



Agenda

Ordinary Meeting of Council

Wednesday 8 November 2023 6pm



Notice of an Ordinary Meeting of Council

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday 8 November 2023** in the Council Chamber at the Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

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

Glen Dougall
Chief Executive Officer

2 November 2023



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1. Official opening, welcome and acknowledgement

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

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

2. Attendance, apologies and leave of absence

Cr Doug Thompson– Leave of Absence

3. Applications for leave of absence

Cr Frank Mofflin requests a leave of absence from 15 December 2023 to 12 January 2024 inclusive.

4. Disclosures of interest by members

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

5. Responses to previous public questions taken on notice

Questions taken on notice at the Ordinary Meeting of Council held on 25 October 2023 were answered within the Minutes.

6. Public question time

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

7. Petitions

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



8. Deputations

8.1 Special deputations

There are no special deputation requests.

8.2 Presentations

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

9. Confirmation of minutes

OFFICER'S RECOMMENDATION

Council confirm:

- 1. The minutes of the Ordinary Meeting of Council dated 25 October 2023; and**
- 2. The minutes of the Special Meeting of Council dated 30 October 2023.**

10. Elected member communication

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



11. Reports and recommendations from officers

11.1 Planning reports

C2311-1 REFERRED ITEM - NICHOLAS CRESCENT, NO. 1B (LOT 2), HILTON - SINGLE STOREY SINGLE HOUSE - (JL DA0142/23)

Meeting Date: 8 November 2023
Responsible Officer: Manager Development Approvals
Decision Making Authority: Council
Attachments: 1. Amended Development Plans
2. Site Photos

SUMMARY

Approval is sought for a single storey single house at No. 1B Nicholas Crescent, Hilton (subject site).

The proposal is referred to the Ordinary Council Meeting (OCM) 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:

- **Lot boundary setback (west boundary walls and south setback)**
- **LPP3.7 Hilton Local Area policy (Dwelling orientation, form and proportions)**

At the meeting held on 6 September 2023 it was resolved to refer the application to the administration with the advice that the Council was not prepared to grant planning approval to the application for the single storey Single house at No. 1b Nicholas Crescent, Hilton based on the current submitted plans and invited the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to on the following basis:

Owner to reconfigure the design to increase setbacks to the western boundaries because:

- ***the extent of variation requested causes an unacceptable and unwarranted impact on the daylight access and amenity of the neighbouring property, and***
- ***the proposed design will result in poor daylight access, ventilation and amenity for the new dwelling.***



On 6 October 2023 the applicant submitted amended plans increasing the western boundary setback for the master bedroom from 400mm to 1.1m and reducing the eastern boundary setback from 1.7m to 1m.

The application remains recommended for conditional approval noting the proposed changes reduce the impact on the neighbouring property.

PROPOSAL

Detail

Approval is sought for a single storey Single house to be constructed at No.1B Nicholas Crescent, Hilton.

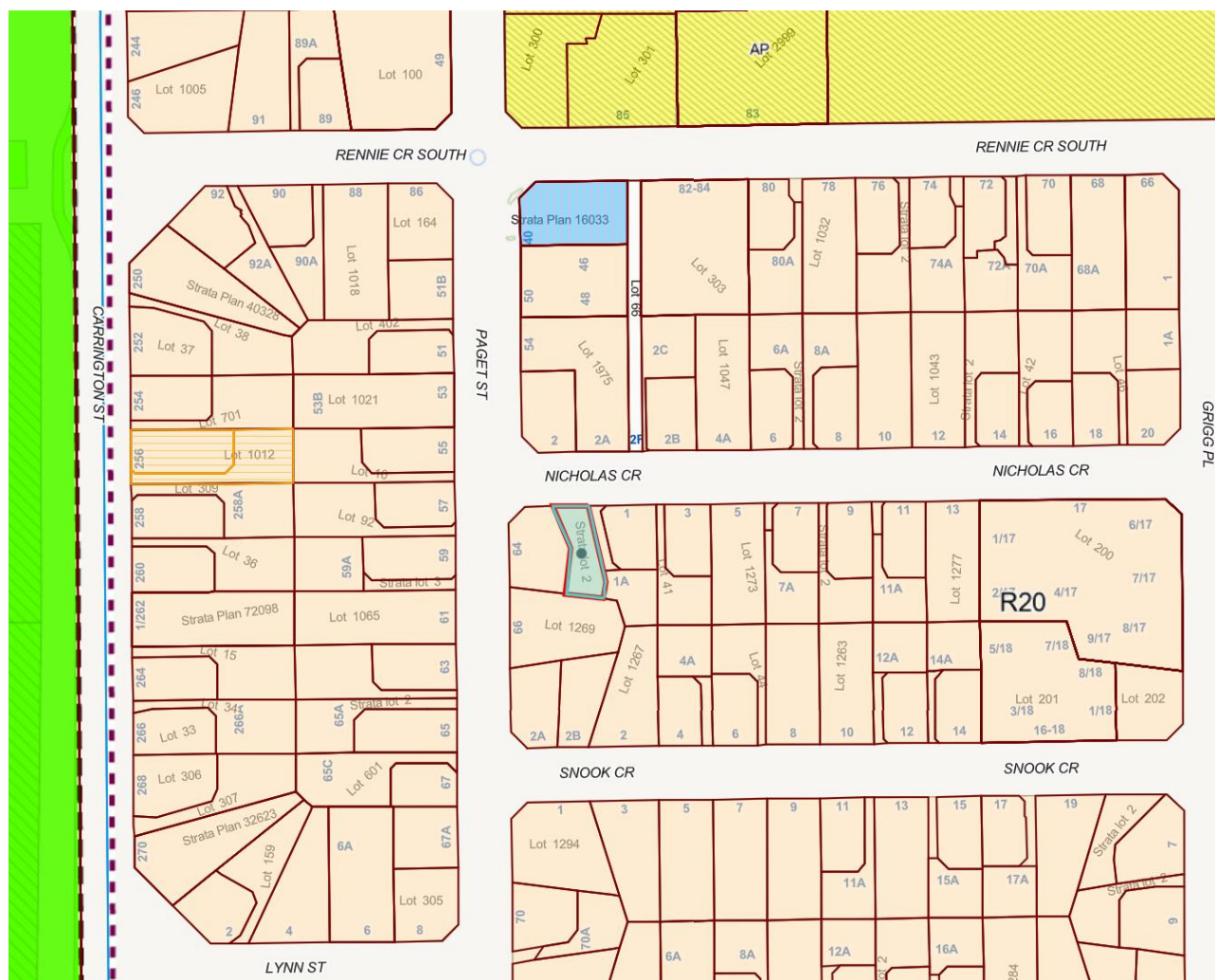
The applicant submitted amended plans on 6 October 2023 including the following changes:

- Reduced eastern lot boundary setback from 1.7m (Patio addition) to 1m, and
- Increasing the western lot boundary setback from 400mm to 1.1m.

Amended development plans are included as attachment 1.

Site/application information

Date received:	5 May 2023
Owner name:	Sophie Olver and Alex Olver
Submitted by:	Pure Homes Pty Ltd T/As B1 Homes
Scheme:	Residential R20
Heritage listing:	Hilton Garden Suburb Precinct Heritage Area
Existing land use:	Vacant lot
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought design principle assessment against the R-Codes and local planning policies. The advertising period concluded on 14 July 2023, and two (2) submissions were received. The following issues were raised (summarised):

- Objection to the west and south reduced lot boundary setbacks due to excess building bulk,
- Visual privacy concerns and
- Overshadowing.

With regards to the visual privacy and the overshadowing provisions of the R-Codes volume 1, the application has been assessed against and is compliant with the Deemed to comply criteria of the R-Codes. Concerns raised relating to



the western and southern boundary setback variations further discussion is included in the Officers comment section below.

Amended plans have been submitted that increase the setback of the part of the dwelling which abuts the middle western boundary between the two properties.

OFFICER COMMENT

Statutory and policy assessment

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

- Lot boundary setback (west boundary walls and south setback)
- LPP3.7 Hilton Local Area policy
 - Dwelling orientation, form and proportions

The above matters are discussed below.

Background

The subject site is located on the southern side of Nicholas Crescent. The site has a land area of approximately 422m² and is currently vacant. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed but is located within the Hilton Garden Suburb Heritage Precinct.

The surrounding area is predominantly residential and characterised by single storey single houses and grouped dwellings.

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



Lot boundary setbacks and boundary wall

Element	Requirement	Original	Proposed	Extent of Variation
West Lot Boundary Setback (Boundary wall)	1m	389mm – 500mm	389mm – 1.1m	611mm
South Lot boundary setback (rear dwelling)	1.5m	1.025 – 1.417m	1.025m – 1.417m	475mm

The reduced western lot boundary setbacks are considered to meet the Design principles of the R-Codes in the following ways:

West

- With reference to the amended development plans and the aerial image below, it shows the two western boundary walls to directly abut side access area or back yard area of the adjoining property. These walls are single storey in height (being 2.6m high) and setback between 389mm to 500mm from the existing common property boundary.
- The two portions of western boundary walls (to the front and rear of the property) appear to abut either side access way or remote backyard area of the impacted property, therefore given the single storey height and the walls being setback between 380-500mm, the level of detrimental impact on the neighbouring property and respective dwelling is considered marginal.
- The portion of original western boundary wall associated with the Master room of the new dwelling (located in the middle of the western boundary) abutting the corner area of the existing western adjoining dwelling (64 Paget Street) has been removed and an increased setback from 400mm to 1.1m is now being proposed. This portion of wall and setback now meets the Deemed to comply criteria of the Table 2a of the R-Codes.

South

- Again, this proposed boundary wall is not expected to have a significant adverse impact in terms of building bulk upon any habitable room window or outdoor living area of the adjoining rear property.
- Whilst some shadow will cast by the proposed wall (measured in accordance with the R-Codes at midday June 21) the shadow will fall onto the adjoining southern property's remote backyard. Therefore, having a negligible impact on the amenity of this property, by way of loss of sunlight or ventilation to existing habitable internal and external spaces of this property.



Figure 1 – Original Proposed dwelling layout showing how these new lot boundary walls interface with the western and southern adjoining properties.



Figure 2- Amended proposed dwelling showing the resulting increased setback to the middle Master Bedroom western wall and the rear of 64 Paget Street dwelling.



Photo 1 – Western adjoining dwelling rear sleep out which abuts the middle boundary wall.

While the eastern wall to the boundary is deemed to comply, a condition of approval is recommended to ensure a clean finish.

Dwelling orientation, form and proportions

Required	Provided	Merit based assessment
(c1.3.1) Dwellings shall be orientated parallel with the front boundary of the property addressing the primary street; and, (c4.2.1) Wall angles of the front facade of the dwelling shall be 90 degrees.	~72.5% to Nicholas Crescent	See comments



The proposed dwelling does not meet the facade orientation requirement of LPP3.7 established in both clause 1.3.1 and clause 4.2.1 of the policy. The merit-based criteria at clause 1.3.1 is stated as follows;

'Council may, at its discretion, allow a variation to the dwelling orientation provisions of clause 1.3.1 above where it is satisfied that the development meets one of the following criteria;

(a) The proposed dwelling orientation is consistent with the orientation of dwellings within the prevailing streetscape; or

(b) The proposed dwelling orientation is consistent with the traditional angular orientation of buildings, particularly in the case of corner lots where dwellings are typically set square to the corner splay of the lot.'

The applicant has previously advised the difficulties in achieving the above stated policy requirement, which is summarised as follows:

- No boundary on the subject site aligns perpendicular to the street boundary. This makes achieving the stated orientation without creating unusual space around the rear portions of the dwelling difficult.
- The subject site narrows considerably at its centre, meaning achieving a suitable roof form, while still maintaining a 90-degree orientation to the street is difficult.

Having regard to the above, the merit-based assessment is supported for the following reasons:

- The proposed development, at ~72.5 degrees to the street, graduates the orientation between the adjoining dwelling at No.64 Paget Street (45 degrees to the street corner) and No.1 Nicholas Crescent (90 degrees to the street); See image 2 below showing alignment the street.
- The unusual circumstance of the subject site, namely its boundary orientation and narrow centre point dictate that the 90-degree orientation is difficult to achieve.
- In addition to the above the proposed setback is greater than that required in LPP3.7 and is also setback further than the existing setback of 64 Paget Street. This creates an appropriate stepped treatment to the existing alignment of properties to the east of site.



Photo 2 – Adjoining properties and alignment to the street

CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Single storey Single house at No. 1B (Strata Lot 2) Nicholas Crescent, Hilton, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 October 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to occupation of the development hereby approved, the boundary wall located on the eastern and western boundaries shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City.**
- 5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

Advice Notes:

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



**C2311-2 REFERRED ITEM - PARRY STREET, NO. 26 (LOT 440),
FREMANTLE - FOUR STOREY MIXED USE DEVELOPMENT
(TOURIST DEVELOPMENT (8 UNITS), TWELVE MULTIPLE
DWELLINGS AND RESTAURANT/CAFE) (ED DA0098/23)**

Meeting Date:	8 November 2023
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Council
Attachments:	1. Amended Development Plans (dated 18 October 2023) 2. Site Photos 3. Sustainable Design Strategy 4. Applicant Design Statement and Assessment 5. Applicant Written Responses to DAC (DR1) Comments 6. DAC Comments (DR1 & DR2) 7. DAC Meeting Minutes 28.9.23 (DR3) 8. Revised Plans Covering Letter and Written Response to DAC comments (DR3). 9. Superseded plans considered at the Planning Committee on 2 August 2023 (plans dated 23 June 2023)

SUMMARY

Approval is sought for a four-storey mixed use development comprising Tourist development (8 units), 12 Multiple dwellings and Restaurant/café uses at No. 26 Parry Street, Fremantle.

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

- Land Use
- Plot Ratio
- Boundary Walls
- R-Code Volume 2 Matters

This application was originally referred to the 2 August 2023 Planning Committee with a recommendation for approval, however, the Council resolved to refer the application to the administration as follows:



'Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the four storey mixed use development (tourist development (8 units) and 12 Multiple dwellings) at No. 26 Parry Street, Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to address the comments from the Design Advisory Committee and reconsider the plot ratio sought, with regard to the overall bulk and scale of the development.'

Subsequently, the applicant provided amended development plans (dated 18 September 2023) to address DAC advice from the second meeting (DR2) and the revised proposal was reviewed by the DAC for a third time (DR3) at the City's DAC meeting on 28 September 2023.

Following further advice from the DAC (DR3 meeting minutes), the applicant provided a further set of amended plans (dated 18 October 2023) which the applicant now wishes to be considered by Council. It should be noted that this final set of plans has not been further considered by the DAC, although, design improvements to the proposal are noted.

A summary of key design changes since Council last considered the proposal and as per the latest amended plans (dated 18 October 2023), are outlined as follows:

- Introduction of a 'Restaurant/Café' use at the north-west corner of the building with frontage to Parry Street and the adjacent Queen Square park;
- Increase in the deep soil areas at ground floor level;
- Direct access provided to the adjacent Queen Square park from the ground floor communal amenities and pool area at ground level;
- A/C condensers moved from balconies to centralised plant deck on roof of building;
- Revised entry lobby and reception layout;
- Increase balcony size to Units 2 and 10;
- Increased floor to ceiling height for ground floor; and
- Simplified design and material palette across the façade and other elevations.

It is considered that the amendments constitute a re-design of the proposal which is considered to have satisfactorily addressed the reasons for deferral provided above. As such, the amended proposal is recommended for conditional approval.



PROPOSAL

Detail

Approval is sought for the erection of a new four storey (plus basement level) mixed use development comprising eight (8) Tourist development units and twelve (12) Multiple dwellings at a currently vacant site, No. 26 (Lot 440) Parry Street, Fremantle.

The proposed works include:

- Basement level: car parking (8 tandem bays) and storage areas
- Ground floor: Café/Restaurant tenancy, car parking (14 bays including 1 ACROD bay), lobbies, landscaping communal amenities including: dining, kitchen, lounge, 'business centre' (meeting rooms), gym and swimming pool. (Note: all amenities and spaces are intended for the sole use of owners/occupiers/visitors of the units/dwelling, not for the general public)
- First floor: 8 x Tourist Development Units (4 x one-bed; 4 x two-bed) and communal, accessible garden deck
- Second and third floors: 12 x Multiple Dwellings (4 x one-bed; 8 x two-bed)

The application was originally referred to the 2 August 2023 Planning Committee with a recommendation for approval, however, the Council resolved to refer the matter back to the administration for the following reasons:

'Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the four storey mixed use development (tourist development (8 units) and 12 Multiple dwellings) at No. 26 Parry Street, Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to address the comments from the Design Advisory Committee and reconsider the plot ratio sought, with regard to the overall bulk and scale of the development.'

Subsequently, the applicant provided amended development plans (dated 18 September 2023) to address DAC advice from the second meeting (DR2) and the revised proposal was reviewed by the DAC for a third time (DR3) at the City's DAC meeting on 28 September 2023.

Following advice from the DAC (DR3 meeting minutes), the applicant provided a further set of amended plans (dated 18 October 2023) which the applicant now wishes to be considered by Council. It should be noted that this final set of plans has not been further considered by the DAC, although, design improvements to the proposal are noted by officers.

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A summary of key changes to the latest amended plans (dated 18 October 2023), are outlined as follows:

- Introduction of a 'Restaurant/Café' use at the north-west corner of the building with frontage to Parry Street and the adjacent Queen Square park;
- Increase in the deep soil areas at ground floor level by increasing the ground floor setback of portions of building from the shared boundary with the adjacent Queen Street park (northern side of development);
- Direct access provided to the adjacent Queen Square park from the ground floor communal amenities and pool area at ground level;
- A/C condensers moved from balconies to centralised plant deck on roof of building;
- Revised entry lobby and reception layout;
- Increase balcony size to Units 2 and 10;
- Increased floor to ceiling height at ground level; and
- Simplified design and material palette across the façade and other elevations.

It is considered that the amendments constitute a re-design of the proposal which is considered to have satisfactorily addressed the reasons for deferral provided above. As such, the amended proposal remains recommended for conditional approval.

DAC comments from the third DAC meeting (DR3) can be found at **Attachment 7**; amended development plans (dated 18 October 2023) can be found at **Attachment 1**; the applicant's covering letter for the revised plans and written responses to DAC (DR3) comments can be found at **Attachment 8**; and the original plans considered by Council at its meeting on 2 August 2023 can be found at **Attachment 9** of this report.

Site/application information

Date received:	28 March 2023
Owner name:	Mft Investments (WA) Pty Ltd
Submitted by:	Stephen Hart
Scheme:	Mixed Use (R35)
Heritage listing:	Central Fremantle Heritage Area
Existing land use:	Vacant
Use class:	Multiple Dwellings, Tourist Development, Restaurant/Cafe
Use permissibility:	A, A, A



CONSULTATION

Internal referrals

CoF Heritage

26 Parry Street is a vacant site. The property is not included on the Heritage List, and it does not contribute to the heritage value of the Central Fremantle Heritage Area. Similar proposals for 4 storey mixed use developments to 26 Parry Street were granted planning approval in 2020 (tourist accommodation, multiple dwellings - DA0486/20), 2018 (tourist accommodation, multiple dwellings, restaurant, and lunch bar - DAP0001/18), and in 2014 (DAP005/14).

External referrals



Heritage Services (Department of Planning Lands and Heritage)

The application was referred to the state government's Heritage Services as the subject site is adjacent to two properties on the state register of heritage places: *Seven Terrace Houses* and *Fremantle Prison*. Heritage Services have advised that they have no objection to the proposal as the development is located an adequate distance away from the Fremantle Prison site and is not considered to affect the assessed heritage values of the registered places.

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. No comments were received, and the City has therefore only recommended the standard Area 2 conditions and advice notes be imposed.

Design Advisory Committee (DAC)

The subject development was referred to the City's DAC as the development comprised a building height greater than 11 metres in accordance with LPS4. The application was presented the City's DAC on three occasions. The proposal was initially reviewed on 4th April 2023 (DR1) and a follow-up review on 10 July 2023 (DR2) following some minor amendments to plans in response to DAC comments.

Following deferral of the application at the Planning Committee on 2 August 2023 with the instruction the applicant should further address DAC comments, the applicant provided amended development plans (dated 18 September 2023) to address DAC advice from the second meeting (DR2) and the revised proposal was reviewed by the DAC for a third time (DR3) at the City's DAC meeting on 28 September 2023.

A summary of the DR3 meeting minutes is provided in the following table (full details at **Attachment 7**):



DAC Meeting Minutes – DR3 – 28 September 2023	
Strengths of the Proposal	• Improvements to Ground Floor planning • Improvements to communal circulation areas planning
Principle 1 Context and character	<i>Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.</i>
	a) The panel acknowledges the references to Fremantle’s context and examples of local buildings presented by the applicant. b) The panel is concerned that the outcome of this context analysis has not resulted in a coherent building outcome. c) The architectural strategy appears to adopt elements of nearby masonry and stone historical buildings in a way that is somewhat superficial and does not involve an adequate appreciation of the context of Fremantle.
Recommendations	1. Explore Strategies to strengthen the architectural response to context. Opportunities may include: - Simplifying the material palette of the exterior façade - Incorporating the architectural logic of masonry buildings where elements ‘come to ground’, rather than hover disconnected from the ground. - Minimise the use of masonry as a two-dimensional cladding and explore the three dimensional qualities of masonry and the building more broadly - Consider opportunities to adopt elements of the northern park facing elevation onto the Parry St Elevation. The articulation of building forms and balconies may be worth considering.
Principle 2 Landscape quality	<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.</i>
	a) The panel notes that a Landscape Architect has not been appointed to the project team despite the project having a primary interface with a significant Fremantle park. b) The interface between the park to the north and the building involves a large level change and extensive paving within the park land for alfresco area. c) The deep soil planting and provision of trees required are not demonstrated in the information provided.
Recommendations	1. Consider the appointment of a landscape architect and the preparation of a project specific landscape design. 2. Explore interfaces between the park and the building that



	better balance the public green space and the provision of alfresco areas for the building reducing substantial level changes and integrating a landscape design. 3. Demonstrate the provision of deep soil planting, structured planting and tree types as per the requirements.
Principle 3 Built form and scale	<i>Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.</i>
	a) Bulk and scale generally supported.
Recommendations	1. Further exploration of the built form as per the recommendations in Principle 1 above, in particular the Parry St elevation.
Principle 4 Functionality and build quality	<i>Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.</i>
	a) The panel acknowledges the improvements to the ground floor planning. b) The panel notes that the stores to some apartments are large.
Recommendations	1. Ensure stores within apartments are not large enough to accommodate a bed to avoid their use as bedrooms.
Principle 5 Sustainability	<i>Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.</i>
	a. The panel notes that sustainability strategies are not evident in the material provided.
Recommendations	1. Further develop and define the sustainability strategies for the proposal.
Principle 6 Amenity	<i>Good design optimises internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.</i>
	a) The apartments that look into the southern courtyard/light well appear to have poor amenity and outlook. b) The use of the light well at its lowest level is not clear. c) Apartments will need to satisfy the requirements for SPP 7.0
Recommendations	1. Consider the location and treatment of the southern light well to maximise amenity to apartments. 2. Provide further explanation of the use of the southern lightwell at its lowest level and how privacy will be maintained to those apartments that look into it at this level. 3. Demonstrate apartments meet the requirements of SPP



	7.0.
Principle 7 Legibility	<i>Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.</i>
	a) The panel had no comments on legibility.
Recommendations	N/A
Principle 8 Safety	<i>Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.</i>
	a) The panel had no comments on safety.
Recommendations	N/A
Principle 9 Community	<i>Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction.</i>
	a) The panel encourages engagement between the City of Fremantle and the proponent for the resolution of the interface between the park and the building.
Recommendations	1. Engagement with the City of Fremantle regarding the park is encouraged.
Principle 10 Aesthetics	<i>Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.</i>
	a) Refer comments in Principle 1 above
Recommendations	1. Refer recommendations for Principle 1 above.

Concluding Remarks
The panel is supportive of the planning changes to the ground floor. The panel recommends the proponent further explore elevational treatments and architectural expression as well as addresses the comments raised above.

The above DAC comments were provided to the applicant and the applicant subsequently provided a further set of amended plans (**Attachment 1**), dated 18 October 2023. The applicant now wishes these final amended plans be considered for determination without further DAC review. The applicant has also provided



a covering letter with these amended plans that also provides written responses to the DR3 DAC comments (**Attachment 7**).

In particular, the noted changes in response the above DAC recommendations and concluding remarks in latest amended plans, are as follows:

- The material palette and composition of the elevations has been simplified, now providing only two primary materials, face brick and face limestone, with the contrast in texture and colour enhancing visual interest from the street;
- Increased articulation of the northern and eastern elevations providing greater visual interest through a combination of varying depth and alternating materiality;
- A revised landscaping plan has not been provided to complement the revised development plans, however, this will be secured via an appropriate condition and further subject to City approval.
- The proposed alfresco area to the café is intended to create better interaction and activation of the adjacent Queen Square park. While the works shown within the park will not form part of this approval, the alfresco area up to the park is seen to deliver better interaction and activation of the park.
- The amount of deep soil area has been marginally increased by increasing the ground floor setback of portions of building from the shared boundary with the adjacent Queen Street park (northern side of development); and
- The sustainability strategy will be secured by appropriate conditions of approval to ensure the intended 4 Star Green Star rating (or equivalent) is achieved, as required by LPP 2.13.

While these final amended plans have not been further reviewed by the DAC and full endorsement by the panel has not yet been granted, clear design improvements are noted by officers and the revised design of the proposal is considered worthy of approval.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Public advertising of the application included:

- Letters to owners and occupiers within 200m of the subject site;
- Sign on site;
- Press notices; and
- Plans and documents on the City's MySay website

The advertising period concluded on 16 May 2023, and two (2) submissions were received. The following issues were raised (summarised) and include an officer response in following table:

Submitter Comment	Officer Comment
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The set back from foot path does not comply. The overshadowing due to height, volume and lack of setbacks is not acceptable.	Detailed comment on the built form in the context of relevant development controls for the site (in particular, Fremantle LPA - sub-area 2.3.2) are provided in the officer comment section below.
The design is not architecturally outstanding & does not justify the relaxation of requirements for setbacks & overshadowing. We understand that Fremantle is encouraging more density, however this should not be at the detriment of good design.	Detailed review and comment on the design of the building is provided in the Design Advisory Committee section above.
At four storeys, it would be the highest building along the whole lengths of Parry Street and around the corner up Holdsworth Street. Therefore, this building will be isolated, and its profile would be an interruption rather than an enhancement to the streetscape.	Detailed comment on the built form in the context of relevant development controls for the site (in particular, Fremantle LPA - sub-area 2.3.2) are provided in the officer comment section below.
The design does not at all connect with the heritage buildings in the vicinity – the low heritage buildings opposite it on Parry St, the heritage terrace behind it on Holdsworth Street, and the Fremantle Goal buildings to its south east, and the buildings on High St and further north and northwest at the Parry / High Street intersection.	The proposal has been reviewed by the Heritage Services of DPLH and the City's Heritage team in the context of any surrounding heritage places and the heritage area generally, refer detailed comments above.
It is better to provide more homes, not tourist accommodation.	A majority of the units (12/20) are residential dwellings and further comment on the appropriateness of land uses is provided in the officer comment section below.
The amenity of residential dwellings to the east of the site will be adversely impacted by the proposal.	Detailed comment on the amenity impact of the proposal is provided in the officer comment section below.



Further discussion on the above comments are provided in the officer comment sections below.

OFFICER COMMENT

Statutory and policy assessment

NB. Subsequent to the deferral of the application by Council on 2 August 2023 and following receipt of the final amended plans from the applicant, the below officer assessment section has only been updated where relevant to the amended plans, dated 18 October 2023. The amended plans have not significantly altered the overall building design and/or discretions sought to some of the sections below remain the same. Where these elements have been altered this is clearly noted in each assessment section.

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:

- Plot ratio (density)
- Car parking
- Boundary walls
- R-Codes Volume 2 matters

In addition to the above R-Code provisions, discretion is also being sort against LPS4 with regards to the proposed land uses.

These matters and any others considered relevant to decision making on the application are discussed in detail below.

Background

The site is zoned 'Mixed use' with a density coding of R35. The site is located in the Fremantle Local Planning Area and is subject to the provisions of Schedule 7 (Sub Area 2.3.2) of LPS4. The development seeks discretion for the density to be increased to R60 under clause 4.2.5 of the scheme (further discussed below).

The application also proposes landscaping works to Queens Square. These works are outside of the lot boundaries and do not form part of this application. Works to Queens Square are subject to a separate agreement and/or future application between the applicant and the City's Infrastructure and Project Delivery



Services directorate but have been reviewed on a preliminary basis and given in principle support. It is noted that the City's Management Orders for Queens Square do not permit leasing to third parties. Any change to the orders requires the approval of the Council and the Minister, and may be the subject of future discussions between the applicant and the City.

The subject site is located on the east of Parry Street between High Street and Holdsworth Street in Fremantle. The land slopes upwards approximately 1.5 metres from the street to the rear. To the north, the site abuts a portion of the Queens Square reserve and a small portion of land containing a commercial building. Abutting the rear of the site is a single storey lodging house comprising nine units. The site to the south is the old Fremantle Dental Clinic, which is situated in a different sub-area under the scheme that does not permit a four-storey building height.

The previous building on-site was demolished in late 2016 and the site has been vacant since that time. The relevant history of the site is as follows:

- On 12 December 2014, JDAP conditionally approved a four storey plus basement Mixed use development comprising Offices, Shops, Restaurant and 8 Multiple dwellings.
- On 12 June 2015, JDAP conditionally approved amendments to the internal configuration and height of the above development.
- On 26 June 2018, JDAP conditionally approved a four storey Mixed use development comprising Tourist Accommodation, Multiple Dwellings, Restaurant and Lunch Bar.
- On 6 April 2022, Council conditionally approved a four storey mixed use development comprising 22 Tourist Accommodation Units and 8 Multiple Dwellings.

The approved development applications listed above have not been acted upon, and the most recent approval is the only one that remains valid.

LPP 2.19 - Public Art

NB. The following has not been altered since the proposal previously considered on 2 August 2023

A public art contribution is required to be provided in accordance with LPP 2.19 - Contributions for Public Art and/or Heritage Works policy as the subject site falls within the specified contribution area and meets the threshold of development to which the policy applies.

The applicant has nominated in revised plans that a perforated screen over the façade of the building is considered to be a public art contribution for the development. This is not considered adequate nor appropriate by officers and either a fully developed public art proposal for the development (as approved by the



City) or an appropriate monetary contribution toward public art elsewhere in the City, pursuant to LPP 2.19, is required.

The imposition of an appropriate planning condition is recommended to address this requirement.

LPP 3.1.5 – Precinct 5

NB. This section is only altered from the proposal considered on 2 August 2023 by the introduction of the new Restaurant/Café use at ground floor, as discussed in the table below.

This policy relates to design provisions for the inner part of the broader Fremantle Centre area, with the subject site being located within the 'Contemporary Influence' area of the precinct, an area noted in the policy exhibiting no strong unifying character. The requirements of the policy with respect to, with the following elements requiring further discussion or conditions of development approval:

The site is located on one of the secondary streets identified in the policy, and subject to the following requirements:

Policy Requirement	Officer Comment
Ground level frontages to secondary streets may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm.	As per the amended development plans, the development now provides an active 'Restaurant/Café' use at the north-western corner of the ground floor that opens to Parry Street and adjacent Queen Square park providing an active use. Further, the communal facilities/amenities for the residential dwellings and tourist development units open to and will overlook the adjacent queens square and parry street frontage. Passive surveillance is also provided form the balconies and major openings on the first floor and above that will also contribute to passive surveillance of the adjacent park and street frontage.
Retail and commercial floorspace shall provide major pedestrian entries directly from and level with from the street.	The pedestrian entry is accessed directly from and level with the Parry Street footpath.



Weather protection along footpaths of secondary streets adjoining retail/commercial/entertainment uses shall be provided, either in the form of awnings or first floor balconies, and satisfy all of the following: a) The weather protection shall be integrated with the building design; b) The weather protection shall be permanently fixed and shall be constructed of materials that provide sun and rain protection (i.e. a high degree of sun shading and water impenetrability); c) The weather protection shall project a minimum horizontal distance of 2 metres over the adjacent footpath; and d) Awnings shall have a consistent clear height above footpath level of 2.75m	The particular development controls for this subject site (sub-area 2.3.2) require a 1m building setback from Parry Street. The site is adjoined by Queens Square and the adjacent 12 Holdsworth which is outside of the sub-area and not subject to the same controls. As such, this provision becomes redundant as the purpose is to achieve a continued awning which will not be continued on adjoining sites in this circumstance. Notwithstanding, an awning is provided over the entry but this does not encroach into the road reserve.
Vehicle entrance points and services areas are to be integrated in to the overall building design and shall minimise detracting from the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible. On-site vehicle parking is not permitted at ground level adjacent to secondary streets.	The development provides a varied façade to the primary street and minimises the extent to which the façade is taken up by vehicle entry points with a singular crossover and entry point which is recessed behind the building façade to reduce its prominence. All parking is screened from view of the public realm.
Where residential uses are located at ground level, the design should achieve a clear distinction between the private place and public space, whilst still allowing for passive surveillance and interaction with the street.	Not applicable, no residential dwellings proposed on the ground floor.

Land Use

NB. This section is only altered from the proposal considered on 2 August 2023 by the introduction of the new Restaurant/Café land use at ground floor, discussed where relevant below.

Multiple dwelling, Tourist Development and Restaurant/Café uses are all both 'A' uses in the Mixed Use Zone, which means that the uses are not permitted unless the Council has exercised its discretion by granting planning approval. In



considering an 'A' use the Council will have regard to the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015*. In this regard the following matters have been considered:

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

The objectives of the mixed-use zone are as follows:

Local Planning Scheme 4 cl 3.2.1 (e):

Development within the mixed use zone shall –

- i) *provide for a mix of compatible land uses including light, services and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;*
- ii) *provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;*
- iii) *ensure future development within each of the mixed used zones is sympathetic with the desired future character of each area;*
- iv) *ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
- v) *conserve places of heritage significance the subject of or affected by the development.*

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

- The proposed development provides for a mix of land uses which support the variety of land use mix in the surrounding area. These uses provide a range of accommodation options for visitors to help support surrounding shops, cafes and tourist targeted uses (Fremantle Markets, Fremantle Prison etc).
- The development is considered to provide an appropriate response at the ground level with respect to its public domain interface,



- providing landscaped area and active frontages to both Queens Square and Parry Street.
- The development has been considered in the context of its proximity to the Fremantle Prison as a World Heritage Listed site and supported by the Department of Planning, Lands and Heritage.
 - The subject uses are unlikely to generate significant noise in their operation.
 - The proposed residences will provide for all day inhabitation and surveillance of the subject locality and support the increase of the resident population near the City Centre of Fremantle which is a strategic objective of the City. The residences will provide for inhabitation and activation in any tourism 'off seasons'.
 - The uses provide for a buffer between the residential dwellings on Holdsworth Street and more active uses near the City Centre.
 - The development has been designed to respond to the requirements applicable to the subject site under LPS4 with respect to building height, for the reasons discussed further in the officer comment section.

Density

NB. The newly proposed Restaurant/Café use has slightly increased the non-residential floor space within the development since the proposal considered on 2 August 2023 (previously 525sqm compared with the amended proposal, 599sqm) as discussed below.

The subject site has a density coding of R35, however in accordance with LPS4 cl. 4.2.5, the residential density of a property in the Mixed-Use zone can be increased up to R60 where residential development is part of a mixed-use development, provided the development is not considered to be detrimental to the amenity of the Area.

The subject proposal is a mixed-use development as defined in LPS4, as the proposal includes more than 25% of its gross lettable area as a non-residential use class; in this instance, being Tourist Development units and the newly proposed Restaurant/Café use at ground level. The proportion of non-residential uses throughout the development is currently provided as 599sqm (38.9%) non-residential, and 938sqm (61.1%) residential satisfying the cl. 4.2.5 requirement to increase the density of the site.

It is noted that should a change of use of the tourist development units to permanent residential dwellings be proposed in the future, this would need to be considered by the City against both the R-Codes requirements as well as the City's Scheme to confirm that the development remained as a 'mixed use' development as defined in the Scheme.

In considering whether a development presents an acceptable change to the amenity of an area, the City is to consider the requirements of LPS4, as well



as the requirements of the R-Codes. These matters are discussed further in the remainder of the officer comment section of the report, however it is considered that the development provides for an acceptable response to the amenity of the immediate area of the subject site and the development is considered to be worthy of approval, subject to conditions.

Plot Ratio

NB. The newly proposed Restaurant/Café use has slightly increased the non-residential floor space within the development since the proposal considered on 2 August 2023 (previously 1461sqm compared with the amended proposal, 1536sqm) as discussed below.

Element	Acceptable outcome	Proposed	Extent of departure from acceptable outcome
Plot ratio	0.8 (884.8sqm)	1.39 (1536sqm)	0.59 (651.1sqm)

In accordance with the requirements of the Residential Design Codes Volume 2 (Apartments), in considering whether a proposed plot ratio is appropriate to the locality consideration is to be given to the existing and/or planned character of the area.

Plot ratio is one of the measures used by the R-Codes to assess the overall bulk and scale of a development, ensuring it is both appropriate and complimentary within the planned and existing character of an area. In this case, the proposed development is considered acceptable as its the setbacks, height and general siting attributes are complimentary to the existing and desired bulk and scale character of the greater sub area of Fremantle as provided for in LPS4. Additionally, the building is setback from the rear property and reduces in scale as it increases in height, to reduce the impact on the neighbouring residential property.

Building Height

NB. The amended development plans have not altered the overall building heights proposed and this assessment element remains as previously proposed.



Element	Requirement	Proposed	Extent of Variation
Building height – Local Planning Scheme 4, sub-area 2.3.2	Maximum wall height 11 metres, with a roof plain pitch of 33 degrees One additional storey permitted subject to: - The upper level being sufficiently setback from the street so as to not be visible from the street (s) adjoining the subject site. - Maximum external wall height of 14m. - The development satisfies the 'matters to be considered in applying specific and general height controls'	Third floor external wall height – 10.6m Setback fourth floor external wall height – 12.9m (not considered visible from street)	Nil – considered compliant with sub-area 2.3.2 provisions for subject site, see further discussion below.

The proposed development has been designed to specifically accord with the sub-area 2.3.2 provisions which allow for an additional fourth floor it is demonstrated that it will not be 'visible from the street' as defined under cl. 2.3.2.1.

Furthermore, the subject development is generally considered to be consistent with the expected heights in the broader locality of the subject site, noting that the subject building is the first to develop to the LPS4 height requirements in Scheme Sub Area 2.3.2. The development is considered not to be detrimental to the amenity of the area and is not considered to impose unduly on surrounding heritage buildings due to it being consistent with the intended character of the area with respect to its building height and scale.

Scheme Sub Area Requirements



NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

Requirement	Proposed
2.3.2.2 Setbacks – 1m ground floor setback to Parry Street with the setback integrated into the adjoining footpath. Zero minimum setback, and 3m maximum setback to Queens Square.	1m Ground floor setback to Parry Street provided. The development is built up to the Queens Square boundary. Complies
2.3.2.3 Boundary walls – Boundary walls will be permitted only where the Council is satisfied that both the following criteria are met: a) The elevation presents as an integral part of the overall aesthetic of the building; and b) the walls are sympathetic to the surrounding environment.	The proposed boundary wall elements are considered to appropriately integrate into the overall building and are appropriately sympathetic to surrounding development (it is noted the adjacent southern site is non-residential). Discussed further below.
2.3.2.4 – Vehicle parking shall not be provided for in the street setback area of any lot.	All parking screened from view and behind street setback area. Complies
2.3.2.5 – Development abutting Queens Square shall be designed or setback so as to not undermine or compromise the integrity or well-being of the existing trees within Queens Square.	The subject site is well set back from the existing trees in Queens Square, being set approximately 16m from the existing trees. Complies
2.3.2.6 – New buildings shall provide for activated ground floor level frontages and passive surveillance from upper floors to Parry Street and Queens Square.	The proposal provides communal amenity areas (Gym, Lounge, Kitchen, Dining, Pool and Meeting Rooms) at ground level which will overlook Queens Square as well as units on levels above that will provide further passive surveillance over the park and Parry Street Complies



Boundary Walls

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

In accordance with Scheme Sub Area 2.3.2.3, boundary walls are permitted in the following instances:

- (a) *the elevation presents as an integral part of the overall aesthetic of the building, and*
- (b) *the walls are sympathetic to the surrounding environment.*

These criteria are considered to be met for the following reasons:

- The building to the south of the subject site is used for non-residential purposes and would not unduly be impacted by a boundary wall.
- The building is setback 1.5m from the rear (eastern) boundary and the adjoining development to the east predominantly provides highlight non major openings along this boundary, resulting in a limited impact with respect to afternoon shade and building bulk.
- The rear elevation is integrated into the overall design of the building as the development comprises of a number of rectangular forms across each façade which are heavily articulated at various setbacks and broken up with areas of void.
- The proposed setbacks provides for adequate separation between the subject building and neighbouring buildings, with the development providing varied setbacks (between min. 1.5, 3m and 5.7m), heavily articulated with areas of building void to the eastern boundary.
- The building being constructed up to each property boundary is considered to be consistent with the intended character of the area in providing for a consistent streetscape. The subject building is the first in the relevant Scheme sub area to redevelop.
- The development is generally consistent with the built form outcome envisioned for the site and locality in Local Planning Scheme 4.

In accordance with the above considerations, the development is considered to satisfy the relevant criteria of LPS4 Sub Area 2.3.2 and is worthy of support, subject to conditions.

On-site Car Parking

NB. The newly proposed Restaurant/Café use at ground level has increased the non-residential parking requirement from the previously considered proposal on 2 August 2023. This increase is outlined in detail in the following table and discussion below.



Residential Car Parking			
Item	Required	Provided	Shortfall
1- bedroom dwellings (4)	0.75 bays per dwelling = 3	3	N/A - Complies
2+ bedroom dwellings (8)	1 bays per dwelling = 8	10	N/A – 2 bay overprovision
Visitor Parking	1 bay per four dwellings up to 12 dwellings; 1 bay per eight dwellings for the 13th dwelling and above. 12 dwellings; 1 bay required	1	N/A - Complies
Residential Bicycle Parking			
Item	Required	Provided	Shortfall
Resident	0.5 bays per dwelling (6)	0	6 bay shortfall; applicant has advised bike storage provided in storage rooms for each unit, this is not supported by officers, to condition 6 bike racks in designated store; there is ample space in parking/ground floor storage areas to provide this.
Residential Visitor	1 space per 10 dwellings (12) = 1.2	1	N/A - Complies



Non-Residential (Tourist Development and Restaurant/Cafe)			
Item	Required	Provided	Shortfall
Tourist Development Units (8)	1:4 units (8) OR 1: 4 Bedrooms (12)* *whichever is greater = 3 bays	8	Complies – 5 bay overprovision
Restaurant/Cafe	1: 5 seats or 1: 5 m2 dining area, whichever is the greater = 8	0	8 bay shortfall
Non-Residential Bicycle Parking			
Item	Required	Provided	Shortfall
Tourist Development Units (8)	class 2: 1 per 4 units (2)	0	2 bay shortfall; applicant has advised bike storage provided in storage rooms for each unit, this is not supported, to condition 3 bike racks in designated store for tourist units; ample space in parking/ground floor storage areas for additional bicycle parking – to condition.
Restaurant/Cafe	class 1 or 2: 1 per 100 m2 public area class 3: two (2)	0	2 bays shortfall; as above, it is considered there is ample space at the front of the café tenancy to provide the required bike racks – to condition.

The bicycle parking shortfalls identified above are considered able to be resolved with appropriate conditions of approval should the application be approved as there is ample space within development to provide the required bicycle racks.

With the introduction of the Restaurant/Café use at ground floor as per the amended plans which is a supported design outcome and improvement, this has in turn, resulted in a car parking shortfall for this use of 8 bays and the parking for the tourist units and dwellings is located behind a security gate.



Notwithstanding, this car parking shortfall is supported in this instance under Clause 7.4.3 of the LPS4 which allows Council to consider a relaxation of parking requirements under the following criterion:

- (i) the availability of car parking in the locality including street parking,*
- (ii) the availability of public transport in the locality,*
- (iii) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*
- (iv) any car parking deficiency or surplus associated with the existing use of the land,*
- (v) legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
- (vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
- (vi) the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*
- (viii) any other relevant considerations.*

In light of the above, the car parking shortfall for the cafe is considered acceptable, pursuant to clause 7.4.3 above, for the following reasons:

- Due to the location and nature of the cafe, it is not expected that many customers will travel to and from the site by means of a private car with the café as a destination in mind. Rather, it is expected that many customers will be from the local area, travelling to and from the City Centre from other properties in the local area and/or be customers from within the building itself.
- Other individual restaurant/cafes within the Fremantle City centre (of which the site abuts) do not in most circumstances provide on-site parking for their exclusive use and it is considered this principle is appropriate to apply here for the reasons listed below.
- The subject site is located on the border of the Fremantle City Centre which has an excellent level of public transport accessibility. The site benefits from proximity to the Fremantle train station and bus depot services (570m from site) and other high frequency Transperth bus services along Parry and High Street, High Street and Adelaide Street (within 50m of the subject site);



- Being located in the City centre, the site benefits from excellent walkability and cyclability from all areas of central Fremantle.
- The site benefits from proximity to numerous public parking facilities within a walkable catchment (400m) of the site, including:
 - Parry Street public car park (50m south of subject site) – 172 bays
 - FOMO multi-level public carpark – 250+ bays
 - Various other City of Fremantle public car parks and street parking bays – 500+ bays

On the basis of the above, the parking shortfall is considered acceptable pursuant to clause 7.4.3 of the City's LPS4.

Dwelling Mix

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

Clause 4.4.5 of the City's LPS4 provides:

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

For the multiple dwellings proposed, four (4) of the twelve (12) multiple dwellings proposed have floor areas less than 60sqm (representing 33.3% of dwellings) and only one (1) of the dwellings has a floor area of 120sqm or greater (representing 8.3% of dwellings). As such, the proposed dwelling mix complies with clause 4.4.5 of the City's LPS4.

Sustainability

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

Given the development is subject to the R-Codes Vol. 2, it would generally be exempt from the need to comply with the City's LPP 2.13 (Sustainable Building Design Requirements). However, the proposal is subject to LPP 3.1.5 which requires that development address specific ESD standards where the highest applicable building heights are sought.

The applicant has provided a Sustainable Design Strategy which demonstrates the intent of the building to achieve a minimum equivalent of Australian Best Practice



which equates to a 4 Star Green Star Rating which is typically required for other developments of this scale where LPP 2.13 is applicable.

Notwithstanding the Sustainable Design Strategy, further detail is required to confirm compliance which also must be reflected in development plans. As such, a condition of approval is recommended to ensure the building achieves the 4 Star Green Star Rating (or equivalent) as set out in the Sustainable Design Strategy that supports the application, pursuant to LPP 3.1.5 requirements.

R-Codes Volume 2 (Apartments)

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

The Residential Design Codes for Apartment Developments seeks to provide a series of objectives which should be satisfied by new residential developments in Western Australia. The applicant is generally required to demonstrate how these objectives have been satisfied throughout their proposal, and while the Volume 2 Codes provide some acceptable outcomes which represent one way these elements can be addressed there are other means to meet relevant objectives. Unlike the deemed-to-comply requirements of Volume 1 of the R-Codes, not meeting the Acceptable Outcomes does not mean that the objectives of the codes have not been met, and alternative methods can be used and justified accordingly.

It should be noted that only the proposed multiple dwellings (not the tourist development units) are subject to assessment under the R-Codes Vol. 2 and therefore only the 12 residential multiple dwellings on the 2nd and 3rd floor were assessed under these provisions, with the development in general being assessed under the R-Codes Vol. 2 where relevant otherwise.

The matters in the table below are considered to be preeminent in considering the application and are elements whether the Acceptable Outcomes have not been met, however an assessment of the Element Objectives of the Volume 2 R-Codes is provided as additional information below the table.

Element	Acceptable Outcome	Proposed	Extent of departure from acceptable outcome
Overshadowing	35%, however were the neighbouring site redeveloped to R60 density, 50%	52.61% (425sqm)	17.61% (142sqm) OR



	overshadowing would be permitted		2.61% (21sqm) if adjoining site redeveloped to R60 density
Landscaping and Deep Soil Areas	Deep Soil Area (DSA) – 10% of site area (1106sqm) = 110.6sqm 1 large tree, 1 medium tree	54sqm DSA at ground level plus additional 78sqm 'on-structure' planting at first and third levels of the building 4 medium trees (rear ground level)	Discussed below.

Orientation (Overshadowing)

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

In accordance with the element objectives of the Residential Design Codes Volume 2, building form and orientation should minimise overshadowing of habitable rooms, open space, and solar collectors of neighbouring properties at mid-winter. The proposed development is considered to satisfy the relevant element objective for the following reasons:

The shade cast by the building at midday on midwinter (when overshadowing is greatest) falls over the neighbouring property (12 Holdsworth Street) which is not developed for residential purposes and currently is commercial in use (dental clinic). The shade cast by the building is considered worthy of support under the circumstances for the following reasons:

- The neighbouring site is not currently used for residential purposes and is of a commercial building typology that is used as a dental clinic. Accordingly the shade impact at present is likely to be limited and is not to impact any residential dwellings.
- Should the adjoining southern property be redeveloped in the future and seek the same density bonus afforded to the subject site under the mixed-use development of the site (cl. 4.2.5), the variation/discretion would only be negligible at only a 2.61% (or 21sqm) variation.
- If redeveloped, it is likely that any redevelopment on the neighbouring site would build against the proposed boundary wall to the southern boundary of the subject site, resulting in a reduced overall impact to the subject lot, with a shared boundary development limiting shade being cast onto the lot.
- The shade cast by the building provides for the rear area of the adjacent property to be unshaded in winter as shown on the shadow diagrams,



meaning any future development would have access to winter sun from the rear of the site.

Landscaping and Deep Soil Areas

NB. The amended plans have marginally increased the deep soil areas at ground level from the previous proposal considered on 2 August 2023 (increased by 5sqm in the amended development plans) as discussed below.

In terms of deep soil area, the proposal provides 54sqm of deep soil area at ground level, representing 5.4% in lieu of the 10% required (a 47sqm shortfall). However, Acceptable Outcome A3.3.7 of the R-Codes Vol. 2 provides:

Where the required deep soil areas cannot be provided due to site restrictions, planting on structure with an area equivalent to two times the shortfall in deep soil area provision is provided.

The proposal provides an additional 78sqm of 'on-structure' planting area on the first and third floors which is equivalent 1.66 times the shortfall in deep soil area at ground floor. While this still falls short of the Acceptable Outcome A3.3.7 of the R-Codes Vol. 2, the proposal is considered to meet the R-Code Element Objectives for the R-Codes for the following reasons:

- Additional areas of landscaping (approx. 30.1sqm) at ground level that do not strictly meet the definition/requirement of 'deep soil areas' are provided at ground level which will contribute to the overall soft landscaping of the site.
- The proposed landscaping elements are integrated into the overall design of the subject building and provided in key areas such as the where the building interacts with Parry Street and the adjacent Queens Square park as well as communal amenity areas.
- The site is directly adjacent to Queens Square and occupants and visitors to the building will be capable of readily accessing the park area which is a landscaped open space.
- Landscaping is proposed to the public realm to enhance the public amenity of the footpath and streetscape.
- Landscaping is provided to provide for a positive outlook from apartment balconies and windows on the upper levels.
- The proposed landscaping will represent an improvement of green landscaping and canopy cover over the existing vacant and sandy development site.
- It is a recommended condition of development approval that the landscaping be provided in accordance with the submitted landscaping plan.

Furthermore, the provision of 4 medium trees in lieu of 1 large and 1 medium tree is also considered to meet the element objectives with respect to on-site tree planting.



Notwithstanding the above, the amended development plans were not accompanied by an updated landscaping report and plans and thus, conditions of approval are recommended to secure updated landscaping plans to the satisfaction of the City.

It should be noted that works shown on the plans within the adjacent Queens Square are not being considered nor form part of this application. Any such works would be subject to separate agreement and approvals from the City of Fremantle.

Other R-Code Vol. 2 Elements Meeting Acceptable Outcomes

NB. The amended plans have not altered the below assessment from the proposal previously considered on 2 August 2023.

The following key assessment items for the multiple dwellings were also deemed to have met the Acceptable Outcomes for each element, as outlined below:

- Building Depth – Max. building depth 18.6m (20m is the Acceptable Outcome);
- Communal Open Space – First floor terrace and ground floor communal amenities;
- Visual Privacy – Internal and External, north facing balconies appropriately screened, condition to ensure adequate screening implemented;
- Public Domain Interface – noting balconies and significant windows overlook both the park and street;
- Pedestrian Access and Entries – Universally accessible building entrance and movement within building;
- Vehicle Access;
- Car and Bicycle Parking – refer on-site car parking section above, bicycle parking secured by condition;
- Solar and Daylight Access – 10 of the 12 residential multiple dwellings (representing 83%) shall receive at least the minimum of 2 hours of direct sunlight per day in lieu of 70%;
- Natural Ventilation – 8 of the 12 (66.6%) residential multiple dwellings are dual aspect and capable of natural cross-ventilation exceeding the minimum 60% requirement;
- Size and Layout of Dwellings, Storeroom and Outdoor Living Areas – All of the dwellings proposed exceed the minimum size and layout, storage and outdoor living area requirements of the R-Codes;
- Circulation and Common Spaces – Building universally accessible and passageway width exceeds minimum required.



CONCLUSION

In accordance with the above assessment, the subject development is recommended for approval, subject to appropriate conditions of approval. While the overall design of the development has not been endorsed by the DAC, the applicant has made noted improvements to the design of the proposal as per the amended development plans which have responded to advice from the City's DAC. Furthermore, the proposal is generally compliant with all relevant development controls applicable to the subject site and does not seek any significant discretions that would warrant further impetus on design excellence to overcome. Under the circumstances and in consideration of the history of development approvals at the site and the improvements made to the design in the latest amended development plans, the proposal has been recommended for approval, subject to appropriate conditions of approval.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

Green Plan 2020

Encourage the planting of vegetation on private land.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Four Storey Mixed Use Development (Tourist Development (8 Units), 12 Multiple Dwellings and Restaurant/Café) at No. 26 (Lot 440) Parry Street, Fremantle, subject to the following condition:

- 1. This approval relates only to the development as indicated on the approved plans, dated 18 October 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. This development approval does not relate to any works within the road reserve of Parry Street or within the Queens Square reserve. Any such works would be subject to further approval from the City of Fremantle.**
- 5. Prior to the lodgement of a Building Permit for the development hereby approved, a Construction Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:**
 - a) Use of City car parking bays for construction related activities;**
 - b) Protection of infrastructure and street trees within the road reserve;**
 - c) Security fencing around construction sites;**
 - d) Gantries;**
 - e) Access to site by construction vehicles;**
 - f) Contact details;**
 - g) Site offices;**
 - h) Noise - Construction work and deliveries;**
 - i) Sand drift and dust management;**
 - j) Waste management;**
 - k) Dewatering management plan;**
 - l) Traffic management; and**
 - m) Works affecting pedestrian areas.**



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

- 6. Prior to the lodgement of a Building Permit for the development hereby approved, detailed drawings showing how the balconies located on the eastern elevation are to be screened in accordance with 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.

- 7. Prior to lodgement of a building permit for the development hereby approved, detailed drawings demonstrating that the operable balcony screens do not open across lot boundaries into neighbouring properties, public open space or road reserve and are visually permeable are to be submitted to the satisfaction of the City of Fremantle.**

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

- Estimated waste generation;**
- Proposed storage areas for receptacles;**
- Collection methodology for waste; and**
- Any additional management requirements to be implemented and maintained for the life of the development.**

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

- 9. Prior to the lodgement of a building permit, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating how the**



development will achieve a Green Star rating of at least 4 Stars or equivalent, to the satisfaction of the City of Fremantle.

- 10. Prior to occupation, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating that the development as constructed achieves a Green Star rating of at least 4 Stars or equivalent, to the satisfaction of the City of Fremantle.**
- 11. Prior to the lodgement 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.**
 - c) Roof insulation in accordance with the requirements of the Building Codes of Australia.**
- 12. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.**
- 13. Prior to the lodgement of a building permit for the development hereby approved, a revised, detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, on-structure planting and treatment of landscaped surfaces (i.e. mulch, lawn etc), shall be submitted to and approved by the City of Fremantle.**

Prior to the occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.



- 14. Prior to the occupation of the development hereby approved, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm in accordance with *LPP 2.19: Contributions for Public Art and/or Heritage Works* and to the satisfaction of the City of Fremantle. Based on the estimated cost of the development being \$5.5 million the contribution to be made is \$55,000.**
- 15. Prior to the issue of a building permit for the development hereby approved, the applicant is to provide a delivery management plan detailing the timing and frequency of deliveries to the development hereby approved, to the satisfaction of the City of Fremantle. Deliveries for the building are to be undertaken in accordance with the approved delivery management plan for the life of the development, to the satisfaction of the City of Fremantle.**
- 16. Prior to the issue of a Building Permit for the development hereby approved, the applicant is to submit, and have approved to the satisfaction of the City of Fremantle, a detailed parking plan design which complies with the Australian Standard AS/NZS 2890 and AS/NZS 1428 for parking bays, visitor bays, loading bays, disabled bays, motorcycle / scooter bays, aisle widths, circulation areas, driveway/s and points of ingress and egress.**
- 17. Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.**
- 18. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**
- 19. Prior to the occupation of the development any redundant crossovers and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 20. Prior to occupation of the development hereby approved, the boundary walls located on the north, east and south boundaries shall be of a clean finish in any of the following materials:**

 - coloured sand render,**
 - face brick,**



- **painted surface,**
and be thereafter maintained to the satisfaction of the City of Fremantle.
- 21. Prior to the issue of a building permit, development plans shall be submitted to the satisfaction of the City of Fremantle, which include a minimum of:**
- i. 20 per cent of all dwellings, across a range of dwelling sizes, meet Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia), OR**
 - ii. 5 per cent of dwellings to be designed to Platinum Level as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia).**

The dwellings shall be maintained as such for the life of the development.

- 22. Prior to the issue of a building permit, details are to be submitted that demonstrate that each dwelling will be individually metered for water use to the satisfaction of the City of Fremantle.**
- 23. Prior to the issue of a Building Permit for the development hereby approved, a plan detailing the provision of 6 Class 1 bicycle racks (as defined in Local Planning Scheme No. 4) for the residential multiple dwellings and 5 Class 3 bicycle racks for the tourist development units shall be provided on-site, to the satisfaction of the City of Fremantle.**

Prior to occupation of the development hereby approved, the required bicycle racks must be installed in accordance with the approved plan and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

- 24. Prior to the issue of a Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle**
- 25. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, including a physical sample board or materials is to be submitted and approved to the**



satisfaction of the City of Fremantle, on the advice of the City's Design Advisory Committee.

- 26. Prior to the issue of a Building Permit for the development hereby approved, the applicant will provide supporting evidence that the design of the development generally satisfies the Crime Prevention through Environmental Design (CPTED) Planning Guidelines of the Department of Planning, Lands and Heritage (DPLH) to the satisfaction of the City of Fremantle.**
- 27. 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:

- 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. An application for building permit for the swimming pool barrier must be submitted and building permit issued prior to filling the swimming pool with water.**
- iii. The applicant is advised that any future change of use to the Tourist Development units will require approval from the City of Fremantle, and should the percentage of non-residential gross lettable area be reduced below 25% this change of use may not be supported as the development would need to remain consistent with the definition of 'Mixed Use' listed in the City of Fremantle Local Planning Scheme No. 4.**
- iv. This approval relates to the subject site and does not authorise the removal or modification of infrastructure within the verge or park area. Written approval is to be obtained for removal or modification of verge infrastructure and/or verge trees within the verge and park areas from the relevant City of Fremantle department or relevant service authority, before construction commences. Please refer to the City's Tree Planting and Vehicle Crossings Policies (SG28 and MD0015) for further information.**
- v. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed**



architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

- vi. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.
- vii. The applicant is advised that the use of the development hereby approved for short stay accommodation may be subject to further approval in accordance with the City of Fremantle *Short Stay Accommodation Local Law 2008*.
- viii. Levels as per existing footpath and/or ROW
 - Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - Any adjustment in levels is to be achieved within the property boundaries;
 - Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

Minimum floor level to be road reduced level plus kerb height (150 mm) plus 2% slope towards to the property boundary. All levels are to be in AHD.

The floor level of any new structure capable of being occupied is to be a minimum of above 150 mm plus 2% slope towards to the property boundary. Basement car parks and similar areas may be permitted below this level if the structure and any access to the structure is tanked to a level of above. Please contact the Infrastructure Business Services department via info@fremantle.wa.gov.au or 9432 9999.

- ix. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>. A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via: <https://www.fremantle.wa.gov.au/sites/default/files/Construct>



ion%20and%20Demolition%20Management%20Plan%20Proforma.pdf

The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999.

- x. The proponent must make application to the WA Department of Health's Chief Health Officer for any new aquatic facility under regulation 5 of the *Health (Aquatic Facilities) Regulations 2007* using the **construction, alteration, or extension of an aquatic facility application form (Word 212KB)** form. A Building Permit cannot be issued for the aquatic facility, until the WA Department of Health has granted approval for the Facility. For further clarification please contact the City's Environmental Health Section on 9432 9999 or via health@fremantle.wa.gov.au for further information.
- xi. The proponent must:
- make application to Environmental Health Services via Form 1 - Application to construct, alter or extend a public building as a requirement of the *Health (Public Buildings) Regulations 1992*;
 - once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate;
- And
- once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.
- Note that Section 1 does not apply to or in relation to building work, as defined in the Building Act 2011 section 3, for which a building permit is required under that Act.
- xii. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Parry Street road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au.
- xiii. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended).
- xiv. If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays).



In instances where such construction work needs to be performed outside these hours, an Application for Approval of a Noise Management Plan must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.

Note: Construction work includes, but is not limited to, Hammering, Bricklaying, Roofing, use of Power Tools and radios etc.

- xv. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the City's Technical Officer, Parks and Landscape via info@fremantle.wa.gov.au or 9432 9999.**
- xvi. Prior to the occupation of the development, the approved landscaping to the subject site shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.**



**C2311-3 SOUTH TERRACE, NO. 223 (LOT 1), SOUTH FREMANTLE –
PARTIAL CHANGE OF USE TO ART GALLERY – (JD
DA0147/23)**

Meeting Date: 8 November 2023
Responsible Officer: Manager Development Approvals
Decision Making Authority: Council
Attachments:
1. Amended Development Plans
2. Applicant Response to Submission
3. Applicant Parking Shortfall Additional Justification
4. Site Photos

SUMMARY

Approval is sought for a partial change of use to include an Art gallery land use at No. 223 South Terrace, South Fremantle (subject site).

The proposal is referred to the Ordinary Council Meeting (OCM) 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 Local Planning Scheme No. 4 (LPS4). These discretionary assessments include the following:

- **Land Use**
- **Car Parking**

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for a partial change of use for an Art gallery at the subject site. The proposed works include:

- Internal fit out of an existing storeroom to an Art gallery.

The applicant submitted amended plans on 29 June 2023 including the following:

- An updated site plan illustrating the total number of existing car parking bays available on-site.

Amended Development plans are included as attachment 1.



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 proposed Art Gallery seeks a shortfall in car parking, which is discussed further below. The advertising period concluded on 23 June 2023, and one (1) submission was received. The following issues were raised (summarised):

- Potential noise impact from cars arriving and leaving late at night as well as patrons chatting in the parking area.
- An increase in the demand for carparking along King William Street and the reduction of available parking for residents.
- A lack of information associated with the potential car spaces for the parking area.
- Access for vehicles to park on the west side of the existing building.
- The building of the existing toilets and storeroom detracting from the current available parking bays on-site.

It is noted that the application was initially advertised as a change of use to a Restaurant/Café together with a car parking shortfall. Upon further investigation it was identified that the Restaurant/Café was an existing, approved land use, with the proposed land use being for the addition of an Art gallery, which is a discretionary land use (D) within the Mixed Use zone. The submitter was advised of the correct land use being applied for. Regardless of the advertising error, the submitter's concerns regarding parking remain valid and are assessed below.

The applicant provided a response to the advertising submission which is included as attachment 2. The applicant provided further parking shortfall justification on 11 October 2023 which is included as attachment 3.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 specifically land use and car parking provisions. The relevant assessment criteria are discussed as follows.

Background

The subject site is located on the western side of South Terrace and was approved and constructed as a residential dwelling 1961. The site has a land area of approximately 675m² and is currently an existing Restaurant and Garden

Centre as illustrated by Figure 1 below The site is zoned Mixed Use and has a density coding of R30. The site is located within the South Fremantle Precinct Heritage Area but is not individually heritage listed.

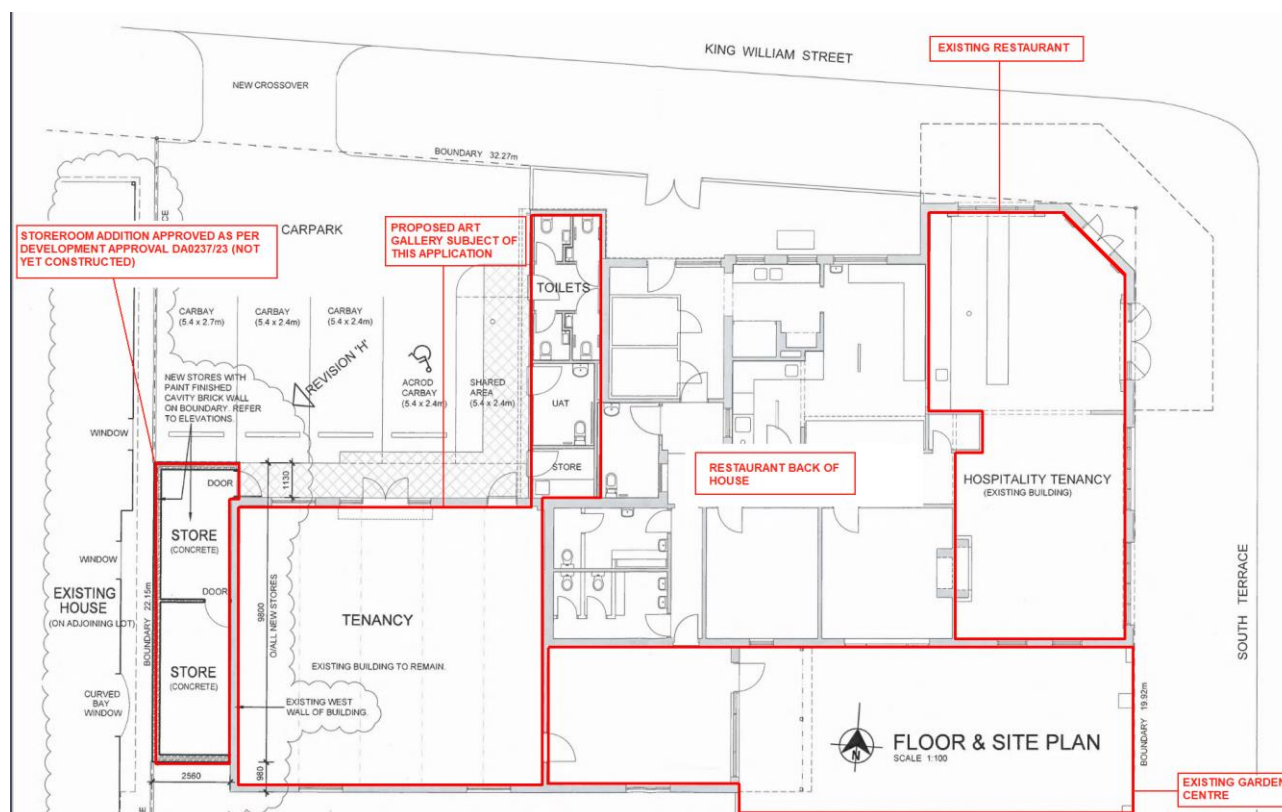


Figure 1 – Site Plan illustrating the existing and proposed land uses.

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

- BL1196 – Building licence – Residential dwelling – 1961
- BL9368 – Building licence – Renovations to existing shop and residence – 1976
- BL107 – Building licence – Storeroom addition - 1977
- DA147/85 – Development approval – Renovations and change of use from shop to restaurant – 1985
- BL4406 – Building licence – Renovation to restaurant – 1986
- DA147/85B - Re-roof of existing storeroom - 1990
- DA147/85C & DA95/87C – Renewal of planning consent to use existing building as a restaurant and dwelling – 1992
- DA0297/22 - Re-instatement of external Awning Over the Road Reserve - 2022
- DA0422/22 - Rear Additions and Alterations to Existing Building (construction of new toilets and alteration to rear lean-to) – 2022
- BP0104/23 – Re- Roof of Existing Restaurant – Tile to Metal - 2023
- DA0237/23 – Additions to Existing Building - 2023



*At the time of development approval being granted in 1985, the parking required was five (5) bays for the Restaurant land use and two (2) bays for the residential use. There was no reference to the Shop use which was replaced by the Restaurant land use as per the planning approval DA147/85 granted in 1985 (renewed in 1992).

It is noted that the site has existing approval for a Restaurant/Café which was originally issued in 1985. The site still operates as a Restaurant/Café land use, noting that a new tenant has recently opened on the site (Big Rigz Burgers). In addition to this, the site also operates as a partial Garden Centre which is a permitted land use within the Mixed Use zone meaning the use did not require development approval from the City.

To summarise, the site currently operates as both a Restaurant and a Garden Centre. The proposal seeks to add an additional Art Gallery land use within the existing building to the rear of the site. The addition of this land use will increase the number of parking bays required on-site. There is limited room available on-site to provide any additional bays which will result in the requirement for street parking to be utilised.

Land Use

An Art Gallery is a 'D' use in the Mixed-Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting development approval. In considering a 'D' use the Council will have regard to the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015*. In this regard the following matters have been considered:

- (b) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) *The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development*
- (n) *The amenity of the locality including the following:*
 - (iv) *Environmental impacts of the development*
 - (v) *The character of the locality*
 - (vi) *Social impacts of the development*
- (s) *the adequacy of –*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles*
- (c) *Any submissions received on the application.*

The proposed development is not considered to address the above matters for the following reasons:



- The proposal will be inconsistent with the following objective of the Mixed Use zone, "development within the mixed use zone shall — ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality".
- The proposal will be detrimental to the amenity of the surrounding area due to the already limited parking availability on the subject site resulting in parking and traffic issues in the surrounding area.
- The addition of an art gallery will be the third land use for the site and will overlap with the opening hours of the other uses (the art gallery is proposed to open from 10am to 4pm every day with occasional invitation only events held between the hours of 5.00pm - 8.30pm, these opening hours will overlap with the existing restaurant and garden centre opening hours). The overlapping of opening hours will result in significant demand for parking during these times, of which there is insufficient capacity for the surrounding area to absorb this demand.
- A submission was received objecting to the proposal on the grounds of parking and amenity impacts. These objections are considered valid planning considerations.

Car Parking

The car parking requirements for the existing and proposed land uses are identified in the table below.

Element	Requirement	Proposed	Extent of Variation
Restaurant (existing)	Car bays 1:5m ² Required: 5 bays - Refer note 1	4 bays	1 bay* Refer note 1
Art gallery	Car bays 1:30m ² of public floor area Required: 4 bays (floor area 99.83m ²)	Nil	4 bays
	Delivery bays 1:building Required: 1 bay	Nil	1 bay
	Bicycle racks class 3: 2 plus 1 per 50m ² gla Required: 4 racks	Nil	4 racks
Garden centre	N/A - Refer note 2		



Total	9 car bays 1 delivery bay 4 bicycle racks	4 car bays (no allocated delivery bay) nil bicycle racks	5 car bays, 1 delivery bay, 4 bicycle racks
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Note 1: Five (5) car bays were required as a condition of approval for the Restaurant subject of DA147/85C. Four (4) bays have been provided onsite resulting in a one (1) bay shortfall. It is not considered applicable to assess an existing approved land use under current parking requirements. The applicant will be advised that onsite parking will be required to be consistent with the historical Restaurant land use approval.

Note 2: The Garden Centre is not required to comply with the minimum on-site parking requirements under clause 77E of the *Planning and Development (Local Planning Schemes) Regulations 2015* as development approval is not required for the land use.

In accordance with clause 4.7.3.1 of the City's LPS4, Council may waive or reduce the standard parking requirements specified in Table 2 of LPS4 subject to the applicant satisfactorily justifying a reduction due to one or more of the following—

- (i) *The availability of car parking in the locality including street parking;*
- (ii) *the availability of public transport in the locality;*
- (iii) *any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*
- (iv) *any car parking deficiency or surplus associated with the existing use of the land;*
- (v) *legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory;*
- (vi) *any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement;*
- (vii) *the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation; and/or*
- (viii) *any other relevant considerations.*

The reduction in on-site car parking is not considered to meet the requirements of Clause 4.7.3.1 of the Local Planning Scheme No.4 for the following reasons:

- The accumulation of land uses on the site has resulted in an additional parking shortfall on the subject site with the surrounding area featuring a limited capacity to absorb this shortfall.



- Public transport is provided through the Route 532 bus service. While the previous CAT bus service has ceased to operate, the Route 532 bus service has been upgraded with an increased frequency and accessibility.
- The proposed opening hours of the Art Gallery and the Garden Centre (indicated in Table 1 below) will overlap for six (6) hours during the day. Both these land uses will overlap with the opening hours of the Restaurant for four and a half hours during the day from Wednesday to Sunday. The coinciding opening hours will result in periods of increased demand for parking of which there is limited capacity for the surrounding area to absorb.
- While the Garden Centre does not require development approval, it will increase the demand for parking in the surrounding area due to the lack of on-site parking.
- The Garden Centre has removed a parking area previously accessed via a crossover located on South Terrace. This parking area potentially provided parking for up to two (2) vehicles parked in tandem.
- The construction of new toilets at the rear of the restaurant subject of DA0422/22 has removed a car parking bay which was evident on the original approved plans for the storeroom addition (refer Figure 2 below).
- The provision of five (5) car bays was a condition of development approval granted under DA147/85C. The amended plans indicate only four (4) bays now available on-site, resulting in the restaurant not complying with the historical development approval. There is minimal opportunity for additional parking bays on-site.
- Any proposed expansion of the subject site to accommodate the shortfall in parking will adversely impact the amenity of the surrounding area.
- There is a high demand for street parking along King William Street, South Terrace and this area of South Fremantle generally. The capacity for the surrounding streets to accommodate the parking shortfall is minimal. Table 2 below provides examples of business and dwellings within a 100m radius that either have no parking on site or have a parking shortfall.
- While it is a common occurrence to have reduced on-site parking on sites in the surrounding area, these sites generally only feature a single land use, as opposed to the three (3) proposed on the subject site.
- The minimal on-site parking featured on numerous sites in the surrounding area increases demand for street parking resulting in a lack of parking for residents and visitors. Managing parking and traffic in the area surrounding the subject site is critical in minimising any detrimental impact to the amenity of residents that may occur.
- In this instance, it is considered that a third land use on the subject site combined with a reduction in the required on-site parking, is likely to result in a detrimental impact to the amenity of the area.



Table 1 – Proposed opening hours

Land use	Opening hours
Restaurant	Monday: Closed Tuesday: Closed Wednesday: 11:30 am–8 pm Thursday: 11:30 am–8 pm Friday: 11:30 am–9 pm Saturday: 11:30 am–9 pm Sunday: 11:30 am–8:30 pm
Art gallery	Monday: 10am–4 pm Tuesday: 10am–4 pm Wednesday: 10am–4 pm Thursday: 10am–4 pm Friday: 10am–4 pm Saturday: 10am–4 pm Sunday: 10am–4 pm
Garden centre	Monday: 9 am–4 pm Tuesday: 9 am–4 pm Wednesday: 9 am–4 pm Thursday: 9 am–4 pm Friday: 9 am–4 pm Saturday: 9 am–4 pm Sunday: 9 am–4 pm

Table 2 – Surrounding businesses/properties featuring parking shortfalls.

Address	Parking Arrangement
217 South Terrace (restaurant-Ruocco's Pizzeria)	No onsite parking
1-5/219 South Terrace (industry-light tenancies)	No onsite parking
231 South Terrace (restaurant)	No onsite parking
306 South Terrace (restaurant)	
310 South Terrace (café – Little Lefroy's)	No onsite parking
312 South Terrace (restaurant and industry service – roasting warehouse)	57 bay shortfall as per DA0513/20
231 South Terrace (restaurant)	No onsite parking
9/ 11 and 15 King William Street (dwellings immediately to the west of the subject site)	No onsite parking

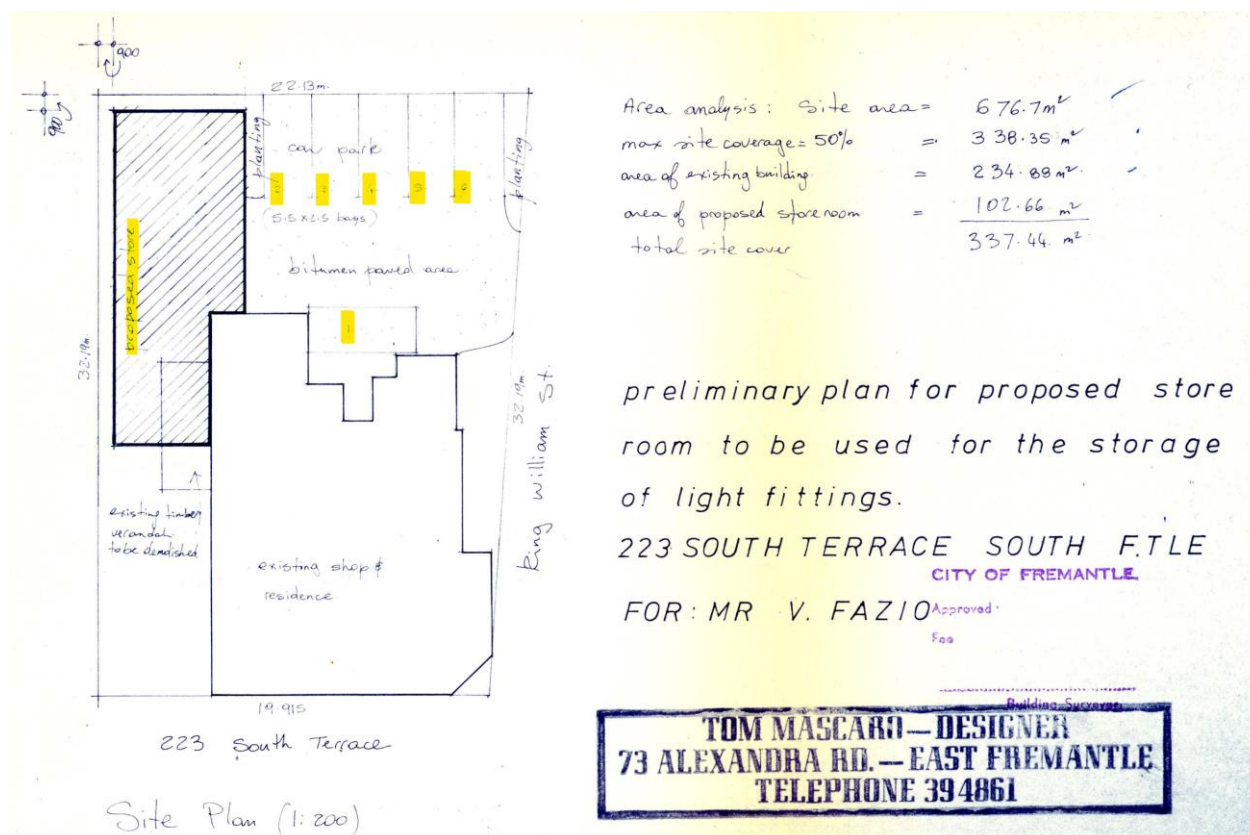


Figure 2 – Approved car parking configuration circa 1977.

Bicycle Parking

With regard to the bicycle parking shortfall, it is considered that the bicycle racks required for the Art Gallery can be secured through appropriate conditions of approval if supported. There is sufficient space at the front and side portion of the building for the installation of bicycle racks.

CONCLUSION

In accordance with the above assessment, it is considered that the proposed land use will result in a detrimental impact on the amenity of the area by way of car parking shortfall. The accumulation of land uses, and the removal of previously existing car parking bays has resulted in a significant parking shortfall on the site of which the surrounding streets will have limited capacity to accommodate.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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



FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Partial Change of Use to Art Gallery at No. 223 (Lot 1) South Terrace, South Fremantle, as detailed on plans dated 29 June 2023, for the following reasons:

- 1. The proposal has inadequate car parking for the proposed land use under Schedule 2, Part 9 Clause 67 (s) of the *Planning and Development (Local Planning Scheme) Regulations 2015*.**
- 2. The proposal does not meet the parking requirements of Clause 4.7.3 of Local Planning Scheme No. 4.**



C2311-4 INFORMATION REPORT (DEVELOPMENT APPROVALS) - OCTOBER 2023

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Responsible Officer: Manager Development Approvals
Attachments: 1: Schedule of applications determined under delegated authority

Under delegation, development approvals officers determined, in some cases subject to conditions, each of the applications relating to the place and proposals as listed in the attachments.

2. UPDATE ON METRO INNER-SOUTH JDAP DETERMINATIONS AND RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS FOR REVIEW

Responsible Officer: Manager Development Approvals
Attachments: Nil

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

1. Application Reference
DAP003/22
Site Address and Proposal
130 Stirling Highway, North Fremantle – Proposed 23 storey mixed use development
Current Status
- At its meeting held on 2 November 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with added emphasis regarding the impact on the former Ford Factory. - At its meeting on 14 November 2022, the Joint Development Assessment Panel (JDAP) resolved to defer determination and request the applicant address a number of matters. - On 1 March 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development. - At its meeting on 16 March 2023, the Joint Development Assessment Panel refused the development for a number of reasons. - An Application for Review by the State Administrative Tribunal was lodged by the owner.

**Agenda – Ordinary Meeting of Council
8 November 2023**



- A Mediation session between the parties (JDAP and the applicant) was held on 23 June 2023. City officers were also in attendance.
- An additional Mediation session was held on 5 September 2023.
- A Directions Hearing is scheduled for 30 October 2023 to determine next steps.

2. Application Reference

DAP003/23

Site Address and Proposal

87-93 Queen Victoria Street, Fremantle – Service station alterations

Current Status

- At its meeting on 14 June 2023, the Joint Development Assessment Panel (JDAP) resolved to approve a development for alterations to the existing Service Station, subject to an additional condition to restrict the sale of non-petroleum products to between 6am and 10pm.
- The applicant has submitted an application for review of the condition in the State Administrative Tribunal.
- A mediation session between JDAP and the applicant is scheduled for October.

3. Application Reference

DAP005/23

Site Address and Proposal

94 South Terrace, Fremantle – Four storey Civic Use (District Police Complex)

Planning Committee Consideration/Decision

- At its meeting held on 6 September 2023, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation and provided an alternate position on the development.
- On 6 October 2023, the Metro Inner South Joint Development Assessment Panel approved the development in accordance with the recommendation from officers at the Department of Planning, Lands and Heritage.

4. Application Reference

DAPV001/23

Site Address and Proposal

45 Henderson Street, Fremantle – Proposed amendments to DAP007/17 (Five (5) storey Hotel, change of use to Tavern and Restaurant, and additions and alterations to existing buildings)

Planning Committee Consideration/Decision

- At its meeting held on 11 October 2023, the Council resolved to provide a comment to the JDAP that it supported the Officers recommendation to approve the development.



- At its meeting on 25 October 2023, the Joint Development Assessment Panel (JDAP) resolved to approve development in accordance with the Officers Recommendation.

OFFICER'S RECOMMENDATION

Council receive the following information reports for October 2023:

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



11.2 Strategic and general reports

C2311-5 PROPOSED LEASE FOR LOT 39 DALY STREET, FREMANTLE

Meeting date: 8 November 2023
Responsible officer: Manager Economy & Commercial
Decision making authority: Council
Attachments: Nil

SUMMARY

The purpose of this report is to seek Council approval for the proposed essential terms that have been negotiated with a proposed Lessee for a portion of the South Fremantle landfill site located at 39 Daly Street, Fremantle.

This report recommends that Council approve the proposed Lease terms for 39 Daly Street, Fremantle; and authorise the Chief Executive Officer to finalise the Lease between the City, Humich Nominees Pty Ltd and Anilia Pty Ltd subject to there being no submissions received from the public during the notice period.

BACKGROUND

The South Fremantle landfill site (SFLS) is located to the west of Cockburn Road and Hampton Road, South Fremantle and covers a total land area of approximately 19.4 hectares with 88% of the total site being owned by the City of Fremantle.

The land owned by the City comprises two distinct parcels, separated from one another by road reserve and Main Roads owned land which forms a relatively narrow strip running east-west across the centre of the site.

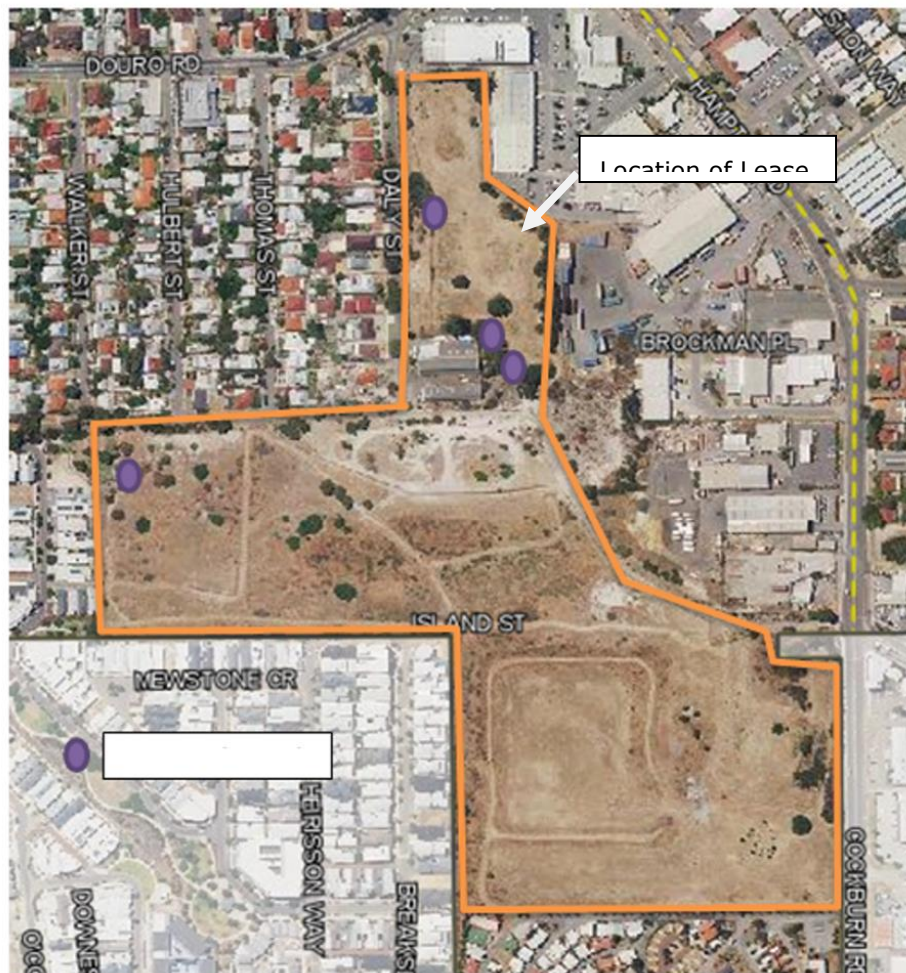
The site was operated as a waste disposal landfill site for most of the 20th Century up until 1991, and is a site registered under the Contaminated Sites Act 2003 with a current classification of 'contaminated – remediation required'.

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

**Agenda – Ordinary Meeting of Council
8 November 2023**

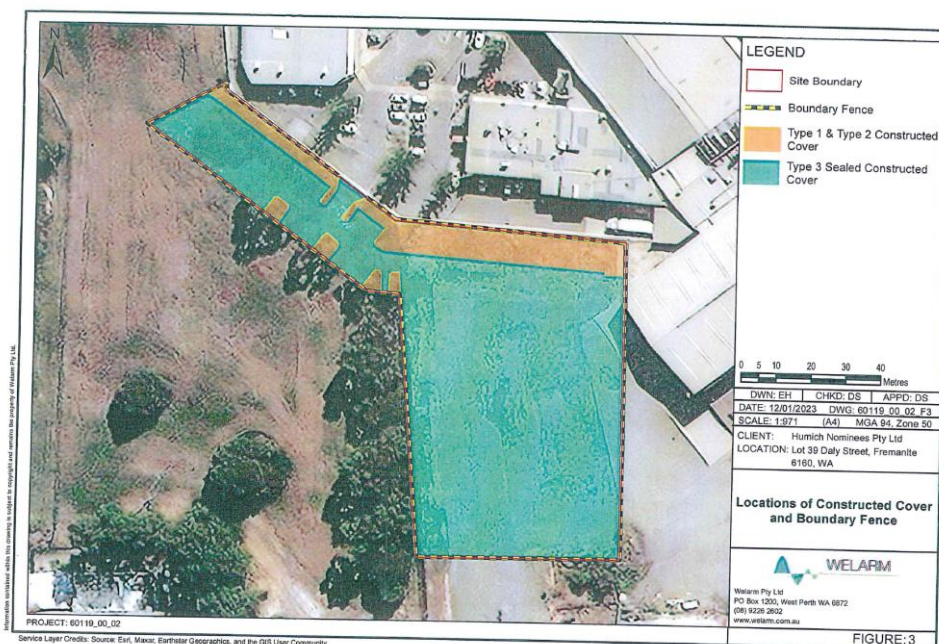


LANDFILL SITE MAP [not to scale]:



The portion of the SFLS that is the subject of this report is a 7,500m² portion of Lot 39 Daly Street, Fremantle which directly abuts the existing Woolworths carpark at 303 Hampton Road, South Fremantle.

Agenda – Ordinary Meeting of Council
8 November 2023



In 2014 the City went to the market and called for expressions of interest to Lease the entire SFLS. This process resulted in the City entering into an agreement with Epuron Projects Pty Ltd which granted the proponent a period of time to undertake feasibility studies to determine the viability of a large scale solar farm on the land. Since that date the proponent has been unable to bring the project to fruition and in July 2022 Council resolved to:

1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.
2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the contaminated South Fremantle landfill site pending the outcome of Council's consideration of the further report referred to in part 3 below.
3. Request officers to prepare a further report on options for potentially suitable alternative uses for the contaminated South Fremantle landfill site for Council's consideration. Options for investigation should not necessarily exclude some form of solar or other type of renewable energy project, and as part of the investigation of potential alternative uses the scope of the report should include estimates of the costs of site remediation needed to enable potential uses to occur within the short to medium term future (next 5-10 years).



Officers are in the process of developing a site management plan which will consider remediation options and the associated costs for the SFLS.

The proposed Lease area, immediately abuts the Woolworths store located at 303 Hampton Road, South Fremantle to the west. The proposed Lessee is the owner of 303 Hampton Road, South Fremantle and the proposed development is an extension of the existing Woolworths carpark for use by customers and staff.

The proponent approached officers seeking permission to undertake site investigations to determine whether it would be viable to extend the existing Woolworths carpark into a portion of Lot 39 Daly Street, Fremantle.

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

WELARM prepared an ongoing site management plan and outlined to the proponent what remediation works would be necessary to achieve the carpark development. The proposed methodology was supported by DWER, DoH and Worksafe. The proponent will submit the report to the City as part of its development application should Council support the proposed Lease.

FINANCIAL IMPLICATIONS

The City currently manages investigations and monitoring activities across the SFLFS. These activities are prescribed by the Contaminated Sites Act 2003. Officers are in the process of developing a site management plan which once finalised will have annual maintenance and/or monitoring requirements to be delivered by the City at its cost.

The proposed Lessee is expecting to invest approximately \$770,000 up front on remediation and construction plus the annual management costs associated with the site management plan.

A market rent valuation was undertaken on 23 October 2023 and the site was valued at \$21,500 plus GST per annum. The proposed Lessee has agreed to pay full market rent as determined by the valuation.

Excluding outgoings, the annual 3% increase and market rent reviews, it is anticipated that the City will receive a return of around \$408,500 over the term of the Lease. In lieu of an upfront landlord capital contribution, it is proposed that the City will provide one year rent free. The carpark will vest with the City once the Lease expires.



LEGAL IMPLICATIONS

Before agreeing to dispose of the land the City will give public notice of the proposed disposition pursuant to Section 3.58 of *the Local Government Act 1995*, and in doing so invite public submissions on the proposed disposition. Should submissions be received during the notice period, the comments will be brought back to Council for consideration before proceeding with the Lease.

CONSULTATION

In accordance with Council's Leasing of City Property in a competitive manner policy, officers are required to advertise the property in an open and competitive manner.

The last open advertising campaign was undertaken in 2014. Officers are in the process of investigations and developing a site management plan to better understand the potential use of the land. Officers received a proposal from the abutting neighbour whilst undertaking further site investigations and have not put the site to market again.

OFFICER COMMENT

The benefit of this proposal is that due diligence has concluded, there are no upfront or ongoing costs to the City, a carpark can accommodate the contaminated status of the land and the development has a direct benefit to the abutting shops. The proponent is prepared to submit a development application as soon as the Lease is signed.

The proponent is very confident in its ability to deliver the project in a short period and therefore has agreed to a capped timeframe for development. This is a significant incentive to achieve the carpark outcome and obtain all necessary approvals in a timely manner.

Officers have determined that the proposed Lease is acceptable, and the following essential terms have been agreed upon by the City and the proponent.

Key Lease Terms	
Land Description	Portion of Lot 39 on Diagram 20161 Volume 1192 Folio 391
Property	Portion of Lot 39 Daly Street, South Fremantle (Approximately 7,500 m2, plan of premises shown below)
Property Owner	City of Fremantle



Lessor	City of Fremantle
Lessee	Humich Nominees Pty Ltd & Anilia Pty Ltd
Handover Date	The date of execution of the Lease by both parties.
Commencement Date	The date the construction of the carpark is complete or six months from the Handover date, whichever is earlier.
Rent Commencement Date	12 months from the Commencement Date.
Lease Term	Twenty (20) years
Annual Rent	\$21,500 plus GST per annum starting on the first anniversary of the Commencement Date.
Rent Review	Rent to increase by 3% annually and reviewed in line with market every five years from commencement. Rent following any Market Review must not decrease by more than 10% of the previous year's Rent or increase by more than 10% of the previous year's Rent
Bank Guarantee	To the value of three (3) month's rent (inclusive of GST).
Incentives/contributions	One year rent free.
Permitted Use	Carpark
Outgoings	Outgoings payable may include but not be limited to: • Electricity usage • Council rates • Land tax
Maintenance	Land only Lease. All maintenance obligations are the responsibility of the Lessee.
Insurance	The Lessee must effect and maintain: a) Public liability insurance of \$20 million. b) Adequate workers compensation insurance in respect to all employees of the Lessee.
Special Conditions	1. The Lessee acknowledges that the property is offered "as is". 2. Lessee's Works



	The Lessee will construct a carpark on the land in accordance with the plan of premises provided noting that some minor variations may be required once further works are undertaken. Any other variations require written approval from the Lessor. (1) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with: (a) an application for planning consent; (b) an application for a building permit; (c) obtaining any other statutory approval required, including Water Corporation approval where necessary; (d) construction or installation of the Lessee's Works; and (e) Installation or upgrade of any services. (2) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design. (3) The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor's public liability insurance. (4) The parties acknowledge and agree that the Lessee's Works shall vest to the Lessor upon expiry or earlier termination of the Lease without cost 3. Parties to act in good faith Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party. 4. End of Lease
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	At the end of the Lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the Lease, will be entitled to reapply to the Lease the premises through the public process.
Plan of Premises	LEGEND - Site Boundary - Boundary Fence - Type 1 & Type 2 Constructed Cover - Type 3 Sealed Constructed Cover 0 5 10 20 30 40 Meters DRAWN: EH CHECKED: GS APPROVED: DS DATE: 12/01/2023 DWG: 60119_00_02_F3 SCALE: 1:571 (A4) MGA 84 Zone 50 CLIENT: Humich Nominees Pty Ltd LOCATION: Lot 39 Daly Street, Fremantle 6150, WA Locations of Constructed Cover and Boundary Fence WELARIM Welare Pty Ltd PO Box 333, West Perth WA 6002 (08) 9229 2632 www.welare.com.au FIGURE:3

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council authorise the Chief Executive Officer to finalise the Lease between Humich Nominees Pty Ltd and Anilia Pty Ltd and the City of Fremantle for the property at 39 Daly Street, Fremantle based on the following essential terms, subject to compliance with s3.58 of the Local Government Act 1995:

Key Lease Terms and Conditions – Lot 39 Daly Street, South Fremantle	
Land Description	Portion of Lot 39 on Diagram 20161 Volume 1192 Folio 391
Property	Portion of Lot 39 Daly Street, South Fremantle (Approximately 7,500 m2, plan of premises shown below)
Property Owner	City of Fremantle



Lessor	City of Fremantle
Lessee	Humich Nominees Pty Ltd & Anilia Pty Ltd
Handover Date	The date of execution of the Lease by both parties.
Commencement Date	The date the construction of the carpark is complete or six months from the Handover date, whichever is earlier.
Rent Commencement Date	12 months from the Commencement Date.
Lease Term	Twenty (20) years
Annual Rent	\$21,500 plus GST per annum starting on the first anniversary of the Commencement Date.
Rent Review	Rent to increase by 3% annually and reviewed in line with market every five years from commencement. Rent following any Market Review must not decrease by more than 10% of the previous year's Rent or increase by more than 10% of the previous year's Rent
Bank Guarantee	To the value of three (3) month's rent (inclusive of GST).
Incentives/contributions	One year rent free.
Permitted Use	Carpark
Outgoings	Outgoings payable may include but not be limited to: • Electricity usage • Council rates • Land tax
Maintenance	Land only Lease. All maintenance obligations are the responsibility of the Lessee.
Insurance	The Lessee must effect and maintain: c) Public liability insurance of \$20 million. d) Adequate workers compensation insurance in respect to all employees of the Lessee.
Special Conditions	1. The Lessee acknowledges that the property is offered "as is". 2. Lessee's Works



	The Lessee will construct a carpark on the land in accordance with the plan of premises provided noting that some minor variations may be required once further works are undertaken. Any other variations require written approval from the Lessor. (1) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with: (a) an application for planning consent; (b) an application for a building permit; (c) obtaining any other statutory approval required, including Water Corporation approval where necessary; (d) construction or installation of the Lessee's Works; and (e) Installation or upgrade of any services. (2) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design. (3) The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor's public liability insurance. (4) The parties acknowledge and agree that the Lessee's Works shall vest to the Lessor upon expiry or earlier termination of the Lease without cost 3. Parties to act in good faith Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party. 4. End of Lease
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At the end of the Lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the Lease, will be entitled to reapply to the Lease the premises through the public process.

Plan of Premises

LEGEND

- Site Boundary
- Boundary Fence
- Type 1 & Type 2 Constructed Cover
- Type 3 Sealed Constructed Cover

0 5 10 20 30 40 Metres

DRAWN BY:	CHW/DG	APPD BY:	DG
DATE:	12/01/2023	CWGL:	00119_00_02_F3
SCALE:	1:871	(A4)	MSA 84, Zone 50

CLIENT: Humrich Nominees Pty Ltd
LOCATION: Lot 39 Daly Street, Fremantle 6155, WA

Locations of Constructed Cover and Boundary Fence

WELARIM

Welarim Pty Ltd
PO Box 320, West Perth WA 6872
(08) 9228 2602
www.welarim.com.au

PROJECT: 00119_00_02

Service Layer Credits: Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

FIGURE: 3



C2311-6 PROPOSED LEASE FOR WALYALUP CIVIC CENTRE – RETAIL SPACE

Meeting date: 8 November 2023
Responsible officer: Manager Economy & Commercial
Decision making authority: Council
Attachments: Nil

SUMMARY

The purpose of this report is to seek Council approval for the proposed essential terms that have been negotiated with a proposed Lessee for the retail space within the Walyalup Civic Centre.

The applicant proposes a retail clothing store in a 168m² portion of the new civic building. The space is located on Newman Court adjacent to the tenancy on the corner of William Street and Newman Court.

This report recommends that Council approve the proposed Lease terms and authorise the Chief Executive Officer to finalise the Lease between the City of Fremantle and Adelphi Partners WA Pty Ltd T/A MiLife based on the essential terms outlined in this report.

BACKGROUND

In accordance with Council's Leasing of City Property in a competitive manner policy the City is obligated to advertise commercial properties in an open and competitive manner when they become available for lease.

The Walyalup Civic Centre retail premises was first advertised by Tender in late August 2020. The process closed on 7 October 2020 with the City receiving no submissions.

With the closing of the Tender, the City then advertised the property by Expression of Interest (EOI). The City received a submission from Mr Sam Harkin, owner operator of Adelphi Partners WA Pty Ltd T/A MiLife.

The submission was considered by Council and essential Lease terms were approved in March 2021.

During the finalisation of the construction of the Walyalup Civic Centre, Mr Sam Harkin, owner operator of Adelphi Partners WA Pty Ltd T/A MiLife withdrew the submission as the construction of the site didn't align with his required timeline.

The retail premises was later advertised by way of an Expression of Interest (EOI) in 2023 and closed on 1 March 2023.



The City received a submission from For Eyes Optometrist Pty Ltd for a proposed optometrist and retail offering. Essential terms were agreed and approved by Council in April 2023.

For Eyes Optometrist Pty Ltd later notified the City that they were unable to progress with the lease due to inflated construction costs.

Following the withdrawal of For Eyes Optometrist Pty Ltd, officers re-engaged with Mr Sam Harkin who re-expressed his interest in the retail tenancy given installation of the air conditioning system was now complete.

Lease terms have now been agreed upon and are being presented to Council for approval.

FINANCIAL IMPLICATIONS

The proposed rent for the premises is \$30,240 per annum + GST. This is calculated at a rate of \$180m2 per annum +GST.

Outgoings for the property have been estimated at \$15,120 for the first year. This equates to approx. \$90m2.

The requested lease term is three (3) years, with two further terms of three (3) years each. The lease will also include either a bank guarantee or bond, equivalent to three months' rent.

Rent will increase by CPI on the commencement of Year 4 and annually thereafter, with market rent reviews to occur every three years.

A fit-out contribution payment of \$90,000 towards lessee fit out has been requested as a contribution from the City. This includes basic fit out to floors, ceiling and walls, electrical and plumbing installation.

Payment of the fit-out contribution will be paid upon completion of the works subject to the lessee providing paid invoices for reimbursement or alternatively directly to the contractor who is completing the works. Milestone payment amounts are still subject to the lessee finalising a detailed design.

Ownership of any works delivered via the \$90,000 fit-out contribution will be retained by the City at the conclusion of the lease. The applicant will undertake fit out within 60 days from commencement of the lease.

The fit-out contribution is currently budgeted for in the approved FY2023/24 budget.



Excluding outgoings, the annual increase and market rent reviews, Officers forecast that the net income for the terms of the lease and factoring in the fit-out contribution, will be in the vicinity of \$182,160.

LEGAL IMPLICATIONS

Two documents are required to be finalised as part of the proposed lease.

1. Lease: The lease must comply with the requirements of Section 3.58 of the Local Government Act 1995. Officers will ensure that this occurs.
Before agreeing to dispose of the land the City will give public notice of the proposed disposition pursuant to Section 3.58 of the Local Government Act 1995, and in doing so invite public submissions on the proposed disposition. Should submissions be received during the notice period, the comments will be brought back to Council for consideration before proceeding with the Lease.
2. Fit-out Contribution Agreement: The negotiated terms of this lease include a payment made by the City towards the lessee's fit out. The Fit-out Contribution Agreement will outline the agreed terms of how and when payments are made to the lessee for the fit-out contribution amount.

CONSULTATION

In accordance with Council's Leasing of City Property in a competitive manner policy, officers are required to advertise the property in an open and competitive manner.

The property has previously been marketed via the following methods;

- An open EOI process
- An open Tender process
- City's website and various media channels
- Advertisement in the West Australian, Fremantle Herald and Business News
- Direct approach to potential candidates and use of Economic Development database.

OFFICER COMMENT

The Walyalup Civic Centre offers a substantial opportunity for retail operators to consider establishing a presence within new A-grade commercial space located adjacent to significant numbers of government workers, in the heart of the city centre.

Officers have determined that the proposed tenant is suitable and will complement the existing Walyalup Civic Centre offering.

**Agenda – Ordinary Meeting of Council
8 November 2023**



The presented proposal is for the remaining 168m² of retail space located on Newman Court. The site will be adjacent to the existing corner tenancy providing optimal frontage for a retail store.

Adelphi Partners WA Pty Ltd owned by Mr. Samuel J Harkin and trading as MiLife, has operated in Fremantle since 2008 and is currently located on Cantonment Street. MiLife offers retail apparel including clothes, shoes, street wear and other accessories. The owner is seeking a more central location with a slightly refreshed model.

The following tables outline the proposed terms for the three documents required to finalise an agreement between the City and Mr Harkin.

Mr Harkin has accepted these terms and conditions and has signed a draft lease which subject to Council approving these essential terms, will be finalised by officers.

Key Lease Terms

Land Description	Land: Known as 16 Newman Court, Fremantle (formerly 8 William Street, Fremantle) and being land more particularly described as Lot 11 on Deposited Plan 412028 Certificate of Title Volume 2958 Folio 794 Building: Walyalup Civic Centre Premises: That portion of the Land and the Building comprising 168m ² as outlined in blue on the premises plan.
Premises	Retail Portion – 16 Newman Court, Fremantle
Lessor	City of Fremantle
Lessee	Adelphi Partners WA Pty Ltd T/A MiLife
Guarantor	Samuel J Harkin
Bank Guarantee	3 months' rent Bank Guarantee or Bond required.
Site Area	168m ²
Lease Commencement Date	TBA
Term	Three (3) years
First Further Term	Three (3) years
Second Further Term	Three (3) years
Annual Rent	\$30,240 per annum + GST (\$180 per m ² per annum)



Rent Review	Rent will increase by CPI on the commencement of Year 4 and annually thereafter. Market rent reviews will occur at the end of the first and second term.
Incentives/contributions	Lessor to provide a capital contribution of \$90,000 to the Lessee to contribute towards the proposed fit out of the property.
Variable Outgoings/Outgoings	Outgoings on demand will include but not be limited to; • Council Rates • Emergency Service Levy • Land tax • Statutory fees and charges • Building services, repairs and maintenance • Building insurance Current rate of budget is estimated at \$90m2. The determination of actual Council Rates and Land Tax may vary this figure.
Legal Fees	Each party will be responsible for their own costs.
Public Liability	Minimum of \$20 million
Permitted Use	Retail
Special Conditions	1. Lessee's Fit Out Fit out must commence within 90 days of the commencement of the Lease. 2. Lessee's Works Lessee's works definition; (a) Any alternation, improvement or development of the Premises including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out). (b) The excavation or demolition of any part of the Premises; (c) The removal, sale or disposal of any materials from the Premises. (1) The Lessee must not undertake works unless; (a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works and

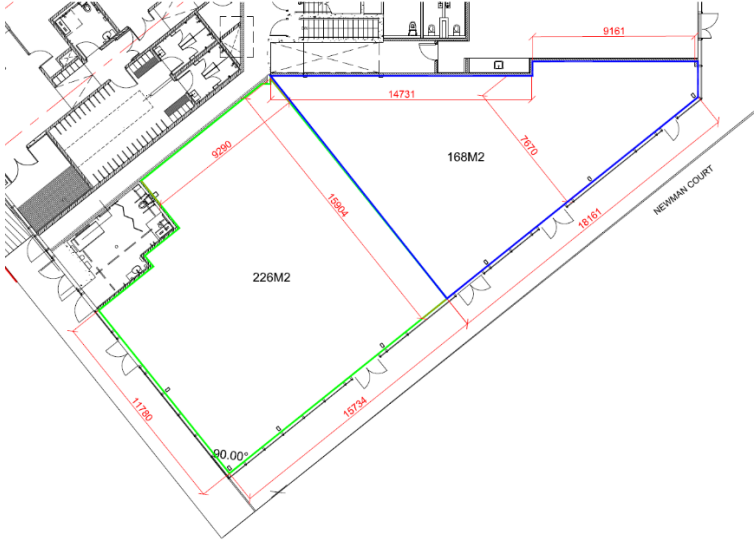


	certified quantity surveyor (QS) estimate. Consent may be withheld at absolute discretion or granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor. (b) Planning approval under the local planning scheme (if applicable) and; (c) A building permit under the <i>Building Act 2011</i> (if applicable). (2) With the exception of the Lessors fit-out contribution, the Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with: (a) an application for planning consent; (b) an application for a building permit; (c) obtaining any other statutory approval required, including Water Corporation approval where necessary; (d) construction or installation of the Lessee's Works; and (e) Installation or upgrade of any services. (3) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design. (4) The Lessee will provide certification and public liability for all the Lessee contractors undertaking the Lessee Works at the Premises. (5) The parties acknowledge and agree that any Lessee's Works comprising structural improvements, or are financially funded by the Lessor's fit-out contribution payment, shall vest to the Lessor upon Termination of the Lease without cost.
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	3. Assignment or Sub Letting (1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if: (a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease. (b) All accounts are paid in full up until the date of the assignment or sub lease. (c) The Lessee pays all costs associated with an assignment or sublease. (d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST. 4. State of Emergency Clause The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation. 5. Use of Confidential Information “Confidential Information” means any information relating to the Lease, including but not limited to the provisions of the Lease. (a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease. (b) The obligations of confidentiality in paragraph (a) will not apply to information which:
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	(i) is generally available in the public domain except where such availability is as a result of a breach of this agreement; or (ii) is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order. (c) The obligations imposed will survive the termination of the Lease. 6. Parties to act in good faith Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party. 7. End of Lease At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee will be advised of this process not more than 12 months, no less than 6 months prior to the expiry of the last lease term. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.
Plan of Premises	 Premises as outlined in blue.



Fit-Out Contribution Agreement

Parties	Adelphi Partners WA Pty Ltd T/A MiLife (the Lessee) and the City of Fremantle (the City)
Fit-Out Contribution Amount	\$90,000
Agreed terms	1. The Fit-Out Contribution Agreement will be in conjunction with the terms and conditions of a Lease between the City and the Lessee in particular "the Lessee's Works". 2. Milestone payments of the contribution will be; a) Subject to evidence proving contractor payment for the milestone works or; b) Paid directly to the Lessee's contractor who completed the milestone works. If the latter, an invoice in the City's name will be provided by the Lessee's contractor for payment.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required



OFFICER'S RECOMMENDATION

Council authorise the Chief Executive Officer to finalise a Lease between Adelphi Partners WA Pty Ltd T/A MiLife and the City of Fremantle for the property at 16 Newman Court, Fremantle based on the following essential terms, subject to compliance with s3.58 of the Local Government Act 1995:

Land Description	Land: Known as 16 Newman Court, Fremantle (formerly 8 William Street, Fremantle) and being land more particularly described as Lot 11 on Deposited Plan 412028 Certificate of Title Volume 2958 Folio 794 Building: Walyalup Civic Centre Premises: That portion of the Land and the Building comprising 168m ² as outlined in blue on the plan annexed as Annexure 1.
Premises	Retail Portion – 16 Newman Court, Fremantle
Lessor	City of Fremantle
Lessee	Adelphi Partners WA Pty Ltd T/A MiLife
Guarantor	Samuel J Harkin
Bank Guarantee	3 months' rent Bank Guarantee or Bond required.
Site Area	168m ²
Lease Commencement Date	TBA
Term	Three (3) years
First Further Term	Three (3) years
Second Further Term	Three (3) years
Annual Rent	\$30,240 per annum + GST (\$180 per m ² per annum)
Rent Review	Rent will increase by CPI on the commencement of Year 4 and annually thereafter. Market rent reviews will occur at the end of the first and second term.
Incentives/contributions	Lessor to provide a capital contribution of \$90,000 to the Lessee to contribute towards the proposed fit out of the property.



Variable Outgoings/Outgoings	Outgoings on demand will include but not be limited to; • Council Rates • Emergency Service Levy • Land tax • Statutory fees and charges • Building services, repairs and maintenance • Building insurance Current rate of budget is estimated at \$90m2. The determination of actual Council Rates and Land Tax may vary this figure.
Legal Fees	Each party will be responsible for their own costs.
Public Liability	Minimum of \$20 million
Permitted Use	Retail
Special Conditions	1. Lessee's Fit Out Fit out must commence within 90 days of the commencement of the Lease. 2. Lessee's Works Lessee's works definition; (a) Any alternation, improvement or development of the Premises including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out). (b) The excavation or demolition of any part of the Premises; (c) The removal, sale or disposal of any materials from the Premises. (1) The Lessee must not undertake works unless; (a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works and certified quantity surveyor (QS) estimate. Consent may be withheld at absolute discretion or granted subject to conditions



	as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor. (b) Planning approval under the local planning scheme (if applicable) and; (c) A building permit under the <i>Building Act 2011</i> (if applicable). (2) With the exception of the Lessors fit-out contribution, the Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with: (a) an application for planning consent; (b) an application for a building permit; (c) obtaining any other statutory approval required, including Water Corporation approval where necessary; (d) construction or installation of the Lessee's Works; and (e) Installation or upgrade of any services. (3) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design. (4) The Lessee will provide certification and public liability for all the Lessee contractors undertaking the Lessee Works at the Premises. (5) The parties acknowledge and agree that any Lessee's Works comprising
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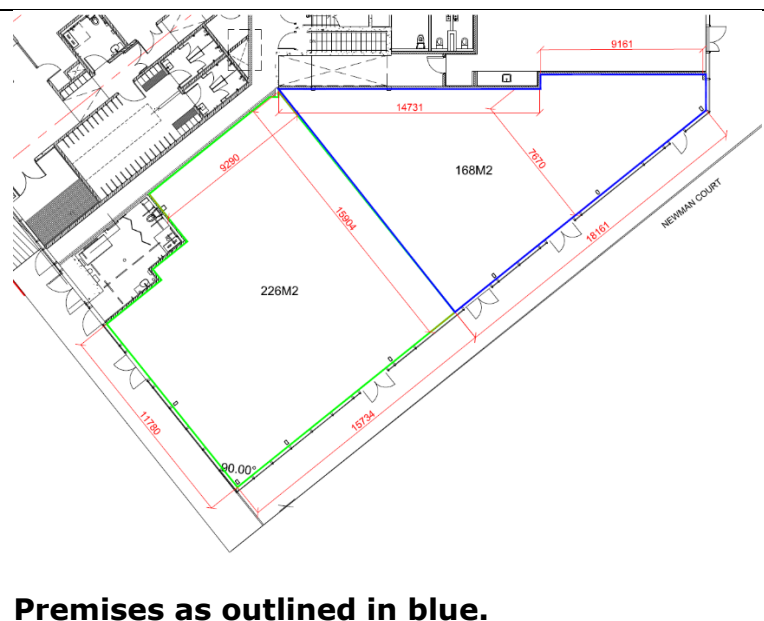
	structural improvements, or are financially funded by the Lessor's fit-out contribution payment, shall vest to the Lessor upon Termination of the Lease without cost. 3. Assignment or Sub Letting (1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if: (a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease. (b) All accounts are paid in full up until the date of the assignment or sub lease. (c) The Lessee pays all costs associated with an assignment or sublease. (d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST. 4. State of Emergency Clause The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation. 5. Use of Confidential Information "Confidential Information" means any information relating to the Lease, including but not limited to the provisions of the Lease.
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	(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease. (b) The obligations of confidentiality in paragraph (a) will not apply to information which: - is generally available in the public domain except where such availability is as a result of a breach of this agreement; or - is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order. (c) The obligations imposed will survive the termination of the Lease. 6. Parties to act in good faith Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party. 7. End of Lease At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee will be advised of this process not more than 12 months, no less than 6 months prior to the expiry of the last lease term. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.
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Plan of Premises



Fit-Out Contribution Agreement

Parties	Adelphi Partners WA Pty Ltd T/A MiLife (the Lessee) and the City of Fremantle (the City)
Fit-Out Contribution Amount	\$90,000
Agreed terms	The Fit-Out Contribution Agreement will be in conjunction with the terms and conditions of a Lease between the City and the Lessee in particular "the Lessee's Works". Milestone payments of the contribution will be; Subject to evidence proving contractor payment for the milestone works or Paid directly to the Lessee's contractor who completed the milestone works. If the latter, an invoice in the City's name will be provided by the Lessee's contractor for payment.



C2311-7 REQUEST FOR SUPPORT – FREMANTLE PARK SPORT & COMMUNITY CENTRE

Meeting date: 8 November 2023
Responsible officer: Director City Business
Decision making authority: Council
Attachments: Nil

SUMMARY

The purpose of this report is to seek council approval for a budget amendment, payment schedule and process for payment release, for the provision of a one-off support payment of \$60,000 to the Fremantle Park Centre.

This report recommends that Council approve the budget amendment, payment schedule and process for payment release.

BACKGROUND

In late 2022, the Fremantle Park Centre (formerly known as the Fremantle Park Sport and Community Centre) approached the City citing financial difficulties. Officers met with the club several times throughout early 2023 to discuss potential approaches to addressing the issues, which culminated in a request received from the FPSCC for funding support over a three-year period.

At the ordinary meeting of council in August 2023, council considered the item [FPOL2308-4](#) and resolved the following:

Council:

- 1. Note *Council's response to the request for support received from the Fremantle Park Centre is consistent with our Strategic Plan objective to "Partner with the community to build capacity for social inclusion, connectivity and capital."***
- 2. Approve the provision of a one-off support payment of \$60,000 to the Fremantle Park Centre subject to:**
 - a. Appropriate funding (that is surplus to current requirements) being identified and a formal budget amendment being brought back to Council for approval.**
 - b. *Council approval of an appropriate payment schedule and approval process for payment release.***
 - c. Expenditure of the support payment by Fremantle Park Centre being limited to the payment of wages that contribute to the administration and management of the Centre.**



- d. **The City being recognised as a sponsor of the club and receiving benefits to be determined in line with the City's Grant's and Sponsorship policy.**

3. **Request the Chief Executive Officer develop in consultation with the Fremantle Park Centre and its member clubs by February 2024 a longer-term solution for the sustainable operation of the facility including measures by which this solution may be evaluated and report back to Council by February 2024.**

Officers have since determined an appropriate payment schedule and approval process for payment release in consultation with Fremantle Park Centre. Appropriate funding has also been identified and is being presented for Council approval via a formal budget amendment.

FINANCIAL IMPLICATIONS

Council have approved the provision of a one-off support payment of \$60,000 to the Fremantle Park Centre subject to appropriate funding being identified and approval of an appropriate payment schedule and approval process for payment release.

The provision of the \$60,000 is not in the current budget so a budget amendment will be required. It is proposed the provision of the \$60,000 is funded from carried forward operating surplus from the 2022/23 FY as per the following budget amendment.

Item	Account #	Account Details	2023/24 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2023/24 Amended Budget
1.1	Budget of \$60,000 required for a sponsorship for Fremantle Park Sport and Community Centre and is funded from carried forward operating surplus from 23FY.					
	100462.5961	Support Community and Sporting Groups	0		(60,000)	(60,000)
	100462.3915	Accumulated surplus	9,020,730	(60,000)		8,960,730

An overview of the proposed payment schedule and approval process for payment release has been provided in the officer comment.



LEGAL IMPLICATIONS

A lease currently exists between the City and the Fremantle Park Centre. Terms of the lease need to be considered and adhered to with respect to any future proposed course of action taken to address current issues.

The terms of the current lease were endorsed by council in November 2017 as per council item [FPOL1711-6 Fremantle Park Lease Terms and Club Parking Arrangements](#).

CONSULTATION

There has been ongoing engagement between the City and the Fremantle Park Centre with relation to their current issues. The City is continuing to engage directly with the board of Fremantle Park Centre in relation to the development of a report that will identify a longer-term solution for the club as per the council resolution.

OFFICER COMMENT

Following the council resolution in August 2023, officers have been engaging with Fremantle Park Centre to determine an appropriate payment schedule and payment release process.

Fremantle Park Centre have agreed to the following payment schedule and terms:

- Lump sum payment of \$25,000 in November 2023 based on backdating a \$5,000 per month payment to 1 July 2023, subject to:
 - The City receiving a financial activity statement (FAS) that demonstrates at least \$25,000 has been spent on wages between 1 July 2023 and 31 October 2023.
 - Confirmation the City of Fremantle is recognised as a major sponsor of the centre through to 30 Jun 2024 via a sponsorship agreement outlining sponsorship benefits to be received by the City.
- Monthly \$5,000 payment thereafter (Nov 2023 – Jun 2024) subject to receiving:
 - Monthly Financial Activity Statement (FAS) from the prior month that demonstrates a minimum expenditure of \$5,000 on wages for that month.
 - Financial projections for the club (adjusted monthly) through to June 30 2024, which demonstrate a minimum monthly expenditure of \$5,000 on wages.
 - COF reserves the right to request additional financial information as required to determine solvency of the club at any given time.

Agenda – Ordinary Meeting of Council
8 November 2023



The payment schedule and terms has been summarised in the table below:

Date	Payment	Payment Release conditions	Approval Required
Nov 2023	\$25,000	- Provision of FAS demonstrating minimum \$25,000 expenditure on wages between July 2023 and November 2023. - Sponsorship agreement in place	Director City Business
Dec 2023	\$5,000	- Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of November. - Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to June 30 2024.	Director City Business
Jan 2024	\$5,000	- Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of December. - Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business
Feb 2024	\$5,000	- Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of January. - Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business
Mar 2024	\$5,000	- Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of February. - Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business
Apr 2024	\$5,000	- Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of March. - Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business

Agenda – Ordinary Meeting of Council
8 November 2023



May 2024	\$5,000	• Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of April. • Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business
Jun 2024	\$5,000	• Provision of FAS demonstrating minimum \$5,000 expenditure on wages for month of May. • Financial projections demonstrating minimum monthly expenditure of \$5,000 per month on wages through to Jun 30 2024.	Director City Business
Total	\$60,000		

Work on a report identifying longer-term solutions for the sustainable operation of the facility including measures by which this solution may be evaluated, is currently underway and on track to be presented to council for consideration in February 2024.

Following the commencement of the payment plan and finalisation of the sponsorship agreement, officers will engage with Fremantle Park Centre and associated member clubs on potential options for the facility as part of the review.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required



OFFICER'S RECOMMENDATION

Council

1. Adopt the following budget amendment to fund the \$60,000 contribution to Fremantle Park Centre:

Item	Account #	Account Details	2023/24 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2023/24 Amended Budget
1.1	Budget of \$60,000 required for a sponsorship for Fremantle Park Sport and Community Centre and is funded from carried forward operating surplus from 23FY.					
	100462.5961	Support Community and Sporting Groups	0		(60,000)	(60,000)
	100462.3915	Accumulated surplus	9,020,730	(60,000)		8,960,730

2. Approve the following payment schedule and payment release conditions as agreed to by the Fremantle Park Centre:

- a. Provision of a lump sum payment of \$25,000 in November 2023 based on backdating a \$5,000 per month payment to 1 July 2023, subject to:
 - i. The City receiving a financial activity statement (FAS) that demonstrates at least \$25,000 has been spent on wages between 1 July 2023 and 31 October 2023.
 - ii. Confirmation the City of Fremantle is recognised as a major sponsor of the centre through to 30 Jun 2024 via a sponsorship agreement outlining sponsorship benefits to be received by the City.
- b. Monthly \$5,000 payment thereafter (Nov 2023 – Jun 2024) subject to receiving:
 - a. Monthly Financial Activity Statement (FAS) from the prior month that demonstrates a minimum expenditure of \$5,000 on wages for that month.
 - b. Financial projections for the club (adjusted monthly) through to June 30 2024, which demonstrate a minimum monthly expenditure of \$5,000 on wages.
 - c. COF reserves the right to request additional financial information as required to determine solvency of the club at any given time.



C2311-8 TENDER FCC630/23 PUBLIC TOILET CLEANING

Meeting date: 8 November 2023
Responsible officer: Manager Building, Facilities and Sustainable Services
Decision making authority: Council
Attachments: Nil
Confidential Attachments: 1. Pricing Assessment

SUMMARY

The purpose of this report is to consider tender number FCC630/23 for Public Toilet Cleaning at various sites within the City of Fremantle.

This report recommends that Council accepts the tender submitted by Uniting Global Pty Ltd in accordance with the tender evaluation undertaken as per the selection criteria included in the tender document.

BACKGROUND

The City of Fremantle issued a request for tender for a suitably qualified and competent Contractor to supply labour and materials to deliver cleaning services to the City of Fremantle's 19 Public Toilets, Change Rooms, Showers and Universal Access Facilities, through the Tenderlink Tender Portal.

Tenders were invited to provide the service for a period of two (2) years. There are two (2) one-year extension options available to be exercised at the sole discretion of the Principal.

As part of the service, the successful contractor is also required to unlock and lock all public toilet facilities.

FINANCIAL IMPLICATIONS

The annual budget for cleaning public toilets is \$510,157.

Description	Expenditure	Budget
Budget		
Allocated budget IP.100281.6826 Cleaning Services 2023/2024		\$510,157
Expenditure		
Expenditure incurred to 14 November 2023	\$193,409	



Activities Tender number FCC630/23 for Public Toilet Cleaning (forecast expenditure from 15 November 2023 to 30 June 24)	\$310,912	
Total expenditure (estimated per annum)	\$504,321	

Officers have determined a pre-tender estimate of \$500,000 per annum for cleaning public toilets.

Sufficient funding provision has been allocated in the 2023/ 2024 budget to deliver the service within budget.

This service spans multiple years therefore a commitment to suitable budget provision for future years must be considered.

LEGAL IMPLICATIONS

Tenders were invited in accordance with section 3.57 of the *Local Government Act 1995* and the tendering procedures and evaluation complied with part 4 of the Local Government (Functions and General) Regulations 1996.

CONSULTATION

Internal stakeholders were consulted in respect to the scope and provision of services prior to preparing the scope of requirements for the tender.

OFFICER COMMENT

Detail

Tender FCC630/23 Public Toilet Cleaning was advertised on 22 May 2023 and was closed on 7 June 2023.

Essential details of the contract are outlined below:

Contract type	Schedule of Rates
Contract duration	The contract is for two (2) years, with two (2) one (1) year extension options available, exercisable at the sole discretion of the City
Commencement date	On or around 15 November 2023
Completion date	On or around 23 November 2025 (Extendable)



The WALGA preferred Supplier Program was checked but currently they do not have a panel contract for Cleaning Services.

Tender evaluation

Tender submissions were received from the following contractors and evaluated by the tender evaluation panel:

- Brightmark Group Pty Ltd
- Brightshine Cleaning Maintenance Services Pty Ltd
- Cleanpeak Pty Ltd
- Uniting Global Pty Ltd

The tender evaluation panel establishes whether the tender submissions conform to the conditions for tendering and selects a suitably qualified and experienced contractor. All tender submissions received were conforming.

The tender evaluation panel comprised:

- Building Maintenance Team Leader
- Building Maintenance Officer
- Fremantle Leisure Centre Manager
- Manager Facilities and Environmental Manager
- Procurement Officer (non-voting)

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.

To obtain the broadest possible comparison base, each of the tenders was evaluated against the following tender selection criteria and was in turn graded in the tender evaluation matrix.

Item No	Description	Weighting
1	Price for services offered	35%
2	Relevant experience	15%
3	Key Personnel, Skills and Resources	10%
4	Demonstrated Understanding	30%
5	Sustainability	10%



Tender Evaluation Matrix

4.0	Overall Weighted Score Including Pricing	Relevant Experience of Delivering Similar Services	Key Personnel Skills & Resources	Demonstrated Understanding	Sustainability and Local Economic Benefit	Price	Total Score
	Tenderer	15.00	10.00	30.00	10.00	35.00	100
	Brightmark Group Pty Ltd	10.42	6.11	18.33	5.28	35.00	75.14
	Briteshine Cleaning Maintenance Services Pty Ltd	8.33	6.11	17.50	5.83	18.71	56.49
	Cleanpeak	5.42	3.89	13.33	4.72	27.94	55.30
	Uniting Global Pty Ltd	12.50	8.06	24.17	6.94	25.45	77.12

The tender submitted by Uniting Global Pty Ltd scored the highest rating with 77 points, followed by Brightmark Pty Ltd with 75 points. The remaining tender submissions received lower scores.

Uniting Global Pty Ltd, the recommended tenderer, was assessed as having the capacity, resources, experience and management systems to safely undertake the works and deliver the level of service described in the specification, in accordance with the terms of the tender document.

Uniting Global Pty Ltd have worked for the City previously and provided good service that met the City's needs. Reference checks obtained from two (2) other local authorities indicate that Uniting Global Pty Ltd have provided satisfactory service delivery to their customers on similar projects and will be a suitable supplier to the City of Fremantle.

Environmental considerations

In line with the Purchasing Policy, respondents to the tender were required to provide, and were assessed by the City, evidence of the use of sustainable business practices and how engaging with the supplier would benefit the local economy. Uniting Global Pty Ltd have three staff members who will work directly on the contract that live in Fremantle. In addition, they utilise GECA approved cleaning products purchased through Wirripanda Indigenous Supplies.

Risk consideration

An assessment undertaken by illion indicates that Uniting Global Pty Ltd have 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.



Comment

Uniting Global Pty Ltd are the incumbent cleaning contractor of the City's public toilets since October 2022 following contractual adjustment with the previous contractor and have an established workforce to undertake the works.

Subject to acceptance of the tender, the proposed implementation program is scheduled below:

Award contract:	Date; on or around 10 November 2023
Commence of service:	Date; on or around 15 November 2023
Completion:	Date; on or around 19 November 2025 (extendable)

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required.

OFFICER'S RECOMMENDATION

Council:

- 1. Accept Tender FCC630/23 for Public Toilet Cleaning from Uniting Global Pty Ltd, at the contract value of \$497,459 per annum for a period of four years (full term of the contract), commencing on or around 15 November 2023.**
- 2. Delegate authority to the Chief Executive Officer to exercise the contract extensions subject to satisfactory performance.**



C2311-9 PRIVATE ROAD NAME – FUSARI WAY – BEING NO. 30F SMITH STREET, BEACONSFIELD (ROW NO. 70).

Meeting date: 8 November 2023
Responsible officer: Manager Economy & Commercial
Decision making authority: Council
Attachments: 1. Private road name application
Confidential Attachments: 1. Neighbour's signatures in support

SUMMARY

The City of Fremantle ("City") has received a private road name application from Natina Morolla ("Applicant") who is the granddaughter of Giuseppe and Fortunata Fusari.

The Applicant proposes to honour her grandparents by naming the private laneway at No. 30F Smith Street, Beaconsfield (ROW 70), "*Fusari Way*". The proposal has received support from the adjoining property owners/occupiers.

The application complies with the criteria required by the Landgate Geographic Names Committee (GNC) road naming Policies and Standards.



Figure 1 - Area of proposed road name of "Fusari Way – highlighted.

This report recommends that Council endorse and submit to the Geographic names Team (GNT), the name "*Fusari Way*" to be applied to the private right of way (ROW 70) at 30F Smith Street, Beaconsfield.



BACKGROUND

Giuseppe Fusari (1915-2006) and Fortunata Fusari (1922-2022).

Fortunata and Giuseppe Fusari, were both born in the small town of Cesaro, in Sicily, Italy.

The Fusari's migrated to Fremantle in 1950 and purchased a vacant block of land at 28 Smith Street, Beaconsfield. The family lived in a one bedroom shed on the land for 7 years until their home was completed. The Fusari family lived at that address for the next 70 years.

Both Fortunata and Giuseppe were remembered by the local community for their love of gardening with produce shared with their neighbours. The 1000m² block was full of fruit trees, vegetables, chickens and colourful flowers in the front garden. Fortunata would often visit her neighbours for either a cup of tea or to fill their fridge with fruit and vegetables from their garden, fresh eggs or homemade biscuits.

Fortunata knew almost everyone on Smith Street and families all the way up to South Street and both were very involved with their immediate community.

Giuseppe always cleaned, mowed and maintained the laneway adjoining their land as they both felt it was their responsibility to maintain the lane as it was used by many of their neighbours. Giuseppe also used his own tip passes to dispose of rubbish occasionally dumped in the laneway.

In the 1960's Fortunata and her son Salvatore owned a delicatessen on the corner of South Street and South Terrace. Fortunata's community connection continued and she would often give away free food/groceries to people who were struggling to feed their families. Both Giuseppe and Fortunata will always be remembered as hardworking, gentle and selfless individuals.

ROW 70, 30F Smith Street – land description and ownership

No. 30F Smith Street, Beaconsfield is described on Certificate of Title Volume 2907 Folio 97 being Lot 500 on Deposited Plan 405756.

Right of Way No. 70 remains in the original ownership of:

1. Est. Flora Frances North
2. Est. Charles Frederic John North

The City has investigated the ownership and has determined that there is no current family or living owner for ROW 70.

FINANCIAL IMPLICATIONS

There are no financial implications for the City.



The Applicant is aware that the City will not fund the costs for signage and future maintenance should the proposed road name be successful. Any costs associated with the naming will be fully funded by the applicant.

LEGAL IMPLICATIONS

Landgate is responsible for road naming and is guided by the GNC. The GNC provides the Policies and Standards in relation to the naming of roads, features, townsites and places in Western Australia.

The following publications are referred to by the GNC when assessing road naming and street addressing compliance:

- The Geographic Names Committee – Policies and Standards for Geographical Naming in Western Australian (released on 01/01/2013).
- The Australian/New Zealand Standard Rural and Urban Addressing standard (AS/NZS 4819:2011 (3rd edition released in 2011).

A copy of the publications are available upon request.

The use of Aboriginal names for the purpose of road naming requires the Initial approval of Whadjuk Aboriginal Corporation – Cultural Advice Committee (CAC).

When a personal name is proposed, the GNC Guidelines require that permission of the immediate family and community support must be obtained in accordance Clause 1.4.2 of the Australian/New Zealand Standard Rural and Urban Addressing standard (AS/NZS 4819:2011 headed "Use of Personal Names" as stated below:

"Clause 1.4.2 Use of personal names.

Landgate will not accept a commemorative naming proposal of a person whilst they are still alive for a road or locality.

Requests to approve names that commemorate, or that may be construed to commemorate, living persons will also not be accepted.

The approval of a name to commemorate an individual will only be considered;

- *Posthumously*
- *Permission of the immediate family must be obtained. Where the person has been deceased for more than 10 years and contact with the immediate family could not be established appropriate consultation must be carried out*
- *based on a demonstrated record of achievement*
- *Having had a direct and long-term association with the location and made a significant contribution to the area*
- *The proposal commemorating an individual with an outstanding national or international reputation has had a direct association with the area in which it is to be located*
- *Such application is in the public interest*



- *There is evidence of broad community support for the proposal.*

The following will not be considered as appropriate grounds for a commemorative naming request:

- *Current or past ownership of the land is not considered sufficient grounds*
- *Precedence of existing names*
- *Past or ongoing public service within all levels of government*
- *Names will not be supported after a person who has sponsored the development of the area, or was a commercial developer."*

In this instance Giuseppe and Fortunata Fusari have contributed to their local community over the many years they lived at 28 Smith Street bringing the community spirit to the people who lived along the laneway.

CONSULTATION

The Applicant has consulted with the property owner/occupiers nearby and adjoining ROW 70 with 8 signatures in support of the proposal as noted in the table below.

No objections to the proposal were received.

Submitter	Address	Support proposal yes or no (comments)
1	142 Lefroy Road. Beaconsfield	Yes – beautiful story
2	144A Lefroy Road. Beaconsfield	Yes
3	144B Lefroy Road. Beaconsfield	Yes
4 – Owner 1	29 Smith Street, Beaconsfield	Yes – What a wonderful way to appreciate their involvement in the community
5 – Owner 2	29 Smith Street, Beaconsfield	Yes
6	146A Lefroy Road, Beaconsfield	Yes
7	26 Smith Street, Beaconsfield	Yes
8	25 Cadd Street, Beaconsfield	Yes

OFFICER COMMENT

All proposed new road names, either private or public must pass a Landgate GNC on-line preliminary validation test prior to being considered by the GNT. The test will check for duplications and similar sounding names within a 10 km radius of the subject road. The Prefix to the name is selected in accordance with the GNC Guidelines.



The proposed road name of "*Fusari Way*" has passed the Landgate online preliminary approval.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

- 1. Endorse the name "*Fusari Way*" to be applied to the private right of way (ROW 70) at 30F Smith Street, Beaconsfield as described on Certificate of Title Volume 2907 Folio 97 being Lot 500 on Deposited Plan 405756.**
- 2. Request that Officers apply to the Landgate Geographic Names Team for the Minister's delegated approval of the private road name as described in item 1 of the recommendation.**



11.3 Committee and working group reports

Nil.



11.4 Statutory reports

C2311-10 ADOPTION OF COUNCIL COMMITTEES AND GROUPS REGISTER 2023-25 AND APPOINTMENT OF MEMBERS

Meeting Date:	8 November 2023
Responsible Officer:	Manager Governance
Decision Making Authority:	Council
Attachments:	1. Council Committees and Groups Register 2023-25
Confidential Attachments:	1. WRAP Nominations 2024

SUMMARY

Following the ordinary elections, positions on committees of Council and other groups become vacant and the members need to be appointed by Council.

The purpose of this report is to appoint members to these committees and groups for the 2023 to 2025 period, and to approve the terms of reference for each committee or group by adopting the City of Fremantle Council Committees and Groups Register.

BACKGROUND

At its meeting on 11 October 2023, Council adopted a new Council Meeting Structure on a six-month trial basis, being two Ordinary Council meetings per month, with the Audit and Risk Management Committee meeting to be held quarterly.

This change resulted in the Planning Committee (PC) and the Finance, Policy, Operations and Legislation Committee (FPOL) being removed, on a short-term basis, until a new Council Meeting Structure could be adopted on a long-term basis. Council will make this decision before June 2024.

The City of Fremantle now currently have two committees of council, established under the *Local Government Act 1995* (the Act):

1. Audit and Risk Management Committee
2. CEO Performance Committee

The City of Fremantle have established working groups as an advisory body to assist Council with the delivery and/or development of council strategies, plans, and projects. In addition to this, councillor nominees also hold memberships to several external groups.



FINANCIAL IMPLICATIONS

There are no financial implications identified as a result of this report.

LEGAL IMPLICATIONS

Part 5, Subdivision 2, of the *Local Government Act 1995*, outlines the requirements for the establishment of committees of Council.

Councils may delegate some of their decision-making powers to committees of council, within the limitations of the Act.

CONSULTATION

Elected Members will be consulted in relation to membership nominations prior to the Ordinary Meeting of Council.

OFFICER COMMENT

Since the Council Committees and Groups Register was last adopted on 27 October 2021 (C2110-9), new working groups have been established and changes to current meeting structures and terms of references have occurred, which has resulted in recommended changes to the register and terms of references as detailed below.

Standing Committees

Council, at its meeting on 11 October 2023, adopted a new Council Meeting Structure on a six-month trial basis, being two Ordinary Council meetings per month, with the Audit and Risk Management Committee meeting to be held quarterly, and the interim removal of PC and FPOL. This change has been reflected in the Council Committees and Groups Register as provided in attachment 1.

Destination Marketing Working Group

Following the recent adoption of the Destination Development Strategic Plan, minor adjustment to the terms of reference for the working group have been made to align with the new plan. The current members appointed to the Destination Marketing Working Group are recommended to be re-appointed for the 2023-2025 term, and officers will undertake an expression of interest process for a representative from the Indigenous business sector.

Walyalup Reconciliation Action Plan (WRAP)

At the Ordinary Meeting of Council on 23 August 2023, Council endorsed the formation of the Walyalup Reconciliation Action Plan (WRAP) 2024-2027 Working Group and adopted the terms of reference (FPOL2308-5). The City of Fremantle put out an expression of interest (EOI) for nominations to all Traditional Land owners, community members, groups and businesses, in accordance with the TOR, through a variety of communication channels. Nominations for new WRAP Working Group Members opened in September 2023 with submissions made via the City's Website. Recommendations for external member appointments

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have been made in the officer's recommendation below, and officers have provided additional information on each applicant within confidential attachment 1.

Resource Recovery Group

The Resource Recovery Group's establishment agreement is currently with the Minister for Local Government for review, one of the items under consideration is the proposed increase from one to two members per participant Council. A nomination for a second member is therefore included, this to be held as reserve until the Resource Recovery Group confirms approval of a change in participant Council membership via the Ministers office.

The recommended changes to the terms of reference of remaining committees and groups are outlined in the table below:

Group / Committee	Clause \s	Change	Reason
Delegated Committees of Council	N/A	Remove Delegated Committee's and their terms of reference, including Planning Committee and Finance, Policy, Operations and Legislation Committee, from the Council Committees and Groups Register until further notice.	Council have adopted a new meeting structure on a six-month trial basis. Previously adopted terms of reference can be re-included if the committee/s are re-established.



Group / Committee	Clause \s	Change	Reason
Audit and Risk Management Committee Audit and Risk Management Committee	4.1 Objectives	Amend the membership requirements as follows: The committee will be made up of a minimum of the following members and in accordance with Local Government (Audit) Regulations 1996 regulation 17(1) the Local Government Act 1995 section 7.1A: a. The Mayor (ex-officio member); and b. Four councillors as members, and c. Four Two councillors as deputy members, who will act as a member when their fellow Ward member deputise when a member is unable to attend and will also provide apology in accordance with the meeting procedures if they are unable to deputise; and d. Up-to two external independent members.	Corrected the legislative reference. Amended point c to allow any deputy member to be called for deputise. Removed reference in point c to “fellow ward member” to allow any elected member to deputise, and reduced deputy numbers to two. Amend point d to allow appointment flexibility when assessing expressions of interests received.
	8.1 Meetings	Amend the meeting frequency as follows: The committee will meet bimonthly quarterly, on specific dates to be advised, and more regularly as required at the discretion of the presiding member.	This change was adopted by Council on a six-month trial basis on 11 October 2023. Proposed to allow time for reports and audits to be completed and presented to the committee for the relevant quarter.



Group / Committee	Clause \s	Change	Reason
CEO Recruitment and Selection Panel	N/A	Remove the CEO Recruitment and Selection Panel from the Council Committees and Groups Register until further notice.	The panel was established during the recruitment of a new CEO, before Glen Dougall was appointed. The panel can be re-established if required.
Destination Marketing Working Group	N/A	Amend various points under the Purpose, Outcome, and Role of the Group within the terms of reference.	Following the recent adoption of the Destination Development Strategic Plan, minor adjustment to the purpose of the group to align with the plan are recommended.
	3.1 Membership	Remove point c: One position for the current Chair of the Fremantle BID up until the October 2019 ordinary elections.	Fremantle BID is no longer a service.
	3.2 Membership	Add the following clause: 3.2 Where a membership vacancy occurs for part 3.1, the Chief Executive Officer will appoint a member for the remainder of the membership term, in accordance with the terms of reference.	To provide flexibility when membership vacancy occurs.
	6. Administration	Add various points under Administration within the terms of reference.	In accordance with expectations of a working group.



Group / Committee	Clause/s	Change	Reason
Strategic Community Plan Review Working Group	N/A	Remove the Strategic Community Plan Review Working Group from the Council Committees and Groups Register until further notice.	Engagement has now concluded. The working can be re-established if required.
Walyalup Reconciliation Action Plan Working Group	N/A	Add the terms of reference of the Walyalup Reconciliation Action Plan Working Group to the Council Committee and Group Register.	New Working Group endorsed by Council on 23 August 2023. Item FPOL2308-5.
	3.2 Membership	Amend the membership requirements as follows: a. The Mayor (as ex-officio) b. Four Three Councillors and the Mayor as ex-officio	To align with the original intent of the elected member representation on the working group.
	3.4 Membership	Add the following clause: 3.4 Where a membership vacancy occurs for part 3.2 c to g, the Chief Executive Officer will appoint a member for the remainder of the membership term, in accordance with 3.2 requirements.	To provide flexibility when membership vacancy occurs.
	6. Administration	Add the following clause: d. provide a report to Council on the progress of the outcomes listed in part 2 on an annual basis, or as required.	In accordance with expectations of a working group.
Hilton Park Precinct Project Working Group	N/A	Add the terms of reference of the Hilton Park Precinct Project Working Group to the Council Committee and Group Register.	New Working Group endorsed by Council on 22 February 2023. Item FPOL2301-9.

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Group / Committee	Clause\s	Change	Reason
	N/A	Amend the working group title: Hilton Sport Park Precinct Project Working Group	Inclusive name change.
	N/A	Amend key outcomes, membership titles, and expected workshops	Outcomes (exact deliverables) have been clarified. Membership titles have been defined. Workshops have been added overtime.
	3. Membership	Add the following clause: 5.5 Where a membership vacancy occurs for part 5.1 b and c, the Chief Executive Officer will appoint a member for the remainder of the membership term.	To enable the CEO to appoint officers and external members as required, in accordance with the terms of reference. Note: Council authorised the CEO to appoint non-councillor members at establishment (FPOL2301-9).
	8. Administration	Add the following clause: c. Report to Council on project milestones.	In accordance with expectations of a working group.

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Fremantle Oval Project Working Group	N/A	Add the terms of reference of the Fremantle Oval Project Control Group to the Council Committee and Group Register.	New Working Group endorsed by Council on 22 March 2023. Item FPOL2303-5.
	N/A	Amend the group title as follows: Fremantle Oval Project Control Working Group	Consistency across working group titles
	3. Membership	Amend Clause 3 (Membership) to include the positions as appointed by Council, as follows: 3.1 Members are to be appointed by the Council and include: a. The Mayor (as ex-officio) b. Three Councillors c. Chief Executive Officer, City of Fremantle d. Strategic Planning Officer, City of Fremantle e. Chief Executive Officer, South Fremantle Football Club f. Executive Manager Facilities, WA Football Commission g. Executive General Manager Operations, Fremantle Football Club	Aligns with the Council decision dated 22 March 2023, and removes general terms.
	6. Administration	Add the following clause: d. Report to Council on project milestones, or other matters as required.	In accordance with expectations of a working group.



Perth South West Metropolitan Alliance	N/A	Amend the group title as follows: South West Group Board Perth South West Metropolitan Alliance	The title change occurred in September 2022.
Resource Recovery Group (RRG)	N/A	Add the following: If the appointed member differs from previous appointment, the City of Fremantle is to provide written notice to the CEO of the group.	Note added to align with the establishment agreement requirements.

The suggested changes are also shown in the Council Committees and Groups Register 2023-2025, provided in Attachment 1.

Membership availability will be in line with the Council's decision on changes to the terms of reference for each committee and group.

Elected members are given the opportunity to express a preference to nominate for committees and groups prior to the council meeting at which membership of these committees and groups is established by council. Nominations will also be accepted at the council meeting, if not received before.

Where more nominations are received than positions are available, a ballot may be held to determine the appointments to be made by council.

Officers will assist appointed members to complete any required nomination forms for external groups and provide notice to relevant bodies of the appointments.

Some working group members have been recommended below, reflecting the current appointments that were made recently, for the purpose of consistency and to give members ability to continue developing newly created relationships and strategies.

The Presiding Member for each committee and group will be determined by that committee or group at the first meeting held following the appointment of its members, in accordance with section 5.12 of the *Local Government Act 1995*.

The Audit and Risk Management Committee Independent Member will also be determined by the Committee at the first meeting held, with the recommendation to be adopted by Council at next appropriate Ordinary Council Meeting.

Any appropriate changes required to the Council Committees and Groups Register after the six-month trial of the new Meeting Structure ending in June 2024, will be brought back to Council for consideration, if necessary.



VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

OFFICER'S RECOMMENDATION

Council:

1. **Adopt the City of Fremantle Council Committees and Groups Register 2023-25, including changes to relevant terms of references, as provided in Attachment 1.**
2. **Appoint members to each committee and group as listed below, until the next appropriate Ordinary Meeting of Council held after the 2025 Local Government Elections:**

Council Committees				
Name	Acronym	Member Type	Member	Deputy Member
Audit and Risk Management Committee	ARMC	Ex officio	Mayor	N/A
		Independent	---	N/A
			---	N/A
		1.	Cr_____	Cr_____
		2.	Cr_____	Cr_____
		3.	Cr_____	---
4.	Cr_____	---		
CEO – Recruitment, Selection and Performance Review bodies				
Name	Acronym	Ward	Member	Deputy Member
CEO Performance Review Committee	CEOPRC	N/A	Mayor	N/A
			Cr_____	Cr_____
			Cr_____	Cr_____

Working Groups		
Name	Acronym	Members
International Relations Working Group	IRWG	A maximum of 4 Elected Members
		Manager Governance

		Cr_____
		Cr_____
		Cr_____



Destination Marketing Working Group	DMWG	1. Independent Chair	Linda Wayman – Owner Wayman Advisory
		2. One representative from the Fremantle Chamber of Commerce	Chrissie Maus – CEO Fremantle Chamber of Commerce
		3. One representative from Fremantle’s arts and culture business	Paula Nelson – Director Fremantle Prison, Department of Planning, Lands and Heritage
		4. One representative from Fremantle’s hospitality business sector	Reiniera de Vos van Steenwijk – Marketing and Community Engagement Gage Roads
		5. One representative from the Indigenous business sector	(Vacant)
		6. One representative from Fremantle’s retail business sector	Kate Hullett – Owner Kate & Abel
		7. One representative from Fremantle’s tourism business sector	Tim Buckton – Director Warders Hotel
		8. One representative from Fremantle’s professional service business sector	Andrew Lane – Group General Manager Growth & Innovation Kelsian
		Note: There are no Elected Member representatives on this working group. Qualification of members within the above categories is to be determined to the satisfaction of the CEO.	
Walyalup Reconciliation Action Plan Working Group	WRAPWG	Mayor	Cr_____
		Cr_____	Cr_____
		Whadjuk Aboriginal Corporation Nominated Representative (2) 1. Calvin Garlett 2. Dulce Donaldson	Maximum of 8 Aboriginal people of different family groups 1. Gerrard Shaw 2. Sharon Calgaret 3. Freda Ogilvie 4. Clive Morrison 5. Sharyn Egan 6. Rebecca Blurton 7. Geoffrey Addison 8. Tenika Calgaret
		Maximum of three representatives from relevant organisations seeking to support the City in Reconciliation 1. Levi Islam – South Metro Tafe 2. Traci Cascioli – St Pats 3. Andrew Canion – PCYC	Maximum of two community members 1. Catherine Atoms 2. Susie Waller



Hilton Park Precinct Project Working Group	HPPPWG	A maximum of 5 Elected Members	
		Cr Frank Mofflin	Cr Ben Lawver
		Cr Geoff Graham	Cr Andrew Sullivan
		Cr Fedele Camarda	---
		The following members are appointed by the CEO	
		Maximum of six City Officers	---
		i. Former Beaconsfield and Hilton Precinct Groups (2)	vi. Fremantle City Football Club (1)
		ii. Access and Inclusion Working Group Representative (1).	vii. Hilton Park Bowling & Recreation Club Inc (1)
		iii. Whadjuk Advisory Corporation (1).	viii. Hilton Bicton Cricket Club and Hilton Park Junior Cricket Club (2)
		iv. ChangeMakers (1)	ix. Fremantle Men's Community Shed (1)
		v. Fremantle City Dockers Junior Football Club (1)	x. Other Interested Parties (up to 4)
Fremantle Oval Project Working Group	FOPWG	Mayor	Cr Frank Mofflin
		Cr Andrew Sullivan	Cr Fedele Camarda
		---	Chief Executive Officer, City of Fremantle
		Strategic Planning Officer, City of Fremantle	Chief Executive Officer, South Fremantle Football Club
		Executive Manager Facilities, WA Football Commission	Executive General Manager Operations, Fremantle Football Club

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External Groups					
Name	Acronym	Term	Member		Deputy Member
Metro Inner-South Joint Development Assessment Panel	JDAP	2022-2024			
		Membership for this group runs for two years from 27 January 2022 to 26 January 2024*. *New members will be appointed until 26 January 2024, subject to Minister’s approval.	1	Cr Andrew Sullivan	* Cr_____
			2	* Cr_____	Cr Ben Lawver
		2024-2026			
		Membership for this group runs for two years from 27 January 2024 to 26 January 2026* *New members are subject to approval by the Minister.	1	* Cr_____	* Cr_____
			2	* Cr_____	* Cr_____
South West Reference Group	SWRG	2023-2025	Cr_____		Cr_____
South West corridor development foundation	SWCDF				
Resource Recovery Group	RRG	2023-2025* *Second member subject to approval by the Minister.	1	Cr_____	
			2	* Cr_____	
Western Australian Local Government Association South Metropolitan Zone	WALGA Zone	2023-2025	Cr_____		
			Cr_____		
			Cr_____		

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External Groups			
Perth South West Metropolitan Alliance	PSWMA	Mayors and CEOs of member local governments are ex-officio members.	Mayor
			Chief Executive Officer
Local Emergency Management Committee	LEMC	2023-2025	Cr_____
			Cr_____



12. Motions of which previous notice has been given

A member may raise at a meeting such business of the City as they consider appropriate, in the form of a motion of which notice has been given to the CEO.

Nil

13. Urgent business

In cases of extreme urgency or other special circumstances, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.

14. Late items

In cases where information is received after the finalisation of an agenda, matters may be raised and decided by the meeting. A written report will be provided for late items.

15. Confidential business

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

Nil

16. Closure