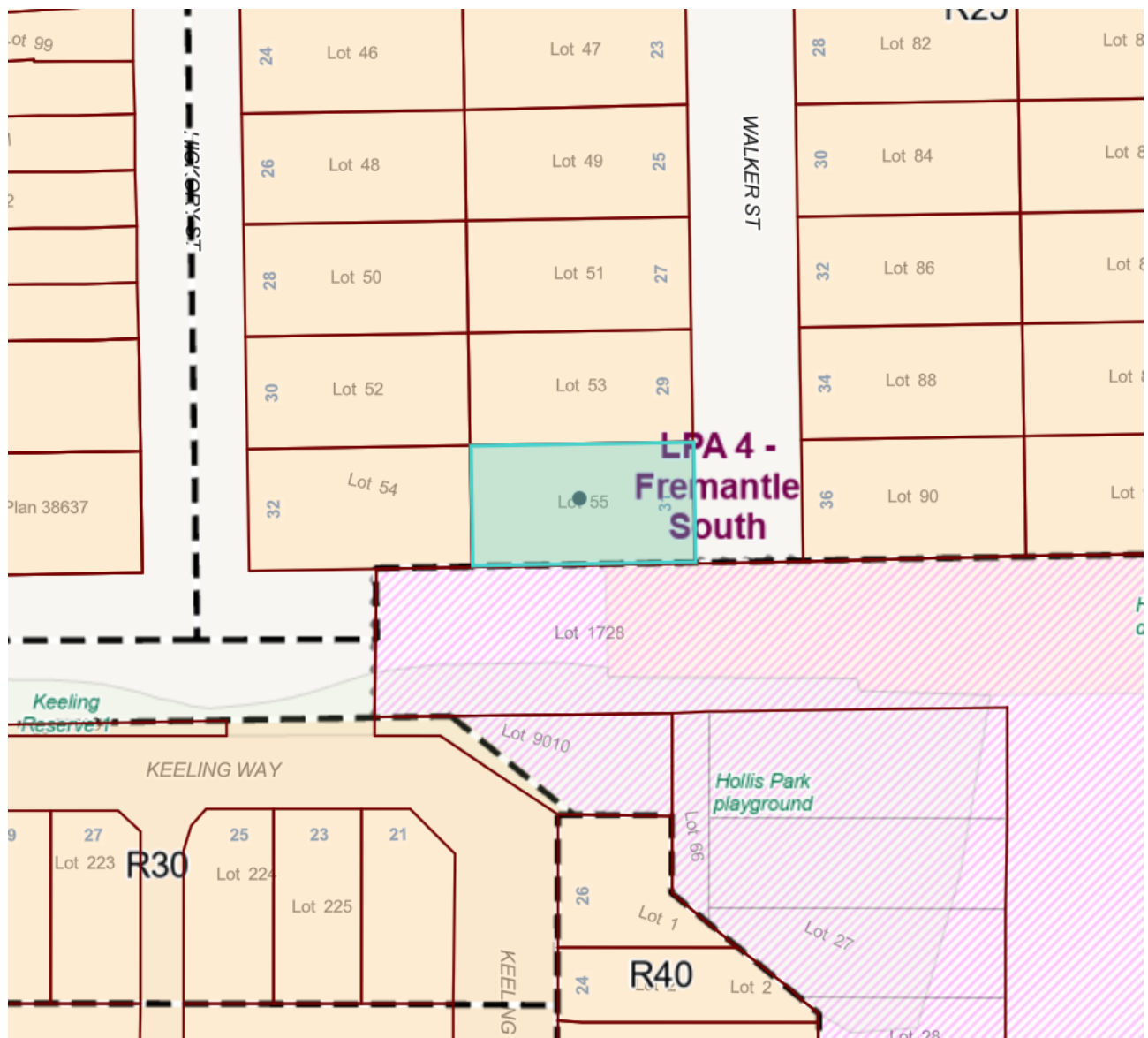
Approval is sought for additions and alterations to an existing single house at Lot 55 (No. 31) Walker Street, South Fremantle. The proposed works include:

- A carport addition located in front of the existing dwelling gaining access off Walker Street.
- New front fencing with a Minor structure (outdoor oven and chimney) incorporated into the design.
- A new verandah at the front of the dwelling with a rooftop terrace and staircase.
- A patio and pergola addition at the rear of the dwelling.

Development plans are included as attachment 1.

### Site/application information

Date received: 1 March 2023  
Owner name: Lucien James Longley  
Submitted by: Sam Martin  
Scheme: Residential (R25)  
Heritage listing: South Fremantle Heritage Area / Not Listed  
Existing land use: Single House  
Use class: Single House  
Use permissibility: Permitted







## **CONSULTATION**

### **External referrals**

Nil required.

### **Internal referrals**

#### Heritage

The proposal is located within the South Fremantle Precinct Heritage Area and can be supported from a heritage perspective for the following reasons:

- The proposed modifications to the house, such as the changes to the front verandah and addition of the roof deck and trellis, will not affect its impact on the character of the street noting the place is not deemed to be contributory in accordance with LPP 3.6.
- The proposed new front wall with its organic form, hit and miss brickwork and built-in barbecue is a loose contemporary interpretation of traditional Inter-War and Post-War fencing in this area. While the solid base is slightly higher than the 900mm limit provided in the policy and there are two sections that are up to 2000mm (chimney and corner adjoining public open space) most of the front fence is around 1500mm high and the house and front garden can still contribute to the character of the street because of the elevation of the house and garden above the footpath.
- The proposed carport in the front garden will have minimal impact on the streetscape of Walker Street because it is a lightweight structure and the location of the house at the end of the street means that it will not be blocking views looking down the street.

A full copy of the City's heritage impact assessment is attached to 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 variations to the deemed-to-comply requirements of the R-Codes and the City's local planning policies are sought. The advertising period concluded on 21 April 2023, and three (3) submissions were received. The following issues were raised (summarised):

- Concerns that the primary street fencing and associated outdoor oven and chimney are not in keeping with the prevailing streetscape and the South Fremantle Heritage Area.
- Concerns regarding the need for a crossover and driveway from Walker Street increasing the traffic, given the site has secondary street access on Hickory Street.
- Concerns regarding the primary street area becoming an 'entertainment area' creating further parking issues along Walker Street.



- Concerns regarding the smoke impacts from the proposed outdoor oven and the embers potential impact on the adjoining pedestrian access way and associated vegetation.

In response to the above, the applicant has responded to each of the submissions and submitter further justification is attached to this report.

The remaining comments surrounding the impact of the street fencing on the streetscape, additional crossover and the outdoor oven and chimney are addressed in the officer comment section 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:

- Primary Street Setback
- Fencing (Primary)
- Side Setback (north and west)
- Vehicular access

The above matters are discussed below.

As noted above, the proposal also seeks approval for a new verandah at the front of the dwelling with a rooftop terrace and staircase. This element of the proposal satisfies the deemed to comply requirements of the R-Codes and City's Local Planning Policies with respect to visual privacy and is therefore not discussed further.

### **Background**

The subject site is located on the western side of Walker Street. The site has a land area of approximately 488m<sup>2</sup> and is currently a single house. The site is zoned residential and has a density coding of R25. The site is not individually heritage listed however, is located within the South Fremantle Heritage Area.

The site is located at the end of a cul-de-sac and adjoins the Hollis Park Dual use path. Vehicular access to the site is currently gained off the secondary street via Hickory Street, noting that the secondary street cannot be accessed from Walker Street. Refer to Figure 1 below which shows the existing vehicular access to the site.



**Figure 1** – Existing secondary street access gained from Hickory Street

The site currently consists of a single house, and a large outbuilding at the rear of the site. The existing natural ground level at the primary street of the site is raised above the Walker Street footpath which directly abuts the property boundary. Refer to figure 2 below which shows the dwelling as viewed from Walker Street showing the existing increase in topography from the Walker Street footpath.



**Figure 2** – Existing dwelling as viewed from Walker Street

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



- DA0243/22 – Demolition of existing Single house – it is noted that a demolition for the existing dwelling was approved at the October 2022 Planning Committee, which was not acted upon, but is still a valid approval.

### Primary Street Setback

Under Clause 2.2 of LPP2.9, a carport may be located in front of the dwelling where the development meets all of the following criteria:

- *The carport is open on all sides with no door; and*
- *The carport is constructed from timber or steel vertical supports no greater than 150mm in width in any direction; and*
- *The carport does not exceed an average of 2.8 metres in height above natural ground level; and*
- *The carport is located so as to maintain visibility of the dwelling from the street and surveillance from the dwelling to the street; and*
- *The maximum width of the carport is to be 6 metres on a property with a frontage of 12 metres or greater or on a property with a frontage of less than 12 metres, the maximum width of a carport is to be 3 metres; and*
- *The carport is setback one metre or greater from any side boundary.*

The below table outlines where the carport does not meet the above criteria.

Element	Requirement	Proposed	Extent of Variation
vi. Side setback (north)	1.0 m	0.5m	0.5m

It is noted that the carport meets all of the criteria with the exception of point vi, with the side setback of the carport to the north being 0.5m in lieu of 1.0m deemed-to-comply. Should the carport be setback 1.0m from the side boundary, it would be fully compliant. Refer to side setback (north) below for further discussion with regards to the side setback variation sought.

Clause 2.3 of LPP2.9 outlines where variations to the above requirements may be considered subject to the proposal meeting at least one of the following criteria:

- The proposed building is consistent with the character of buildings in the prevailing streetscape; or*
- The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*



- iii. *The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- iv. *The carport is lightweight in construction, appears simple in design and is visually subservient to the form and proportion of the dwelling. Additionally, the front setback area is designed in such a way so as to maintain visibility of the dwelling from the street and surveillance from the dwelling to the street.*

The carport is considered to comply with criteria i and iv in the following ways:

- The carport is consistent with the prevailing Walker Street streetscape, as it is noted there are numerous carports within the prevailing streetscape with carports located within the primary street setback area. In particular, directly across the road (36 Walker Street) and directly next door to the north (29 Walker Street). In addition, the subject site is located at the end of the cul-de-sac with no properties located to the south therefore it will have a limited impact on the streetscape.
- The carport is lightweight in construction, appears simple in design and is visually subservient to the form and proportion of the dwelling. The carport is proposed to be steel and timber framed with a 3 degree skillion roof. Additionally, the carport and front setback area is designed to maintain visibility of the dwelling from the street and surveillance from the dwelling to the streetscape.

#### **Fencing (Primary) and minor structure**

Element	Requirement	Proposed	Extent of Variation
Fencing (primary) Height & permeability	Visually permeable above 1.0m  1.8m maximum height	1.0m solid 2.2m max height	0.4m variation to total height & level of visual permeability does not comply.

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

- The primary street fencing allows for surveillance to the streetscape as majority of the fence is a maximum height of 1.5m and allows for some visual permeability through the hit and miss brick style proposed. The fencing also allows for sufficient privacy of the residents as it is noted this area will now serve as the primary outdoor living area of the occupants.



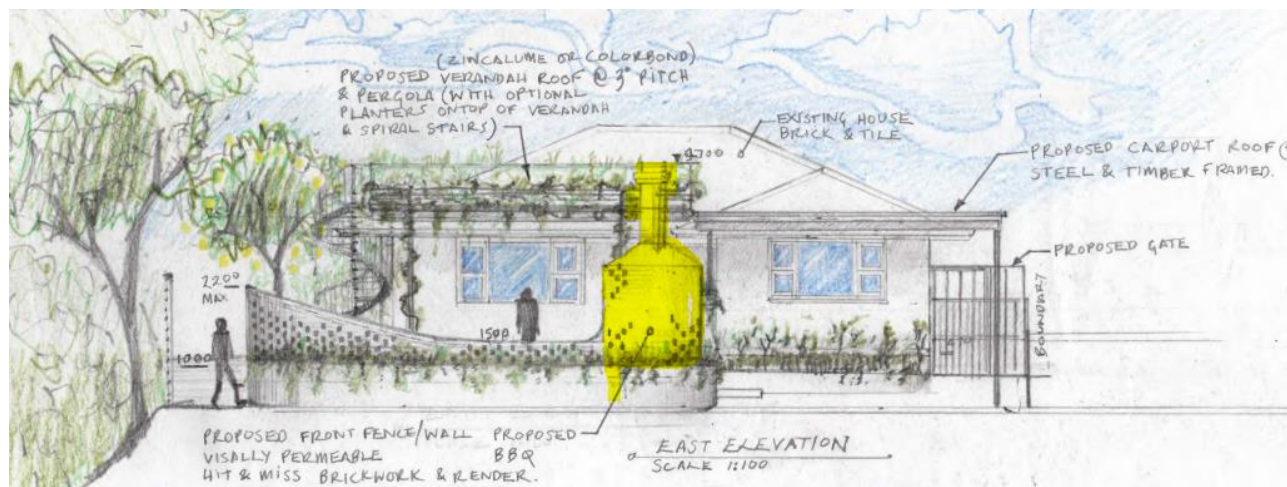
- The fencing is considered to not impact on the prevailing streetscape as the fence has a solid portion of 1.0m, with the remaining portion set back approximately 0.4m to allow for 'retained planting'. The majority of the fence has a height of 1.5m before it tapers up to a maximum height of 2.2m where it adjoins the secondary street (Hollis Park path). The planting will soften the overall bulk of the front fencing. In addition, it is noted that there are various forms of fencing within the prevailing streetscape with the adjoining property having solid fencing exceeding the solid height requirements.
- The fencing allows for sufficient sight lines as it is truncated within 1.5m of where it meets the driveway, and also where it meets the pedestrian access way on the secondary street (Hollis Park path), therefore ensuring safety and visibility.

Under LPS 4, a Minor Structure is defined as follows:

**Minor structures** means free standing structures not attached to a building including, without limiting the generality of the foregoing, letter boxes, clothes lines, children's play equipment, basketball and netball hoops, barbeques and free standing satellite dishes, but not including flag poles.

Therefore, the proposal is considered under the definition of a minor structure, and is supported by City officers for the following reasons:

- The outdoor oven and chimney are deemed to have a minimal impact on the streetscape of Walker Street because of the subject sites location at the end of Walker Street meaning it is concealed and will not have an adverse amenity impact on the surrounding landowners and occupiers.
- The outdoor oven and chimney is integrated with the proposed front fencing, and is of a consistent height to the new proposed verandah roof.
- The outdoor oven and chimney maintain sight lines for the new crossover in accordance with the R-Codes.
- The outdoor over, whilst proposes a height of 4.70 metres from the existing Walker Street level, will not benefit with a reduced height as the higher chimney allows for smoke levels to be above the existing houses within the street (refer figure 3 below).
- The relocation of the chimney towards the southern end of the property would not be an appropriate location given Hollis Park is a designated bushfire prone area.



**Figure 3** – Minor structure – outdoor oven and chimney (highlighted in yellow)

### Side setback (west)

Element	Requirement	Proposed	Extent of Variation
Side setback to Patio (rear/west)	1.0m	0.0m	1.0m

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

- The patio's reduced setback allows for adequate direct sun and ventilation to the building and open spaces of the adjoining property. The adjoining property is located to the west of the subject site and therefore will not have an impact on overshadowing.
- The patio screens the subject site from overlooking and will not result in the loss of any privacy on the adjoining property.
- Noting that a portion of the backyard is utilised for vehicular parking, the new covered outdoor area allows for effective use of the space for enhanced privacy for the occupants.

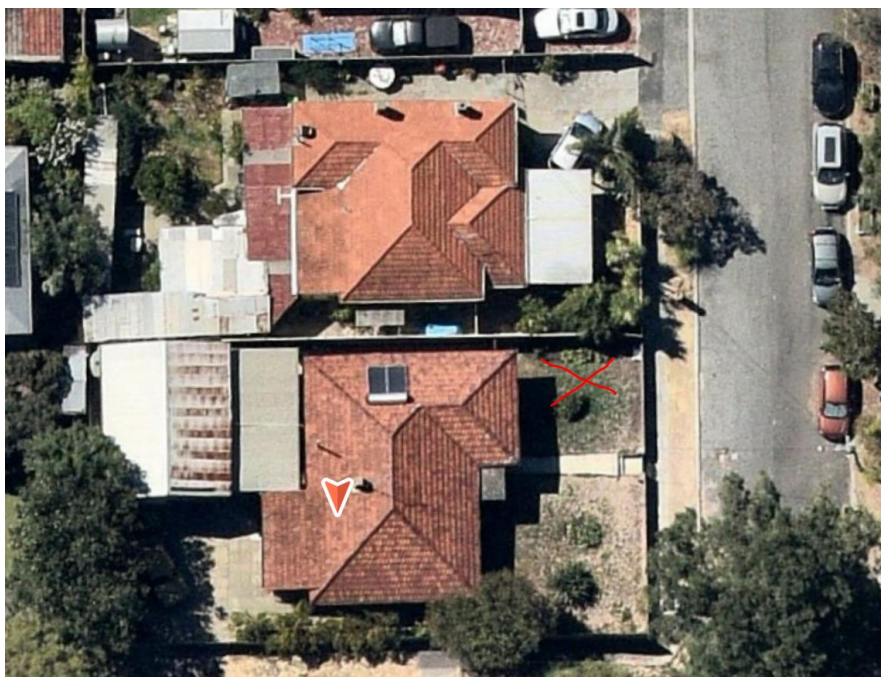


### Side setback (north)

Element	Requirement	Proposed	Extent of Variation
Side Setback to Carport (north)	1.0m	0.5m	0.5m

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

- The carport reduces the impacts of building bulk and will not have an adverse amenity impact on the adjoining property, noting that the proposed carports' reduced setback will only impact on the adjoining properties carport (refer figure 4).
- The carports reduced setback allows for adequate direct sun and ventilation to the building and open spaces of the adjoining property as the adjoining property impacted by the setback reduction is located to the north of the subject site and not to the south.



**Figure 4** – Proposed carport location (red X) in relation to the adjoining property (29 Walker Street)



### **Vehicular access**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Vehicular access	From a secondary street where no right-of-way or communal street exists; or From the primary frontage where no secondary street, right-of-way or communal street exists	New crossover proposed from the primary frontage, with an existing crossover off the secondary street to remain	Crossover from primary street

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

- The additional vehicular access provides for safe vehicle access and clear legibility to the dwelling. It is noted that current visitors of the dwelling would have to park on Walker Street, unless they were aware of the side access of Hickory Street.
- The additional vehicular access point provides for pedestrian safety as the proposal complies with sight line requirements and provides for minimal crossovers onto Walker Street.

In addition to the above, noting the multiple concerns raised during public consultation that additional crossover may result in an increase of traffic onto Walker Street; it is noted that the new vehicular crossover and parking will alleviate these concerns as visitors will now be able to park in the driveway. It is also noted that there were concerns raised with vehicles driving down the street and not being able to turn around. The additional crossover will also provide a spot for visitors to safely turn around and exit the property.

### **Heritage**

As the proposed development is located within the South Fremantle Heritage Area, it is subject to assessment against LPP 3.6 – Heritage Areas Local Planning Policy.

It is noted that the dwelling is not deemed a contributory place and that demolition of 31 Walker Street was approved in 2022, however, its retention is a positive outcome as its form, scale and massing respects and compliments the heritage character of Walker Street and its Post-War migrant history.



In accordance with LPP 3.6, new development in heritage areas (non-contributory) needs to satisfy the following criteria (assessment against relevant criteria outlined below):

**Table 1** – *Assessment against LPP 3.6 – Additions and Alterations to Existing Buildings*

Element	Officer Comment
<b>General</b>	
Alterations and additions in heritage areas should respond sympathetically to the heritage values of the area as a whole and that part of the heritage area in the vicinity of the proposed development, with changes designed and sited in a manner that retains, conserves, respects and complements the heritage significance of the place and area.	The proposal is considered to respond sympathetically to the heritage values of the area.
<b>Form</b>	
Additions to places within a heritage area must respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape and existing building, without falsely mimicking heritage detailing.	The proposed additions respect and harmonise with and are sympathetic to the predominant form of the prevailing streetscape.
Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.	The additions, particularly the new front will with the hit and miss brick work and built-in barbecue is a loose contemporary interpretation of traditional inter-war and post-war fencing in this area. Given the existing dwelling and garden sit above the ground level of the Walker Street footpath, the bulk of the fencing, pizza oven and carport will allow for the dwelling to still contribute to the streetscape.
The treatment of additions in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. of an addition should relate to the existing contributory building and to its neighbours.	As above.



Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.	As above.
Contemporary addition designs should respond to, and interpret, the scale, articulation and detail of the existing and nearby buildings in a modern, innovative and sympathetic way.	As above.
Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new additions 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.	The additions are considered to blend in with the streetscape, in addition the location of the dwelling at the end of the cul-de-sac means the addition of the outdoor oven and chimney will have limited impact on the prevailing streetscape.
<b>Roofs</b>	
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.	Nil changes to existing roof form.
Roof forms that are contemporary in style (i.e. flat / skillion) may be considered for rear and side additions.	The proposed carport and verandah additions seeks flat/skillion roofs which allow for visibility to the main dwelling.

## **CONCLUSION**

In accordance with the above assessment, the proposal is considered to appropriately address the relevant statutory requirements of LPS4, the R-Codes and relevant Local Planning Policies and is therefore recommended for approval subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil



## **OFFICER'S RECOMMENDATION**

### **Council:**

**APPROVE** under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and alterations to existing Single house at No. 31 (Lot 55) Walker Street, South Fremantle, as detailed on plans dated 28 February 2023, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 28 February 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. 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 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.**
- 4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**

### **Advice notes:**

- i) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii) 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**
- iii) The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Walker Street road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).**



## PC2306-9 INFORMATION REPORT - JUNE 2023

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

**Responsible Officer:** Manager Development Approvals  
**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

**Responsible Officer:** Manager Development Approvals  
**Attachments:** Nil

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

1. Application Reference
DAP001/22
Site Address and Proposal
34-38 Amherst Street and Stack Street, Fremantle – Proposed Grouped Dwelling development
Planning Committee Consideration/Decision + Current Status
<ul style="list-style-type: none"> <li>At its meeting held on 23 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development.</li> <li>Following a deferral by JDAP, the applicant submitted revised plans which were presented to Planning Committee in November 2022. PC resolved to provide a comment to the JDAP that it did not support the development.</li> <li>At its meeting on 23 November 2022, the Joint Development Assessment Panel (JDAP) resolved to refuse the development in accordance with the Planning Committee Recommendation.</li> <li>In December 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>Following mediation session between the parties (JDAP and the applicant), SAT issued orders for a Section 31 reconsideration of the proposal. The applicant has provided amended plans for consideration during this process.</li> </ul>



- A Responsible Authority Report dealing with the Amended Plans is included in this Agenda.
- A JDAP meeting has been scheduled for 21 June 2023.

<b>2. Application Reference</b>
DAP003/22
<b>Site Address and Proposal</b>
130 Stirling Highway, North Fremantle – Proposed 23 storey mixed use development
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• At its meeting held on 2 November 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with added emphasis regarding the impact on the former Ford Factory.</li> <li>• At its meeting on 14 November 2022, the Joint Development Assessment Panel (JDAP) resolved to defer determination and request the applicant address a number of matters.</li> <li>• On 1 March 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development.</li> <li>• At its meeting on 16 March 2023, the Joint Development Assessment Panel refused the development for a number of reasons.</li> <li>• An Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>• A Mediation session between the parties (JDAP and the applicant) has been scheduled for June 2023. City officers have also been invited to attend.</li> </ul>

## **OFFICER'S RECOMMENDATION**

**Council receive the following information reports for June 2023:**

- 1. Schedule of applications determined under delegated authority**
- 2. Update on Metro Inner-South JDAP determinations and relevant State Administrative Tribunal applications for review.**





### 10.3 Council decision

#### **PC2306-10    PRECINCT STRUCTURE PLAN – 140 STIRLING HIGHWAY, NORTH FREMANTLE**

<b>Meeting date:</b>	7 June 2023
<b>Responsible officer:</b>	Manager Strategic Planning and City Design
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Schedule of Submissions</li><li>2. Draft Precinct Structure Plan report</li><li>3. State and local planning context review</li><li>4. Main Roads WA Land Requirement Plan 1.7143-1</li><li>5. Main Roads WA Carriageway Plan 1.7222</li><li>6. Applicant's response to enquiries</li></ol>

#### **SUMMARY**

**The purpose of this report is to present for Council's consideration the proposed Precinct Structure Plan (PSP) for 140 Stirling Highway, North Fremantle including submissions received during the community engagement process.**

**The proposed PSP was advertised from 16 January 2023 to 1 March 2023 (44 days) for public comment. The public consultation period included a community information session held at the North Fremantle Community Hall.**

**At the close of the community engagement period, the City had received 191 submissions on the proposed PSP. A further five late submissions were received, including a submission from Main Roads WA. The majority of the submissions highlighted concerns around building height, traffic, vehicle parking, access to public transport, public open space and the proposed density of development.**

**It is recommended the proposed PSP be forwarded to the Western Australian Planning Commission (WAPC), with the recommendation that it not be approved, due to:**

- The proposal's excessive building heights which are inconsistent with the City's planning provisions for the site and community expectation.**
- The lack of strategic planning basis for the scale of the proposal with regard to State Planning Policy 4.2.**



- **The poor contextual response of the proposal's built form and open spaces which are inconsistent with the character of North Fremantle and Fremantle more broadly.**
- **The lack of consideration of the site's heritage values and fabric.**
- **The potential adverse impacts of the proposal upon the surrounding community and road network, and**
- **The wider negative implications of the proposal on the nature of coastal development in the Perth metropolitan region.**

## **BACKGROUND**

### **Site description**

One hundred and forty Stirling Highway (the Site), North Fremantle is a flat, 3.1 hectare site, occupied by a 1950s office building, a large corrugated steel and asbestos shed with an attached office annexe, and paved and gravel-surfaced parking and yard areas. It is often referred to as the 'OneSteel site', in recognition of its last major tenant. At present, the office building is vacant, while the shed and yard are used for limited light industrial and storage purposes. The Site is elevated above Stirling Highway, with a retaining wall along the western and part of the southern boundaries. As McCabe Street rises to the east, a steep, vegetated bank forms along the southern edge of the site, wrapping around the western and northern edges, resulting in a level difference of approximately seven metres between the site and the adjacent lot to the east.

The Site is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and is zoned 'Development' (Development Area 18) under the City's Local Planning Scheme No.4 (LPS4). Under LPS4 and, since 2015, through the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), a structure plan is required prior to comprehensive redevelopment of the Site.

### **Local context**

To the north of the Site lies Buckland Hill Estate, in the Town of Mosman Park. Buckland Hill Estate is zoned 'Residential', with a density code of R12.5, and is occupied by mostly two-storey single houses on lots of approximately 870 square metres or larger.



To the east of the subject site, at 11 McCabe Street, there are four apartment buildings ranging from five to seven storeys, with a maximum building height of 24.75 metres, known as the Taskers Living and Siskas developments. Further to the east, at 15 and 19-21 McCabe Street, there are a collection of single and two-storey commercial and light industrial units. Joint Development Assessment Panel (JDAP) approvals are in place for two eight-storey mixed use developments, with the tallest reaching a maximum building height of 29.4 metres. Eleven, 15 and 19-21 McCabe Street are also zoned 'Development' and form part of Development Area 18 under LPS4.

To the south, on the opposite side of McCabe Street lies a former industrial site (130 Stirling Highway) comprising the former Ford Assembly Plant / Matilda Bay Brewery buildings which consist of three main parts: the Administration Wing (facing Stirling Highway), the Workshop Wing (behind Administration) and the Factory Wing (corner of Stirling Highway and Coventry Parade). These three building elements combine to create a significant complex, which demonstrate the history of the site's use from the initial construction of the Ford Assembly Plant in 1929 to its later occupation by the Matilda Bay Brewing Company from 1988-2007. Consequently, it is included on the City of Fremantle Heritage List with a management category of 1B ('Exceptional Significance'). The site, as it currently stands, contains a number of existing additions and alterations to the original buildings to accommodate and expand the historic uses as well as three detached ancillary warehouses towards the rear (eastern end) of the site and large areas of hardstand. The JDAP recently refused an application for comprehensive redevelopment of the western half of the site to deliver a mixed-use development comprising additions, alterations and restoration of the former Matilda Bay Brewery buildings and the addition of three residential towers of six, 15 and 23 storeys in height.

To the north of the Ford Assembly Plant / Matilda Bay Brewery buildings, lies 2 McCabe Place, which is currently vacant though eleven two and three-storey townhouses (the Cornerstone development) are in the early stages of construction on the site, while 136 Stirling Highway is occupied by a two-storey commercial building. At this stage there are no applications for the redevelopment of 136 Stirling Highway. Two McCabe Place and 130 and 136 Stirling Highway are zoned 'Development' and comprise the remainder of Development Area 18. These sites are subject to a separate structure plan.



On the western side of Stirling Highway, between the road and rail reserve further to the west, the land is reserved under the MRS for 'Primary Regional Road' (to facilitate widening of Stirling Highway) and 'Parks and Recreation'. One hundred and thirty-five Stirling Highway is occupied by a house with an attached shop, though the shop is disused, while 137 and 139 Stirling Highway are respectively occupied by a single house and two grouped dwellings. One hundred and thirty-five and 139 Stirling Highway are included on the City of Fremantle Heritage List, both with a management category of 3 ('Some Significance'). One hundred and thirty-nine Stirling Highway occupies most of the land opposite the Site and is developed with a single storey building and associated yard space occupied by a landscape supplies company.

### **Planning history**

In February 2008 a structure plan was submitted on behalf of the landowners at the time, proposing redevelopment of the site for predominantly residential purposes in the form of two large free-standing apartment buildings with associated private communal open space and car parking. The indicative height of one building was 3-4 storeys above a basement car park, and the second building stepped up to a maximum height of 12 storeys above a basement car park.

In August 2008 the owners made an application to the State Administrative Tribunal for review of a deemed refusal of the structure plan by virtue of the City's non-determination of the plan, under the provisions of clause 6.2.15.6 of Local Planning Scheme No. 4. Following a hearing held in December 2008, the Tribunal delivered the following decision on 3 March 2009:

- 1. The application for review is dismissed.*
- 2. The deemed refusal by the respondent to adopt a structure plan for Lot 2 Stirling Highway, North Fremantle is set aside and a decision is substituted that the structure plan is not adopted under cl. 6.2.9.1 of the City of Fremantle Local Planning Scheme No. 4.*

The primary reason for the Tribunal's decision was that the development proposed in the structure plan was considered to have a significant and detrimental visual impact when viewed from important public viewing positions and from private properties to the east and north-east.

In July 2009, the City received a new proposal for a structure plan at No. 140 (Lot 2) Stirling Highway, North Fremantle. The plan proposed a series of buildings generally ranging from single storey up to five storeys in height, with a single eight storey building at the corner of Stirling Highway and McCabe Street. The use of the buildings would have been predominantly residential apartments, with some ground floor commercial uses in the building at the corner of Stirling Highway and McCabe Street. An indicative yield of 233 dwelling units at a density of approximately R80 is stated in the plan. In December 2009, the City adopted the plan, which has remained in place since that date (Figure 1 below).





**Figure 1: Adopted DA18 140 Stirling Highway Structure Plan (2009)**

In addition, a development application to demolish the buildings on the Site was approved by the City of Fremantle Planning Committee on 2 September 2022, subject to conditions, including the following:

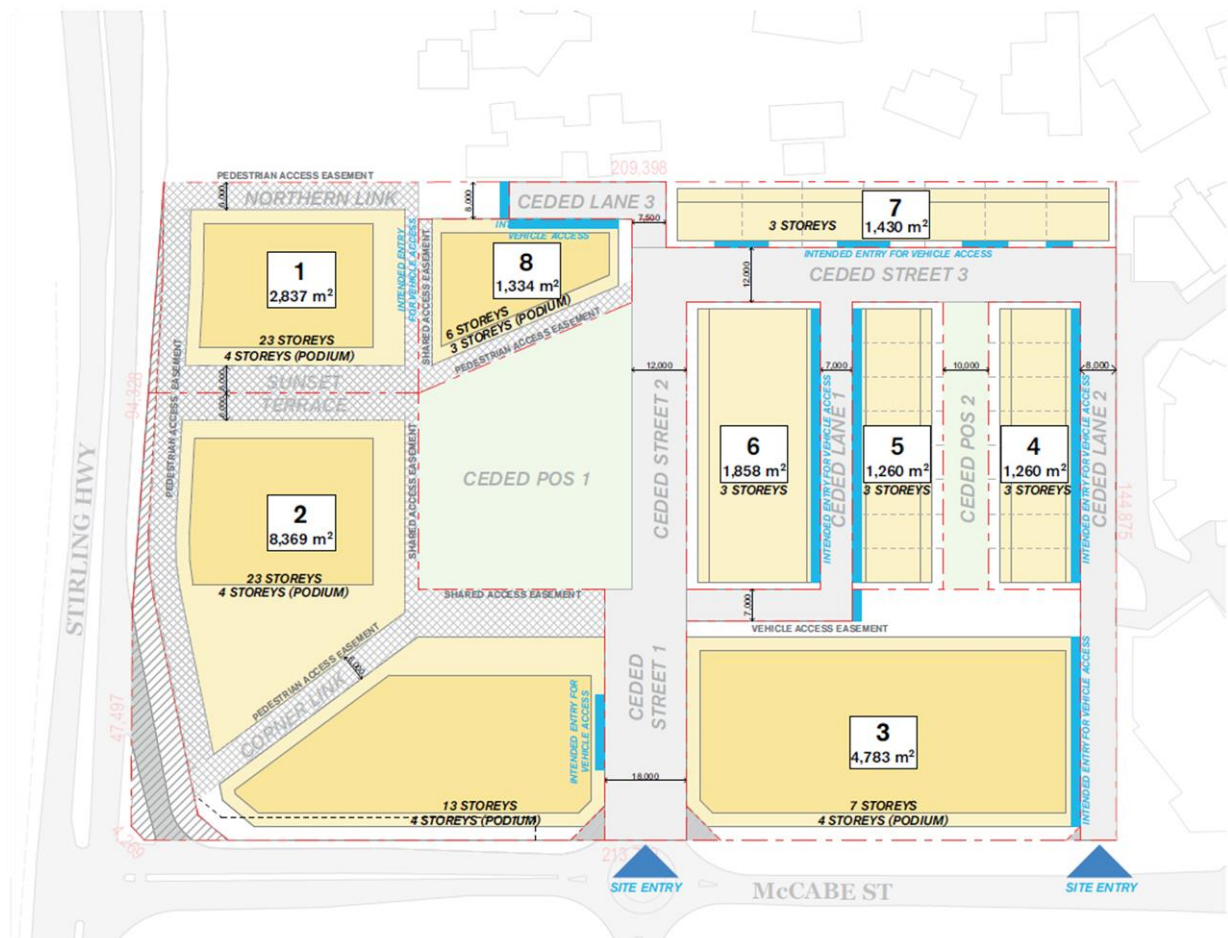
*Notwithstanding condition 1 above, the office building on the corner of Stirling Highway and McCabe Street does not form part of this demolition approval and is to be retained to the satisfaction of the City of Fremantle.*

The current applicant has subsequently lodged a demolition licence application for the demolition of *all* buildings on the site, which was rejected by the City in view of the above. This matter is discussed in more detail in the Heritage section of the Officer Comment below.

### Draft Precinct Structure Plan proposal

The new draft PSP (Figure 2 below) proposes a range of buildings, from three-storey townhouses in the north-eastern quarter of the lot to two 23-storey towers at the western extent, with six, seven and 13-storey buildings across the remainder. The taller buildings would utilise four-storey 'podiums' to disguise their bulk when viewed from street level and would be arranged around a 2,490 square metre public open space. A further 630 square metres of public open space would be provided between the townhouses in the north-

eastern quarter of the site. Land use would be predominately residential, with an indicative yield of 350 units stated in the plan. There is also potential for 12,962 square metres of commercial space in the podium levels of the taller buildings, with active frontages required at ground level, including retail and food and beverage outlets. It is proposed that the public open space and all access roads on-site would be ceded to the City.



**Figure 2: Proposed Precinct Structure Plan**

### State and Local Planning context

A review of the state and local planning context has been provided in the attachments, which covers:

- Perth and Peel@3.5million
- State Planning Policy 2.6 – Coastal Planning Policy
- State Planning Policy 3.5 – Historic Heritage Conservation
- State Planning Policy 3.6 – Infrastructure Contributions
- State Planning Policy 4.2 – Activity Centres for Perth and Peel
- State Planning Policy 5.4 – Road and Rail Noise



- State Planning Policy 7.0 – Design of the Built Environment
- State Planning Policy 7.2 – Precinct Design
- State Planning Policy 7.2 – Precinct Design Guidelines
- State Planning Policy 7.3 – Residential Design Codes of Western Australia – Volume 1, Part C – Medium Density and Volume 2 – Apartments
- Draft State Planning Policy 4.2 – Activity Centres (2020)
- Visual Landscape Planning in Western Australia
- Fremantle Planning Strategy (2001)
- Draft Fremantle Local Planning Strategy (2022)
- City of Fremantle Local Planning Scheme No. 4
- Local Planning Policy 3.6 – Heritage Areas
- Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings
- DA18 140 Stirling Highway Structure Plan (2009)

## **FINANCIAL IMPLICATIONS**

Nil.

## **LEGAL IMPLICATIONS**

The procedure for preparing, assessing and determining a structure plan is provided for under Schedule 2, Part 4, of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Part 4, cl. 20 states that:

- (1) *The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of –*
- (a) *the last day of the period for making submissions on the proposed structure plan that applies under clause 18(3A); or*
  - (b) *the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or*
  - (c) *a day agreed by the Commission.*
- (2) *The report on the proposed structure plan must include the following –*
- (a) *a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);*





- (b) any comments by the local government in respect of those submissions;*
- (c) a schedule of any proposed modifications to address issues raised in the submissions;*
- (d) the local government's assessment of the proposal based on appropriate planning principles;*
- (e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.*

City officers requested the WAPC's permission to extend the statutory period within which the local government must prepare a report and recommendation to the WAPC on the proposed PSP. This was necessary to:

- Request additional information from the applicant, including information regarding the heights proposed, details of the proposed zoning and land uses, missing appendices from the Landscape Architectural Report, and a waste management strategy.
- Provide the applicant with the opportunity to respond to comments from the City's Infrastructure Engineering directorate.
- Discuss further with Main Road WA measures to address traffic-related issues raised by the development proposed in the PSP.

The WAPC granted approval to extend the period for provision of the City's recommendation until 29 June 2023.

## **CONSULTATION**

Engagement on the proposed PSP was undertaken in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2, Part 4, cl. 18(2) and Council's Local Planning Policy 1.3 – Community Consultation on Planning Proposals, for a period of 44 days from 16 January 2023 to 1 March 2023.

Engagement included public notification by means of:

- Letters to the owners and occupiers of properties within 200m of the site and those in the Buckland Hill and Rocky Bay Estates
- Signs placed on the Site facing Stirling Highway and McCabe Street
- Publication of a notice and information on the City's MySay Freo website
- Publication of a notice in the Fremantle Herald.



Letters were sent to various utility and government agencies, seeking their comment, and a 'Talk to a Planner' drop-in information session was also held at North Fremantle Community Hall on 31 January 2023. It is estimated to have been attended by 70-80 people.

At the close of the engagement period, 191 submissions had been received. A further five submissions were received following the close of the engagement period, including one from Main Roads WA and four from members of the public. As these submissions were received prior to the end of the statutory reporting period, they have been included in the attached schedule of submissions and have been considered in the assessment of the proposal. Of the submissions, 29 were in support of the proposal and 159 raised objection or concern, while a further eight responses offered comment without clearly taking a position.

The submissions received in support of the proposed PSP highlighted its inclusion of commercial offerings, the potential to remove what many see as a blight on the area, and the claimed 'green' credentials of the development. However, as noted, the majority of submissions objected to one or more aspects of the proposal or raised significant concerns. These objections and concerns can be summarised as follows:

Key element	Selection of comments (summarised)
Strategic context	<ul style="list-style-type: none"><li>• The proposal would result in the creation of a new activity centre outside the established state and local strategic planning frameworks.</li></ul>
Land use	<ul style="list-style-type: none"><li>• The provision of commercial tenancies would likely result in vacant units.</li><li>• The commercial offerings promised may not be delivered.</li></ul>
Plot ratio / density	<ul style="list-style-type: none"><li>• The proposed R160 density is too high.</li><li>• R80 (per the existing structure plan) would be more in keeping with other high-density development in the area.</li></ul>
Built form	<ul style="list-style-type: none"><li>• The proposed buildings would be too bulky, blocking outlooks and causing overshadowing.</li></ul>



Key element	Selection of comments (summarised)
Building height	<ul style="list-style-type: none"> <li>• Unclear whether building heights being measured from the existing site level.</li> <li>• Tall buildings would have a significant, negative impact on the character and visual amenity of the area.</li> <li>• Tall buildings would block outlooks to the Ocean.</li> <li>• Height limits ranging from three to 15 storeys are suggested, indicating that the height limits set in Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings are already considered by some to be too high for the site.</li> <li>• Buildings would overshadow adjoining properties.</li> <li>• Buildings would overlook adjoining properties.</li> </ul>
Roads and traffic	<ul style="list-style-type: none"> <li>• The Traffic Impact Assessment is flawed, as it does not consider a 'no development' scenario for 2025 and 2035.</li> <li>• The development would lead to a significant increase in traffic, causing congestion and leading to longer wait times at the Stirling Highway / McCabe Street intersection.</li> <li>• Traffic from the Stirling Highway / McCabe Street intersection would bank up into the roundabout at McCabe Place.</li> <li>• The connection with McCabe Place could create a 'rat run' north to south.</li> <li>• The proposed slip road at the Stirling Highway / McCabe Street intersection would be insufficient to alleviate traffic congestion.</li> <li>• The second access point to the development is close to the bend in McCabe Street and would present a safety hazard.</li> </ul>
Parking	<ul style="list-style-type: none"> <li>• There may be insufficient on-site parking to serve the development, particularly with commercial premises included.</li> <li>• On-street parking is also insufficient.</li> </ul>
Public open space / green corridor and landscaping	<ul style="list-style-type: none"> <li>• The public open space is internalised to the development and would not be easily accessible to or provide benefit to the wider community.</li> <li>• The public open space would be overshadowed by buildings for much of the day.</li> <li>• The public open space would be affected by the buildings channelling wind.</li> </ul>



Key element	Selection of comments (summarised)
Heritage	<ul style="list-style-type: none"> <li>The office building at the corner of Stirling Highway and McCabe Street should be conserved due to its heritage value as an example of a modernist commercial building.</li> </ul>
Public transport	<ul style="list-style-type: none"> <li>The development is not easily walkable to a train station.</li> <li>Access to buses is poor due to the pedestrian environment and lack of safe crossing points on Stirling Highway.</li> </ul>
Active transport	<ul style="list-style-type: none"> <li>The pedestrian environment around the development is poor, particularly on Stirling Highway, which discourages walking.</li> <li>There are few amenities nearby to encourage walking.</li> <li>There is no provision for a safe cycling environment immediately around the site.</li> <li>Access to the Perth-Fremantle Primary Shared Path is poor due to lack of safe crossing points on Stirling Highway.</li> </ul>
Beach access / pedestrian crossing	<ul style="list-style-type: none"> <li>There is poor access to the beach and crossing Stirling Highway is difficult.</li> <li>A new or additional pedestrian bridge or underpass should be installed.</li> </ul>
Noise / disturbance	<ul style="list-style-type: none"> <li>A detailed noise assessment should accompany any future development applications and measures would need to be implemented to manage road and rail noise.</li> <li>The development would result in additional noise and disturbance in the area from construction, then from additional population and commercial vehicles making deliveries.</li> </ul>
Dwelling diversity / affordable housing	<ul style="list-style-type: none"> <li>Will the development incorporate affordable housing?</li> </ul>
Property value	<ul style="list-style-type: none"> <li>The development would negatively impact upon the value of adjacent properties.</li> </ul>
Liveability	<ul style="list-style-type: none"> <li>Apartments, particularly high-rise apartments, are not as 'liveable' as other types of dwellings, leading to social issues and harming general wellbeing.</li> </ul>
Schools	<ul style="list-style-type: none"> <li>Local schools would not be able to cope with the additional population that would result from the development.</li> </ul>



Key element	Selection of comments (summarised)
Waste	<ul style="list-style-type: none"> <li>Unclear how waste would be stored and removed from the development.</li> </ul>
Emissions and carbon footprint	<ul style="list-style-type: none"> <li>High-rise buildings use almost twice as much energy per square metre as mid-rise structures.</li> </ul>
Fire and evacuation	<ul style="list-style-type: none"> <li>The water pressure in the area is insufficient, and local fire crews may not be equipped to combat fire in tall buildings like those proposed.</li> <li>How would people be evacuated in an emergency</li> </ul>
Environment / wildlife	<ul style="list-style-type: none"> <li>Development of the site would result in the loss of native vegetation and wildlife habitat.</li> </ul>
Water quality	<ul style="list-style-type: none"> <li>The development would negatively impact upon local water quality.</li> </ul>
Air quality	<ul style="list-style-type: none"> <li>The additional traffic would negatively impact upon local air quality.</li> </ul>
Sustainability / e-charging infrastructure	<ul style="list-style-type: none"> <li>Unclear what sustainability measures would be incorporated into the development including whether e-charging infrastructure would be provided.</li> </ul>
Wind	<ul style="list-style-type: none"> <li>The tall buildings would create wind tunnels.</li> </ul>
Light pollution	<ul style="list-style-type: none"> <li>The development appears to employ large expanses of glass resulting in sunlight being reflected, while light could spill beyond boundaries during hours of darkness.</li> </ul>

Each matter raised in the submissions is examined below, in the context of the state and local planning framework.

## **OFFICER COMMENT**

In assessing the PSP the City must consider the feedback received during the statutory community engagement period, including advice from state government agencies and City officers, along with the state and local planning context, which includes Perth and Peel@3.5million, applicable State Planning Policies, Fremantle Planning Strategy (2001), draft Fremantle Local Planning Strategy (2022), objectives of the City's Local Planning Scheme No. 4, and the provisions of various Local Planning Policies.



In summary, the proposed PSP:

- Would effectively create a new local centre for the purposes of assessment under State Planning Policy 4.2 – Activity Centres for Perth and Peel / draft State Planning Policy 4.2 – Activity Centres (2020) and State Planning Policy 7.2 – Precinct Design
- As a local centre, is not provided for in Perth and Peel@3.5million, the Fremantle Planning Strategy (2001) and the draft Fremantle Local Planning Strategy (2022)
- Is inconsistent with the principles for development within a Heritage Area, as set out in State Planning Policy 3.5 – Historic Heritage Conservation
- Acknowledges the requirements of State Planning Policy 3.6 – Infrastructure Contributions that would apply at the time of subdivision and / or development
- Acknowledges the requirements of State Planning Policy 5.4 – Road and Rail Noise that would apply at the time of subdivision and / or development
- Is generally inconsistent with the design principles contained in State Planning Policy 7.0 – Design of the Built Environment
- Is inconsistent with a number of the objectives of State Planning Policy 7.2 – Precinct Design, specifically:
  - Response to and enhancement of the distinctive characteristics of the local area
  - Integration of landscape design that enhances sustainability outcomes.
  - Built form height and massing that is responsive to existing built form, topography, key views and landmarks, and the intended future character of the area
  - Delivery of a sustainable built environment through passive environmental design measures, adaptive reuse of existing structures and promotion of active and public transport modes.
  - Provision of comfortable public spaces that encourage physical activity and enable a range of uses
  - Provision of a place that is easy to navigate with clear connections and good lines of sight.
- Seeks variations to State Planning Policy 7.3 – Residential Design Codes of Western Australia – Volume 1, Part C – Medium Density and Volume 2 – Apartments without sufficient justification
- Is inconsistent with the principles set out in the Visual Landscape Planning in Western Australia manual
- Does not nominate a zoning, nor is the proposed land use table consistent with Local Planning Scheme No. 4



- Does not meet the broad objectives of Local Planning Policy 3.6 – Heritage Areas
- Does not meet the requirements of Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings
- Represents a significant variation to the previously approved DA18 140 Stirling Highway Structure Plan (2009) over the Site
- Would place significant pressure on the local road network, resulting in the failure of the Stirling Highway / McCabe Street intersection to deliver an acceptable level of service
- Seeks to cede its road network and public open space to the City of Fremantle when they are internally focused and would not serve the greater good of the community
- Has not considered the historic heritage value of the existing office building on the Site.

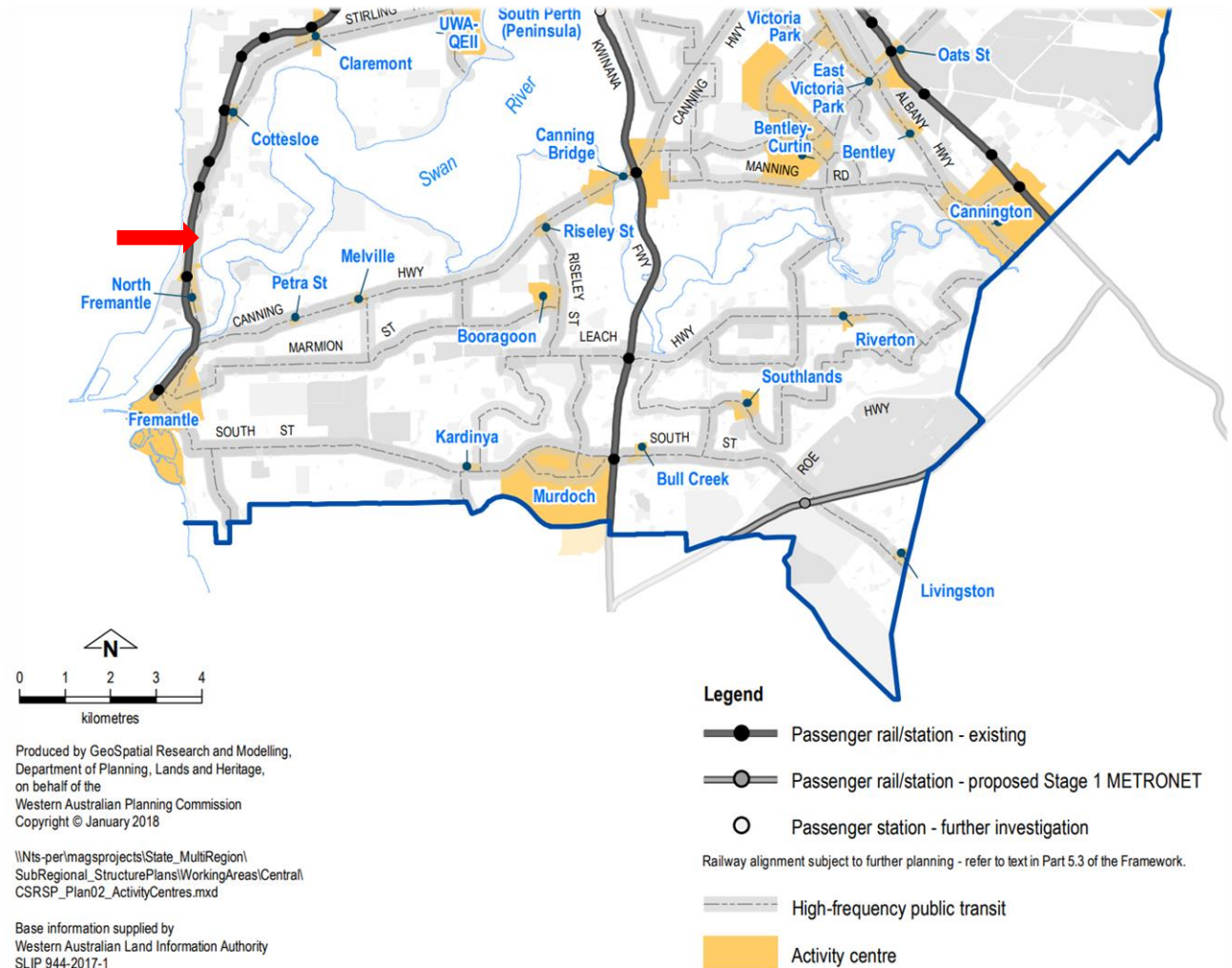
### **Strategic context**

City officers, along with the Town of Mosman Park, have significant concerns over the lack of strategic context for the proposed PSP. Based on an approximate residential density in excess of R100 and the provision of more than 10,000 square metres of commercial floorspace, the PSP would effectively create a new Activity Centre under draft State Planning Policy 4.2 – Activity Centres (draft SPP 4.2).

The Central Sub-Regional Planning Framework within Perth and Peel@3.5million identifies a network of activity centres, which aim to allow more people to live closer to where they work with the aim of reducing the overall distance travelled for work. It states that activity centres are intended to match quality infill with amenity by creating a village-style mix of open space, housing, workplaces, and entertainment venues, and have access to good quality public transport. The aim is to provide a range of innovative housing options and the creation of a sense of place by providing social and business activities and services.

These activity centres would build on existing infrastructure and be linked to a co-ordinated and integrated transport network to significantly reduce congestion. For this reason, the framework builds on State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP 4.2) objectives that place a focus on increasing residential, commercial and mixed-use development in and surrounding activity centres linked by a robust movement network. SPP 4.2 defines a hierarchy of centres based on the future importance of each centre from a network perspective and the magnitude of development expected for a centre. There are approximately 50 activity centres across the Central sub-region, as shown in Figure 3 below.





## PLAN 2: Activity centres

**Figure 3: Excerpt from Perth and Peel@3.5million Central Sub-Regional Planning Framework Activity Centres Plan (site identified by added red arrow)**

The geographical boundaries of each strategic metropolitan, secondary, specialised and district centre in the hierarchy have been identified in order to spatially define and differentiate the extent of centres and urban corridors. Neighbourhood centres are not included in the framework, as these are more appropriately planned at the local level. The main purpose of the boundaries is to provide a platform from which to measure activity centre performance over time towards achieving higher densities and diversity in both employment and housing and to manage the interface between centre-scaled development and adjacent land. These draft activity centre boundaries have been based on an analysis of existing activity centre structure plans, zoning in local planning schemes, the extent of existing commercial areas, major infrastructure elements, walkable catchment to major public transit stops and geographical constraints. The boundaries purposely include an array of uses that are considered components of



the activity centre to match the intended role and function, accommodate sufficient growth, and deliver appropriate land use diversity. New activity centres may be identified through sub-regional planning frameworks or plans, growth management strategies, local planning strategies and require endorsement by the WAPC, subject to compliance with the principles and objectives of SPP 4.2 (refer to discussion on land uses below).

The Site lies outside the strategic planning framework for activity centres that is provided for in *Perth and Peel@3.5million*, though the Site does lie within an identified urban corridor. The framework identifies urban corridors in the Central sub-region alongside high-frequency public transit corridors that should be the focus for investigating increased residential densities, with potential for mixed land uses where appropriate.

The presence of existing or planned high-frequency public transit is an important consideration in determining whether a corridor is suitable for a more compact and diverse urban form. A high-frequency public transit service is one where one or more modes of travel (for example, bus, rail) are used in combination to:

- provide high levels of service frequency at all times of the week and generally higher frequency in peak periods
- provide access to a reasonable variety of destinations including through multi-modal links (the movement of people by more than one method of transport)
- operate with a high level of priority over private vehicles wherever possible.

The framework states that an understanding of the existing and future function of urban corridors from both a transport and land use perspective is needed in order to determine future growth opportunities. Urban corridors vary in transport function and their ability to have adjacent high-density development, and the development potential needs to be considered against the local context and function of the particular corridor. It is important that intensifying development does not adversely impact upon the efficient operation of the local and regional transport network. Maintaining and enhancing the urban amenity is also a key objective when considering areas for intensification.

In this instance, the corridor is served by high-frequency bus and rail services, though the subject site is on the cusp of the 800-metre walkable catchment from North Fremantle Station to the south and approximately 1.1 kilometres from Victoria Street Station to the north. It is likely that this would diminish use of the rail service by future residents, meaning that they would fall back on private vehicles, compounding the road and traffic issues explored in more detail below. This would, in turn, impact upon the efficient operation of the local and regional transport network, including the high-frequency bus service that passes the Site, which is inconsistent with the aims of urban corridor development as set out in the Central Sub-Regional Planning Framework.

## Land use

A structure plan does not need to include details of the final land uses, nor the specific areas that they will occupy; a structure plan only makes provision for these uses and sets maximum floor space limits. However, as outlined above, the proposed PSP includes 13,000 square metres of commercial floor space, effectively creating a new Activity Centre under Draft SPP 4.2. This triggers the requirement for an impact test to: *“ensure major development proposals will not unreasonably impact upon the activity centre hierarchy, result in loss of services to the community and / or impact upon existing, committed and planned public and private infrastructure investment.”*

Therefore, the applicant provides a breakdown of uses and gross floor area in Appendix 9 – Retail Impact and Needs Assessment. Refer to figure 4 below for the proposed uses and floor areas (noting that F&B refers to ‘Food and Beverage’).

Proposed Use	Gross Floor Area	Relevant PLUC
F&B	3,436	Shop/Retail
Retail	2,163	Shop/Retail
Supermarket	1,313	Shop/Retail
Gym	835	Entertainment, Recreation and Culture
Entertainment	1,530	Entertainment, Recreation and Culture
Health and Wellness	945	Entertainment, Recreation and Culture
Childcare	1,208	Health, Welfare and Community Services
Function / Church	1,531	Health, Welfare and Community Services

**Figure 4. Proposed land uses and gross floor area**

The impact test modelling provided in support of the proposed PSP is based on the following assumptions:

- Development by 2026
- Ninety per cent lettable area being 6,222 square metres of Shop/Retail floor area
- An on-site yield of 350 dwellings that would contribute to retail expenditure in the local economy
- The trade area extending for five kilometres around the Site.

Within the trade area, the age demographic, dwelling types, household income and retail expenditure were assessed, along with current and future retail supply. Scenarios with and without the proposed development area were modelled.



The impact test concluded that there would be a clear need for retail uses in the proposed location to provide for the daily shopping needs of residents, workers and visitors. It states that the development would create significant economic and community benefits, including retail uses supporting the creation of 158 full-time employment opportunities and providing shopping amenities closer to homes. The modelling provides that the estimated impacts are moderate and below the 10% significant impact threshold; and the sustainability of the centre hierarchy will be preserved due to:

- The surrounding area's high population
- A profitable competitive environment
- The Site's proximity to commercially under-provisioned areas
- The development establishing high population numbers to support ground floor commercial development.

The City recently commissioned a Retail Needs Assessment for the whole of the City of Fremantle local government area, which consisted of a gap analysis of the existing retail offering. A conclusion of this analysis included: *A neighbourhood centre of approximately 8,300 square metres could be planned for at McCabe Street, including a small supermarket of 1,500 square metres.*

The City's LPS4 and Draft Local Planning Strategy recognise that the McCabe Street area will see more residential development in the short to medium term. The Draft Local Planning Strategy notes that as development progresses in the McCabe Street area, there may be an opportunity for a new local centre / local store development (*N.B.: this should refer to a neighbourhood centre – LPS4 was recently amended to reverse the local / neighbourhood centre nomenclature, as it was inconsistent with the definitions given in the Regulations*). Maintaining the ability to review these opportunities in light of the established centre network is considered a sensible approach in the future.

Accordingly, a commercial component of the PSP is reasonable, though not at the scale proposed, as that would be inconsistent with the state and local strategic planning frameworks and would likely undermine the vitality and viability of both the Mosman Park Local Centre and North Fremantle District Centre.

Notwithstanding, the PSP would need to reflect this with a nominated zoning over the Site to allow for residential and / or commercial uses. However, the applicant has not nominated a zoning, but rather provided a zoning table including a 'Precinct Structure Plan' column, which is inconsistent with the land use permissibility in the City's existing zones. This cannot be supported, as the City aims to standardise its zoning in line with the current state government direction on the standardisation of zoning and land use permissibility across all local planning schemes.



## **Plot ratio / density**

Several submissions consider the density of development that would be facilitated by the proposed PSP to be too high, though it has the same plot ratio as the existing approved structure plan over the Site. This means that that floorspace of up to twice the area of the Site can be developed, which would potentially accommodate the same number of residents as would be catered for by the existing structure plan. However, the proposed PSP alters the built form significantly from that of the existing structure plan, effectively 'stacking' the building envelopes into taller towers in exchange for a greater area of open space.

## **Built form**

The majority of submissions against the proposed PSP highlight the built form as a major concern in some way, as it is tied to the plot ratio / density, as discussed above, and building height (discussed in detail below). State Planning Policy 7.0 – Design of The Built Environment (SPP 7.0) enables assessment of developments utilising the design principle of 'Built Form and Scale':

*Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.*

The proposed built form is generally inconsistent with the provisions of Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings (LPP 3.11), which establishes the intended future character of the local area, and is a marked departure to heights approved in DA18 140 Stirling Highway Structure Plan (2009). Additionally, the proposed PSP's Development Controls seek numerous variations to the primary controls set out in State Planning Policy 7.3 – Residential Design Codes – Volume 2 – Apartments (the R-Codes Vol. 2). However, the proposed PSP does not provide planning justification or site-specific / contextual consideration to support these amendments, particularly with regard to proposed building separation (e.g. between the towers proposed for Sites 1 and 2), building setback, and building height of up to 23 storeys.

Furthermore, the proposed built form envelope for the Site 3 tower element suggests a potential floor plate up to 49 metres deep. With floor plates of this depth, it is unclear how the proponents will plan functional apartment layouts that meet the provisions of the R-Codes Vol. 2 regarding natural ventilation, solar and daylight access, and size and layout of dwellings. While not appearing as deep (dimensions were not provided), the floor plates of Building A and Building B of Site 2 prompt similar concerns.



The built form indicated in the proposed PSP uses 'podium' levels up to four storeys that are intended to create a more human scale to the development, creating a sense of the buildings being smaller within the typical field of vision when standing in the streets below. However, the overall height of the buildings proposed (approximately 77 metres) would create significant overshadowing of the internal streets, public open space, and adjoining residences at certain times of the day. While the use of podiums minimises visual bulk at close quarters, it does not address concerns about the impact of any potential development across the wider area. The bulk and scale of the development would be imposing upon adjoining residences and be highly visible from Leighton Beach. It would also have a wider impact on the coastal landscape setting, being able to be seen from locations far along the coastline. These impacts are discussed in further detail below.

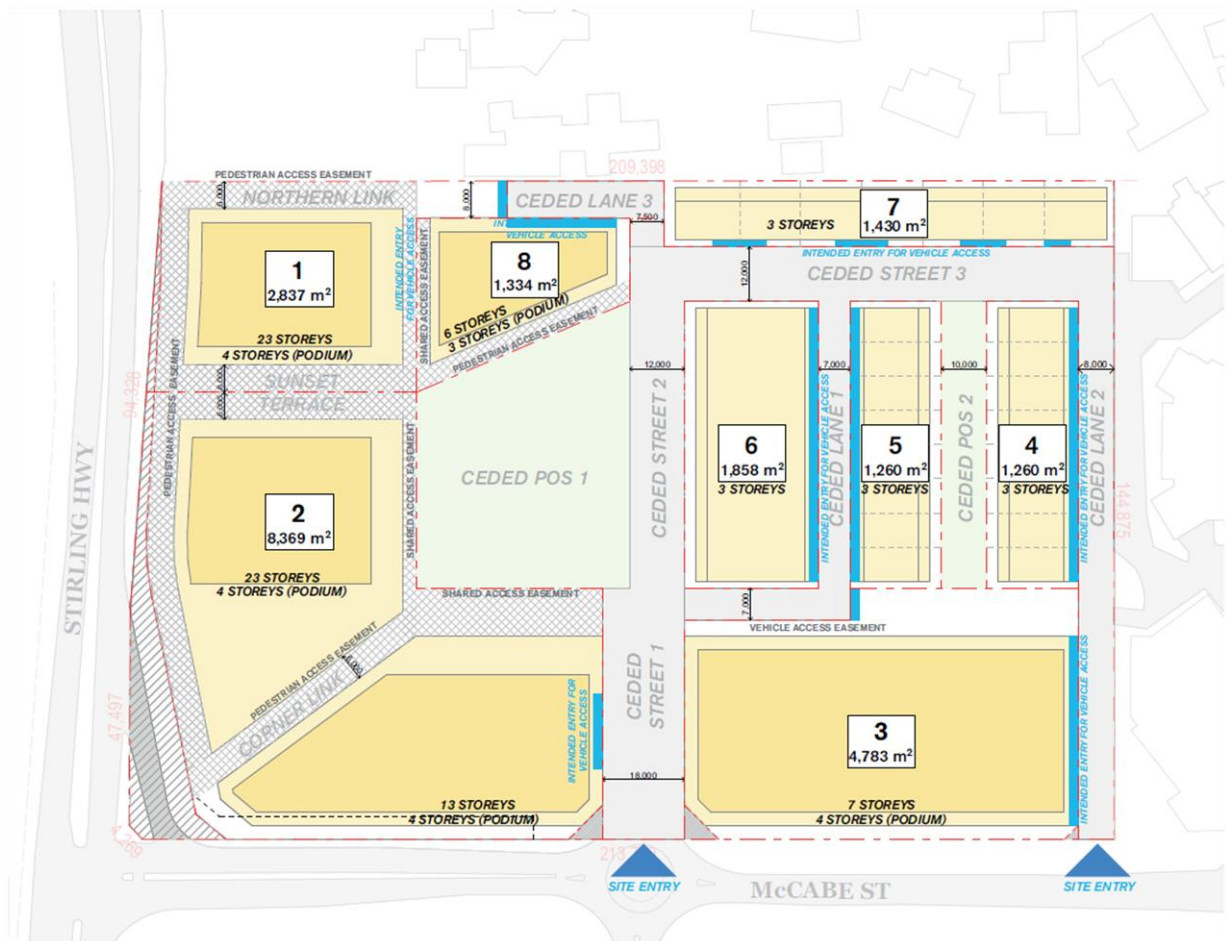
Being a structure plan, the proposed PSP does not contain designs for buildings, only indicative renders and sketches for context. However, it should be noted that if the PSP was approved, any subsequent development application(s) would be reviewed by the Design Advisory Committee to attempt to secure a high standard of design.

### **Building height**

The majority of submissions against the proposed PSP registered building height as a significant concern due to its potential impact upon views and visual amenity, the local context and character, and potential for overlooking and overshadowing. These matters are all explored in detail below, following on from an assessment of the proposed building heights in the context of the current planning framework that applies to the Site.

The proposed PSP (Figure 5 below) sets out the proposed building height limits across the Site, in number of storeys, rather than in metres. However, the applicant has confirmed that the tallest buildings (23 storeys) would reach 77 metres in height when measured from the existing site level. The north-eastern quarter of the lot would be occupied by three-storey townhouses, with the taller buildings positioned on the western and southern parts of the lot, encircling an area of public open space.





**Figure 5: Proposed Precinct Structure Plan**

Part 5.4 of State Planning Policy 2.6 – State Coastal Planning Policy states that:

- (i) *The provisions of this part of the policy apply to all development within 300 metres of the horizontal shoreline datum, but do not apply to industrial or resource development, transport, telecommunications and engineering infrastructure, and Port Works and Facilities (as defined by the Port Authorities Act 1999).*
- (ii) *Maximum height limits should be specified as part of controls outlined in a local planning scheme and / or structure plan, in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.*
- (iii) *When determining building height controls in a local planning scheme and / or structure plan, building heights should have due regard to the following planning criteria:*
  - a) *development is consistent with the overall visual theme identified as part of land use planning for a locality or in an appropriate planning control instrument such as a local planning strategy;*
  - b) *development takes into account the built form, topography and landscape character of the surrounding area;*

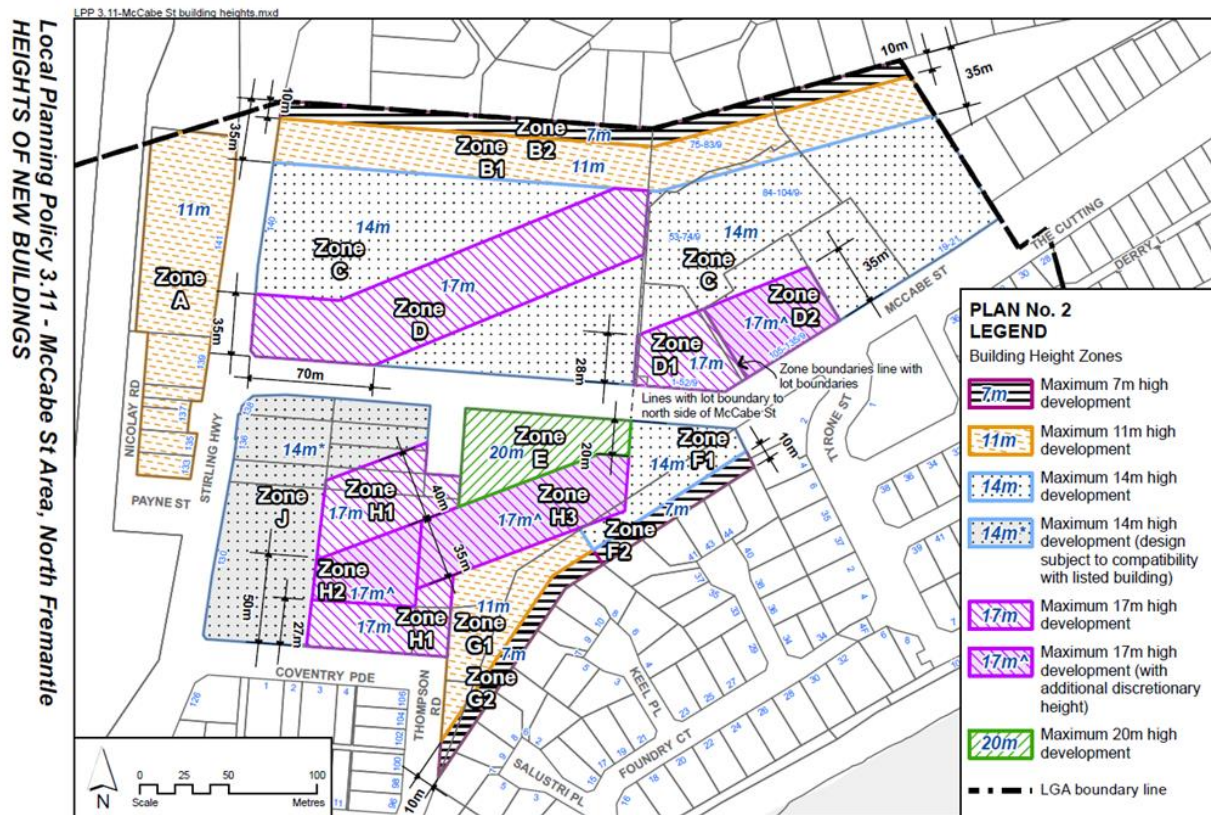




- c) the location is part of an identified coastal node;*
- d) the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and*
- e) there is overall visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.*

In this instance, Sites 1 and 2 of the proposed PSP, which are located along Stirling Highway, are within 300 metres of the horizontal shoreline datum and maximum building heights are specified within the existing structure plan for the Site. This is supported by LPP 3.11 that permits buildings on the Site up to 17 metres tall (approximately five storeys), with provision for buildings up to 25 metres tall (approximately seven storeys) on 'Zone D' and within 60m of the Stirling Highway frontage, where they meet the following criteria:

- a) The development is designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent
- b) The development incorporates non-residential ground floor uses that contribute to the function of the locality as an activity and / or tourist node
- c) The development satisfies the planning criteria in policy measure 5.4 of State Planning Policy 2.6 – State Coastal Planning Policy
- d) The design of the development performs the urban design function of an 'entry statement' into the City of Fremantle, including design qualities that convey a contemporary coastal aesthetic informed by the local context of North Fremantle and the Indian Ocean foreshore
- e) The development does not encroach upon view corridors as defined in the "McCabe Street Height Study" dated May 2008, prepared by Scenic Spectrums Pty Ltd on behalf of the City of Fremantle.



**Figure 6: Excerpt from Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings (2015)**

Figure 6 above illustrates the extent of the various height limits across the Site. The proposed PSP contains building heights measured in storeys, rather than metres; however, the tallest buildings proposed would reach 23 storeys or approximately 77 metres in height, exceeding the height limits prescribed in the policy by 18 storeys / approximately 60 metres.

LPP 3.11 was originally adopted in 2008 after height modelling was undertaken for the area. A review of the policy was carried out from April 2013, which included further view corridor modelling and assessments of building bulk with modelling specifically for the 130 Stirling Highway, North Fremantle site. The reviewed policy was adopted by Council in August 2015 and is intended to ensure that new buildings developed in the area *"do not adversely affect the visual amenity of the locality in general or the amenity of occupiers of nearby residential properties."* In particular, the policy is intended to help safeguard important views from publicly accessible viewpoints at Buckland Hill and Mount Lyell Park towards and over the Indian Ocean and the Swan River, and the setting of existing buildings and landscape features of cultural heritage significance. It is considered that LPP 3.11 established the desired future character for the locality, taking into account consideration of views and visual amenity, and the existing structure plan for the Site was designed in line with this.



As touched on above, the applicant's rationale for the additional height in the proposed PSP centres around 'stacking' the building envelopes to create taller, narrower towers and open vistas through the site from public vantage points to the Indian Ocean, while also creating a larger public open space for community benefit. The consideration of building height is strongly linked to considerations around the impact on views and visual amenity, and the design and functionality of the public open space / green corridor and landscaping. While these aspects of the proposal are explored in more detail below, it is considered that insufficient justification has been provided for the level of discretion being sought in terms of building height and its impacts on views and visual amenity. Taller, narrower buildings would preserve narrow view corridors to the Indian Ocean from Buckland Hill and Mount Lyell Park, though they would be prominent in those vistas and would become the dominant feature in the local landscape, even more so than existing tall buildings, trees and topography.

#### Context and character

SPP 7.0 enables assessment of developments utilising the design principle of 'Context and Character':

*Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.*

At the structure plan level, key considerations include: how the plan responds to existing patterns of development, the relationship between built form and open space, and the site's cultural and historic context (e.g. heritage).

The PSP predominantly utilises two strategies to contextualise future development with its place: protection of key vistas through the site from Buckland Hill and Mount Lyell Park (driving a tower and podium built form typology on lots adjacent to Stirling Highway and McCabe Street) and stepping down this built form to transition to adjacent urban areas to the north (R12.5 detached dwellings) and east (six-storey apartment developments). However, neither strategy has resulted in a response characteristic of the area and/or contributing to a sense of place.

As touched on above, the podium typology proposed does not have precedent in the local area and is uncommon in the broader Fremantle area. Large scale buildings in the North Fremantle area are typically of industrial origin (e.g. the Allied Mills facility) with distinctive built form characteristics stemming from their era of development. Recent developments including the adjacent Taskers site have not made positive contributions to local character and are not representative of the desired future character of the local area. There are also issues with the transition of built form to adjacent areas such as the building height proposed for Site 8 (six storeys) which transitions to the double-storey dwellings to the north.



Impact upon views, and visual amenity

Visual Landscape Planning in Western Australia is a manual produced by the Department of Planning, Lands and Heritage to guide the evaluation, assessment, siting and design of development. It sets out a number of factors that should be taken into account when assessing building height in an urban coastal environment. These include:

- The existing streetscape, including the height of existing buildings and other visual landscape components
- The type of settlement, i.e., a lower permissible height for isolated individual buildings, hamlets and villages, and a higher height permitted in coastal regional centres and the Perth metropolitan area
- The height of existing and new tall trees, such as Norfolk Island pines, so that buildings remain below the tree canopy, to allow these trees to continue to dominate the visual landscape
- Adjacent landforms, to allow landform to continue to dominate the setting
- Potential visibility from nearby coastal recreation sites
- Other town planning scheme guidelines in relation to height.

In this instance, the existing streetscape along Stirling Highway is comprised of relatively low buildings of up to approximately three stories in height (former Ford Factory / Matilda Bay Brewery), while the Taskers Living complex to the east on McCabe Street reaches a height of six stories. Contextually, the building heights permitted in the existing structure plan – generally four stories, with a 'landmark' building of seven stories at the corner of Stirling Highway and McCabe Street – would be considered appropriate for the area, if not generous. The proposed building heights of up to 23 storeys would be out of context in the wider area and would dominate the immediate streetscapes, including Curtin Avenue further to the west, where the buildings would skyline significantly.

In terms of the type of settlement, the location of the Site within the Perth metropolitan area would indicate that a higher height could be permitted; however, this would be an isolated cluster of buildings and there is no precedent for such tall buildings on the Perth coast, other than Observation City at Scarborough, which stands 19 storeys / 70 metres tall. It is worthy of note that Scarborough is governed by a Master Plan that sets a height limit of 12 storeys, though recently there has been controversy over decisions to approve buildings in excess of this limit. So far none have been constructed. The nearest tall building approaching the height of those proposed by the PSP stands approximately 5 kilometres to the north-north-east and 1.5 kilometres inland; The Grove at Airlie Street, Claremont, which reaches a height of 17 storeys. This is an isolated tall building and is visible from a considerable distance away. Within the City of Fremantle, the tallest building is the Fremantle Ports Administration Building at 11 storeys, while the tallest structures are the port cranes at 86 metres (to reiterate, the PSP proposes buildings up to 23 storeys / 77 metres tall).

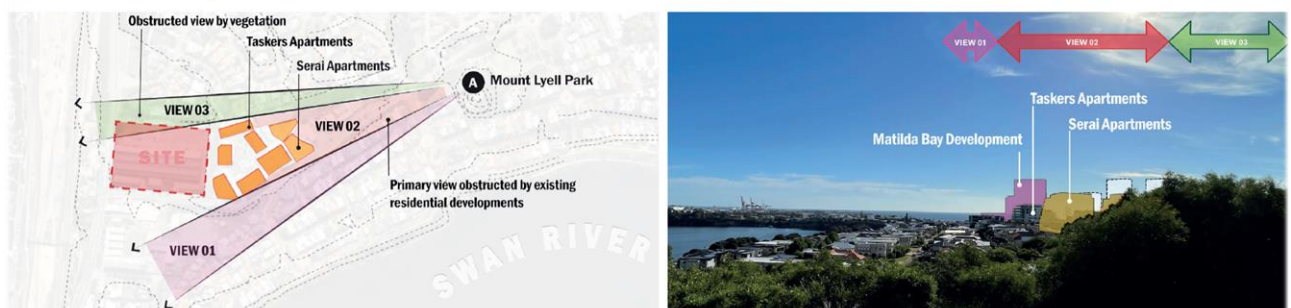


There is an existing Norfolk Island pine tree on the Stirling Highway frontage that stands approximately 15 metres tall. Under the existing structure plan it would no longer remain a dominant feature on the Site; however, the retention and conservation of the office building would likely include the tree, though its removal would be required to accommodate upgrade of the Stirling Highway / McCabe Street intersection in accordance with Main Roads WA's concept plan.

The relatively flat, open nature of this stretch of coastline means that the development proposed in the PSP would dominate its setting, as there is no significant topography that would background the buildings from public vantage points. The PSP documentation contains a view analysis from Buckland Hill / Leighton Battery and Mount Lyell Park (see Figure 7 below), which indicates significant 'skylining', particularly from Buckland Hill where the development would obscure views to Fremantle Port. The view analysis does not explore the visual impact from other coastal recreation areas, particularly Leighton Beach where the development would again be highly visible. Photographs contained in submission 165 of Attachment 1 – Schedule of Submissions, which were taken from Curtin Avenue above Leighton Beach, give some indication of this.



Figure 64. View Analysis - Buckland Hill Reserve



**Figure 7: View analysis – Buckland Hill / Leighton Battery and Mount Lyell Park**



As outlined above, the proposed PSP attempts to rewrite the height limits set within LPP 3.11 and the existing structure plan for the Site. While the view analyses that have been undertaken consider the visual impact of the development from Buckland Hill and Mount Lyell Park, they do not consider that it would have a significant visual impact on both the immediate locality and a large swathe of coastline.

#### Overlooking

Two submissions raised concerns about overlooking into adjoining properties. The setback of buildings is intended to minimise this; however, should the proposed PSP be approved, this would be assessed in detail against the Element Objectives of Section 3.5 of the R-Codes Vol. 2 as a part of any subsequent development application.

#### Overshadowing

Numerous submissions raised concerns about overshadowing of adjoining properties and the dunes at Leighton Beach. Overshadowing diagrams have been provided for showing the extent of shadowing toward Leighton Beach and the adjoining dunes in the early morning. These indicate that in winter there will be no overshadowing of the beach by 8:47 a.m. and no overshadowing of the dunes by 9:00 a.m., and in summer there will be no overshadowing of the beach by 7:05 a.m. and no overshadowing of the dunes by 7:18 a.m. However, the taller buildings would cast shadows over the beach and dunes prior to these times.

No overshadowing diagrams have been provided for the surrounding area, though based on those submitted and the proposed form, massing, and scale of the buildings, it is highly likely that long shadows will fall across the surrounding area throughout the day, including across the Cornerstone development, proposed developments at 130 Stirling Highway, parts of Rocky Bay Estate and the adjoining Taskers apartments. This would lead to any future development being inconsistent with the Element Objectives of Section 3.2 of the R-Codes Vol. 2, which require building layouts that optimise solar and daylight access within the development and minimise overshadowing of the habitable rooms, open space, and solar collectors of neighbouring properties during mid-winter.

#### **Roads and traffic**

Along with building height, most submissions against the proposed PSP raised roads and traffic issues as a key concern. Traffic in the area on McCabe Street is currently an issue in peak times, especially at the McCabe Street and Stirling Highway intersection. The low performance on McCabe Street, in its current configuration, will be heightened by additional traffic from future development and general traffic increases in the area. Upgrade of the intersection will be required as development on McCabe Street is realised.



To address these issues, the proponent initially submitted a Traffic Impact Assessment (TIA) in support of their application, which modelled three scenarios. It had been prepared in accordance with the Western Australian Planning Commission's Transport Impact Assessment Guidelines for Developments: Volume 2 – Planning Scheme, Structure Plans and Activity Centres Plans (2016). However, Main Roads WA advised that the TIA did not consider the development impact upon the wider network, as traffic modelling without development for the years 2025 and 2035 had not been provided. Subsequently, the applicant has submitted a revised TIA modelling six scenarios, including 2025 and 2035 without development.

The analyses of the traffic impacts of the development that would be accommodated by the proposed PSP, in conjunction with the proposed development at 130 Stirling Highway, have been carried out for the following intersections:

- Stirling Highway / McCabe Street
- Stirling Highway / Coventry Parade
- McCabe Street / McCabe Place
- McCabe Street / Access Two

The identified intersections have been analysed using the SIDRA analysis program. This program calculates the performance of intersections based on input parameters, including geometry and traffic volumes.

The six scenarios that have been modelled are:

- Scenario 1 – 2022 Existing Traffic without Development (AM and PM)
- Scenario 2 – 2025 Traffic without Development (AM and PM)
- Scenario 3 – 2025 Traffic with Development (AM and PM)
- Scenario 4 – 2035 Traffic without Development (AM and PM)
- Scenario 5 – 2035 Traffic with Development (AM and PM) – Stirling Highway Access Corridor Study (SHACS) intersection upgrades only
- Scenario 6 – 2035 Traffic with Development (AM and PM) – SHACS + Proposed Coventry Parade modifications

Peak times selected are 8:00 AM to 9:00 AM and 4:00 PM to 5:00 PM respectively for the morning and afternoon peak periods on weekdays based on mid-block traffic volume data provided on Main Roads WA Traffic Map.





According to the TIA, the Stirling Highway / McCabe Street intersection operates at capacity for Scenarios 3, 4, 5 and 6 due to the combination of traffic growth along Stirling Highway and future development traffic from the surrounding area. It is likely that further intersection upgrades will be required to ensure that there is sufficient capacity to accommodate the anticipated future traffic demand. As demonstrated by the Scenario 4 results, even with the exclusion of any development, future intersection upgrades will be required.

The TIA also indicates that the Stirling Highway / Coventry Parade intersection would generally operate at an acceptable level of service in all scenarios, with the exception of right turn movements from Coventry Parade, which are expected to experience significant delays. This is due to the high volumes of traffic along Stirling Highway as well as the lack of a central median for a staged crossing which increases the difficulty for this movement. The TIA suggests that there are potential opportunities to modify this intersection to allow for a left-in-left-out and right turn-in configuration, in order to improve traffic operations at this intersection as well as the Stirling Highway / McCabe Street intersection. As shown in the Scenario 5 analysis, the modified layout results in significant improvements to the intersection with reduced vehicle queues and delays.

The TIA indicates that the McCabe Street / McCabe Place intersection is expected to operate at an acceptable level of service for all scenarios. The analysis shows that queues extend through the roundabout along McCabe Street, which is in line with site observations. Despite the queuing, the impacts are relatively minor as the roundabout operates at an acceptable level of service (LOS B for the worst operating movement for Scenario 3, 5 and 6) with minimal queuing at the Site access approaches.

The McCabe Street / Access 2 intersection is expected to operate at an acceptable level of service for all scenarios.

The TIA states that as it is for a structure plan, road and intersection mitigation measures/upgrades are considered to be beyond its scope and ultimately the responsibility of the authorities who manage the intersections/road network.

The revised TIA has been referred to Main Roads WA for their comment; however, at the time of writing, no response has been received.

Notwithstanding, Main Roads WA has advised that existing parking on McCabe Street will require removal to enable future road upgrades to occur and that the development will contribute to additional traffic onto McCabe Street. Main Roads WA recognises that this development is not the sole contributor to additional traffic in this location, and so only a partial financial contribution to road upgrades should be sought, noting that two significant development sites (being 130 and 140 Stirling Highway) are located in this precinct. Therefore, Main Roads WA has recommended the developer enters into a deed of agreement with them, which is a planning mechanism that allows the State to obtain a partial



monetary contribution from a developer towards road network upgrades. State Planning Policy 3.6 – Infrastructure Contributions refers to such mechanisms.

Further, Main Roads WA has advised that land within the primary regional road reservation, as identified on the Land Requirement Plan 1.7143-1, will be required in the future to upgrade the Stirling Highway / McCabe Street intersection. This land would be required to be ceded free of cost to the State as result of the proposed development. However, this is complicated by the presence of the existing office building on the Site, which has been found to have some heritage significance and should be conserved. This is explored further in the 'Heritage' section below.

Land within the primary regional road reservation would also be required to facilitate the new roundabout at the McCabe Place / McCabe Street intersection. This land would be required to be ceded free of cost to the State as result of the proposed development, while construction of the roundabout would be required to be funded by the developer.

The Site is also partially located within the Stirling Highway Activity Corridor Study (SHACS) area. As outlined in the report for the MRS Amendment 1210/41 (March 2012), the concept designs that inform SHACS inform the future road reservations. For reference purposes, Main Roads WA has provided the relevant concept design plans for SHACS. The purpose of the Carriageway Plan drawing no. 1.7222 is for guidance only and should not be treated as a definite plan. The Carriageway Plan is under review and there is no current timeframe to complete the review.

Should the proposed PSP be approved, Main Roads WA has recommended a number of minor changes to wording to reflect its position. These are detailed in its submission included in the attachments.

In addition to Main Roads WA's review of the TIA, the Town Mosman Park has had an independent peer review of the initial three-scenario TIA carried out by i3 consultants WA. The key feedback from this peer review is that the TIA is flawed, noting the following:

- The TIA assigns generated traffic approaching the Precinct Structure Plan site from the south on Stirling Highway to Coventry Parade, a local road, and then redirects this traffic through the proposed Matilda Bay Brewery Site car park, i.e. private property, to access the site via McCabe Place, which is also a local road.
- The TIA also fails to identify pedestrian/ cycle and micro-mobility access points and connectivity to the external transport network, as well as the poor walking and cycling environment on Stirling Highway to each of the bus stops just north of McCabe Street, including lack of appropriate crossing facilities on Stirling Highway.



- There is also no acknowledgement that the traffic signals along Stirling Highway are part of a co-ordinated system and that modelling of the intersection may not have taken this into account.

The peer review considered that based on the assessment within the TIA, the proposed PSP would have an unacceptable impact on the Matilda Bay Brewery Site, both in terms of access via the Coventry Parade / Stirling Highway intersection and the introduction of through traffic in its car park.

The peer review recommends that the TIA be revised to include the following:

- Re-assignment of all arriving vehicular trips from the south on Stirling Highway turning right into McCabe Street and then left into the Structure Plan site.
- Remodelling of the correctly assigned traffic through a Main Roads WA reviewed and approved traffic model for the co-ordinated signals at the Stirling Highway / McCabe Street intersection.
- Remodelling (or removal) of the Stirling Highway / Coventry Parade intersection based on the only increased traffic being through traffic on Stirling Highway.
- Review of the trip generation rates used in the context of similar land uses in close proximity to transport corridors, e.g., TODs, including surveys of similar developments in similar environments to better reflect trip mode choices when public and alternative transport modes to single occupancy cars are more attractive due to congested highways and intersections at peak times.
- The correct and completed Checklist from Appendix A of Volume 2 of the WAPC Guidelines as well as a completed 'Transport impact assessment revision checklist', also included in Appendix A of Volume 2 of the WAPC Guidelines.

It was also recommended that Version 9.1 of SIDRA is used for the modelling tasks.

Further to the above, the following was noted regarding the TIA:

- Figure 6.13 of 6.7.3 (Scenario 3) sets out the SIDRA layout for Stirling Highway/McCabe Street (upgraded) identifies additional lanes in brown for a length leading up to (from the south-west and north-east) and away from (to the north-west and south-east) the intersection. The inherent problem here is that, largely on the southern side of the intersection (but also along the north-western side) there is existing built form to the front lot boundary which would not allow for this upgrade unless some land at the front of these lots was resumed. This is not discussed in the assessment. Notwithstanding the mix of land tenures existing in the vicinity of the intersection (two Crown and the remaining five freehold), and the MRS Primary Regional Road Reserve across the front of these lots,



resumption would still be required, which would result in likely partial or eventual full demolition of this built form in the immediate vicinity of the intersection.

- Within part 6.8 (Analysis Summary) notes in point one that ...“it is likely that further intersection upgrades will be required...” (for Scenarios 2 and 3). If Scenario 3 would result in likely land resumption towards the front of lots leading up to the intersection, then it is difficult to determine how a further upgrade would be possible without potential significant disturbance to existing lots in the vicinity of the intersection.
- The Town recommends that the traffic impact assessment should consider the overall cumulative effects of development in the wider area and how they will be mitigated.

Although the TIA was amended in accordance with Main Roads’ initial comments, the peer review comments have not been incorporated.

From the City’s perspective, Officers from the Infrastructure Engineering directorate have advised that current traffic count data shows that McCabe Street is at or above the maximum desirable traffic volume for a Local Distributor Road, without the additional traffic that will be generated by the development at 140 Stirling Highway.

The City of Fremantle has previously commissioned a study to assess the impacts of demand growth along both Stirling Highway and McCabe Street in the context of traffic congestion and multi-modal provision. The scenarios investigated include the full redevelopment potential of both 130 Stirling Highway and the Site, in addition to projected growth of Stirling Highway.

The outputs of the study focus on traffic operations and circulation within the nearby McCabe Street Precinct, and the constraints inherent in the local network that might induce mode shift to alternative transport modes. A range of potential road upgrade solutions have been investigated, including:

- Modifications of the Stirling Highway / McCabe Street signalised intersection;
- Extension of McCabe Place to Coventry Parade/Thompson Road; and
- Upgrades to the Stirling Highway / Coventry Parade priority intersection

The following recommendations were made:

- Modifications to Stirling Highway/McCabe Street (SHACS Upgrades)
- McCabe Street/McCabe Place Roundabout
- Right Turn Lane at Stirling Highway/Coventry Street Intersection. Main Roads WA has also suggested consideration be given to moving this right turn lane to the Stirling Highway/Craig Street as an alternative.



- Coventry Parade/Thompson Road/Matilda Bay Access Roundabout.

The City has also conducted a traffic investigation on the latest February 2023 traffic count figures for McCabe Street between Taskers Place and McCabe Place, as it was the closest section to the proposed development:

- The assessment used the average Annual Weekday Traffic (AWT) figures for this section of 6,071 AWT.
- Highest scoring section of the assessment was centred around traffic volumes as the maximum desirable volume of 6,000 vehicles per day had already breached.

With an assessment score of 85 points, the result pushed McCabe Street firmly into the high end of the scale where results of greater than 50 points are denoted as 'technical problem sites'. Adding a further 350 dwellings, plus commercial tenancies will only exacerbate the problems already being experienced by road users along this street. During the a.m. peak period, queuing back in through the development will occur based on the lack of green time being proportioned to McCabe Street with Main Roads WA focus being on reducing congestion on Stirling Highway and having the highway free flowing.

A number of key assumptions should also be taken into account when assessing traffic impact:

- Traffic growth should be factored in, with a 3-4% increase per year as per Main Roads WA advice
- All developments for the McCabe Street sites should be assessed collectively, as the added vehicles from all developments will have a compounding effect on traffic in and through this area and costs associated with network upgrades should be shared amongst all development sites
- Main Roads WA altering the intersection of Stirling Highway and McCabe Street to include bus priority will not alleviate traffic congestion but will contribute to a more efficient public transport service through the area
- The double right-turn lanes proposed by Main Roads WA on the southern approach of Stirling Highway at McCabe Street will impact the McCabe Street layout, requiring dual lanes off the highway to take the volume of turning traffic
- Merging these lanes will happen late at the approach to the McCabe Place roundabout with possible queuing back out across Stirling Highway.

Infrastructure Engineering officers have also advised that with no access being granted by Main Roads WA from Stirling Highway and a proposed roundabout controlling a four-way intersection with McCabe Street and McCabe Place as the primary point of access from McCabe Street, supported by secondary access via an eight-metre wide laneway at the eastern end of the Site, the internal road network does not offer permeability through the Site to existing or previous



subdivisions in the Mosman Park or North Fremantle area. In effect, the internal road network is set up for access of residents to their properties with very little on-street parking for visitors to utilise if visiting the development.

The road reserves proposed also present as a high-specification cross section with landscaping and furniture typical of an activity centre. Previous examples of high-specification hard and soft landscaping for residential areas under the City's care have complicated asset maintenance. Not only do the areas require additional consultation and communication on the upkeep and use by the public and residents, but the areas have also had to incur a special area rate to offset the additional cost of maintaining the assets. This creates an additional layer of unnecessary administration. Furthermore, the adopted access road reserve width of 12 metres and laneway widths of 7-8 metres do not readily accommodate the machinery required to reconstruct the infrastructure into the future, without impacting residents who live adjacent to these roads.

While new roads service the needs of a community and are necessary for new growth areas, the proposed network within the development presents a disconnected one. A layout that does not rely on new City-controlled assets should be explored to reduce the incumbent costs of new assets for the City. Relinquishing green title for the rear residential lots is recommended and imposing a strata structure to care for the assets that will be used for these residents would be an equitable solution.

Ultimately, City officers would recommend not accepting gazetted title of the road reserves within the development, as they do not extend the City's network for the greater good of the wider community and are internally focused.

In view of the above, it is considered that the proposed PSP is inconsistent with the design principle of 'Functionality and build quality', as set out in SPP 7.0:

*Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.*

## **Parking**

Several submissions raised concerns around parking within the proposed PSP area. While a structure plan sets the general development provisions for a site; lot layout, setbacks, building height limits, potential land uses etc, it does not assign parking standards, which are set out in the Local Planning Scheme and R-Codes. Were the PSP to be approved, these standards would apply to any subsequent development on the Site. If any variation to parking standards were to be considered, this would also take place at the development application stage.





## **Public open space / green corridor and landscaping**

A small number of submissions have raised concerns that the public open space (POS) provided for in the proposed PSP would not adequately serve the wider community.

The proposed PSP includes areas of POS that would provide additional amenity for residents in the immediate surrounds, as would the proposed street trees and other planting and landscaping of public areas. The included staging plan indicates that the provision of the POS would form part of stage one of any subsequent development, were the PSP to be approved.

The PSP proposes a central “Green Heart” POS (POS 1), with the intention that ground level activation of Site 2 and Site 8 will present to this space, and provide an active and high amenity space at the centre of the site.

While spatially generous, POS 1 will be overshadowed by built form in the afternoons which may reduce the level of amenity and comfort for people. Its position within the middle of the site, surrounded and overlooked by significant apartment buildings may also discourage use and activation by the broader community. Climate analysis that includes sun and wind studies would be beneficial to ensure that wind tunnels are not created by the relationship of built form and open space, although these are generally not required until the development application stage. Overall, these factors are inconsistent with the design principles of ‘Landscape Quality’ and ‘Amenity’, as set out in SPP 7.0:

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.*

*Good design provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.*

The proposed PSP does not meet deep soil area requirements for development lots and ceding of 10% of the site for POS does not obviate this requirement. The PSP includes development controls that are proposed to amend deep soil area provision to 5% of site area (rather than 10% under the R-Codes Vol. 2) for Site 1, Site 2 and Site 3. No amendment in deep soil area is proposed for Site 8; however, it is unclear how deep soil area would be provided on this site consistent with the R-Codes Vol. 2. The PSP does not include an intent to pursue alternative strategies where deep soil area provision is inconsistent with the R-Codes Vol. 2 (e.g. significant planting on structure in lieu of deep soil area). Medium density housing sites (Site 4, Site 5, Site 6 and Site 7) are required to meet provisions for landscaping and deep soil area, as specified in State Planning Policy 7.3 – Residential Design Codes of Western Australia – Volume 1, Part C: Medium Density (R-Codes Vol. 1, Part C). However, the PSP states that open space percentages are not applicable, which is at odds with the





intent of the R-Codes. In addition, deep soil areas are not indicated, nor are provisions consistent with minimum tree requirements.

The proposed street layout and design do not support good, long-term landscape quality outcomes. The proposed width of internal street verges (1-2 metres) is insufficient for native and / or high-amenity shade trees, while the intent for a median in Ceded Street 1 is unnecessary. Ceded Lane 1 has no provision of trees, which will contribute to negative impacts on amenity, including contribution to the urban heat island effect. It is also unclear whether the dimensions of Ceded Lane 2 and the adjacent verge space will support functional and sustainable shading trees in the long term.

The pedestrian connection from McCabe Place through to the Buckland Hill green space is not particularly intuitive and legible, as there is lack of clear sightlines between these two pedestrian entry points into the site. Furthermore, this pedestrian connection could have been utilised to establish a legible green link through the site as envisioned by the City's Greening Strategy. Similarly, the service area space on the east side of Site 3, in concert with Ceded Lane 2 presents as an illegible and low amenity space for pedestrians. The proposed PSP is therefore inconsistent with the principle of 'Legibility' set out in SPP 7.0:

*Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.*

## **Heritage**

Two submissions raised concern about the potential loss of the office building at the corner of Stirling Highway and McCabe Street, with one highlighting that it has previously been assessed by heritage architects who determined that it has some heritage value.

The proposed PSP states that:

*"This PSP gives significant regard to the heritage character of the North Fremantle Heritage Area stated under this policy, ensuring the surrounding heritage amenity is protected. However, as there are no 'contributory' heritage places within the Precinct area, the approval of this structure plan is not subject to any statutory controls defined in this policy. Additionally, subsequent development facilitated by this PSP will not be subject to the provisions of LPP 3.6, pursuant to Section 3 of LPP 3.6, which states:*

*'This section of the policy applies to all development requiring planning approval within a heritage area except that within Development Areas subject to an approved structure plan, local development plan and / or design guidelines.'"*



The proposed PSP further states that:

*"As previously discussed, the site does not contain any European or Indigenous Heritage that needs to be protected or given regard to prior to development occurring. However, the Precinct is situated in a culturally rich area surrounded by natural heritage and as well as built heritage surrounding the site, identified as the wider North Fremantle Heritage Precinct under LPP 3.6. Pursuant to LPP 3.6, new development is to be respectful of the established historical character of the surrounding area by means of materiality and landscaping. The subject site has previously received subdivision approval in 2020 from the WAPC (Application No. 158953) to subdivide the subject site into two lots. As part of this subdivision approval, the WAPC have granted the demolition of all buildings onsite, inclusive of the office building on the corner of McCabe Street and Stirling Highway."*

However, this statement is incorrect, insofar as the Site does contain a place of heritage significance, the objectives of SPP 3.5 and LPP 3.6 require that development respond to the historic character of the surrounding area in more ways than just materiality and landscaping, and the WAPC's subdivision approval is not a grant of approval for demolition of any buildings on the Site.

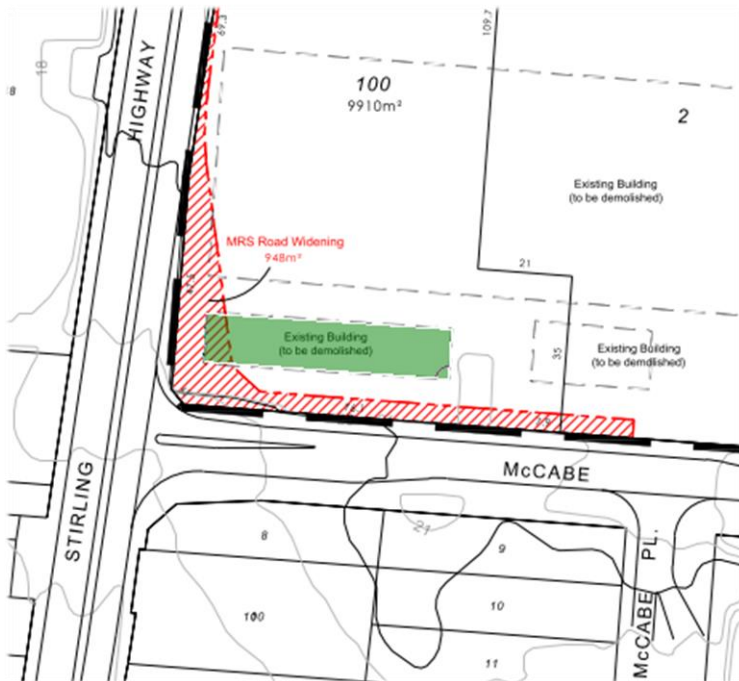
The office building at the corner of Stirling Highway and McCabe Street has been assessed as having some heritage significance after a development application for demolition of all structures on the Site was referred to the 15 January 2020 Planning Committee. This report included a recommendation for approval of the demolition, though at the meeting concerns were raised regarding the heritage significance of some of the structures on site, and the Planning Committee subsequently resolved that:

*"The item be referred for further information to the next appropriate Planning Committee to allow for Officers to undertake research into the potential heritage significance of the existing building."*

City officers' original recommendation for approval of demolition was predicated on the belief that the site had been assessed for significance at the time of creation of the approved structure plan in 2009, which required the complete demolition of all structures on the lot. However, subsequent research reveals that the heritage assessment within the structure plan only included a search of the Heritage Council database and not an actual assessment of any structures on site to capture heritage significance that may have been missed.

Further, there has been recognition in recent years that cultural significance is not strictly limited to buildings constructed prior to or around the turn of the 20th Century. Previously, and when the City's Municipal Heritage Survey (formerly Municipal Heritage Inventory) was first created, the prevailing view was that generally only those buildings built prior to around the 1940s were worthy of retention, with some exceptions. However, it has come to be recognised that good examples of architectural trends and cultural eras also contribute to the

historic significance of the area. The office building that stands on the Site, constructed in 1956 / 1957, is one such building.



**Figure 8: Existing office building in relation to proposed road widening**

Following the Planning Committee decision, the City commissioned Hocking Heritage to assess the buildings on the Site, and their full assessment is included as an attachment. The report finds that the office building (shown in green in Figure 8 above) is predominantly intact and has aesthetic, historic and social significance, being an intact example of the 1950's New Bauhaus architectural movement and representing the post-war international architectural style, with its distinctive cubiform shape and regular rhythm of fenestration along the key elevations. The report assesses the three buildings on the site (the Office, Warehouse, and incidental Amenities Building located directly across from McCabe Place) as follows:

*"On an individual basis the Office Building is of primary significance due to its rarity as a largely intact example of a Post-WWII International style building. Although the original building was extended in the 1960s, the additions were to the same design and construction and the original design intent of the building was not compromised as a result of the additional bays. Although roof cladding has been changed and additional signage has been added, the building still clearly represents the original architectural style.*

*The Warehouse building as an individual element is of secondary significance. The building is of simple utilitarian construction and clearly represents a warehouse development. An additional bay was constructed to the same designs in the early 1970s which complemented the original construction. Whilst the warehouse is*



*largely intact, it does not demonstrate the same rarity value as the office building, hence the lower level of significance.*

*The Amenities Building is also of the Post-WWII International Style though on a smaller scale and is more simplistic in its presentation. The building architecturally connects with the office building through material palette but lacks the finesse and detailing of the main building and therefore demonstrates a secondary level of significance."*

State Planning Policy 3.5 – Historic Heritage Conservation states that "*demolition approval should not be expected simply because redevelopment is a more attractive economic proposition, or because a building has been neglected. Consideration of a demolition proposal should be based upon the significance of the building or place; the feasibility of restoring or adapting it, or incorporating it into new development; the extent to which the community would benefit from the proposed redevelopment; and any local planning policies relating to the demolition of heritage places.*"

In line with this, the City would seek conservation of the place due to its historic heritage significance. However, as touched on above, the situation is complicated by Main Roads WA's land requirements for road widening and upgrade of the Stirling Highway / McCabe Street intersection, which would result in approximately two bays of the office building having to be demolished. Although this would compromise the building's integrity and authenticity somewhat, its construction in multiple bays would allow it to be altered without losing its essential character. Notwithstanding, it would be the City's preference for the building to remain intact, noting that the plans for road widening are, at this time, a concept only and may be subject to change. Furthermore, Main Roads WA does not have a timeframe for this work and it may not transpire at all.

SPP 3.5 also outlines relevant considerations for development within a heritage area, which include:

- *Whether the proposed development responds sympathetically to the heritage values of the area as a whole and that part of the heritage area in the vicinity of the proposed development.*
- *Whether the siting, scale, style and form, materials and finishes of the proposed development responds sympathetically to the heritage values of the area.*
- *The local planning policy for the heritage area including any places designated of heritage significance and the objectives and guidelines for conservation and enhancement of the heritage area.*

The objectives of LPP 3.6 are to ensure that:

- *A consistent approach is applied to the assessment of heritage significance and impact.*



- *Development is undertaken in a sympathetic manner which does not cause loss of historic cultural heritage significance.*
- *Key features which contribute to an understanding of cultural heritage significance are retained and enhanced.*
- *Development within heritage areas responds to the specific characteristics of an individual heritage area as outlined in the area's statement of significance.*
- *Existing places and fabric located in Heritage Areas which are, or may become, of cultural heritage significance are protected until such time as mapping of Contributory Places has been completed and any significant fabric added to the Heritage Area mapping and/or the Local Heritage Survey, or as otherwise determined by Council upon planning application*

The existing structure plan for the Site limits most buildings to a height of approximately four or five storeys, which is broadly in keeping with the scale of the larger industrial buildings that stand or stood in the vicinity. Provision was made for a taller building of up to approximately eight storeys at the corner of Stirling Highway and McCabe Street as a 'gateway' or 'entry statement' for Fremantle. However, it appears that little or no consideration was given to the principles enshrined in SPP 3.5 at the time of assessment. Notwithstanding, the more modest scale and finer grain of the built form provided for in the existing structure plan is more in keeping with the established built form of the surrounding area, including the larger former industrial holdings and the apartment developments to the east.

The proposed PSP does not make mention of SPP 3.5 and discounts LPP 3.6 from consideration, because the development control provisions contained therein do not apply to the Site. However, it is important not to lose sight of these principles in assessing the PSP, as its built form controls will shape any future development applications over the Site. The development control principles set out in SPP 3.5 are as follows:

- Development within a heritage area should respect and complement the heritage significance of the area as identified in the local planning policy. 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.
- Alterations and additions to existing buildings should be designed and sited in a manner that respects and complements the heritage significance of the area.
- A general presumption should apply in favour of retaining buildings that make a positive contribution to the significance of the area. Any new buildings erected in heritage areas should be designed and sited in a way that respects and complements the heritage significance of the area. New



construction that is imaginative, well designed and harmonious should not be discouraged.

It is acknowledged that the apartment developments to the east of the Site are thoroughly contemporary in their execution and do not relate particularly well to the characteristics of the broader North Fremantle Heritage Area. However, they are of a more modest scale than what is proposed as part of this PSP and do not have such a significant impact upon the on the wider landscape, nor the views from public vantage points on Buckland Hill and at Mount Lyell Park. It is considered that development on a lesser scale could still achieve the desired density, particularly with a reduction in the commercial offering on the Site. This would be more in keeping with the lower-rise, finer grained character of the surrounding area.

The current WAPC approval for subdivision of the Site into two lots is conditional upon the buildings on the Site being demolished. However, this is not in itself an approval for demolition. A separate development approval for demolition would be required before any work could commence and at the present time, demolition of the office building has not been approved.

### **Public transport**

The subject site has access to high frequency bus services along Stirling Highway, though only the south-western corner of the Site is inside the 800-metre walkable catchment from North Fremantle train station.

Several submissions have called for the reinstatement of a Leighton train station; however, this is beyond the scope of the proposed PSP.

Access to northbound buses is poor, owing to the location of the pedestrian crossing on Stirling Highway and the lack of a footpath on the western side of the road. The bus stops to the south of the Site are approximately 300 metres away from the centre of the development and again, pedestrian access across to the stop on the western side of Stirling Highway is poor, owing to the lack of a pedestrian crossing point. The Public Transport Authority (PTA) has advised that it welcomes collaboration with all parties to explore opportunities to integrate bus stop infrastructure with the subject site, though the selection of appropriate bus stop locations is determined by the PTA's bus stop infrastructure team to ensure safety and suitability of the location for bus operations. The PTA has also noted the significant level difference between the development site and Stirling Highway and has advised that this should be carefully considered in delivering walkable public transport outcomes.





## **Active transport**

A number of submissions have highlighted the harsh pedestrian environment on Stirling Highway and McCabe Street around the Site. It is acknowledged that the proposed PSP would go some way to improving the pedestrian environment and may provide alternative pedestrian routes, though the public footpath on Stirling Highway would still run along the edge of the road, next to traffic travelling at 60 km/h. The narrow verge on McCabe Street would likely be widened as a result of the development, which would improve the pedestrian environment by creating a greater separation between the footpath and the road.

Several submissions also highlighted the lack of cycling infrastructure in the locality and the risks this poses to cyclists. The PSP documents do not indicate the inclusion of separate cycle lanes within the development, though these streets would be low-speed and, in many cases, shared surfaces. However, the installation of cycle lanes in the wider locality is outside the scope of this proposal.

## **Beach access / pedestrian crossing**

The PSP documents make mention of potential for a new pedestrian bridge to Leighton Beach; however, Main Roads WA have asked that this be removed from the document, as there are no future plans or funding available for a pedestrian crossing over Stirling Highway. The applicant has subsequently elected not to remove the reference from the document, contending that it emerged from the community needs assessment.

A number of submissions also drew attention to the lack of safe crossing points on Stirling Highway, with some requesting the installation of an over or underpass. As above, Main Roads WA control the Regional Road Reserve and have indicated that there are no plans or funding available for a crossing of this type. However, should the PSP proceed and the Stirling Highway / McCabe Street intersection be upgraded, there may be scope for improvements in this regard.

## **Noise / disturbance**

Main Roads WA and the Public Transport Authority both provided advice on the proposed PSP highlighting that State Planning Policy 5.4 – Road and Rail Noise applies to the preparation and assessment of structure plans where a noise-sensitive land use (i.e. residential dwellings) within 200 metres of a significant traffic route and 100 metres of a passenger railway.





The Public Transport Authority (PTA) has advised that the Preliminary Transportation Noise Assessment (Lloyd George 2022) concludes that *"noise from passenger trains is negligible relative to road traffic and therefore no longer considered"*, because the recorded noise level measurements (road traffic) of 68.3 dB <sub>L<sub>Aeq</sub>(Day)</sub> and 64.6 dB <sub>L<sub>Aeq</sub>(Night)</sub> exceed the noise exposure category of 56 dB for rail, determined under SPP 5.4 and the distance from the rail (70 – 80 metres). Therefore, both the PTA and Main Roads WA have advised that future subdivision and development applications for the Site will be required to undertake a noise assessment and noise management in accordance with SPP 5.4. This would include:

- a noise assessment and noise and/or vibration management plan, prepared by a suitably qualified consultant, in accordance with SPP 5.4
- Section 165 or 70A notifications on titles, in accordance with model subdivision conditions.

Some public submissions also expressed concerns around the potential for noise and disturbance associated with the proposed development. While it is acknowledged that an increase in population will bring additional noise to the area, there is nothing to suggest that apartments would generate any more noise or disturbance than single homes. It is likely that with largely internalised living spaces, there may be less impact from an apartment building than from single homes.

### **Dwelling diversity / affordable housing**

A small number of submissions raised the question of whether the proposed development would include affordable housing. The PSP document makes mention of dwelling diversity but refers primarily to Liveable Housing Australia Design Quality Marks, which are representative of liveability considerations and future adaptability for aged persons or those with disabilities. It is unclear what the dwelling diversity mix would be in terms of dwelling size, which is often more indicative of likely affordability, though the attendant diagram indicates that most would be family dwellings.

### **Property value**

Several submissions raised concerns regarding the potential negative impact on local property values. However, this is not a valid planning consideration and cannot be taken into account in assessment of the proposal.



## **Liveability**

One submission against the proposed PSP highlighted concerns around the liveability of high-rise, high-density apartments, citing negative impacts upon social cohesion and physical and mental health and wellbeing. The R-Codes Vol. 2 contains extensive design provisions to ensure the best possible liveability in such developments. Notwithstanding, questions over the social, and physical and mental health effects of apartment living are not valid planning considerations and cannot be taken into account in assessment of the proposal.

## **Schools**

A small number of submissions raised the question of whether local schools could cope with the additional population that the proposed PSP would facilitate. The Department of Education's asset planning division has been asked to comment on the proposed PSP; however, at the time of writing, no response has been received.

## **Waste**

Several public submissions raised concerns around how waste would be collected within the proposed PSP area. Although waste management would typically be dealt with in detail at the development application stage, it is important to understand how waste would be removed from the Site. City officers requested that the applicant submit a waste management strategy to give some understanding of how this would be achieved. However, the applicant has only provided a basic plan indicating vehicle access points to buildings, with a note that *"Vehicle height clearance, turning circles and frequency of visit within each lot will be determined at development application stage and based on waste generation and bin types used."* Unfortunately, this does not adequately address how a 24-ton HR waste vehicle will access bin presentation areas throughout the structure plan area (the City's waste collectors will not access private property to collect bins), particularly where a side-arm loader is used due to the clearance needed. Although landfill waste bins from multiple dwellings may be collected by a rear-loaded vehicle, currently recycling and FOGO bins are only collected by a side-arm loader. Rear-loading vehicles may be used to collect large landfill waste bins from multiple dwellings; however, questions over access, turning areas, loading bays and bin presentation areas remain. Again, this is inconsistent with the design principle of 'Functionality and Build Quality', as set out in SPP 7.0.



## **Emissions and carbon footprint**

One submission raised concern around the emissions and carbon footprint from development that may result from the proposed PSP. It is acknowledged that the construction of large buildings is responsible for the emission of carbon dioxide into the atmosphere and that the ongoing operation of such buildings also generates a significant carbon footprint; however, this is not a valid planning consideration and cannot be taken into account in assessing the proposal, as there are no legislative or policy frameworks that prevent development on this basis.

Notwithstanding, SPP 7.0 does set out the design principle of 'Sustainability':

*Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.*

The proposed PSP contains requirements that buildings on sites one, two, three and eight achieve a minimum five-star Green Star Target under the Green Building Council Australia Green Star scheme, and a minimum five-star NABERS (National Australian Built Environment Rating System) rating, and achieve carbon neutral operation within three years of completion, although the report does not contain specifics. New buildings are also subject to energy efficiency requirements set by the National Construction Code. These measures would go at least some way toward ameliorating emissions and the subsequent carbon footprint.

## **Fire and evacuation**

Two submissions raised concerns around the ability to fight fire and evacuate the tall buildings that could arise from the proposed PSP. While this is not a valid planning consideration and cannot be taken into account in assessing the proposal, were the PSP to be approved, any future buildings would be required to comply with relevant aspects of the National Construction Code that pertain to fire separation / compartmentalisation, fire suppression systems, and evacuation paths. DFES fire fighters are trained and suitably equipped to fight fires in multi-level buildings, regardless of their location.



## **Environment / wildlife**

Numerous submissions against the proposed PSP make references to the environment, with three specifically mentioning local wildlife. However, the subject land is a former industrial site and has been largely cleared of vegetation, providing little habitat for wildlife, other than some remnant native trees on the periphery of the Site. Should the proposed PSP be approved, any future development would incorporate tree planting and landscaping which would, at the very least, provide places for birds to rest and forage. Shrubs and other plants would provide a habitat for insect species, and potentially cover for small animals, though they are less likely to be found in an urban environment.

## **Asbestos**

Two submissions have raised concerns about demolition of the existing warehouse structure, due to asbestos having been used in its construction. This matter would be addressed at the development stage, when a demolition licence would be required for removal of the structure. Demolition work involving asbestos materials is subject to regulation and may only be carried out by a licensed contractor, who would implement measures to ensure that asbestos fibres are not released into the environment.

## **Water quality**

Two submissions against the proposed PSP raise questions over potential impacts upon local water quality. The Local Water Management Strategy (LWMS) submitted in support of the application states that groundwater is at a depth of approximately 20 metres below the existing site level. Although this may fluctuate with the tide, it is considered that with such significant separation, a pre-development groundwater level and quality monitoring program is unnecessary.

The LWMS further states that the aim of Surface Drainage Management for the subject land is to generally manage the water flows so that water treatment happens on site for minor events and that the major storms are controlled to the required flow rates off the subject land.

The stormwater analysis provided has considered both the City of Fremantle's general drainage requirements as well as the pre- and post-development site characteristics.



The Post development scenarios have been designed to meet the City's requirement of:

- The 1% AEP flow rate matches the 5% annual exceedance probability (AEP) natural state flow rate
- No direct connection to the City's drainage network due to the limited infrastructure and capacity in the current street drainage.

This is due to the constrained nature of the downstream stormwater system on McCabe Street and Stirling Highway. All roads and POS and landscaping areas, other than a small section of the entrance road and the individual lot areas within the unit site, are assumed to discharge to bioretention gardens. The gardens have been designed to be approximately 2% of each catchment, excluding the building roofs. When the bioretention gardens overtop, the water flows to underground storage units.

The small portion of entrance road and individual private and commercial lots within the unit site area are assumed to flow directly to underground storage units. These roof runoff areas are assumed to produce relatively clean water, which is the reason for sending this water directly to the underground storage, while the other areas were deemed to be impractical to direct to bioretention gardens. A pre-treatment structure will be installed prior to the main underground storage to capture coarse litter and sediment.

In general, private lot water will be detained within the lot for the 5% AEP event, with excess flows being directed to storage within the POS or potentially storage under roads. This extra storage in the roads and POS is then used to bring the flow leaving the Site down to the pre-development 5% EP for the 1% AEP post development.

The Site's flows were generally split so that stormwater will continue to shed to the north-west and south as it currently does.

It is therefore considered that the proposal would have no impact on local water quality, due to the separation from groundwater and the on-site stormwater management solution.

### **Air quality**

One submission raised the prospect of air quality being affected by increased traffic volumes. While this is not a valid planning consideration and cannot be taken into account in assessment of the proposal, the Department of Water and Environmental Regulation undertakes air quality monitoring across the state and researches its impacts. The RAC also maintains the RAC Air Health Monitor, which gives Western Australians access to real-time air quality information.



## **Sustainability / e-charging infrastructure**

A number of submissions raise questions around the types of sustainability measures that would be employed in any future development under the proposed PSP and whether e-charging infrastructure would be provided. Details of sustainability measures and e-charging infrastructure (particularly public infrastructure) are generally not required at the structure plan stage. An exception to this is where an aspect of development may be conditional upon achieving a sustainability outcome. However, the proposed PSP contains requirements that buildings on sites one, two, three and eight achieve a minimum five-star Green Star Target under the Green Building Council Australia Green Star scheme, and a minimum five-star NABERS (National Australian Built Environment Rating System) rating, and achieve carbon neutral operation within three years of completion. If the PSP is approved, any subsequent development applications would detail further sustainability measures and e-charging infrastructure, though many of these are voluntary or could be provided via negotiation with the developer.

## **Wind**

Several submissions raise concerns over potential effects on wind speed and direction resulting from the construction of tall buildings as proposed in the PSP. Wind studies are not required at the structure plan stage; however, were the PSP to be approved, any subsequent development applications would be required to include wind studies to ensure that there are no detrimental impacts on the surrounding area in this regard.

## **Light pollution**

One submission raised concerns over light pollution: both sunlight reflecting from heavily-glazed structures and light spill during hours of darkness. Generally, reflections are unavoidable, though many new structures employ anti-reflective coatings or tinting to reduce these effects. Lighting design to minimise light spill during hours of darkness can be implemented relatively easily and is typically a condition of development approval. Notwithstanding, these factors would be dependent on the specific design of any future development, which is not known at this stage.



## **Conclusion**

In conclusion, City officers have significant concerns that the proposed PSP attempts to create a new Local Centre outside of the established hierarchy of activity centres set in the Central Sub-regional Planning Framework contained within Perth and Peel@3.5million, which could significantly undermine the vitality and viability of the established Mosman Park Local Centre and North Fremantle District Centre. Similarly, the proposed PSP deviates from the strategic direction set by the draft Fremantle Local Planning Strategy (2022), which identifies potential for only a neighbourhood centre or local store at McCabe Street.

City officers also consider that the built form and urban layout proposed in the PSP are flawed in a number of ways, in particular that the building height would represent significant overdevelopment of the site to the detriment of local character, views of significance and the visual amenity of the wider area, and would result in significant overlooking and overshadow of surrounding properties, particularly where variations to the design elements of R-Codes Vol. 2 are being sought. Furthermore, the overshadowing resulting from the excessive building height would compromise the amenity of the proposed POS, which would be located at the centre of the development. To approve buildings of such height in a sensitive coastal location would also set an undesirable precedent for future coastal development in the Perth metropolitan area.

The overall layout contained in the proposed PSP lacks permeability, and though it is acknowledged that this is limited by the closed nature of adjoining developments, it does not invite the wider community to make use of the public spaces, but rather favours residents and those visiting the Site for its various commercial offerings. POS 2 is particularly enclosed and would only realistically serve adjoining residents. The internal road network is of a high specification and would only exist to serve the development, yet the applicant wishes to cede the public open spaces and the road network to the City, which would then be responsible for their ongoing upkeep. The applicant has also not satisfactorily demonstrated how waste collection vehicles would access the development.

In addition, the development would place significant pressure on the local road network, particularly the Stirling Highway / McCabe Street intersection which will eventually fail to deliver an acceptable level of service. While it is acknowledged that the relevant authorities, primarily Main Roads WA and the City, must resolve network issues and that the developer is willing to contribute to future road upgrades, such overdevelopment of the site will only serve to accelerate the failure of the intersection.

Of final note, the existing office building has been assessed as having some heritage value, though the proposed PSP does not consider this, instead intimating an intention to demolish all buildings on the site.





For these reasons, it is recommended that Council submit this report and attachments to the WAPC with a recommendation that the WAPC refuse the proposal.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.

## **OFFICER'S RECOMMENDATION**

### **Council**

- 1) Note the submissions received as detailed in the Officer's report and Attachment 1**
- 2) Pursuant to Regulation 20 of the Deemed Provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, submit this report and attachments to the Western Australian Planning Commission with a recommendation that the Commission refuse the proposed Precinct Structure Plan for the following reasons:**
  - (i) The proposal effectively seeks to create a new Local Centre, per State Planning Policy 4.2 – Activity Centres for Perth and Peel / draft State Planning Policy 4.2 – Activity Centres, which is not provided for in the established state and local strategic planning frameworks, including Perth and Peel@3.5million, the Fremantle Planning Strategy (2001), and the draft Fremantle Local Planning Strategy (2022).**
  - (ii) The proposal is inconsistent with the principles for development within a Heritage Area, as set out in State Planning Policy 3.5 – Historic Heritage Conservation.**
  - (iii) The proposal is inconsistent with the design principles contained in State Planning Policy 7.0 – Design of the Built Environment.**
  - (iv) The proposal is inconsistent with a number of the objectives of State Planning Policy 7.2 – Precinct Design, specifically:**
    - Response to and enhancement of the distinctive characteristics of the local area**
    - Integration of landscape design that enhances sustainability outcomes**
    - Built form height and massing that is responsive to existing built form, topography, key views and landmarks, and the intended future character of the area**
    - Delivery of a sustainable built environment through passive environmental design measures, adaptive reuse of existing structures and promotion of active and public transport modes**



- **Provision of comfortable public spaces that encourage physical activity and enable a range of uses**
- **Provision of a place that is easy to navigate with clear connections and good lines of sight**
- (v) **The proposed built form controls seek numerous variations to the primary controls set out in State Planning Policy 7.3 – Residential Design Codes – Volume 1, Part C – Medium Density and Volume 2 – Apartments without sufficient justification.**
- (vi) **The proposal is inconsistent with the principles set out in the Visual Landscape Planning in Western Australia manual.**
- (vii) **The proposal does not nominate a zoning and the land use table is incompatible with City of Fremantle Local Planning Scheme No. 4.**
- (viii) **The proposal does not meet the broad objectives of Local Planning Policy 3.6 – Heritage Areas, particularly with regard to conservation of the existing office building on the Site.**
- (ix) **The proposal is inconsistent with the building height limits set out in Local Planning Policy 3.11 – McCabe Street Area, North Fremantle – Height of New Buildings and will likely result in significant visual amenity impacts on the immediate locality and wider area, significant overlooking and overshadowing of adjoining properties.**
- (x) **The proposal would place significant pressure on the local road network, resulting in failure of the Stirling Highway / McCabe Street intersection to deliver an adequate level of service.**
- (xi) **The proposal seeks to cede its road network and public open space to the City of Fremantle when they are internally focused and would not serve the greater good of the community.**



## **11. 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.

## **12. 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.

## **13. 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.

## **14. Confidential business**

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

## **15. Closure**