



# Minutes

## Ordinary Meeting of Council

Wednesday 12 March 2025 6:00 pm



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## **Official opening, welcome and acknowledgement**

The Presiding Member declared the meeting open at 6:02pm and welcomed members of the public to the meeting.

The Presiding Member informed members of the public that the meeting was being recorded and streamed live on the internet. They further advised that while all care is taken to maintain privacy, visitors in the public gallery and members of the public submitting a question, may be captured in the recording.

## **Attendance, apologies and leave of absence**

### **Attendance**

Ms Hannah Fitzhardinge	Mayor/Presiding Member
Cr Jenny Archibald	Deputy Mayor/Central Ward
Cr Geoff Graham	Central Ward
Cr Adin Lang	Coastal Ward
Cr Andrew Sullivan	Coastal Ward
Cr Jemima Williamson-Wong	Coastal Ward
Cr Fedele Camarda	East Ward
Cr Ben Lawver	East Ward
Cr Frank Mofflin	East Ward
Cr Doug Thompson	North Ward
Cr Ingrid van Dorssen	North Ward
Mr Glen Dougall	Chief Executive Officer
Mr Matt Hammond	Director City Business
Mr Pete Stone	Director Creative Arts and Community
Mr Graham Tattersall	Director Infrastructure
Mr Russell Kingdom	Director Planning, Place and Urban Development
Ms Melody Foster	Manager Governance
Ms Chloe Johnston	Manager Development Approvals
Mr Patrick Ford	Manager Strategic Planning and City Design
Ms Emily Groves	Media and Community Relations Advisor
Ms Marie Vitanza	Meeting Support Officer

*There were approximately 15 members of the public and no members of the press in attendance.*



## **Apologies**

Nil.

## **Leave of absence**

Nil.

## **Applications for leave of absence**

Nil.

## **Disclosures of interest by members**

Cr Andrew Sullivan declared an impartiality interest in item number C2503-2 as he previously owned No.5 Letitia Road and undertook some architectural work for the previous owner of No.4 Letitia Road. Cr Sullivan stated that he was confident he could maintain impartiality during consideration of this item and would remain in the meeting.

Mayor Hannah Fitzhardinge declared an impartiality interest in item number C2503-4 as she has a number of regulated trees on her property. Mayor Fitzhardinge stated that she was confident she could maintain impartiality during consideration of this item and would remain in the meeting.

Cr Ben Lawver declared an impartiality interest in item number C2503-4 as he has a number of regulated trees on his property. Cr Lawver stated that he was confident he could maintain impartiality during consideration of this item and would remain in the meeting.

Cr Frank Mofflin declared an impartiality interest in item number C2503-4 as he has a number of regulated trees on his property. Cr Mofflin stated that he was confident he could maintain impartiality during consideration of this item and would remain in the meeting.

Cr Fedele Camarda declared an impartiality interest in item number C2503-7 as he sits on the committee of the Flat Sea Memorial Association. Cr Camarda stated that he was confident he could maintain impartiality during consideration of this item and would remain in the meeting.

## **Responses to previous public questions taken on notice**

Nil.



## **Public question time**

**The following members of the public spoke in relation to item C2503-7:**

James Para  
Arno Verboon  
Craig Sinclair  
Isabelle Antunes

**The following members of the public spoke in relation to item C2503-4:**

Nick Cook

**Pathika Jones spoke in relation to items not on the agenda, Cat Local Law and C2503-4, and asked the following questions:**

**Question 1:**

Following the Adoption of Tree Retention Local Planning Policy, will the Significant Tree Register be addressed and brought to Council?

**Response by Officer:**

With regards to the status of the Significant Tree Register, it is still in operation, though few trees are on it. Effectively this policy affords the same level of protection to all trees, understood as regulated trees, as those trees currently on the register in that a Development Approval is required to seek their removal.

**Question 2:**

Is the Cat Local Law coming back into question during tonight's meeting for discussion?

**Response by Mayor Fitzhardinge:**

There is an item where there is a number of Local Laws basically listed; we are doing a Local Law review. There is no specific proposal about the Cat Local Law tonight. That is subject to a different process.

**Bill Massie spoke in relation to items C2503-4 and asked the following questions:**

**Question 1:**

If a person decides to keep the tree lopped below the height specified, can that tree be removed without approval?

**Question 2:**

What species of tree are we talking about?

**Question 3:**

When sewer lines and roofs get damaged, will Council accept responsibility for that? Or will the owner have to take responsibility for something that the Council has put in place especially when there is no requirement or approval required to plant the tree.



**Response by Officer:**

If that lopping was not in order to kill the tree, it would be acceptable under the policy. Its maintenance that is intended to permanently harm or ultimately kill the tree, that the policy is identifying as the problem. The policy identifies that damage to infrastructure can be grounds to seek a development approval to remove that tree. It also reflects on species that might not be included, Palm Trees identified in this case because of the low degree of canopy impact but they can also affect infrastructure.

**The following members of the public spoke in relation to item C2503-1:**

Mack McCormack

**The following members of the public spoke in relation to item C2503-2:**

Rohan White

**Petitions**

Nil.

**Deputations**

Nil.

**Presentations**

Nil.

**Confirmation of minutes**

**COUNCIL DECISION**

**Moved: Cr Geoff Graham**

**Seconded: Cr Ingrid van Dorssen**

**Council confirm the minutes of the Ordinary Meeting of Council dated 26 February 2025.**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorssen**

**Against:**

**Nil**

**7/72**



## **Elected member communication**

Nil.



## Reports and recommendations from officers

### Planning reports

#### **C2503-1 SOUTH TERRACE, NO. 234 (LOT 27), SOUTH FREMANTLE - TEMPORARY SHELTER ADDITION TO EXISTING EDUCATIONAL ESTABLISHMENT - (JD DA0289/24)**

<b>Meeting date:</b>	12 March 2025
<b>Responsible officer:</b>	Manager Development Approvals
<b>Voting requirements:</b>	Simple Majority Required
<b>Attachments:</b>	1. Amended Plans
<b>Additional Information:</b> <i>(viewed electronically)</i>	2. <a href="#">Cover Letter - Temporary Shelter Addition</a> 3. <a href="#">Site Photos</a>

#### **SUMMARY**

**Approval is sought for a temporary shelter addition to an existing Educational establishment at No. 234 (Lot 27, 29, 300 and 301) South Terrace, South Fremantle.**

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

- **Heritage and built form**

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

#### **PROPOSAL**

##### **Detail**

Approval is sought for a temporary shelter addition to an existing Educational establishment at No. 234 (Lot 27, 29, 300 and 301) South Terrace, South Fremantle (subject site). The proposed works include:

- Construction of a dome canopy shelter structure placed on top of sea containers with the following specifications/ setbacks:
  - 21m in length (on South Street aspect) by 12.2m in width (on South Terrace aspect).
  - 2.6m wall height (base), 7.8m maximum overall height (top of canopy).



- 8m north lot boundary setback from South Street.
- 6m west lot boundary setback from South Terrace.
- 6m east lot boundary setback.
- 10.4m south lot boundary setback.

The applicant submitted amended plans on 21 February 2025 which included the following changes:

- Sea container walls to be replaced by open framed galvanised steel tube walls.
- 4m wall height, 10m maximum overall height.
- 8.25m west lot boundary setback from South Terrace.
- 8.35m east lot boundary setback.
- Additional detail on dome canopy cover material in polyethylene fabric.

Amended development plans are included as Attachment 1.

The use of the site, being Educational establishment is a 'P' land use within the Mixed Use zone which means that the use is permitted by the Scheme and is not under assessment in this application.

**Site/application information**

Date received:	20 September 2024
Owner name:	Glowmark Nominees
Submitted by:	Mack McCormack
Scheme:	Mixed Use Zone R30
Heritage listing:	South Fremantle Precinct Heritage Area
Existing land use:	Educational Establishment
Use class:	Educational Establishment
Use permissibility:	P

**City of Fremantle  
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## **CONSULTATION**

### **External referrals**

Nil required.

### **Community**

This application involves a temporary shelter addition associated with a permitted land use. As such, advertising in accordance with clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* was not required.

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

#### *City of Fremantle Heritage*

The subject site is a corner block which addresses streets of varying character. New development fronting South Terrace should fit with the scale and massing typical of this street and respond to the form, materials and details of surrounding development. New development fronting South Street should step down towards the adjoining residential houses and be sympathetic with the scale, form, massing materials and details of the surrounding development

The scale, massing, form, materials and detailing of the proposed temporary shelter are not sympathetic with the surrounding development on either South Terrace or South Street. However, If the temporary shelter has a fixed lifespan with a removal date and will not set a precedent for future development on the subject site, or in the surrounding area, then this proposal may be acceptable.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application the areas outlined below do not meet the policy provisions:

- Heritage and built form

The above matters are discussed below.

### **Background**

The subject site features an existing boat sales yard and office. The site is a corner lot fronting South Street to the north and South Terrace to the west and adjoins a residential lot to the east and shops and residential dwellings to the south. The site is zoned Mixed Use under LPS4 and is within the South Fremantle Precinct Heritage Area. No. 234 South Terrace consists of four (4) lots featuring a combined land area of 1321m<sup>2</sup> as detailed in the table below.



<b>ADDRESS</b>	<b>LANDOWNER</b>	<b>VOL.</b>	<b>FOLIO</b>	<b>AREA (M<sup>2</sup>)</b>
Lot 27 (No. 234) South Terrace, South Fremantle	Glowmark Nominees Pty Ltd	1965	368	445m <sup>2</sup>
Lot 29 (No. 234) South Terrace, South Fremantle	Glowmark Nominees Pty Ltd	1965	369	438m <sup>2</sup>
Lot 300 (No. 234) South Terrace, South Fremantle	Glowmark Nominees Pty Ltd	1965	368	48m <sup>2</sup>
Lot 301 (No. 234) South Terrace, South Fremantle	Glowmark Nominees Pty Ltd	1965	369	390m <sup>2</sup>

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

- Motor Vehicle Car Wash – DAP004/24 (this is a current active application which is yet to be determined)
- Change of use to boat sales yard and office and the construction of a 1.8m high chainmesh fence – DA250/88A – 1990
- Change of use to real estate offices/marine broker/travel agency and the extension of existing office
- Carport addition to south east corner of site – 8624/1975
- Office and workshop construction for a car sales yard – 1974

**Local Planning Policy 3.6 – Heritage Areas**

The proposed open framed temporary shade structure is proposed to provide shelter for people attending the site for training purposes. The applicant has advised that they do not wish for this to be a permanent structure.

<b>3.6 Infill development (new buildings)</b>	
<b>3.6.1 Intent</b>	
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	<b>Officer Comments</b> The immediately surrounding area is characterised by single to two storey dwellings and low scale commercial



<p>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.</p>	<p>developments. Many of these properties are heritage listed and while diverse in their age have similar characteristics, including hipped/gable roofing.</p> <p>There are also some newer developments, that pick up other features of the commercial or industrial buildings in the area.</p> <p>While the proposed open framed shade structure does not respond to the architectural style and built form of the immediate adjoining sites, this type of structure is commonly installed on sites being utilised for industrial purposes, like those within 250m of the subject site. The proposed shade structure could be considered as being generally consistent with marine/industrial aspects of the built form in the South Fremantle area.</p> <p>In addition, the structure is to provide shelter for people attending the site for training purposes and is sought for a temporary period only.</p>
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**3.6.2 Design guidance**

<p><b><i>Siting and Scale</i></b></p> <p>i. New infill development within a heritage area should:</p> <p>a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns.</p> <p>b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then the new infill</p>	<p><b><i>Officer Comments</i></b></p> <p>The proposed shade structure is inconsistent with the street setback pattern of South Street and South Terrace however, it is an open framed structure which should not have a significant impact the</p>
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<p>development should also be (or present as) single storey (at least to the front section of the lot).</p> <p>c) Have a plate height consistent with the original street pattern. New developments often propose a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.</p> <p>ii. New Infill development to secondary streets will be assessed on individual circumstances and merit. Issues to consider include:</p> <p>a) Prevailing streetscape and setbacks of the side street</p> <p>b) Avoiding a continuous wall and providing articulation of walls to a secondary street.</p> <p>c) Avoiding a two-storey height wall to the side street, unless the prevailing streetscape is predominantly two-storey.</p> <p>iii. Street setbacks deemed to comply with the above are specified in Schedule 1 for some areas.</p>	<p>built form alignment along either street.</p> <p>The structure is proposed to be 10m in maximum height. The adjoining site to the south (240 South Terrace) features a maximum building height of 9.6m. The proposed shade structure is generally consistent with the scale of this building.</p> <p>It is recognised that the structure will be significantly greater in height than the dwelling to the east on South Street, however, a temporary structure on a site that was, up until recently, a boat yard, may be an acceptable option to assist in activating the site prior to more substantial redevelopment that more closely resembles the existing built form pattern.</p>
<p><b>Building Form</b></p> <p>The form of the building is its overall shape, size and the general arrangement of its main parts.</p> <p>i. New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing.</p> <p>ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.</p> <p>iii. The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.</p> <p>iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.</p> <p>v. Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</p>	<p><b>Officer Comments</b></p> <p>The shade structure which is a simple, open framed design, is not considered to address these criteria appropriately. However, that the surrounding area is in transition and does have an eclectic mix of uses and building forms so it is recognised that if this structure is approved for a temporary period only, it may not have a significant impact.</p>



<p><b>Materials, Colours and Detailing</b></p> <p>i. Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.</p> <p>ii. Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.</p> <p>iii. Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical precedent for their use can be demonstrated.</p>	<p><b>Officer Comments</b></p> <p>The proposed shade structure is simple open framed design and does not seek to mimic or emulate any heritage detailing. The structure is covered in a polyethylene fabric (shade cloth) over steel framing, this will not result in any significant glare or glossy appearance.</p>
<p><b>Other Elements</b></p> <p><i>Roofs</i></p> <p>i. Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.</p> <p>ii. Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.</p> <p><i>Verandahs / Porches / Awnings</i></p> <p>i. Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing.</p> <p><i>Doors and Windows</i></p> <p>i. All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.</p>	<p><b>Officer Comments</b></p> <p>The dome roof structure is inconsistent with the surrounding built form which is predominantly characterised by more traditional hipped or gable roofing. However, it is proposed to be temporary and its simple, basic design on a site that has been a light industrial site for some time may render it appropriate for a temporary approval.</p>



ii. Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.	
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The policy objectives seek to ensure that development within heritage areas responds to the specific characteristics of the place, as outlines in the areas statement of significance.

The South Fremantle Heritage area has a diverse history, inclusive of residential and industrial development. Noting this site is in relative close proximity to the harbour and working commercial area, on balance, it is acceptable that the site is occupied temporarily by a industrial style structure.

**CONCLUSION**

While the proposed dome shelter structure does not reflect the key objectives of the heritage area, the temporary nature of the proposal and the justification to provide shelter for people attending the site for training purposes, may render it appropriate for a time limited approval. The structure should not involve significant works to remove from the site once the approval expires or a more substantial development be proposed. The shade structure will allow for improved usage of the site and should not result in any significantly detrimental impact on the heritage significance of the surrounding area compared to the historical land uses on the site.

**STRATEGIC IMPLICATIONS**

**Thriving City - Attraction and retention of diversified investment and talent**

- Fremantle holds a reputation as a desirable place to work and visit which attracts investment from businesses and developers.

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**VOTING AND OTHER REQUIREMENTS**

Simple Majority Required



**COUNCIL DECISION ITEM C2503-1**  
**(Officer's recommendation)**

**Moved: Cr Ben Lawver**

**Seconded: Cr Jenny Archibald**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Temporary Shelter Addition to an Existing Educational Establishment at No. 234 (Lot 27, 29, 300 and 301) South Terrace, South Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 21 February 2025. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Notwithstanding Condition 1, the temporary shelter addition must be removed from the site two (2) years from the date of this decision letter, 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.**

**Advice note(s):**

- 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. In relation to condition 2 above, the applicant may apply to extend the development approval for the temporary shelter addition prior to the expiration date.**
- iii. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the South Street or South Terrace road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).**



**iv. 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.**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorsen**

**Against:**

**Nil**



**Cr Fedele Camarda declared an impartiality interest in the following item.**

## **Motions of which previous notice has been given**

### **C2503-7 NOTICE OF MOTION – FISHER’S LOST AT SEA MEMORIAL PROPOSAL – CR FEDELE CAMARDA**

**Meeting date:** 12 March 2025  
**Responsible officer:** Chief Executive Officer  
**Voting requirements:** Simple Majority Required  
**Attachments:** 1. Flatsea Memorial Presentation

#### **ELECTED MEMBER SUMMARY**

This concept was started by a small group of passionate volunteers forming the W.A. Fishers’ Lost at Sea Memorial Association with the intention of collecting, researching and documenting tragedies that have befallen the WA Commercial Fishing, Pearling and Whaling Industries.

They are dedicated to the recognition of the hundreds of fisher men and women who have lost their lives in pursuit of the development and operation of Commercial Fishing in Western Australia since early settlement.

It is a considerable task, but one that ultimately seeks to provide a final resting place in the form of a Physical and Virtual Memorial to honour those we have lost, and to provide a place of remembrance for the family and friends who are connected with each tragedy.

The aim is to build a Sea Organ Memorial to honour those who have been lost at sea.

The purpose of this Notice of Motion is to seek in principle support from the City of Fremantle to find a suitable location to build the Sea Organ Memorial.

#### **OFFICER COMMENT**

City officers have reviewed the proposal provided by the W.A. Fishers’ Lost at Sea Memorial Association. Based on the proposed construction of the Sea Organ Memorial, it is advised that it would be better suited in a location with existing sea walls and deeper water, such as the inner harbour. This would require appropriate approvals by either Fremantle Ports or the Department of Transport.



Should the proposal progress, it is recommended that a feasibility study be undertaken to ensure a suitable location is identified for the memorial. This could be considered within the budget process.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

### **COUNCIL DECISION ITEM C2503-7** **(Elected Member's Motion)**

**Moved: Cr Fedele Camarda**

**Seconded: Cr Ben Lawver**

#### **Council:**

- 1. Supports the concept Fisher's Lost at Sea Memorial Associations proposal to develop a Sea Organ Memorial in an appropriate location.**
- 2. Request that a financial contribution of \$10,000 be considered as part of the annual budget process to undertake a feasibility study.**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorsen**

**Against:**

**Nil**



**Cr Andrew Sullivan declared an impartiality interest in the following item.**

## **Planning Reports**

### **C2503-2 LETITIA ROAD, NO. 3 (LOT 14), NORTH FREMANTLE - DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION OF TWO STOREY SINGLE HOUSE – (JD DA0392/24)**

<b>Meeting date:</b>	12 March 2025
<b>Responsible officer:</b>	Manager Development Approvals
<b>Voting requirements:</b>	Simple Majority Required
<b>Attachments:</b>	1. Development Plans
<b>Additional Information:</b> <i>(viewed electronically)</i>	2. <a href="#">Site Photos</a>
	3. <a href="#">Heritage Assessment</a>
	4. <a href="#">Applicants Justification Letter</a>

#### **SUMMARY**

**Approval is sought for the demolition of an existing Single house and construction of a two storey Single house at No. 3 (Lot 14) Letitia Road, North Fremantle.**

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

- **Demolition**
- **Primary street setback**
- **Lot boundary setback**
- **Building height**
- **Visual privacy**

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

#### **PROPOSAL**

##### **Detail**

Approval is sought for the demolition of an existing Single house and the



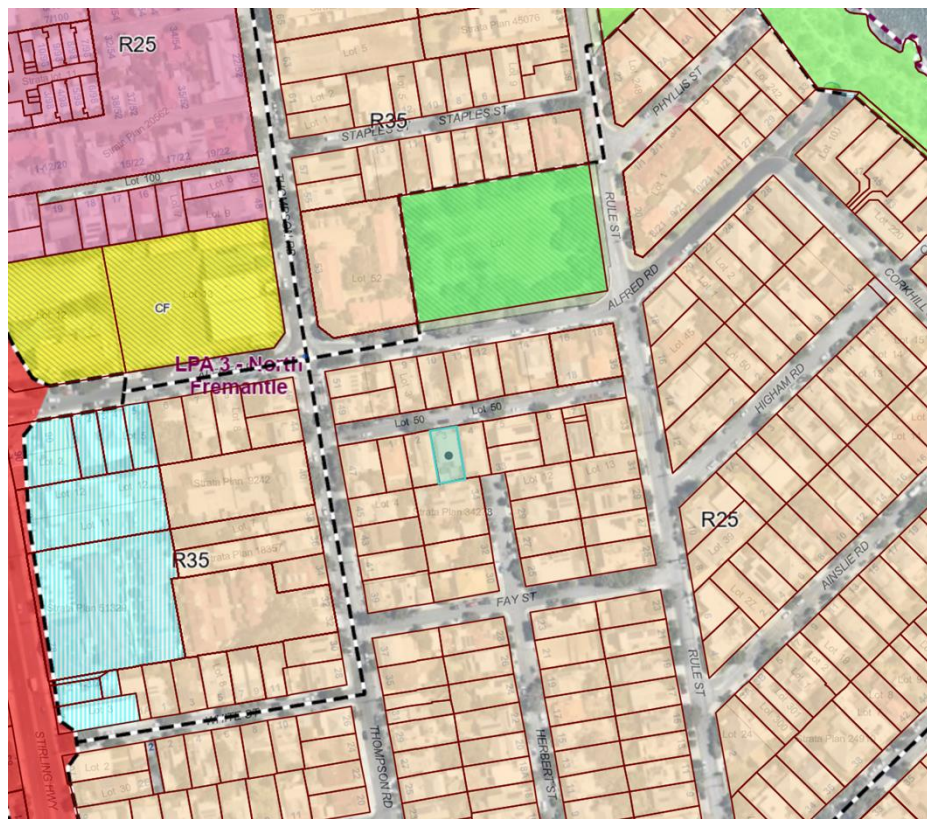
construction of a two storey Single house at No. 3 Letitia Road, North Fremantle (subject site). The proposed works include:

- Demolition of the existing Single house and all incidental outbuildings/ structures.
- Construction of a three (3) bedroom, two (2) bathroom, two storey Single house.
- Modification of the existing crossover and the construction of a new driveway.
- Carport with balcony and roof garden.

Development plans are included as Attachment 1.

**Site/application information**

Date received:	16 December 2024
Owner name:	Timothy Macpherson & Angie Pritchard
Submitted by:	Rohan White
Scheme:	R25
Heritage listing:	North Fremantle Precinct Heritage Area
Existing land use:	Single house
Use class:	Single House
Use permissibility:	P



**Figure 1 – Zoning and location map**



## **CONSULTATION**

### **External referrals**

Nil required.

### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought merit-based assessments against the Residential Design Codes (R-Codes) and local planning policies. The advertising period concluded on 17 January 2025, and one (1) submission was received, raising the following concerns (summarised);

- Concerns related to the proposed height of the development.
- Concerns with loss of views of significance - particularly the views to the west of Rottnest and the ocean.
- Impacts from overshadowing on neighboring property.
- Strongly oppose the non-compliant setbacks as it will affect the liveability of dwelling at No. 4 Letitia Road North Fremantle

In response to the above, the applicant provided the following response to the concerns raised:

1. *The submission indicates that the building height exceeds Local Planning Scheme 4 requirements. However, as per the local planning scheme **D.G.N13, 2.2.3 Flat Roof Construction**, council may allow an additional external wall height (from 5.5) of up to a maximum 1.5 metres (7m) to allow for parapet construction or a façade treatment. That would certainly be the case here, and as per the local planning scheme, the proposed heights would be compliant. This is particularly true along the eastern boundary, which is only very slightly over the 5.5m at its highest point, and much lower (5.26m) from the natural ground line of the neighbour.*

*With regards to street setback, I refer to **Clause 5.1.2, C2.1(ii)** of the R-Codes (as per my cover letter) which indicates that a building may be set back from the street in a manner 'corresponding to the average setback of the existing dwellings on each adjacent property'. As can be seen on the attached site plan, the street setbacks of the adjacent buildings are 2.724m and 2.664 respectively. Both of these setbacks are less than the 2.8m we are proposing, and our design is therefore compliant with this clause.*



2. *With regards to the reduced side setback to the east. It should be noted that the neighbour to the east has a significantly higher natural ground line, with the maximum height of the wall from their level being under 5.3m (see east elevation). This reduces the impact of the upper floor wall in compliance with **Clause 5.1.3, P3.1** of the R-Codes which promotes lot setbacks that "reduce impacts of building bulk on adjoining properties". However, we are happy to discuss the setback of this eastern wall in more detail with the council following their feedback.*
3. *With regards to the overlooking western facing windows being overshadowed, we would simply say that the overshadowing of the proposed design is compliant with the R-Codes*

Building height, primary street setbacks and lot boundary setbacks are assessed in detail in the Officers Comment below.

The overshadowing from the development meets the Deemed to Comply criteria of the R-Codes.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Primary street setback
- Lot boundary setback
- Building height
- Visual privacy

The above matters are discussed below.

### **Background**

The subject site is currently improved by a Single storey weatherboard cottage and is located on the southern side of Letitia Road. The site has a land area of approximately 309m<sup>2</sup> and is zoned Residential and has a density coding of R25. The site is not individually listed; however, the dwelling is located within the North



Fremantle Heritage Area. The surrounding area is predominantly residential and is characterised by single and two storey dwellings to the west and two- three storey dwellings to the east. The existing site has a steep slope lot from the eastern side of the property to the west, by approximately 1.3 - 1.5m.

**Land Use**

A Single house is a 'P' use in the Residential Zone, which means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the scheme.

**Demolition and Heritage**

In determining an application for demolition, Council must be satisfied the criteria of clause 4.14.1 of LPS4 is achieved.

Clause 4.14.1 of LPS4 states:

*Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

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

As seen in attachment 4, No.3 Letitia Road has Little/ No Heritage Significance. It is also not a Contributory Place in the North Fremantle Precinct Heritage Area.

Therefore, the demolition of the existing house is supported under clause 4.14 of LPS4.

**Primary street setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Setback (wall height 4m or less)	5m	GF: 2.7m	2.3m
Setback (wall height >4m)	7m	FF: 3.4m	3.6m

Local Planning Policy 2.9 (LPP2.9) varies the primary street setback deemed to comply requirements of the R-Codes. In accordance with LPP2.9 the applicant seeks Councils relaxation under cl1.2 (i) which reads as follows:

*The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape;*



A review of the existing prevailing streetscape and the properties existing setbacks are as follows:

<b>Element</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Variation</b>
1 Letitia	5m - ground floor 7m – Upper floor	4.1m ground floor No upper floor	0.8m
2 Letitia		2.8m ground floor No upper floor	2.2m
3 Letitia		Subject site	
4 Letitia		3m ground floor 3 - 4.8m upper floor	2m 2.2m – 4m
5A Letitia		0m Basement 5.2m ground floor 5.2m upper floor	5m Nil 1.8 m
6 Letitia		6.3m ground floor 6.3m upper floor	Nil 0.7 m
7 Letitia		6.3m ground floor 7m (estimated) upper floor	Nil Nil

*Note: The upper floor setback as defined in LPP 2.9 refers to the main wall of the dwelling and excludes balconies and verandahs.*



**Figure 2 – Letitia Road setbacks**

Under LPP 2.9: Residential Streetscape, variations may be considered where they meet 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*
- 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 applicant seeks discretion under sub clause (i). As seen in the table above, the existing prevailing street consists of several properties which have dwellings of comparable building height and also include reduced primary street setbacks for both the ground and upper floors of these respective dwellings. In respect to the two immediate properties either side of the subject site, the setback proposed is comparable and will not result in an anomaly of alignment in this section of Letitia Road.

In regard to (ii), there is also a consistent fall in ground level along the entirety of Letitia Road (from east to west). Retaining walls in front setbacks, the steep slope and relatively narrow street provide an unusual streetscape setting, and reductions in setbacks contribute to its character.

In regard to (iv), there are houses on the eastern side of the subject property which also have an upper story that are not strictly consistent but do form part of the prevailing streetscape.

LPP 2.9 further states that greater weight may be given to the houses on either side. As shown in the table above, the ground and upper floor setbacks do vary significantly along this street but do so in a way which is consistent and gradually diminishes from east (7 Letitia Rd) to west (2 Letitia Rd). In the opinion of City officers, consistency with the streetscape will be maintained with the ground and upper floor setbacks as proposed.

The application has also been assessed against the relevant Design principles of the R-Codes and the setbacks are considered comply for the following reasons;

- The setback of buildings is consistent with that contained within the *prevailing streetscape* as outlined above in the table and aerial image.
- The proposed setbacks are consistent with the pattern of development contained within the broader Letitia Road streetscape.



- The lesser setback will not set an undesirable precedent for lesser setbacks to upper floors as it exists in a streetscape that does not contain features of heritage, streetscape or cultural significance.

**Lot boundary setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Eastern lot boundary setback	Upper floor wall (Master Bedroom WIR, Ensuite and Living Room): 1.7m setback (including no major opening)	1.2m	0.5m

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

- The development allows for sufficient access to direct sunlight and ventilation to both the subject site and the adjoining dwelling to the east with this elevation of the new dwelling being downhill from and excavated (0.3m to 1m) into site below the existing natural ground level of the adjoining eastern property.

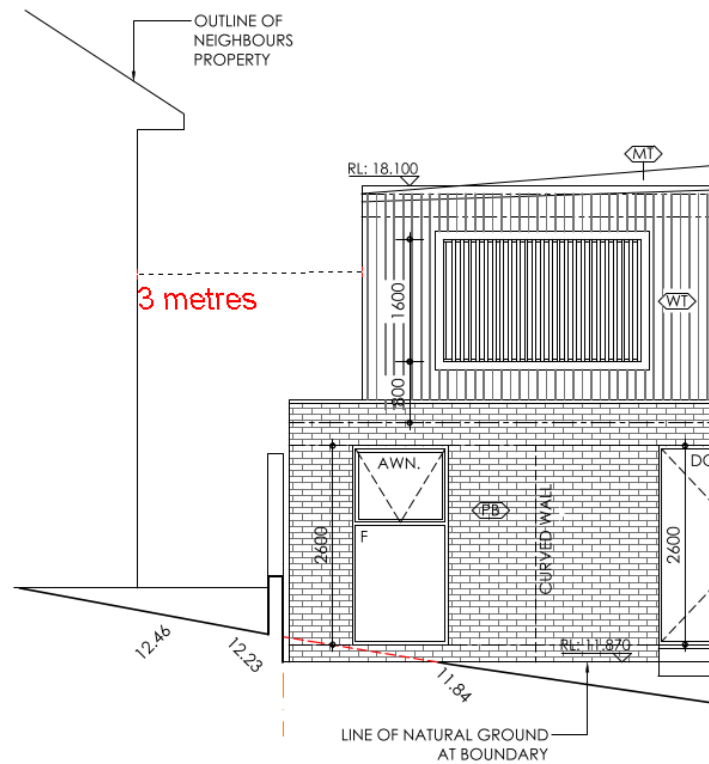


**Figure 3** - Subject site and existing single storey dwelling (right white house) and neighbouring eastern property (left brick house)

- The proposed upper floor of the dwelling is setback 1.2m and limited to 4.8m - 5.2m in height as seen from the neighbouring property helping reduce any potential bulk impacts on the adjoining property.



- As shown below, the upper floor setback of both respective dwellings allows for a 3m separation.



**Figure 4 – Elevation of proposed and neighbouring dwellings**

- The lesser setback does not result in any new merit-based decision relating to visual privacy.

**Building Height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Local Planning Area 3 (LPA 3) – North Fremantle: Height standards	Section 3.1: Building height shall be limited to a maximum of two storeys (maximum external wall height of 5.5 metres as measured from ground level with a maximum roof plain pitch of 33 degrees).	Two storeys 5.8m-7m wall height Max roof pitch under 33 degrees	Complies 0.3m – 1.5m Complies



The development seeks a wall height variation under clause 4.8.1.1 of LPS4, which states:

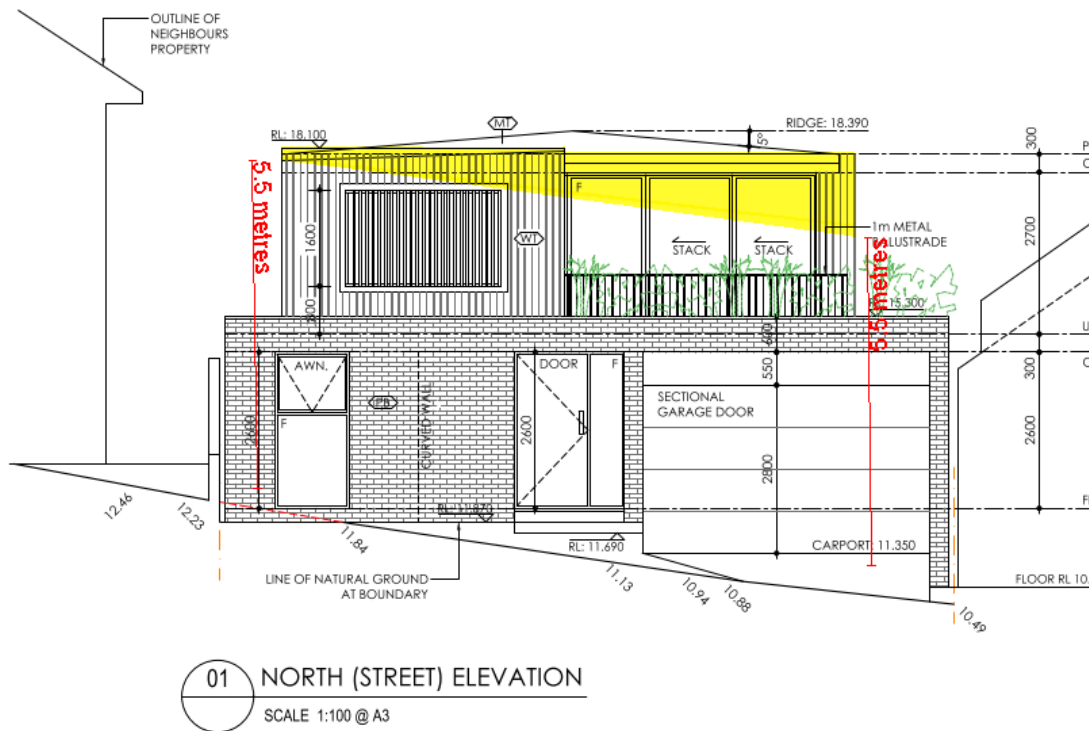
*Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 8, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—*

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

The eastern adjoining house (No. 4 Letitia Road) at a maximum of 5.9 m high, depicts a height greater than that depicted in the scheme, thus providing the trigger to assess the development under provisions (a) through (d) above.

Regarding (a), the development is not considered to be detrimental to the amenity of the adjoining properties in terms of building bulk, front setbacks, solar access, lot boundary setbacks, and visual privacy as discussed in turn in the following sections.

With regards to views of significance, the immediate eastern property on Letitia Road captures some ocean view/ glimpses towards the west and north of site like all other Letitia Road properties to the east of the site. Like other two storey developments along Letitia Road, the north south orientation of these allotments results in some impact to these existing views for the immediate eastern adjoining properties may be inevitable. However, the main significant ocean views captured to north and north west of site will be safeguarded and have been well considered in the design of the upper floor positioning of this development. As shown below in image 3, a compliant 5.5m wall height development would result in very similar built form building bulk when viewed from the eastern adjoining property, with the main wall height discretionary assessment being associated with the western side of the proposed development



**Figure 5** – External wall height discretion shown in yellow above.

Regarding (b), several houses in the immediate locality have been approved and constructed with a height greater than that proposed, notably No. 7,6,5a and 4 Letitia Road. On this basis, the development is not anticipated to set any undesirable precedent within the locality and is considered to graduate the scale between buildings of varying heights within the locality. In this regard, the proposal is considered to meet part (b).

In regard to part (c), none of the houses facing Letitia Road (Nos. 1-7) are heritage listed. However, the immediate southern adjoining site at No. 34 Herbert Street contains a dwelling recognised as being of significance for its contribution to the streetscape. On this basis, it is necessary that the Council is satisfied that the proposed addition will not detrimentally impact on the heritage significance of the adjoining property. As a means of guidance, the City’s D.G.N13, which applies to the general locality of the subject site states that mock historical style housing, poorly proportioned, with excessive use of reproduction will not be supported. On this basis, it is considered that the modern appearance of the proposal is consistent with the objective of this requirement in that there will be a clear distinction between the heritage and contemporary components of the streetscape. Having regard for the above, the proposal is considered to meet part (c).



Under part (d), Council is required to consider any other relevant matter outlined in the local planning policies. Accordingly, the City’s policy D.G.N13 outlines specific height guidelines for the area bound by Thompson Road, Alfred Road, Rule Street and Harvest Road.

The development is assessed against D.G.N13 as follows:

<b>D.G.N13 Maximum Requirements</b>	<b>Provided</b>	<b>Variation</b>
Wall Height: Two storey  5.7m + 1.5m for sloping sites = 7.2m	Two storey  6.6 m (Averaged in accordance with D.G.N13 11.63RL GL middle of site)	Complies
Roof ridge Height – 7.7m	6.9 m	Complies

*In granting consent to the maximum heights prescribed, Council shall be satisfied in regard to all of the following:*

- a) that the proposal is consistent with predominant height patterns of properties in the street block and the policy area generally,*
- b) the proposal would not be detrimental to the amenity of adjoining properties, and*
- c) the proposal would be consistent, if applicable, with conservation objectives for the site and any other relevant matter outlined in Council’s Development and Land Use Policy manual.*

Council may impose a lesser height in the event that the proposal does not satisfy any of the above requirements. For the identical reason outline above sub clauses a and b above. With regards to (c) as outlined in Attachment 4 the heritage assessment has reviewed the proposed development confirms the development compatibility with the north Fremantle Heritage Area and this immediate built form character of North Fremantle.

The proposal therefore satisfies the requirements of DGN13 and based on the above, the proposal meets part (d) of LPS4.

Finally, the criteria in LPS4 and DGN13, serve only to replace the deemed to comply criteria, and the proposal must be assessed against the design principles. It is noted that the criteria, which also talk to access to sunlight and daylight and access to views of significance, are considered above throughout the detailed assessment against LPS4 requirements and are considered to be met.



**Visual Privacy**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
<b>Ground floor</b>			
West - Rumpus Room	6m	1.5m	4.5m
West - Rear Verandah	7.5m	1.5m	6m
<b>Upper floor</b>			
West – Front balcony	7.5m	1.65m	5.85m
West – Kitchen window	6m	1.65m	4.35m
West -Dining room window	6m	2.25m	3.75m
West - Rear Balcony	7.5m	1.65m	5.85m
South - Rear Balcony	7.5m	6.8m	0.7m
East – Rear Balcony	7.5m	6.8m	0.7m

The proposed visual privacy variations which impact the eastern and southern adjoining properties at 4 Letitia Road and 34 Herbert Street are not considered to address the Design Principles of the R-Codes for the following reasons:

- The proposed upper floor balcony will results in direct overlooking over the adjoining neighbour’s existing outdoor living areas and habitable room windows and therefore cannot be supported under the design principles. Appropriate screening devices are required to restrict views within the cone of vision.

With regards to all western elevation openings to the upper floor and the front and rear balconies, given the existing built form on the western adjoining site and the large sloping topography from east to west no major openings and our exiting outdoor living area of this property will be impacted. The ridge roof and large boundary wall will act as sufficient screening preventing any visual privacy issues.



**Figure 6** - Showing subject site to the left and western adjoining property (No.2 Letitia Road) and its existing eastern elevation

## **CONCLUSION**

As discussed above, the proposed variations address the relevant design principles of the LPS4, R-Codes (except for visual privacy east and south) and policy provisions. As such, the proposed development is recommended for conditional approval.



## **STRATEGIC IMPLICATIONS**

This item is in keeping with the City of Fremantle's Strategic Community Plan 2024 – 2034:

### **Liveable City - Sustainable growth in city centre population**

- Fremantle is recognised as a development-friendly city as a result of flexible and adaptable approaches to planning.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **VOTING AND OTHER REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**Moved: Cr Geoff Graham**

**Seconded: Cr Jenny Archibald**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and Construction of two storey Single house at No. 3 (Lot 14) Letitia Road, North Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans dated 16 December 2025. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.**
- 2. The approved development shall be wholly located within the cadastral boundaries of their respective lots, being No.3 (Lot 14) Letitia Road, North Fremantle, including any footing details of the development.**



- 3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 4. Prior to lodgement of a Building Permit for the development hereby approved, a detailed drawing showing how the rear balcony located on the eastern and south elevations, are to be screened in accordance with Clause 5.4.1 of the Residential Design Codes by either:**
  - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
  - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
  - c) a minimum sill height of 1.60 metres above the internal floor level,**

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

- 5. Prior to the issue of a Building Permit, 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.**
- 6. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:**
  - a) A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.**
  - b) Digital photographs taken of the building (once vacated) to include:**



- i. a general/overall photo of the building to be demolished;**
- ii. photos of each of the four elevations;**
- iii. internal photos of all rooms; and photos of any special architectural features.**

**7. Prior to the occupation of the development hereby approved, modified vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**

**8. Prior to occupation of the development hereby approved, the boundary wall located on the eastern 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.**

**9. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**Advice note(s):**

- i. New/modified crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For the City's crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>**
- ii. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:  
[http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx)**



In accordance with clause 9.7 of the [Meeting Procedures Policy](#), Cr Andrew Sullivan moved the following alternative motion, as provided in the additional documents:

**COUNCIL DECISION ITEM C2503-2**  
**(Alternative motion)**

**Moved: Cr Andrew Sullivan**

**Seconded: Cr Ben Lawver**

Refer the application to the administration with the advice that Council is not yet prepared to grant planning approval to the application for the demolition of existing Single house and construction of two storey Single house at No. 3 (Lot 14) Letitia Road, North Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Ordinary Council meeting to consider submitting an amended proposal to increase the upper floor street setback. Regard should be given to reducing the impact on the streetscape and the amenity of existing dwellings, with suggestions including reviewing the upper level floor plan to increase the front setback in line with the portion of adjoining building immediately east of the subject site and reducing that part of the side setback to nil if required lot boundary setbacks. Any changes to the proposal may or may not result in additional discretions that require due consideration.

**Carried: 8/3**

**For:**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver  
and Cr Doug Thompson

**Against:**

Cr Geoff Graham, Cr Frank Mofflin  
and Cr Ingrid van Dorssen

**Reason for alternative motion:**

To improve the amenity for adjoining lots and the streetscape.



**Mayor Hannah Fitzhardinge, Cr Frank Mofflin and Cr Ben Lawver declared an impartiality interest in the following item, earlier in the meeting.**

**Cr Doug Thompson left the meeting at 7:14pm and returned at 7:20pm prior to the vote on the following item.**

**Cr Ingrid van Dorssen left the meeting at 7:15pm and returned at 7:18pm prior to the vote on the following item.**

## **Strategic and general reports**

### **C2503-4 ADOPTION OF TREE RETENTION LOCAL PLANNING POLICY**

<b>Meeting date:</b>	12 March 2025
<b>Responsible officer:</b>	Manager Strategic Planning and City Design
<b>Voting requirements:</b>	Simple Majority Required
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Draft Local Planning Policy 2.26 Tree Retention</li><li>2. Tree Retention Policy Engagement Report 13.02.2025</li><li>3. Draft Council Policy Trees on City Owned or Managed Land</li></ol>

### **SUMMARY**

**This report summarises the comments received during advertising of the City's draft Local Planning Policy 2.26 – Tree Retention (LPP 2.26) and any recommended changes. The report also recommends an update to the Trees on City Owned or Managed Land Policy to ensure the City's policy position for tree removal due to development is consistent with LPP 2.26.**

**This report recommends that Council adopt the amended LPP 2.26 and Policy.**

### **BACKGROUND**

The draft LPP 2.26 was created based on the Western Australian Local Government Association (WALGA) template and other similar recently adopted policies by nearby local governments. The intent of LPP 2.26 is to retain large canopy trees on private land in order to improve the urban forest, increase biodiversity, and counteract the urban heat island effect by encouraging site-responsive development. Typically, trees are lost at the development and subdivision stage when existing structures are typically demolished in their



entirety and the lot levelled. The policy aims to retain trees where possible, generally in setback areas, and encourage developers to design around existing mature trees.

At the 27 November 2024 Ordinary Council Meeting, it was resolved that Council:

1. *Endorses draft Local Planning Policy 2.26: Tree Retention as provided in Attachment 1 for the purpose of advertising, in accordance with Schedule 2, Clause 4 and 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
2. *Notes that any submissions received during the advertising period will be presented to Council for consideration.*
3. *Notes that other strategies for encouraging the growth of urban forest on public and private land will be explored and will be subject to a separate report, brought to Council in early 2025.*

## **FINANCIAL IMPLICATIONS**

It is not anticipated that the policy will introduce a substantial amount of additional work, as most tree removal applications are expected to be submitted as part of proposals for works on the lot. The amount of resource use in assessment will be monitored over the next few months to determine whether additional officer resources or changes to the policy are required.

Future consideration may be given to financial incentives where a mature tree is maintained on private land. This will be considered as part of budget deliberations if and once this policy is adopted.

## **LEGAL IMPLICATIONS**

This policy is based on a model policy provided by WALGA. This policy has been implemented by several local governments and is based on legal advice received by WALGA for the purpose of creating a model policy.

## **STRATEGIC IMPLICATIONS**

This item is in keeping with the City of Fremantle's Strategic Community Plan 2024 – 2034:



**Liveable City - Sustainably designed and optimised urban and natural environments**

- An increasing tree canopy that enhances biodiversity and helps cool our urban environments.

**CONSULTATION**

The policy was advertised through the City’s social media sites, community groups, and an ad in the local newspaper in accordance with Local Planning Policy 1.3 - Community Consultation on Planning Proposals. The policy was advertised for 28 days (exceeding the minimum 21 day advertising period) from 15 January 2025 to 12 February 2025. At close of advertising, 224 responses were received, 180 of which self-identified as residents. 76% supported the policy, 16% somewhat supported the policy, and 8% did not support the policy. The following themes emerged:

Support (76%)

<b>Comments</b>	<b>City Response</b>
Strong support for retaining mature trees on private and public land, and concerns about loss of tree canopy for biodiversity, resident health, and ecological value.	Noted
Support for trees to combat urban heat island effect and retain canopy cover.	Noted
Recommendation that protections should apply to more trees (i.e.: 8m height is too generous and should be reduced).	The intention is to protect large canopy trees. The policy needs and resource use will be monitored, and the policy will be periodically reviewed for efficacy.

Somewhat support (16%)

<b>Comments</b>	<b>City Response</b>
<b>Tree maintenance and safety concerns</b> Concerns about tree maintenance costs, difficulty, and potential hazards (roots damaging foundations, dropping limbs, etc.).	Maintenance costs, such as arborist reports, are costs that are generally incurred now, as large trees usually require specialist equipment and knowledge to ensure that the works do not harm the tree. Maintenance of trees incur costs in a similar manner as maintenance of a structure. The policy does not require approval for maintenance and has now been slightly modified to clarify this.



	This modification is discussed further below.
<p><b>Tree removal for development</b>  Support for stronger controls to protect mature trees when considering new subdivision, housing and infill.</p>	Stricter controls may be rolled out in the future depending on need and the implementation of current controls.
<p><b>Inappropriate tree planting</b>  Some trees unsuitable for small urban lots. Past inappropriate trees result in damage to properties.</p>	The policy allows residents to apply for tree removal on the proviso that they plant replacement trees.
<p><b>Policy strength and effectiveness</b>  Policy does not go far enough and should apply to smaller trees. Clearer guidelines needed on tree replacement, such as ensuring replaced trees provide adequate shade and habitat for wildlife.</p>	Stricter controls may be rolled out in the future depending on need and the implementation of current controls. The policy requires that replacement trees be capable of reaching 8m in height. Predicted heights of some tree varieties are in the City's Urban Forest plan, which provides for an easier assessment than relying on a variety of outside sources for the other criteria (canopy spread and trunk dimensions). Enforcement is under the Planning and Development Act 2005 which allows for fines of up to \$200,000 depending on the severity of the infringement. Any such fines would be imposed by a magistrate as a result of legal proceedings.
<p><b>Rights and responsibilities of property owners</b>  Concerns about private property rights, transparency of process, and ability to appeal decisions.</p>	The City already restricts development on private land in the form of development controls. This policy is no different and decisions can be appealed through the same process (i.e.: State Administrative Tribunal).

Not supportive (8%)

<b>Comments</b>	<b>City Response</b>
<p><b>Cost and bureaucratic burden</b>  High costs and red tape for maintaining or applying for removal, including arborist reports. Could lead to higher costs for ratepayers. Suggestions for a more incentive based approach.</p>	<p>It is anticipated that most tree removals will occur as part of the development approval process for other works and the additional costs will therefore be minimal. Council may wish to incentivise tree retention outside of the planning approvals process.</p>
<p><b>Policy fairness and effectiveness</b>  Policy is difficult to enforce and will not be enforced fairly.</p>	<p>This is a new policy for WA and nearby local governments will also grapple with the same issues. The policy is</p>



Results in excessive control. Should focus on redevelopment areas, not existing properties.	enforced under the Planning and Development Act 2005, which regulates all development decisions. If a proponent is aggrieved by a decision, they have the right to appeal to the State Administrative Tribunal.
<b>Private property rights and autonomy</b> Property owners should have a right to do what they want with trees on their property. Sets a dangerous precedent for local government control. Government overreach that creates more red tape.	Local legislation is necessary in the absence of any State regulations to retain urban canopy. Local governments regularly introduce regulation to control development in order to maintain amenity of an area. This is no different than the R-Codes or a local planning policy regulating street setbacks.

As part of the consultation, the City sought feedback on whether the policy should also apply to Industrial land. 80% of respondents supported this, 12% somewhat supported it, and 8% did not support this. The themes mostly aligned with those above:

<b>Comments</b>	<b>City Response</b>
Industrial areas are hotter than residential areas due to more hard surfaces and therefore need more vegetation to reduce urban heat island effect and improve conditions for workers and visitors.	Noted
Strong support for tree retention across the entire local government area.	Noted
Concerns about impact of tree retention on operations of industry uses and balancing tree retention with operational needs.	Trees could be considered for removal upon submission of an application.
Suggestions for a more incentive based approach.	Noted. Council may wish to incentivise tree retention outside of the planning approvals process.
Concerns that policy could dissuade people from planting trees.	Noted. Several City policies and the R-Codes require trees to be planted. However, it is noted that they are not required to be capable of reaching the size to be considered a regulated tree.

The full Community Engagement Report is included as Attachment 1.



**OFFICER COMMENT**

The main aims of the policy are to encourage site-responsive development to retain trees rather than a one-size-fits-all approach, and retain mature trees during demolition and subdivision until such time as a site-responsive development application is lodged that can retain trees. It is noted that there will be a degree of officer discretion as to what constitutes non-exempt tree-damaging activity. In that respect, it is similar to any local planning policy, as no planning policy can cover every conceivable circumstance. However, the intent of the policy is to prevent unnecessary wholesale removal of trees, not to prevent maintenance pruning and other tree care that is done in good faith. In order to clarify the intent and respond to some of the comments raised, a minor change has been made to the definition of “maintenance pruning” as follows:

<b>Previous Definition</b>	<b>New Definition</b>
<p>Maintenance pruning means pruning that:</p> <ul style="list-style-type: none"> <li>a) involves removing dead or diseased wood only; or</li> <li>b) is of a fruit tree and done for fruit production; or</li> <li>c) is otherwise minor maintenance or thinning of the crown that does not adversely affect the health, stability or general appearance of the tree or is to balance the tree.</li> </ul>	<p>Maintenance pruning means pruning that does not harm, or is not likely to harm, the health, stability, or long-term viability of a tree, such as:</p> <ul style="list-style-type: none"> <li>a) removing dead or diseased wood; or</li> <li>b) activity done to a fruit tree for fruit production; or</li> <li>c) works to balance the tree; or</li> <li>d) otherwise minor maintenance or thinning of the crown.</li> </ul>

This change makes it clear that removal of an overhanging branch would generally be considered exempt maintenance pruning, unless undertaken in such a way or to an extent that it would harm the viability of the tree.

The consultation process also revealed overwhelming support to extend the policy to land zoned ‘Industrial’. A brief desktop review finds that there are very few trees likely to meet the size to be considered a ‘regulated tree’ within the existing Industrial areas. Industrial areas are prone to the worst impacts of the urban heat island effect due the expanse of hard, absorptive materials prevalent in these areas. The few trees growing in these areas should remain where possible. The policy has therefore been amended to include Industrial areas. Further work on improving vegetation in non-residential areas will be carried out as part of the overall local planning policy review.

The final policy is included in Attachment 2.



A policy to protect trees on private land supports the absence of any State regulations in order to protect and enhance the urban forest. The policy will be regularly monitored and reviewed to ensure it is working as intended and to gauge the amount of resources required to enforce it. Council may wish to consider incentives for tree retention, such as grants or rates incentives, as a separate item if or when this policy is adopted. This consideration can be made when considering the annual budget.

Amendments to Other Local Planning Policies

Local Planning Policy 1.7: Development Exempt from Approval Under Local Planning Scheme No. 4 (LPP 1.7) currently exempts tree removal from requiring approval. Clause 31 is to be amended as set out below:

Existing Clause	New Clause
<p>31. Removal of trees or vegetation areas except where those which are identified on the Register of Significant Trees or Vegetation Areas, or where required to be retained on a site through a condition of development approval.</p>	<p>31. Removal of trees or vegetation areas <u>except</u> where:</p> <ul style="list-style-type: none"> <li>a) they are identified on the Register of Significant Trees or Vegetation Areas;</li> <li>b) they are required to be retained on a site through a condition of development approval; or</li> <li>c) it involves tree-damaging activity to a regulated tree and is not exempt as set out in Local Planning Policy 2.26: Tree Retention.</li> </ul>

The 'Statutory Background' section of Local Planning Policy 2.23: Register of Significant Trees and Vegetation Areas includes a reference to the existing tree exemption clause in LPP 1.7. This will need to be modified to reflect the new clause. This change is purely administrative and will not change the existing policy.

The above amendments are considered to be minor, as they are required to bring the new LPP 2.26 into effect and therefore do not require advertising.

Trees on City Owned or Managed Land Policy

The Trees on City Owned or Managed Land Policy sets out how the City will undertake tree management including tree planting, pruning, removal, assessment requests, protection during development, and how the City will respond to damage to its trees. The Policy was adopted in February 2024.



To ensure the City's Policy position for tree removal due to development is consistent with the draft Local Planning Policy 2.26 – Tree Retention (LPP 2.26), the following additional section to the Policy is proposed:

***Tree Removal Due to City Development***

*If the City determines that a tree on City owned or managed land requires removal due to a City led or managed development, the City will replace the tree with a minimum of two trees. The replacement trees will have a minimum pot size of 30 litres and be capable of reaching a mature height of at least 8 metres. The trees will be planted in-ground at the location of the removed tree or in a suitable nearby location.*

**VOTING AND OTHER REQUIREMENTS**

Simple Majority Required

**OFFICER'S RECOMMENDATION**

**Moved: Cr Ben Lawver**

**Seconded: Cr Jenny Archibald**

**Council:**

- 1. Notes the Community Engagement Report, provided in Attachment 1.**
- 2. Adopts the amended Local Planning Policy 2.26 – Tree Retention, as provided in Attachment 2, and publish notice in accordance with Regulation 4(3) and 4(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 3. Adopts the updated Trees on City Owned or Managed Land Policy, as provided in Attachment 3, to better align with the new policy for private land, in part 2 above;**
- 4. Amends clause 31 of Local Planning Policy 1.7: Development Exempt from Approval Under Local Planning Scheme No. 4 as shown below and determine that the amendment is minor and does not require advertising in accordance with Regulation 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*:**

**31. Removal of trees or vegetation areas except where:**



- a) they are identified on the Register of Significant Trees or Vegetation Areas;
  - b) they are required to be retained on a site through a condition of development approval; or
  - c) it involves tree-damaging activity to a regulated tree and is not exempt as set out in Local Planning Policy 2.26: Tree Retention.
5. Amends Local Planning Policy 2.23: Register of Significant Trees and Vegetation Areas to modify references to reflect the amended clause within Local Planning Policy 1.7 from 4. above, and determine that the amendment is minor and does not require advertising in accordance with Regulation 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

In accordance with clause 9.7 of the [Meeting Procedures Policy](#), Cr Andrew Sullivan moved the following amendment, as provided in the additional documents:

**AMENDMENT 1**

**Moved: Cr Andrew Sullivan**

**Seconded: Cr Frank Mofflin**

Amend clause 6.1 of the Draft Local Planning Policy 2.26 Tree Retention to read as follows:

**Where removal of a regulated tree is approved by the City, two replacement trees of minimum 30 litre pot size and capable of achieving a ~~height of 8m~~ *recognition as a regulated tree when mature shall* be planted in-ground within the lot, each having the minimum tree planting areas as prescribed by clause 5.3.2 of the R-Codes or otherwise approved by the City.**

**Amendment Carried: 9/2**

**For:**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorssen

**Against:**

Cr Geoff Graham and Cr Fedele Camarda



**Reason for amendment:**

Height is not always a great definer of a canopy tree as a pencil pine will attest. We should replace a regulated tree with ones that will, in time, become regulated trees.

**In accordance with clause 9.7 of the [Meeting Procedures Policy](#), Cr Adin Lang moved the following amendment, as accepted by the Presiding Member:**

**AMENDMENT 2**

**Moved: Cr Adin Lang**

**Seconded: Cr Ben Lawver**

To amend the officer's recommendation to include point 6 the officer's recommendation:

- 6. *Request officers investigate opportunities for a potential amendment to the Local Planning Policy 2.26 – Tree Retention, to include all Residential Design Codes above R30 and bring a report back to Council for further consideration.***

**Amendment Carried: 10/1**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorssen**

**Against:**

**Cr Geoff Graham**

**Reason for amendment:**

WALGA's best practise policy does not mention R-Codes in it and given that a handful of Local Governments have investigated and introduced going to higher R-Codes, it is requested that officers investigate this further to see if the policy can be made stronger, to apply to all R-Codes.



**COUNCIL DECISION ITEM C2503-4**  
**(Amended officer's recommendation)**

**Moved: Cr Ben Lawver**

**Seconded: Cr Jenny Archibald**

**Council:**

- 1. Notes the Community Engagement Report, provided in Attachment 1.**
- 2. Adopts the amended Local Planning Policy 2.26 – Tree Retention, as provided in Attachment 2, and publish notice in accordance with Regulation 4(3) and 4(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with an amendment to clause 6.1 to read as follows:**
  - 6.1 Where removal of a regulated tree is approved by the City, two replacement trees of minimum 30 litre pot size and capable of achieving *recognition as a regulated tree when mature shall* be planted in-ground within the lot, each having the minimum tree planting areas as prescribed by clause 5.3.2 of the R-Codes or otherwise approved by the City.**
- 3. Adopts the updated Trees on City Owned or Managed Land Policy, as provided in Attachment 3, to better align with the new policy for private land, in part 2 above;**
- 4. Amends clause 31 of Local Planning Policy 1.7: Development Exempt from Approval Under Local Planning Scheme No. 4 as shown below and determine that the amendment is minor and does not require advertising in accordance with Regulation 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*:**
  - 31. Removal of trees or vegetation areas except where:**
    - a) they are identified on the Register of Significant Trees or Vegetation Areas;**
    - b) they are required to be retained on a site through a condition of development approval; or**
    - c) it involves tree-damaging activity to a regulated tree and is not exempt as set out in Local Planning Policy 2.26: Tree Retention.**



- 5. Amends Local Planning Policy 2.23: Register of Significant Trees and Vegetation Areas to modify references to reflect the amended clause within Local Planning Policy 1.7 from 4. above, and determine that the amendment is minor and does not require advertising in accordance with Regulation 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 6. Request officers investigate opportunities for a potential amendment to the Local Planning Policy 2.26 – Tree Retention, to include all Residential Design Codes above R30 and bring a report back to Council for further consideration.**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorsen**

**Against:**

**Nil**



## Items approved en bloc

### ITEMS APPROVED "EN BLOC"

The following items were adopted unopposed and without discussion "en bloc" as recommended.

### COUNCIL DECISION

Moved: Cr Frank Mofflin

Seconded: Cr Andrew Sullivan

The following items be adopted en bloc as recommended:

**C2503-3 PLANNING INFORMATION REPORT - MARCH 2025**

**C2503-5 SUPPLY OF CONTESTABLE ENERGY**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorssen**

**Against:**

**Nil**



## Planning reports

### **C2503-3 PLANNING INFORMATION REPORT - MARCH 2025**

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

**Meeting date:** 12 March 2025  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority Required  
**Attachments:** 1. Schedule of application 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 DAP DETERMINATIONS AND RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS FOR REVIEW**

**Meeting date:** 12 March 2025  
**Responsible officer:** Manager Development Approvals  
**Voting requirements:** Simple Majority Required  
**Attachments:** Nil

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

<b>1. Application Reference</b>
DA0130/24
<b>Site Address and Proposal</b>
No. 90 Rennie Crescent, Hilton – Unauthorised additions to existing Single house
<b>Council Consideration/Decision</b>
<ul style="list-style-type: none"> <li>At its meeting held on 10 July 2024, the Council resolved to refuse the application.</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>On 31 July 2024, an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>A Directions Hearing was held on 5 September 2024.</li> <li>Mediation was held on 5 September 2024.</li> <li>Mediation was held on 10 October 2024.</li> </ul>



- Council reconsidered the proposal at its meetings on 11 December 2024, where it was approved.
- At a Directions Hearing to finalise the matter on 17 January 2025, the applicant applied for costs. This matter will be determined on the documents by the Tribunal.

<b>2. Application Reference</b>
DAP004/24
<b>Site Address and Proposal</b>
234-238 South Terrace, South Fremantle – Motor Vehicle Wash
<b>Council Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• Application for development was received on 5 December 2024.</li> <li>• A DAP meeting has not yet been scheduled for the item.</li> </ul>

<b>3. Application Reference</b>
DAP005/24
<b>Site Address and Proposal</b>
1 Goldsborough and 46-68 Cantonment Street, Fremantle (Elders Woolstores) – Multiple Dwellings Office, Restaurant/Café, Shop and Tavern
<b>Council Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• Application for development was accepted on 8 January 2025.</li> <li>• A DAP meeting has not yet been scheduled for the item.</li> </ul>

<b>4. Application Reference</b>
DAP001/25
<b>Site Address and Proposal</b>
47 Pakenham Street, Fremantle – Mixed use residential development (13 Multiple Dwellings and Restaurant/Café)
<b>Council Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• Application for development was accepted on 14 January 2025.</li> <li>• A DAP meeting has not yet been scheduled for the item.</li> </ul>

<b>5. Application Reference</b>
DAP002/25
<b>Site Address and Proposal</b>
33 South Terrace, Fremantle – Four storey Tourist Development
<b>Council Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• Application for development was accepted on 10 February 2025.</li> <li>• Advertising for the item closes on 25 March 2025.</li> <li>• A DAP meeting has not yet been scheduled for the item.</li> </ul>

**VOTING AND OTHER REQUIREMENTS**

Simple Majority Required



**COUNCIL DECISION ITEM C2503-3**  
**(Officer's recommendation)**

**Moved: Cr Frank Mofflin**

**Seconded: Cr Andrew Sullivan**

**Council receive the following information reports for MARCH 2025**

- 1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY**
- 2. UPDATE ON METRO INNER DAP DETERMINATIONS AND RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS FOR REVIEW.**

**Carried en bloc: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorssen**

**Against:**

**Nil**



## Strategic and general reports

### **C2503-5 SUPPLY OF CONTESTABLE ENERGY**

**Meeting date:** 12 March 2025  
**Responsible officer:** Manager Building, Facilities and Sustainable Services  
**Voting requirements:** Simple Majority Required  
**Attachments:** 1. CONFIDENTIAL - Synergy Quoted Supply Rates/Estimated Cost Analysis of Offer

#### **SUMMARY**

**The purpose of this report is to consider the procurement of contestable energy for 14 of the City’s buildings undertaken by WALGA through their Sustainable Energy aggregated purchasing process.**

**This report recommends that Council accepts the alternative unbundled quote options submitted by Synergy in accordance with the tender evaluation undertaken as per the selection criteria included in the quotation document.**

#### **BACKGROUND**

The City of Fremantle currently spends approximately \$441,000 (ex GST) per annum on renewable generated electricity at fourteen (14) sites which qualify for contestable electricity contracts. By definition, sites with electricity consumption over 50 MWh per year (on average) are considered to be contestable. The contestable sites are:

<b>Asset Name</b>	<b>Address</b>
Fremantle Oval tenanted building	70 Parry Street, Fremantle
Hilton Community Centre	Paget St, Hilton
Fremantle Arts Centre	4 Finnerty Street, Fremantle
Esplanade Park	98 Marine Terrace, Fremantle
Moore's Building	U 3 46 Henry St, Fremantle
Samson Recreation Centre	McCombe Ave, Samson
City of Fremantle Depot	81 Knutsford Street, Fremantle
Hilton Park	Shepherd Street, Beaconsfield
Fremantle Leisure Centre	10 Shuffrey St, Fremantle
Walyalup Civic Centre	151 High St, Fremantle
CoF Leased Meeting and Server Room	Fremantle Malls, Fremantle
Leased Clubrooms Gibson Park	High St, Fremantle



Ken Allen Field (Rugby Club)	Shepherd St, Fremantle
Ken Allen Field (Bowling Club & Mens Shed)	Shepherd St, Fremantle

The City is a current participant in the WALGA Sustainable Energy Project and has purchased 100% renewable energy sourced from WA windfarms. The Project is an ACCC-approved buying group of Local Governments that has contracted electricity under a volume aggregated purchasing process. There are 48 Local Government participants contracted to the current contract term which commenced on 1 April, 2022 and will expire on 31 March, 2025.

In 2024 the City entered an MOU with WALGA allowing the City’s contestable energy spend to be represented in the next procurement process for the purposes of pricing. WALGA ran a Request For Quotation (RFQ) for a new contract incorporating 53 local governments commencing 1 April 2025. The RFQ was overseen by a steering committee and evaluated by a team of WALGA officers, Local Government officers, and independent technical consultants.

**FINANCIAL IMPLICATIONS**

Modelling from WALGA shows that the Western Australian Wholesale Electricity Market (WEM) has changed significantly since the Project was first tendered in 2021. The short-term electricity market price for the cost of generation has increased from \$48.03MWh in Q3 2021 to \$98.54MWh at the end of June 2024, an increase of 105%.

Referencing this, and in preparing a pre-tender estimate, officers have anticipated a reasonably significant increase in electricity supply costs for the next contract period. Officers have estimated electricity supply costs could potentially be expected to increase to cost the City between \$650,000 & \$720,000 for renewable energy supply for contestable sites.

The preferred offer is the alternative unbundled renewable energy proposal from Synergy; however, it is subject to terms that are dependent on 100% of participants agreeing to the contract. If participation falls below 100% they have also provided an alternative quotation subject to terms that are dependent upon a minimum of 65% of participants agreeing to the contract.

Table 1. below summarises the available budget, current expenditures and estimated costs for the recommended alternative unbundled price provided by Synergy for the contestable energy with 100% of participants agreeing to the contract:



**Table 1.**

<b>Description</b>	<b>Expenditure</b>	<b>Budget</b>
<b>Budget</b>		
Allocated budget for FY 2024/25 is \$506,245 across various IP budget lines		\$506,245
<b>Expenditure</b>		
Expenditure incurred to date in FY 2024/25:	\$215,797	
Activities		
• Anticipated costs to 31 March 2025	\$117,898	
• WALGA Sustainable Energy Project 31 March 2025 to 30 June 2025, Synergy preferred alternative unbundled quote.	\$151,566	
<b>Total expenditure (estimated)</b>	\$485,261	
<b>Balance</b>		\$20,984

Table 2. below summarises the available budget, current expenditures, and estimated costs for the alternative unbundled price by Synergy for the supply of contestable energy with 65% of participants agreeing to the contract:

**Table 2.**

<b>Description</b>	<b>Expenditure</b>	<b>Budget</b>
<b>Budget</b>		
Allocated budget for \$506,245 across various IP budget lines		\$506,245
<b>Expenditure</b>		
Expenditure incurred to date:	\$215,797	
Activities		
• Anticipated costs to 31 March 2025	\$117,898	
• WALGA Sustainable Energy Project 31 March 2025 to 30 June 2025, Synergy preferred alternative unbundled quote.	\$159,848	
<b>Total expenditure (estimated)</b>	\$493,543	
<b>Balance</b>		\$12,702

Sufficient funding provision has been allocated in the 2024/25 budget for the supply of contestable energy within budget.

This contract spans multiple years therefore a commitment to suitable budget provision for future years must be considered (*inc an estimated increase of approx. \$140k pa*).



The estimated expenditure for the 3-year contract for the City:

- 1) If 100% of participants take up the quoted offer, it is estimated that the cost per annum for the City will be \$606,300 per year and \$1,817,795 for the full contract. This is estimated to be a saving of \$315,603 (15%) in comparison to the open market price.
- 2) If the second quoted offer for no less than 65% participation is taken, it is estimated that the cost per year will be \$639,400 and for the full contract value over three years to be \$1,917,155. This is an estimated saving of \$216,213 (10%) in comparison to the open market price.

These cost estimates are based on the quoted rates submitted by Synergy as provided in confidential attachment 1.

## **LEGAL IMPLICATIONS**

The Project is an ACCC-approved buying group of Local Governments that has contracted electricity under a volume aggregated purchasing process.

## **STRATEGIC IMPLICATIONS**

This item is in keeping with the City of Fremantle's Strategic Community Plan 2024 – 2034:

### **Resilient City – A focus on planning for a stronger and more resilient future**

- A roadmap to Net Zero emissions guides the protection of our community for future generations.
- A financially resilient City meets the service delivery needs of the community.

## **CONSULTATION**

The Procurement of this service was undertaken with the WALGA Sustainable Energy Project under a volume aggregated purchasing process incorporating 53 Local Authorities

## **OFFICER COMMENT**

### **Detail**

On behalf of project participants WALGA conducted a Request For Proposal (RFP12/23) to engage consultants to provide support and guidance for a further project term (Phase Two). Ironbark Sustainability were appointed as the



successful consultants to assist WALGA with technical scoping and price analysis. WALGA also conducted a public Pre-Tender Market Notice process in February 2024, to identify potential respondents to Phase Two project term. Six submissions were received, of which two were compliant with the mandatory requirement to hold a WA retail electricity licence. The respondents were engaged in discussions to determine eligibility and suitability to be invited into the RFQ.

WALGA also met with other companies that could potentially tender existing or future sustainable energy infrastructure projects to offer PPA contracts into the process. No companies were identified with planned or shelf-ready generation projects that would be in a position to offer a proposal to WALGA for the Phase Two term.

In 2024 Local Governments entered a non-binding Memorandum of Understanding (MOU) including data authority with WALGA, allowing the contestable energy to spend to be represented in a market procurement process for the purposes of pricing. On behalf of project participants, WALGA ran the Phase Two procurement process (open July to September 2024) in the form of a Request for Quotation "RFQ" (RFQ03/2024) for a new contract commencing 1 April 2025. The RFQ was overseen by a Local Government WALGA Member steering advisory committee, and evaluated by a team of WALGA officers, Local Government officers, and independent technical consultants.

WALGA confirm that the RFQ was issued to the market by WALGA under the framework of Preferred Supplier Panel PSP007 Waste and Energy and has been contracted under the terms of this arrangement. The MOU provided by the proposed participants to WALGA in item 3 (Procurement Process) subclause (b)(iii)(c) asserts that the procurement process is under the PSP Program and its Governance Framework.

The *Local Government (Functions and General) Regulations 1996* provide a tender exemption for this member contracting under Part 4, Regulation 11 (2) (b) which reads "Tenders do not have to be publicly invited according to the requirements of this Division if — the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program;"

On this basis a spend over the \$250,000 threshold is fully tender exempt. Regard must still be given to the provisions of the internal purchasing policy of each project participant.



As part of WALGA facilitated procurement evaluation process, involving member participants, the successful submission was from Synergy (the incumbent supplier to the project). Synergy submitted one conforming, and two alternative offers priced only for a three-year term for contestable energy supply.

### **Tenderers Responses**

One (1) submission was received which included three (4) offers, all from the same supplier (Synergy).

List of Offers Received:

- Synergy Conforming Offer (Bundled)
- Synergy Confirming Offer (Unbundled)
- Synergy Alternative Offer (Unbundled 100% take-up)
- Synergy Alternative Offer (Unbundled 65% take-up)

WALGA modelling estimates that by accepting the most advantageous offer from Synergy, the City will incur an estimated 35% increase from the incumbent three year contract (locked in rates from 2022). This compares to an estimated increase in costs 45% for the conforming unbundled offer.

The most advantageous offer from the RFQ was an alternative offer received from Synergy, which is summarised as follows:

- A three-year contract term from 1 April 2025 to 31 March 2028
- A new Time-of-Offer band that allows for Peak, Midday and Off-Peak rates allowing for spend optimisation by scheduling consumption into a business hours period that has a cheaper supply rate
- Unbundled pricing
- the proposal includes an option to apply Natural Power to street lighting

Tenderers were required to disclose information that might be relevant to an actual or potential conflict of interest and disclose if they had any relationship with City of Fremantle employees involved in the tender process. Members of the tender evaluation panel are required to disclose any actual or perceived interest with any of the tenderers. No disclosures were made.

### **Environmental considerations**

The Carbon Emissions Reduction Strategy (2024) completed by Ironbark Sustainability identifies the continuation of renewable energy source for the constable energy sites as being the second most important action for the City's Net Zero Pathway.



Officers are also in the process of preparing a street lighting policy which will include consideration of the option to apply natural power to street lighting, as offered within the Synergy proposal. It is noted that this option will require additional expenditure of approximately \$90,000, which will be considered as part of the annual budget process.

### **Risk consideration**

An assessment undertaken by Dun and Bradstreet indicates that Synergy has the financial capacity to undertake the contract. There are no strategic or corporate risks within the City's existing risk registers which relate to the issues contained in this report.

### **Conclusion**

In considering the process and results from the WALGA led exercise, officers are satisfied that the procurement process has been effective and provides a good value proposition for the supply of green energy for the City's contestable sites, this being either at 100% participation or over 65% participation. Should a situation arise where these 2 options have not been achieved the City will need to go to market for the supply of its contestable energy independently.

### **VOTING AND OTHER REQUIREMENTS**

Simple Majority Required

#### **COUNCIL DECISION ITEM C2503-5** **(Officer's recommendation)**

**Moved: Cr Frank Mofflin**

**Seconded: Cr Andrew Sullivan**

#### **Council:**

- 1. Accept the offer from Synergy for their alternative unbundled offer for the supply of renewable contestable energy for as part of the WALGA Request For Proposal (RFP12/23) for the fourteen (14) contestable sites identified within this report, either;**
  - a. At the rates quoted in WALGA RFP12/23 for 100% participation, for a period of 3 years; or**
  - b. At the rates quoted in WALGA RFP12/23 for 65% participation, for a period of 3 years.**



- 2. Authorise the Chief Executive Officer to execute the supply contract (either 1a or 1b above) with Synergy for the supply of contestable (renewable) energy through the WALGA preferred panels procurement provisions Request for Proposal (RFP12/23).**
- 3. Note officers will include the option to apply natural power to street lighting as part of the annual budget process.**

**Carried en bloc: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorsen**

**Against:**

**Nil**



## Strategic and general reports

### C2503-6 LOCAL LAW REVIEW 2025

<b>Meeting date:</b>	12 March 2025
<b>Responsible officer:</b>	Manager Governance
<b>Voting requirements:</b>	Absolute Majority Required
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Parking Local Law 2021</li> <li>2. Prevention and Abatement of Sand Drift Local Law 2002</li> </ol>

#### SUMMARY

**In accordance with section 3.16 of the *Local Government Act 1995*, the City has commenced a review of all City of Fremantle Local Laws.**

**This report recommends that Council accepts the City of Fremantle Local Law Review 2025 and adopts the proposed local law review schedule.**

#### BACKGROUND

As part of the Local Government Reforms and commencement of provisions within the *Local Government Amendment Act 2024* following assent, the City of Fremantle is now required to review any local laws that are either due or overdue for a review. This must be undertaken within a two-year period, prior to 7 December 2026, unless a review occurred within the last 8 years. If this review does not occur, the local laws that have not been reviewed within this timeframe they will automatically be repealed.

Provided below is a list of the City of Fremantle’s existing local laws that are currently in effect and the last known adopted/reviewed date:

<b>Local Law</b>	<b>Adopted/reviewed date</b>
Activities in Thoroughfares and Public Places and Trading Local Law 2005	Adopted 13/07/2005
Alfresco Dining Local Law (No.2) 2014	Adopted 10/04/2015
Cat Management Local Law 2020	Reviewed 7/07/2023
Local Laws Relating to Dogs 1998	Reviewed 28/03/2014
Health Local Laws 1997	Adopted 1/12/1997
Parking Local Law 2021	Reviewed 2/09/2022
Prevention and Abatement of Sand Drift Local Law 2002	Reviewed 11/12/2019
Local Government Property Local Law 2002	Reviewed 7/06/2022



Short Stay Accommodation Local Law 2008	Adopted 26/11/2008
Local Government Model By-laws (Signs, Hoardings and Billposting), No. 13	Reviewed 25/09/1998

The following local laws will need to be repealed if a review is not undertaken within the required two-year review period (ending 7 December 2026):

- Activities in Thoroughfares and Public Places and Trading Local Law 2005
- Alfresco Dining Local Law (No.2) 2014
- Local Laws Relating to Dogs 1998
- Health Local Laws 1997
- Prevention and Abatement of Sand Drift Local Law 2002
- Short Stay Accommodation Local Law 2008
- Local Government Model By-laws (Signs, Hoardings and Billposting), No. 13

### **FINANCIAL IMPLICATIONS**

All costs associated with a local law review, are included in the adopted budget.

### **LEGAL IMPLICATIONS**

Section 3.5 of the *Local Government Act 1995* (the Act) provides the power for local governments to make local laws to help perform their functions.

Section 3.16 the Act requires that all local laws must be reviewed within a 15-year period after their commencement to determine if they should remain unchanged, be repealed, or amended. The 15-year period is taken to be from either when the local law commenced or when the last review of the local law was completed.

In accordance with Section 3.16, the City will give local public notice of the proposed review (including local laws recommended to remain unchanged) and invite public submissions for a period of no less than 6 weeks. After submissions have been received and considered in accordance with section 3.16, the local government must determine, by absolute majority, whether it considers that the local law should be repealed, be amended or remain unchanged.

Section 3.12 of the Act prescribes the procedure for making local laws, which is the same procedure to amendment or repeal a local law.



## **STRATEGIC IMPLICATIONS**

This item is in keeping with the City of Fremantle’s Strategic Community Plan 2024 – 2034:

### **Corporate - Lead and empower the organisation to deliver the vision of 'strong reputation, stronger future'**

- Enable the City to maintain legislative compliance and accountability for organisational decision making.

## **CONSULTATION**

Where no changes to the local law are recommended, the existing local law will be advertised in the local newspaper, City’s website and public noticeboard, inviting public submissions for a minimum of six weeks following the Council’s approval.

Officers will continue to review the remaining local laws as proposed in this report and a further report will be brought back to Council for consideration of the proposed amendments or repeal.

In accordance with the Act, after the public submission period has closed, officers will provide a report to Council to consider any submissions made. Council may then determine by absolute majority whether it considers that the local law should be repealed, amended, or remain un-changed.

## **OFFICER COMMENT**

With commencement of new provisions relating to Local Laws within the *Local Government Amendment Act 2024*, officers have commenced a holistic review of all City of Fremantle Local Laws, to identify whether they needed to be amended, repealed, or remain unchanged. Internal consultation occurred across departments to ensure all aspects of the existing local laws were considered in relation to their application, effectiveness, lawfulness, and need.

As a result of this review, the following is recommended:

<b>City of Fremantle Local Law</b>	<b>Desktop Review Outcome (proposed)</b>	<b>Recommendation</b>
Activities in Thoroughfares and Public Places and Trading Local Law 2005	Include parts of the Model By-Laws (Signs, Hoardings and Billpostings) Local Law (to be repealed), that are still required.	Recommended to be amended and brought back to Council within 3 months.



	Include additional provisions, definitions and update penalties.	
Alfresco Dining Local Law (No.2) 2014	<p>As part of the state governments reform agenda, it is proposed that the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> will be amended to allow local businesses to set up an alfresco dining area and place portable advertising signage outside their business without needing an approval from their local government.</p> <p>Any changes to the local law will be made in conjunction with the reforms commencement. It is anticipated that these proposed changes will come into effect within the next 2 years.</p>	To be brought back to Council within 18 months.
Cat Management Local Law 2020	<p>In accordance with the Council decision made on 25 September 2024 (C2409-13), the Cat Management Local Law is to be brought back to Council for further consideration following a result from the Joint Standing Committee on Delegated Legislation’s consideration of the City of Bayswater’s amendment. The JSCDL determination is yet to be publicly available.</p>	To be brought back to Council within 12 months.
Local Laws Relating to Dogs 1998	<p>A review of the Dog Exercise and Prohibited Areas Policy (including dog exercise areas and prohibited areas determinations) is scheduled to be undertaken this year, in conjunction with a review of the City of Fremantle Local Law Relating to Dogs (C2502-8, 26 February 2025).</p> <p>Anticipated changes to the local law include the removal of schedule 7 (redundant) and a change to the current City local law template, which are both minor changes.</p>	To be brought back to Council before the end of 2025.



<p>Health Local Laws 1997</p>	<p>Removal of any reference to legislation or provisions that have ceased, as the result of the implementation of the Public Health Act 2016.</p> <p>Waste provisions to be removed and incorporated into a separate Waste Local Law, for consideration as part of the review of the Health Local Law.</p>	<p>To be brought back to Council within 18 months.</p>
<p>Parking Local Law 2021</p>	<p>A major review of this local law was undertaken in 2021, which is within the required timeframe, and no further amendments are proposed at this time.</p>	<p>Remain unchanged</p>
<p>Prevention and Abatement of Sand Drift Local Law 2002</p>	<p>All provisions within this local law are considered consistent with other local governments and no further changes are recommended at this time.</p>	<p>Remain unchanged</p>
<p>Local Government Property Local Law 2002</p>	<p>In response to the resolution of Council decision made on 23 August 2023 (FPOL2308-6) through a Notice of Motion by Cr Rachel Pemberton, an inclusion of “no smoking areas” in the City Centre will be included.</p> <p>Additional definitions and provisions to protect trees from damage and removal, will also be included.</p>	<p>To be brought back to Council within 12 months.</p>
<p>Short Stay Accommodation Local Law 2008</p>	<p>Section 47 of the <i>Short-Term Rental Accommodation Act 2024</i> prescribes that: <i>A local law is inoperative to the extent that it provides for a registration scheme for residential premises used for short-term rental accommodation.</i></p> <p>New legislation is now in effect and further consideration is required as to whether this local law is, or provisions within this local law, are required. It is likely that a repeal will be required.</p>	<p>To be brought back to Council within 6 months.</p>



Local Government Model By-laws (Signs, Hoardings and Billposting), No. 13	Adequately covered by the Planning and Development Act 2005 (and regulations), and local planning policy 2.14 (Advertisement Policy). Majority of the local law is redundant due to Local Planning Policies and City process. Some parts of this local law, such as signs on thoroughfares, are suggested to be included in the Activities in Thoroughfares and Public Places and Trading Local Law.	Recommended to be repealed and brought back to Council within 3 months.
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Officers have also given consideration to other Local Government local laws and previous Joint Standing Committee on Delegated Legislation undertakings, for alike local laws, to determine if any additional changes need to be considered.

A separate report will be brought back to Council for further consideration of each local law amendment or repeal, as outlined in the proposed schedule (listed above).

### **VOTING AND OTHER REQUIREMENTS**

Absolute Majority Required

### **OFFICER'S RECOMMENDATION**

Council:

1. Accepts the City of Fremantle Local Law Review 2025 in accordance with section 3.16 of the *Local Government Act 1995*, and adopts the following schedule:

City of Fremantle Local Law	Review Timeframe
Activities in Thoroughfares and Public Places and Trading Local Law 2005	To be amended and brought back to Council within 3 months.
Alfresco Dining Local Law (No.2) 2014	Review to be brought back to Council within 18 months.
Cat Management Local Law 2020	Review to be brought back to Council within 12 months.
Local Laws Relating to Dogs 1998	Review to be brought back to Council before the end of 2025.
Health Local Laws 1997	Review to be brought back to Council within 18 months.



Parking Local Law 2021	Remain unchanged
Prevention and Abatement of Sand Drift Local Law 2002	Remain unchanged
Local Government Property Local Law 2002	Review to be brought back to Council within 12 months.
Short Stay Accommodation Local Law 2008	Review to be brought back to Council within 6 months.
Local Government Model By-laws (Signs, Hoardings and Billposting), No. 13	To be repealed and brought back to Council within 3 months.

2. Authorise local public notice be given stating that the City proposes to review the following local laws in accordance with section 3.16 of the *Local Government Act 1995*, as provided in Attachment 1 and 2 and invite public submissions for a period of 6 weeks:

- a. Parking Local Law 2021;
- b. Prevention and Abatement of Sand Drift Local Law 2002.

3. Note that a report will be brought back to Council which considers the submissions made, and any subsequent recommendations to the local laws identified in part 2.

**In accordance with clause 9.7 of the [Meeting Procedures Policy](#), Cr Doug Thompson moved the following officer's alternative motion, as provided in the additional documents:**

**COUNCIL DECISION ITEM C2503-6  
(Alternative motion)**

**Moved: Cr Doug Thompson**

**Seconded: Cr Frank Mofflin**

**Council:**

- 1. Accepts the City of Fremantle Local Law Review 2025 in accordance with section 3.16 of the *Local Government Act 1995*, and adopts the following schedule:**

<b>City of Fremantle Local Law</b>	<b>Review Timeframe</b>
<b>Activities in Thoroughfares and Public Places and Trading Local Law 2005</b>	<b>To be amended and brought back to Council within 3 months.</b>
<b>Local Government Model By-laws (Signs, Hoardings and Billposting), No. 13</b>	<b>To be repealed and brought back to Council within 3 months.</b>



<b>Short Stay Accommodation Local Law 2008</b>	<b>Review to be brought back to Council within 6 months.</b>
<b>Cat Management Local Law 2020</b>	<b>Review to be brought back to Council within 12 months.</b>
<b>Local Government Property Local Law 2002</b>	<b>Review to be brought back to Council within 12 months.</b>
<b>Health Local Laws 1997</b>	<b>Review to be brought back to Council within 18 months.</b>
<b>Alfresco Dining Local Law (No.2) 2014</b>	<b>Review to be brought back to Council within 18 months.</b>
<b>Local Laws Relating to Dogs 1998</b>	<b>Review to be brought back to Council before the end of 2025.</b>

- 2. Endorse that the following local laws, as provided in Attachment 1 and 2, remain unchanged:**
  - a. Parking Local Law 2021; and**
  - b. Prevention and Abatement of Sand Drift Local Law 2002.**
- 3. Authorise local public notice be given of the Local Law review, in accordance with section 3.16 of the *Local Government Act 1995*, and invite public submissions for a period of 6 weeks.**
- 4. Note that a report will be brought back to Council which considers the submissions made.**

**Carried: 11/0**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Geoff Graham,  
Cr Adin Lang, Cr Andrew Sullivan, Cr Jemima Williamson-Wong,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin,  
Cr Doug Thompson and Cr Ingrid van Dorsen**

**Against:**

**Nil**

**Reason for alternative motion:**

To provide clarification that the two Local Laws are recommended to be advertised unchanged.



## **Statutory reports**

Nil.

## **Committee reports**

Nil.

## **Urgent business**

Nil.

## **Late items**

Nil.

## **Confidential business**

Nil.

## **Closure**

**The Presiding Member declared the meeting closed at 7:52 pm.**