



Town of  
Cambridge

# MINUTES

## ORDINARY COUNCIL MEETING Tuesday 19 December 2023

These Minutes were confirmed by the Council as a true and correct record at its meeting held on 27 February 2024.

.....  
PRESIDING MEMBER

## OUR VISION

A naturally beautiful Town that connects our vibrant community and thriving local economy from inner city to beach.

## OUR MISSION

We will maintain and enhance our very liveable suburbs, their streetscapes and character and our vibrant activity centres through strategic, cost-effective management of resources and an enhanced community experience based on a “locals first” philosophy.

## OUR VALUES

The values will guide our attitudes and behaviour in everything we do to serve our community:

### **Respect**

We will acknowledge an individual's uniqueness and will treat them in a dignified and positive manner.

### **Integrity**

We will act responsibly, place trust in each other and will be accountable for our actions.

### **Teamwork**

We believe teamwork is essential for improving our services and achieving our goals.

### **Friendly and Helpful**

We value our community members and will assist them in the best way we can.

### **Creativity**

We can improve the way we do business by challenging the status quo.

### **DISCLAIMER**

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any Elected Member or Employee of the Town during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Town. No action should be taken on any item discussed at a Council or Committee meeting prior to written advice on the resolution of the Council being received.

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## COUNCIL CHAMBER SEATING PLAN



### Nature of Council’s Role in Decision Making

<b>Advocacy:</b>	When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
<b>Executive:</b>	The substantial direction setting and oversight role of the Council. e.g., adopting plans and reports, accepting tenders, directing operations, setting, and amending budgets.
<b>Legislative:</b>	Includes adopting local laws, town planning schemes & policies.
<b>Review:</b>	When the Council operates as a review authority on decisions made by Officers for appeal purposes.
<b>Quasi-Judicial:</b>	When the Council determines an application/matter that directly affects a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice.
<b>Information:</b>	For the Council/Committee to note.

## PROCEDURES FOR PUBLIC QUESTION TIME

### Length and Frequency of Public Question Time

Public Question Time will be held in accordance with the legislated period of not less than 15 minutes, and as determined by the Presiding Member, at the start of the meeting. A maximum of three (3) minutes is allocated to each person to ask up to three (3) questions, including any contextual or opening statement.

### Protocol before the Council Meeting

1. Any person who completes and submits a Public Question Time form via the Town's web site, no less than 24 hours prior to the relevant Council Meeting, will have their question considered at that Meeting.
2. Any person who has submitted their question in writing via the Town's webpage, prior to the Council Meeting, will automatically be registered by an Employee.

### Protocol during the Council Meeting

1. Members of the Public shall state their name, and preferably an address and contact number or email address. Members of the Public may request that their contact details remain private and confidential if reasons are provided (e.g., employment, silent elector, safety and/or security etc). The requirement to provide such details may be dispensed with at the Presiding Member's discretion.
2. Before or during the Council Meeting each person is required to provide a written form of their question to the Employee at the meeting.
3. The Presiding Member determines:-
  - (a) if the question is responded to, taken 'on- notice', or not accepted; and
  - (b) who is to respond to the question.
4. Any person having used up their allowed number of questions or time may be asked by the Presiding Member if they have more questions. If the person indicates they have more questions, then the Presiding Member is to note the request and place them at the end of the queue of questioners, and the person must resume their seat in the public gallery.
5. When such people have asked their questions, the Presiding Member may, if time permits, provide an opportunity for those who have already asked a question to ask any further questions.

### Protocol - General

1. All questions must relate to the ordinary business of the Town of Cambridge, the function of Council, or the purpose of the Special Council Meeting, as appropriate. Sub parts of questions will be counted as a question.
2. Questions asked at Special Council Meetings are restricted to matters relating to the purpose of that Meeting, i.e., the items listed on the Agenda.
3. No debate or discussion is permitted on any question or response.
4. Respect must be shown to the Presiding Member, Elected Members, Employees, Members of the Public, and all meeting attendees at all times.

## Presiding Member

Questions are to be directed to the Presiding Member, who may, at his/her discretion:-

- (a) Accept or reject the question, and his/her decision is final.
- (b) Nominate an Elected Member of the Council and/or an Employee to answer the question.
- (c) Determine the question is to be a question taken 'on notice', in which case the response will be provided in the Minutes of the next Ordinary Council Meeting.
- (d) Make a determination where there is concern about a question being offensive, defamatory or the like, in which case the question will not be received or published.
- (e) Treat questions as correspondence; and
- (f) May declare public question time closed following the expiration of the allocated 15-minute time period, or earlier if there are no further questions from persons present at the Council Meeting.

## Response to Questions

1. Where the person asking the question is present at the Council Meeting, where practicable, responses will be provided at that Meeting by the Presiding Member, or another person nominated by the Presiding Member.
2. Where a person submits a question in writing prior to a Council Meeting, the Presiding Member will ask if the person is in attendance at the meeting:-
  - (a) If the person is not present, the Presiding Member may rule that the question is not to be put to the meeting and will be treated as an item of 'correspondence', which will be referred to the Town's CEO for a written response, at a time other than at the meeting; and
  - (b) The question will not be read out and a written response by the CEO will be forwarded to the individual as soon as practicable and will be recorded in the Minutes.
3. Where the information is not available, or the question cannot be readily answered, the question will be taken as a question taken 'on-notice' and a written response will be forwarded to the person. A copy of the Town's response will be included in the Minutes of the next Ordinary Council Meeting.

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## 1 OFFICIAL OPENING

The Presiding Member, Mayor Mack, declared the meeting open at 6.00 pm, advising that the meeting is being recorded, and that the recording would be placed on the Town's public website. The following statement was then read by the Presiding Member:

*"I would like to acknowledge the past and present traditional owners and custodians of the land on which this meeting is being held."*

I would like to make a quick announcement regarding tonight's meeting procedures.

*Due to the size of tonight's agenda, in accordance with section 3.4(3) of the Town's Meeting Procedure Local Law, I have decided to ensure a timely meeting public questions received on notice will be read by myself and an answer provided by either myself or a relevant member of staff.*

*I will only be accepting questions tonight, that is I will not allow any preamble. Should you feel it is essential to include preamble with your questions they will be taken on notice and a response will be provided in due course.*

## 2 ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

### 2.1 Attendance

<b>Mayor:</b>	Gary Mack	Presiding Member
<b>Councillors:</b>	Kate Barlow Xavier Carr Jane Cutler Gavin Foley Susan Kennerly Michael Le Page Ben Mayes Georgie Randklev	Attended Electronically
<b>Officers:</b>	Gary Tuffin Kelton Hincks Vicki Hobby Fraser Henderson Steve Laming Etienne Brits Seisha Fogarty-Pryor Joanne Casey Cassandra Jaeger Denise Ribbands Matt Lau	Chief Executive Officer Director Infrastructure and Works Acting Director Corporate and Commercial Services Acting Director Planning and Community Services Acting Manager Statutory Planning Manager Strategic Planning Manager Community Services Manager Strategy and Communications Manager Governance Senior Governance Officer Senior Communications Officer

**Media:** There was one member of the press in attendance.

**Public:** There were approximately 30 members of the public in attendance.

## **2.2 Apologies**

Nil

## **2.3 Leave of Absence**

Nil

## **3 PUBLIC QUESTION TIME**

### **3.1 Written Questions Received**

**The record of Public Question Time is a summary of the questions and answers provided at the Council meeting in accordance with Regulation 11(e) of the *Local Government (Administration) Regulations 1996*.**

The Presiding Member, Mayor Gary Mack, advised that with regard to Public Question Time, in accordance with Council Policy No: 031 – ‘Council Meetings – Managing Public Question Time’, if a person who has submitted a question prior to the meeting is not present at the meeting, then the question will be treated as correspondence, and the questions and the Town’s response will not be read out at tonight’s meeting. However, a response will be sent and included in the next month’s Council Minutes.

Mayor Mack also advised that he would like to take this opportunity to advise the gallery that formal decisions of council are a collective decision, and not individual. This position is confirmed by the Department of Local Government, who state on their website for public information that;

***“..... the resolution of council is the result of open voting by the majority of elected members at the meeting. Once a collective decision is made, all members must abide by the decision.***

***Collective responsibility requires members of a council or its committees to support publicly all decisions made by council even if they do not agree privately.”***

#### **Written questions submitted by persons not present at the meeting**

Nil

#### **Written questions submitted by persons present at the meeting**

Adrian Corp submitted three written questions prior to the meeting but withdrew them at the meeting.

### **3.2 Verbal Questions Presented**

#### **Adrian Corp, Floreat**

##### **Question 1**

Why is the Council considering a proposal by Councillor Cutler, which a) is administrative and b) is full of fundamental errors? If you look at Item 13.2, Councillor Cutler is asking the Council to make an administrative decision. It’s not your role. She’s asking you to join with her in telling the community that you have no confidence in your Administration.

##### **Response by Mayor Mack**

That item will be debated tonight.

## **Question 2**

Based on the fact that there are a number of fundamental errors in 13.2, will the Council act in an executive capacity and ask the Administration to provide a report on how implementation of the requirements of the Local Planning Strategy are progressing and what they need to fulfil this task?

### **Response by Mayor Mack**

The only way Council communicates with the Administration is through Notices of Motion put forward by Elected Members. Individual Councillors can't actually ask the Administration to do anything. It's prohibited under the Act.

### **Further Comment by Mr Corp**

Mayor Mack, it's not prohibited under the Act. The Council is perfectly entitled to ask the Administration how it is progressing with a task that it has been allotted.

### **Response by Mayor Mack**

The only thing on the table tonight is the Notice of Motion from Councillor Cutler and I think there's one from Deputy Mayor Councillor Mayes and there's no other motion on the table that I know of.

## **Question 2**

In accordance with the key actions in table 2 of the LPS – section 3.26, which are supported by State Planning Policy 7.2, what is the current timeframe, bearing in mind the suggested timeframe expires in April 2024, for the Town of Cambridge to set up a working group comprising Ocean Village Residents, Administration Staff, Elected Members and Blackburne Representatives to develop a detailed area plan and design guidelines for the Ocean Village Shopping Centre, which would satisfy as a minimum the requirements of State Planning Policy 4.2 and 7.2?

### **Response by Acting Director Planning and Community Services**

At this time, there is no proposal or direction from the Council to set up such a group. We understand the developer intends on lodging an application with the State Development Assessment Unit prior to Christmas and it will be the path it's going down. That's the process to develop any other planning instruments.

## **Question 3**

Why is Mr Henderson choosing to ignore the Local Planning Strategy, which is the Council's direction to do what I have asked for a timeframe on? He has been instructed by the Council. He's been instructed in the Local Planning Strategy.

### **Response by Mayor Mack**

I think there are capacity constraints without doubt and this will be further debated later on when we come to the Notices of Motion, but at the moment I can say I'm quite content with the way things are progressing

### **Additional Response by Chief Executive Officer**

That development is on the radar in terms of looking at what we can do. Part of the Notice of Motion addresses that and looks at formulating a plan as to how Council might best address that issue.

### **Further Comment by Mr Corp**

The document was endorsed in April 2021.

### **Response by Director Planning and Community Services**

The strategy was endorsed in April 2021. Planning for Ocean Village was identified as having a medium term timeframe for key actions to be completed, that is action over 1 to 5 years and that indicative timeframe will be April 2026.

### **Kristy Gannon, Floreat**

#### **Question 1**

Prior to the 2023 election, did any Elected Members or Staff have any meetings with significant land owners in the Town, Developers or individuals who are consultants for Developers or significant land owners in the Town, and if so, when were these meetings, who was in the meeting and who was the meeting with, and who else attended these meetings?

#### **Response provided by Mayor Mack**

I will take that on notice, but really I guess it depends in part on what is a significant land holding? Are we talking about Ocean Village? Are we talking about Floreat Forum? Are we talking about the West Leederville Activity Centre?

#### **Response by Kristy Gannon**

Both Floreat Forum and Ocean Village. Mainly Floreat Forum

#### **Question 2**

In the interest of transparency, and somebody actually asked this at the last Council meeting and I don't know if there was actually an answer. Will the meeting minutes of the APIL meeting with the Mayor and Town Staff be put on the website?

#### **Response by Mayor Mack**

No, they won't be.

#### **Question 2**

With Policy 39 and 33, will those be put on the website as well, of who attended the meetings.?

#### **Response by Mayor Mack**

The practice of the Town is that we don't put them on the website. However, we do maintain a register of Staff Developer contact, but the content of the meetings are not posted on the website because we have a lot of meetings, and not just with developers, people who may oppose a development. It would be too unwieldy if we put every file note, every minute on the website.

#### **4 PETITIONS**

Nil

#### **5 DEPUTATIONS**

Mayor Mack advised that, due to the number of requested deputations, clause 3.6 (3) of the Town of Cambridge Meeting Procedures Local Law 2019 will be suspended for the December OCM, pursuant to section 10.1 (h) to reduce the maximum time allowed from 15 minutes to 3 minutes.

#### **PROCEDURAL MOTION:**

**Moved by Cr Barlow, seconded by Cr Randklev**

**That clause 3.6(3) of the Town of Cambridge Meeting Procedures Local Law 2019 be temporarily suspended for the December 2023 OCM pursuant to section 10.1(h), to reduce the maximum time allowed from 15 minutes to 3 minutes.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

The following deputations were heard at the Council meeting:

<b>Item No. &amp; Title</b>	<b>Name</b>	<b>Association</b>
12.3.8 - Lot 192 (No.8) Falmouth Avenue, City Beach	Damian Broderick	Owner
12.3.9 - Lot 213 (No.50) Pandora Drive, City Beach	Michael Rule	Scatena Clocherty Architects
12.3.10 - Lot 159 (No.6) Talgarth Way, City Beach	Trent Will	Architect
12.3.10 - Lot 159 (No.6) Talgarth Way, City Beach	Andra Biondi and Tim Houwelling	On behalf of neighbour at 5 Talgarth Way
12.3.10 - Lot 159 (No.6) Talgarth Way, City Beach	Chris Cowley	Neighbour
12.3.12 - Lot 69 (No.6) Yaltara Road, City Beach	Anthony Pratama	Addstyle Constructions
12.3.13 - Lot 199 (No.33) Pandora Drive, City Beach	Bernard Eastman	Neighbour
12.3.13 - Lot 199 (No.33) Pandora Drive, City Beach	Richard Eastman	Neighbour
12.3.13 - Lot 199 (No.33) Pandora Drive, City Beach	Nicholas Hurley	Owner
12.3.13 - Lot 199 (No.33) Pandora Drive, City Beach	Michael Stocco	Urbanista Planning

Cr Carr left the meeting at 7.03 pm

#### **6 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

## 7 CONFIRMATION OF MINUTES

### COUNCIL DECISION:

Moved by Cr Kennerly, seconded by Cr Foley

That the Minutes of the Ordinary Meeting of Council held on 28 November 2023 be CONFIRMED as a true and correct record.

Motion put and CARRIED (8/0)

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

## 8 ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

Mayor Mack thanked the Elected Members for their contribution and hard work whether they have been here since October or previously, it is much appreciated by the community. I also want to thank the CEO and the Executive Team for their time and accurate advice they have provided and the staff in general for implementing decisions.

There have been many implementations this year and our achievements have been quite significant, of which I won't go through because of time constraints. It is worthwhile noting that we are well on our way to developing our Integrated Planning Framework documents. We have approved and now starting to implement our Community Strategic Plan. Our Long Term Financial Plan is up for adoption tonight. Also, I think it is worthwhile mentioning that our Digital Transformation Process, which improves the efficiency and productivity of what we do, is well on the way though not complete.

I think this will set us up well to meet the challenges of next year (2024). I want to wish all Elected Members, the staff and the community a Merry Christmas and a Happy New Year, this being the last meeting.

## 9 DISCLOSURES OF INTEREST

In accordance with 11.2.3 section 5.65 of the *Local Government Act 1995*:

*"s.5.65(1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest –*

- (a) in a written notice given to the CEO before the meeting; or*
- (b) at the meeting immediately before the matter is discussed."*

<b>Item No.</b>	<b>Name</b>	<b>Type of Interest</b>	<b>Nature of Interest</b>
11.1.1	CEO, Mr Tuffin	Impartiality	This matter deals with the CEO's KPIs
11.2.3	Cr Randklev	Impartiality	The owner is known to her
12.3.1	Cr Barlow	Impartiality	She is a member of the Bowlo.
12.3.1	Cr Le Page	Impartiality	He is a member of the Reabold Tennis Club
12.3.1	Cr Mayes	Impartiality	He is a member of the Leederville Sporting Club
12.3.3	Cr Foley	Proximity	He is the owner of the house at No.14 The Boulevard

12.3.6	Cr Mayes	Impartiality	He was a Member of Council that resolved on 25 July 2023 Ordinary Council Meeting (Item 11.16) to dispose and subdivide the two adjacent carparks.
12.3.7	Cr Barlow	Proximity	Her property is across the road from St John of God precinct He knows some people who live on Talgarth Way directly opposite the development and he knows Andra Biondi and Tim Houwelling, who made a deputation on the item
12.3.10	Cr Carr	Impartiality	Some of the neighbours are known to her and she has received an email from the applicant
12.3.10	Cr Cutler	Impartiality	She knows the owners of the property
12.3.10	Cr Mayes	Impartiality	He has received correspondence from the proponent
12.3.12	Cr Kennerly	Impartiality	She knows the owners of the property
12.3.12	Cr Mayes	Impartiality	He has received correspondence from the proponent
12.3.13	Mayor Mack	Impartiality	He has been contacted by the Town Planning Consultant
12.3.13	Cr Carr	Impartiality	He has been contacted by one of the Town Planners with regard to the application
12.3.13	Cr Cutler	Impartiality	She has spoken to a representative of the applicant
12.3.13	Cr Randklev	Impartiality	She has received an email from the owner
12.3.14	Cr Mayes	Impartiality	The owner is known to me
12.3.15	Cr Mayes	Impartiality	He has received correspondence from the neighbour
13.2	Cr Randklev	Impartiality	She has received an email from the owner of Floreat Forum
16.1.1	Cr Kennerly	Impartiality	She knows two of the applicants
16.1.1	Cr Randklev	Impartiality	One of the applicants is known to her
16.2.1	Mayor Mack	Impartiality	The person is known to me
16.2.1	CEO Mr Tuffin	Financial	The matter relates to the CEO Contract
16.2.1	Cr Barlow	Impartiality	The person in this report is known to her
16.3.2	Manager Governance	Financial	The matter relates to her

Cr Carr returned to the meeting at 7.10 pm

## **10 REPORTS**

Members of the public present at the meeting are reminded, that they should not act immediately on anything they hear at this Meeting, without first seeking clarification of Council's position. Members of the public are advised to wait for written advice from the Council before taking any action on any matter that they may have before the Council at this Meeting.

Recommendations contained in the Committee and Council Reports were adopted En-bloc, with the exception of the following items:

**CEO Annual Performance Review Committee: 11.1.1**

**Council Reports: 12.1.1, 12.1.2, 12.1.3, 12.3.1, 12.3.2, 12.3.3, 12.3.4, 12.3.5, 12.3.6, 12.3.7, 12.3.8, 12.3.10, 12.3.12, 12.3.13, 12.3.14, 12.3.15, 12.4.2, 12.4.3, 16.1.1, 16.2.1, 16.3.1 and 16.3.2**

## 11 STANDING COMMITTEE REPORTS

### 11.1 Chief Executive Officer Annual Performance Review Committee - 12 December 2023

#### 11.1.1 CEO Key Performance Indicators 2023/2024

<b>DIRECTORATE:</b>	Office of the CEO
<b>AUTHOR:</b>	Cassandra Jaeger (Manager Governance)
<b>AUTHORITY / DISCRETION:</b>	Legislative
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Draft KPIs - 2023/24 [6.1.1 - 2 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is for Council to set the CEO Key Performance Indicators for the period to 30 June 2024.

#### **EXECUTIVE SUMMARY:**

The CEO Review Committee is responsible for setting the KPIs for the Chief Executive Officer for the 6 month period to 30 June 2024. The purpose for setting KPIs for 6 months is to realign with the financial year with consideration of upcoming legislative changes in relation to Council integrated planning and reporting framework.

Once an agreed set of Key Performance Indicators has been negotiated and established, these must be submitted to Council for approval.

The KPIs were considered by the CEO Performance Review Committee, who made a number of amendments to the proposed KPIs for Council's consideration. These changes have incorporated into **Attachment 1** for Council to consider.

#### **BACKGROUND:**

Mr Gary Tuffin (CEO) commenced employment at the Town of Cambridge on 19 May 2023. The CEO's contract requires that within three months of commencement, Council will aim to determine the performance criteria based on the principles outlined in Schedule 3 of the contract (which are a guide only). In light of the caretaker period for the 2023 Local Government Ordinary Elections, Council were unable to finalise the CEO's KPIs prior.

A separate report on the agenda addresses the CEO probation review.

#### Role of CEO Performance Review Committee

The purpose of the CEO Performance Review Committee as outlined in the terms of reference are as follows:

*The purpose of the Committee is to, in line with the Local Government Act 1995 and the Town of Cambridge Policy 115: Standards for CEO Recruitment, Performance and Termination, make recommendations to Council on the following matters:*

1. *In consultation with the CEO negotiate and determine the Key Achievements (KA's) and Key Performance Indicators (KPI's) the CEO is required to work towards achieving/undertaking over a twelve (12) month period;*

2. *Undertake the review of the Chief Executive Officer's performance in accordance with Regulation 17 of Schedule 2, Division 3 of the Local Government (Administration) Regulations 1996, the Standards and the contract of employment of the CEO; and*
3. *Any proposed changes to the Chief Executive Officer's Contract of Employment or Conditions of Employment*

*The Committee is to ensure that all Elected Members are invited to provide written comments of appraisal of the CEO's performance to the Committee and that sufficient time is allowed for the Elected Members to provide their comments.*

For the 2023 – 2025 period, the members of the Committee are Mayor Gary Mack, Cr Kate Barlow, Cr Xavier Carr, Cr Michael Le Page and Cr Georgie Randklev.

### CEO Performance Review Policy

At the Ordinary Council Meeting on 31 October 2023, Council adopted Policy 120: CEO Performance Review Policy to provide guidance on process for the CEO annual performance review and setting of KPIs. The Policy also applies to the CEO probation review.

In accordance with the Policy, the KPIs are to be aligned to the themes and goals in the Strategic Community Plan and Corporate Business Plan. Additional and specific KPIs may also be agreed by both Council and the CEO.

#### **DETAILS:**

Model Standards for CEO Recruitment, Performance and Termination set out the standards that must be observed by a local government in relation to the review of the performance of the CEO.

These standards include the requirement for performance criteria to be set that are:

- Specific, measurable, achievable, relevant and time-based
- The performance criteria must be recorded in a written document and be negotiated and agreed upon by the CEO and Council.

It is essential that CEO performance is measured in an objective manner against the performance criteria alone. It is important that reviews are impartial.

The CEO's contract sets out that the Performance Criteria will be determined based on the example principles set out in Schedule 3 which are:

- a) Governance and compliance (including compliance with Written law)
- b) Assistance to the Council
- c) Implementation of Council decisions and policies
- d) Management of the Town's resources
- e) Customer service
- f) Leadership and skills
- g) Strategic projects and programs

The above principles are a guide only and Council may amend or supplement, from time to time, the principles.

The Council and the CEO should set specific goals related to target outcomes for future achievement. The Committee (and Council) must determine how it will measure the outcomes of each KPI.

Once KPIs have been developed by the Committee and the CEO, these must be presented to Council for approval.

The State Government's reforms to the Local Government Act 1995 (WA) will also require the CEO's key performance indicators to be available on the local government's website. Whilst this is not yet a legislative requirement, it is recommended that the CEO's KPIs be made available on the Town's website once approved by Council.

**COMMENT:**

Draft KPIs incorporating the feedback of the CEO Performance Review Committee are included in **Attachment 1** for Council to consider. It is noted that the KPIs are for a 6 month period to bring the process back in line with the financial year. Council will then be required to review the CEO's performance against the criteria for the 6 month period and will then set 12 month KPIs going forward.

The draft KPIs have been prepared based on Councillor feedback and the CEO's review of priorities and will need to be prioritised. The KPIs have been developed based on current resourcing levels being maintained.

**POLICY / STATUTORY IMPLICATIONS:**

*Local Government Act 1995 (WA) – ss 5.38, 5.39A*

*Local Government (Administration) Regulations 1996 (WA) – Schedule 2*

**RISK MANAGEMENT IMPLICATIONS:**

**Low**                      The setting of CEO KPIs will ensure that the requirements under the CEO's contract are met as well as legislative requirements.

**FINANCIAL IMPLICATIONS:**

There are no financial implications related to this report.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Council Goal 9: Transparent, accountable governance**

Strategy 9.1: Implement initiatives that strengthen governance skills, transparency and knowledge

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

Not Applicable

**Impartiality Interest Declaration - CEO, Mr Tuffin**

Prior to consideration of the item, the CEO Mr Tuffin disclosed an interest affecting impartiality and declared as follows: "with regard to Item 11.1.1, I declare that this matter deals with the CEO's KPIs and as a consequence there may be a perception that my impartiality may be affected. I declare that I will provide advice on this matter as appropriate."

**COMMITTEE RECOMMENDATION:**

**Moved by Mayor Mack, seconded by Cr Le Page**

**That Council:**

- 1. RESOLVES to endorse the draft CEO 2023/24 Key Performance Indicators as outlined in Attachment 1 which incorporates the CEO Performance Review Committee's amendments; and**
- 2. In accordance with the Model Standards for CEO Recruitment, Performance and Termination, PROVIDES a copy of the draft KPIs to the CEO for his consideration and agreement.**

Cr Cutler foreshadowed that should the motion be lost, she intended to move amended KPI's.

**Motion put and LOST (4/5)**

For: Mayor Mack, Cr Carr, Cr Le Page and Cr Kennerly

Against: Cr Barlow, Cr Cutler, Cr Foley, Cr Mayes and Cr Randklev

**COUNCIL DECISION:**

**Moved by Cr Cutler, seconded by Cr Mayes**

**That Council:**

- 1. RESOLVES to endorse the CEO 2023/24 Key Performance Indicators as further amended and outlined in Attachment 1 which incorporates the CEO Performance Review Committee's amendments; and**
- 2. In accordance with the Model Standards for CEO Recruitment, Performance and Termination, PROVIDES a copy of the draft KPIs to the CEO for his consideration and agreement.**

**Motion put and CARRIED (5/4)**

For: Cr Barlow, Cr Cutler, Cr Foley, Cr Mayes and Cr Randklev

Against: Mayor Mack, Cr Carr, Cr Kennerly and Cr Le Page

## 11.2 Development Committee - 11 December 2023

### 11.2.1 DV23.56- Lot 897 (No. 10) Dunblane Road, Floreat - Alterations and Additions to Existing Two-Storey Single House

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Howard Wu (Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0201
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Development Plans [8.2.1.1 - 12 pages] 2. Applicant's Justification Letter [8.2.1.2 - 1 page] 3. Site Photo (Existing) and 3D Render (Proposed) [8.2.1.3 - 1 page]

#### PURPOSE OF REPORT:

The purpose of this report is for the Council to consider a development application for alterations and additions to an existing two-storey single house.

#### SUMMARY:

The existing dwelling includes an arch-walled front verandah, which were both constructed circa 1970. The existing verandah is set back a minimum of 7.2m from the primary street boundary in lieu of 9m.

The application proposes to retain the existing dwelling and to modify the existing verandah by enclosing two of the front archways and the sides of the verandah with clear windows and constructing two internal walls within the verandah. This will create additional internal floor area within the dwelling and will result in the verandah converting into two rooms and a central portico.

Notwithstanding that the minimum street setback to the existing verandah is not changing, the proposed new windows and walls to the verandah will be within the street setback, which requires determination by Council.

The application also proposes to relocate an existing retained garden bed from the centre to the left side of the verandah, which will have a maximum height of 1m from the historical natural ground levels and will be set back a minimum of 6.2m from the primary street boundary in lieu of 9m.

In addition, the application proposes to extend the length of the existing garage boundary wall to create a new storeroom that will replace a portion of the existing patio at the rear of the dwelling, replace the other portion of the existing patio with a new alfresco that will have an 8-degree pitched roof constructed in 'Surfmist Colorbond' metal sheeting, and slightly reduced landscaping in the street setback area.

In this instance, after consideration under the relevant planning provisions, it is recommended that the application be approved as:

- i) The existing verandah, which was constructed with a reduced street setback of 7.2m, has been in place for over 50 years. As such, the presence of bulk within the street setback area has existed for a significant period.
- ii) As the application proposes to only add clear windows and internal walls to the existing verandah, the proposal will not result in any substantial additional bulk within the street setback area.

- iii) The proposal includes removing the colonnade style balustrade from the existing verandah, which will remove some of the existing bulk within the street setback.
- iv) The proposed internal walls within the verandah will be located behind the existing front archway walls and will therefore be largely hidden from view from the street.
- v) While relocating the existing retained planter from the centre to the left side of the verandah will result in the retaining wall having a greater maximum wall height, due to the levels being lower in that section of the site, the minimum street setback to the retaining wall will not change. Because of this, relocating the retained garden bed will not result in significant additional bulk within the street setback area.
- vi) Relocating the retained garden bed to the left side of the verandah will also create better symmetry to the front of the dwelling, as there is another existing retained garden bed on the right side of the verandah, which will enhance the streetscape.
- vii) The proposed extension to the existing garage boundary wall will not be visible from the street, as it will be behind the existing portion of the boundary wall and obscured by thick vegetation in the front setback area of the adjoining property. Therefore, the boundary wall extension will not further detract from the desired future character of the Floreat Precinct, as described in *Local Planning Policy 3.1 – Streetscape*, which includes maintaining clear separation between buildings and lot boundaries.
- viii) While the boundary wall extension will be visible to the adjoining property above the existing dividing fencing, it will not have an adverse bulk impact on that property, as the length of the extension is relatively minor and only a minor portion of the wall will be visible above the fence.
- ix) The new alfresco roof in ‘Surfmist Colorbond’ metal sheeting will not have an adverse glare impact on the streetscape or adjoining properties. This is because the alfresco will be located behind the existing dwelling and therefore the roof of the alfresco will not be visible from the street. Also, as the alfresco roof pitches towards the Kitchen and new Store room on each side of the alfresco and the roof pitches of the Kitchen and Store rooms are higher than the roof pitch of the alfresco, the roof of the alfresco will not be visible from the adjoining properties.
- x) While the application will provide only 48% of the street setback area as landscaping, which will not meet the deemed-to-comply minimum landscaping of 50%, it will result in a net increase in the landscaping area of and will provide three new trees in the front setback. This will improve the streetscape and enhance the gardenesque nature of the Floreat Precinct.

#### BACKGROUND:

<b>Applicant:</b>	Newton Design Studio Pty Ltd
<b>Owner:</b>	Mr Peter J Gill & Ms Michaela Saunders
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P3 – Floreat
<b>Development Description:</b>	Alterations and Additions to Existing Two-Storey Single House
<b>Development Value:</b>	\$250,000
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – Works associated with existing use
<b>Land Area:</b>	809m <sup>2</sup>
<b>Heritage Listing:</b>	Nil
<b>Application Date:</b>	12 September 2023
<b>Application Process Days:</b>	84 days (not including ‘Stop the Clock’ days)

#### DELEGATION:

In accordance with Clause 12.1.4 of the Town’s Delegation Register, the Council is required to determine a development application where a variation is sought under Clause 34 (2) of *Local Planning Scheme No. 1*.

Additionally, Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

In accordance with cl12.2.1 of the Town's Delegation Register, the application must meet the following voting requirements for a determination to be made:

### **Council - Absolute Majority**

More than fifty per cent of the total number of positions on Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote for a determination to be made.

### **DETAILS:**

#### Proposal

The application proposes alterations and additions to the existing two-storey single house, which includes the following elements that vary the relevant requirements of the Scheme and deemed-to-comply provisions of the R-Codes and Town's local planning policies:

- i) New windows and internal walls to partially enclose the existing arch-walled front verandah, which is located within the 9m primary street setback area.
- ii) Relocate an existing retained garden bed, which will have a maximum height of 1m from the historical natural ground levels and will be set back a minimum of 6.2m from the primary street boundary in lieu of 9m.
- iii) Extension to the existing garage boundary wall to create a storeroom, which, in the Floreat Precinct, is not an 'as of right' development.
- iv) Replace an existing patio with a new alfresco that will have an 8-degree pitched roof constructed in 'Surfmist Colorbond' metal sheeting, which has a solar reflectivity index of 81% in lieu of 40%.
- v) Additional landscaping area and three new trees within the primary street setback area, which, while resulting in a net increase in landscaping in the street setback, results in 48% of the 9m total street setback area being landscaping in lieu of 50%.

#### Application History

The application initially also proposed a carport in the front setback area in front of the existing garage. The initial plans also showed the proposed window additions to the existing verandah included extensive architectural grilles and no new trees were proposed in the street setback area.

Following the Administration's initial assessment and discussions with the Applicant, amended plans were received showing the carport had been removed from the proposal, the extent of architectural grilles to the proposed windows to the existing verandah had been reduced, and three new trees were proposed in the street setback area.

It is the amended plans that are being presented to the Council for consideration (refer **Attachment 1**).

#### Site Context

The subject site is located within the Floreat Precinct and is currently occupied by a two-storey single house. The surrounding locality consists of one and two-storey single houses. The below image shows the subject site and immediately surrounding area (refer Figure 1).



**Figure 1: Aerial image showing the subject property (red outline) and the immediately surrounding area.**

The existing dwelling includes an arch-walled front verandah, which is set back 7.2m from the primary street boundary. The below Google Streetview image shows the existing dwelling including the verandah as viewed from Dunblane Road (refer Figure 2).

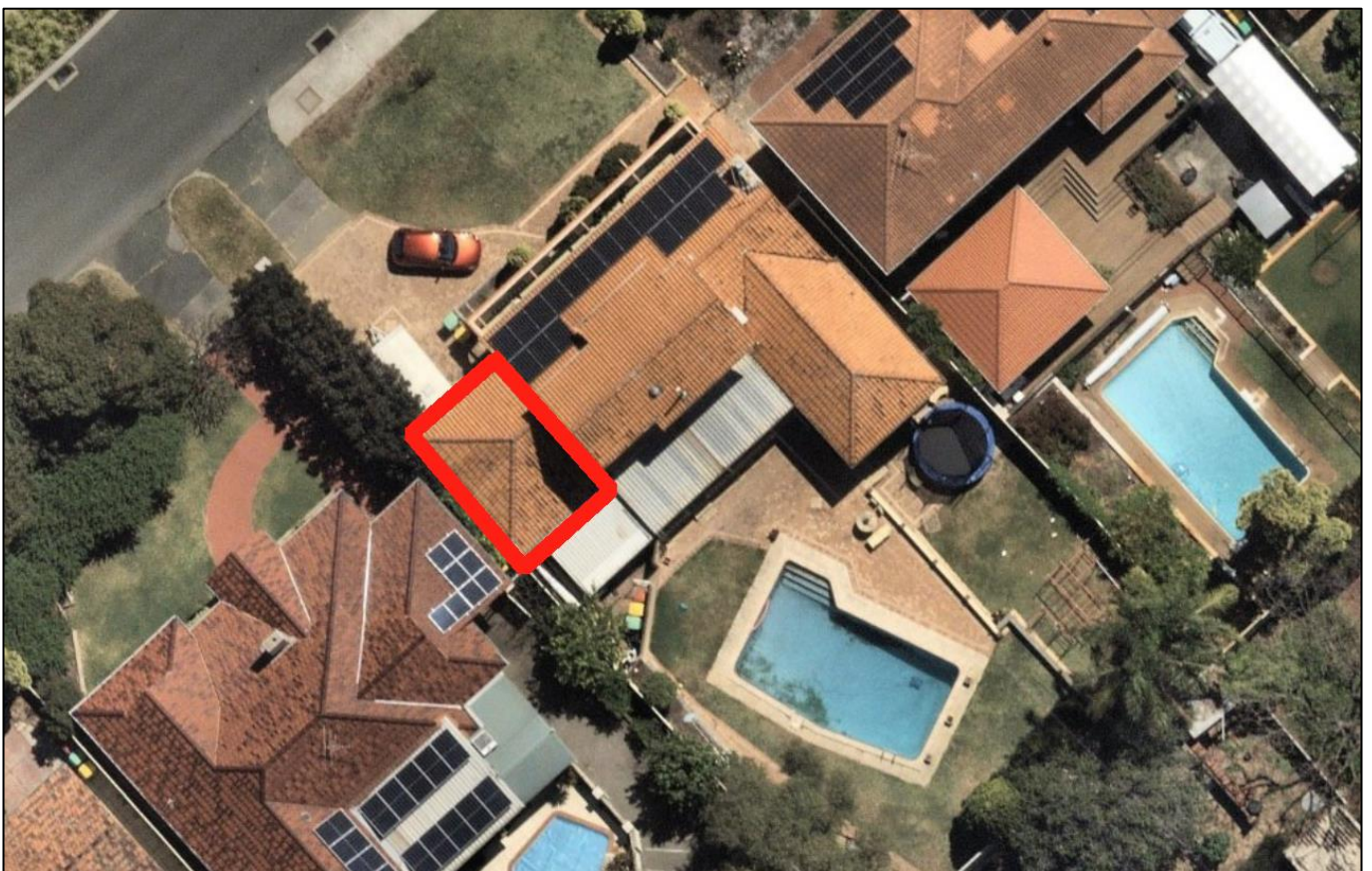


**Figure 2: Google Streetview image showing the view of the existing dwelling and arch-walled verandah from Dunblane Road.**

The existing dwelling also includes a metal sheeting roofed patio at the rear of the dwelling, as shown below in Figure 3, and a garage that is built up to the side boundary with a 6.6m long boundary wall, as shown below in Figure 4.



**Figure 3: Aerial image showing the location of the existing metal sheeting roofed patio (red outline) at the rear of the existing dwelling.**



**Figure 4: Aerial image showing the location of the existing garage (red outline) that is built up to the side boundary.**

The topography of the site slopes down approximately 2.5m from the south-western boundary to the north-eastern boundary.

Site History

The existing two-storey single house, including the existing verandah, was constructed circa 1970 and the existing metal sheeting roofed patio was added to the rear of the dwelling during the 1970s.

**CONSULTATION:**

Public Consultation

The application was advertised for a period of 14 days in accordance with the Town’s *Local Planning Policy 1.2 – Public Notification of Planning Proposals*.

No submissions were received during the public consultation period.

**APPLICANT(S) COMMENTS:**

The Applicant has provided comments in support of the non-complying elements of the proposal. (Refer **Attachment 2**).

The Applicant’s comments are summarised as follows:

- i) The window additions will maintain visual permeability to the proposed dwelling from the street.
- ii) The proposed alterations will reduce the visual dominance of the existing arches, which form part of the verandah.
- iii) The proposal increases the landscaped area within the front setback area, which will improve the streetscape.

**STATUTORY ASSESSMENT:**

***Local Planning Scheme No.1 – Clause 26 – Modification of R-Codes***

<i>Clause 26(1)(b) Modification of R-Codes</i>		
Minimum Primary Street Setback	Required	Proposed
Windows and internal wall additions to existing verandah	9m	7.2m
Retained garden bed		6.2m with a maximum height of 1m above the historical natural ground level
<p><u>Clause 34 – Variations to Site and Development Requirements</u>                      “(1)a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a “non-complying application”; ...                      (2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions”.</p> <p><u>Local Planning Policy 3.1 – Streetscape</u>                      “1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme                      ...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.                      a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</p>		

- b. *Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;*
- c. *In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:*
  - i. *The existing dwelling presents to the street as single storey or the original dwelling is two storey.*
  - ii. *The existing garaging is sub-standard in terms of its internal dimensions, and cannot provide cover for two vehicles.*
  - iii. *A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.*
  - iv. *If the existing dwelling is remaining, whether adequate space is available to be provided to covered car space(s) behind the street setback area.*
- d. *Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:*
  - i. *Do not detrimentally affect adjoining properties;*
  - ii. *Are suitably landscaped to reduce the impact of building bulk; and*
  - iii. *The natural topography of the land can still be interpreted, despite the retaining.”*

*The Desired Future Character for the Floreat Precinct is defined as follows:*

- *Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for;*
- *The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape*
- *New development shall be designed to preserve street trees, mature trees and verge treatments to maintain the green leafy character of the streetscape and the precinct.*
- *New development shall be oriented toward the street to maintain streetscape consistency;*
- *New development shall contribute to the streetscape through varied and high quality architecture, consistent with the original vision for diverse villas set within a gardenesque landscape;*
- *New development shall reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located to the rear or side of properties.*

#### Assessment:

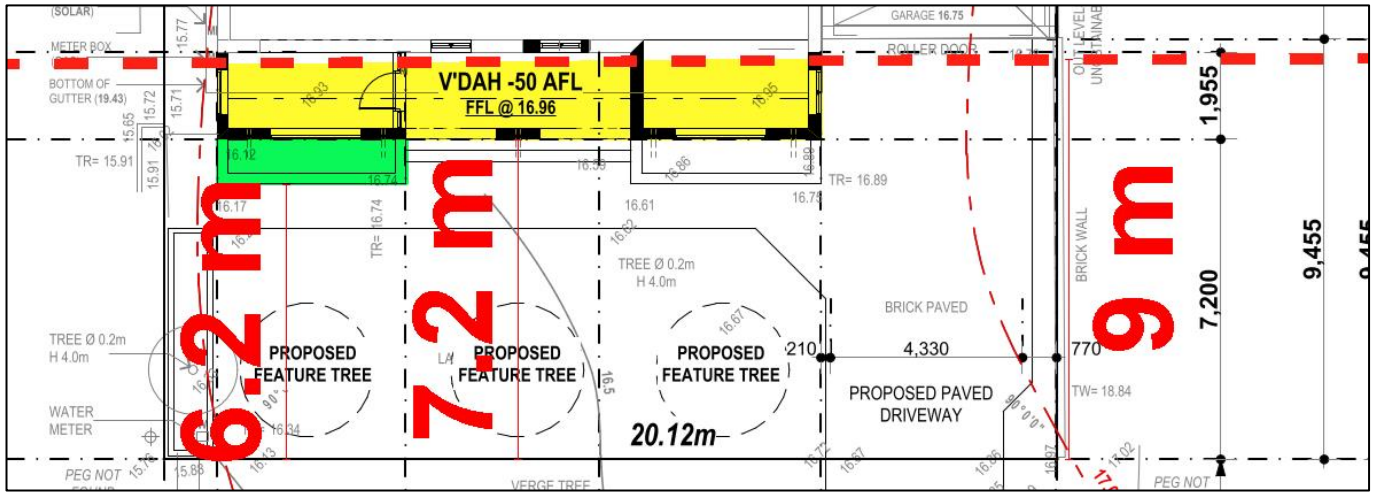
The existing arch-walled verandah is set back a minimum of 7.2m from the primary street boundary.

The application proposes to retain and modify the existing verandah by enclosing two of the front archways and the sides of the verandah with clear windows and constructing two new internal walls within the verandah. This will result in the existing verandah converting into two rooms with a central portico and will create additional floor area within the dwelling.

The application also proposes to remove the existing colonnade style balustrade from the open arches of the verandah.

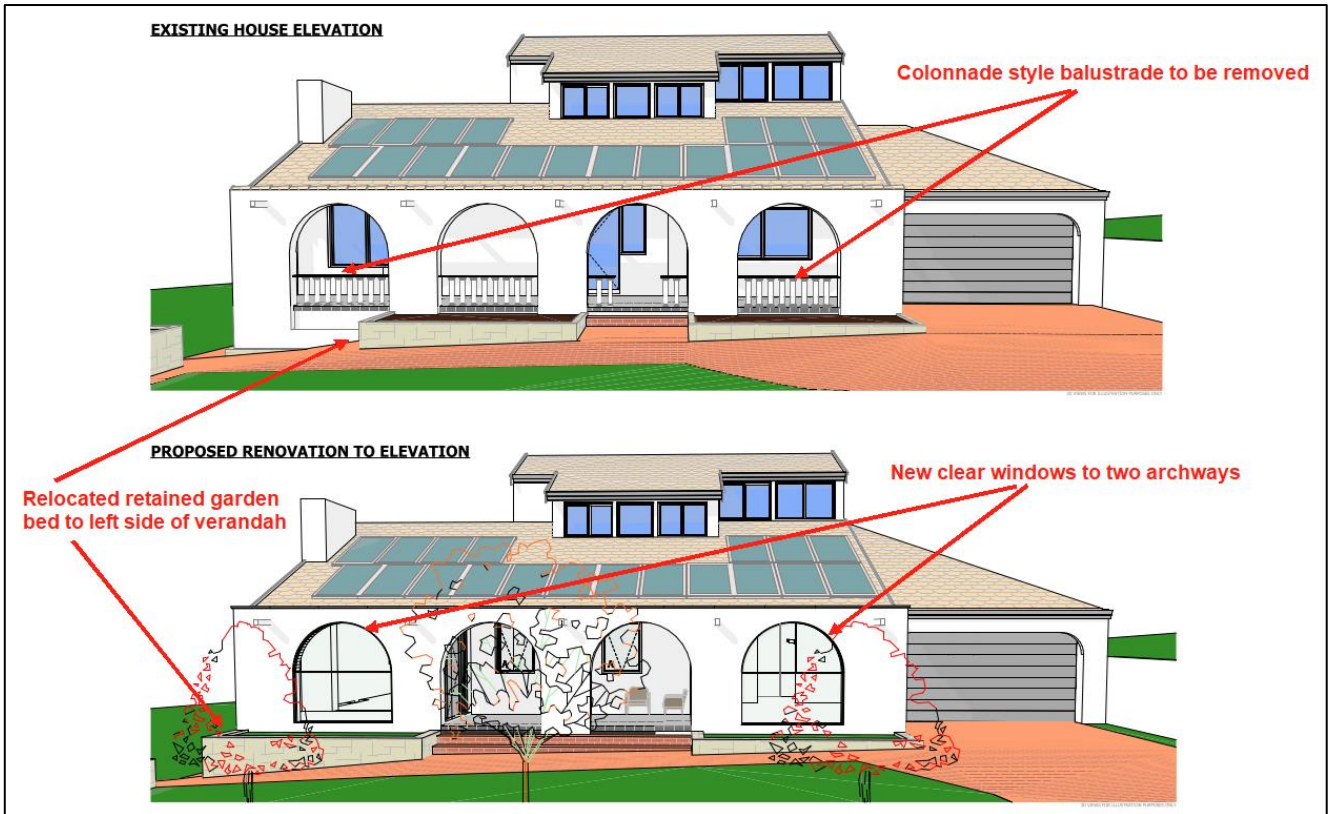
In addition, the application proposes to relocate an existing retained garden bed, which is currently set back a minimum of 6.2m from the primary street boundary, from the centre to the left side of the verandah. The relocated retained garden bed will have a maximum height of 1m from the historical natural ground levels and will be set back a minimum of 6.2m from the primary street boundary in lieu of 9m.

The below marked-up site plan shows the minimum street setbacks to the existing verandah (highlighted yellow) and the relocated retained garden bed (highlighted green) (refer Figure 5).



**Figure 5: Marked-up site plan showing minimum street setbacks to the relocated retained garden bed (highlighted green, 6.2m) and existing verandah (highlighted yellow, 7.2m).**

The below annotated elevations drawing shows the existing and proposed front elevations of the verandah and retained garden bed (refer Figure 6).



**Figure 6: Front elevations of the existing verandah and proposed modifications.**

A site photo of the existing dwelling and a 3D render of the proposed modifications to the front of the dwelling, as viewed from Dunblane Road, are included in **Attachment 3**.

Even though the minimum street setback to the verandah will be unchanged, the proposed new windows and walls to the verandah fall within the street setback area, necessitating a decision on those elements from the Council.

Clause 1 of LPP 3.1 includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- "a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;*
- b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties.*
- d. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:
  - i) Do not detrimentally affect adjoining properties;*
  - ii) Are suitably landscaped to reduce the impact of building bulk; and*
  - iii) The natural topography of the land can still be interpreted, despite the retaining."**

The Desired Future Character referred to in criterion (i) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the Floreat Precinct includes several desired future character elements. In this case, the desired future character elements relevant to the proposed reduced street setbacks are as follows:

*"Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for."*

*"New development shall create and enhance open landscaped front gardens within the street setback area to maintain the green character of the streetscape and the precinct."*

*"New development shall be designed to preserve street trees, mature trees and verge treatments to maintain the green leafy character of the streetscape and the precinct."*

The following assessment comments are in relation to the above desired future character elements and criterion (b) and (d) of Clause 1 of LPP 3.1.

The proposal will not result in the traditional street setback being maintained, as the existing verandah, which was constructed circa 1970 with a reduced street setback of 7.2m, will be retained. For the traditional street setback to be maintained, the existing verandah would need to be fully removed, which the application is not proposing, and which would significantly alter the architectural appearance of the building.

As the verandah has been in place for over 50 years, the presence of bulk within the street setback area has existed for a significant period. While the application will not fully remove the existing bulk from the street setback area, it is considered that the proposal will result in a net improvement to the appearance of the existing dwelling, which will enhance the streetscape and character of the locality.

The proposed alterations to the verandah only involve adding clear windows and two internal walls that will be largely obscured from view by the existing solid archway walls, which will not result in a substantial increase to the bulk within the street setback area.

As part of the proposal, the colonnade-style balustrade on the existing verandah will be removed, reducing some of the existing bulk within the street setback.

Despite relocating the retained planter, resulting in a slightly higher maximum wall height, the minimum street setback to the retaining wall remains unchanged. Thus, relocating the retained planter will not introduce significant additional bulk within the street setback area.

The relocated retained planter will be adequately set back from the side boundary and will not detrimentally impact the adjoining property.

Shifting the retained garden bed to the left side of the verandah will enhance the symmetry of landscaping in the front setback area with an existing retained garden bed on the right side of the verandah, contributing positively to the streetscape.

Notwithstanding that the relocated retained planter will have a maximum height of 1m from the historical natural ground levels, the retaining walls will be directly abutting the building, which means it will not impact the ability for the natural topography in the front setback to be interpreted.

In addition to all the above, the application proposes a net increase to the area of landscaping within the street setback area. This will include the existing driveway being narrowed to create a new landscaping strip along the south-western (side) boundary, and planting of three new trees within the front setback, which will improve the appearance of the development as it presents to the street and assist in reducing the impact of building bulk on the streetscape.

Having due consideration of the relevant sub-clauses of cl67 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, it is considered that the proposed additions to the existing verandah and relocating the retained planter will not detract from the desired future character of the Floreat Precinct, as the proposal will not significantly increase bulk within the street setback area and the natural topography of the land can still be interpreted.

The proposed non-complying application is therefore not supported.

<i>R-Codes Clause 5.1.3 - Lot boundary setback</i>		
<i>Local Planning Policy 3.2 – Building on the Boundary</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
<i>Side (southwestern) lot boundary</i>	Boundary walls are not permitted ‘as of right’ in the Floreat Precinct.	2.4m long extension to the existing 6.6m long garage boundary wall, which will result in the boundary wall having a total length of 9m.
<p><u>Design Principles (of R-Codes):</u>  <i>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> <li>• <i>makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</i></li> <li>• <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i></li> <li>• <i>does not have any adverse impact on the amenity of the adjoining property;</i></li> <li>• <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i></li> <li>• <i>positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.”</i></li> </ul> <p>City Beach and Floreat Precincts only:</p> <p>Council shall have regard to the following matters in considering the design principles, particularly in determining whether the proposed boundary wall ‘positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework’:</p> <ol style="list-style-type: none"> <li>i. The Objectives of this Policy; and</li> <li>ii. The Desired Future Character of the area as detailed in Local Planning Policy 3.1: Streetscape.</li> </ol>		

The application proposes to extend the existing 6.6m long garage boundary wall by 2.4m, which will result in the boundary wall having a total length of 9m. The boundary wall extension will create additional area for a storeroom, which will replace a portion of the existing patio at the rear of the dwelling.

The below marked-up site plan and elevation drawing show the location of the existing garage boundary wall (highlighted yellow) and the proposed boundary wall extension for the new storeroom (refer Figure 7 and Figure 8).

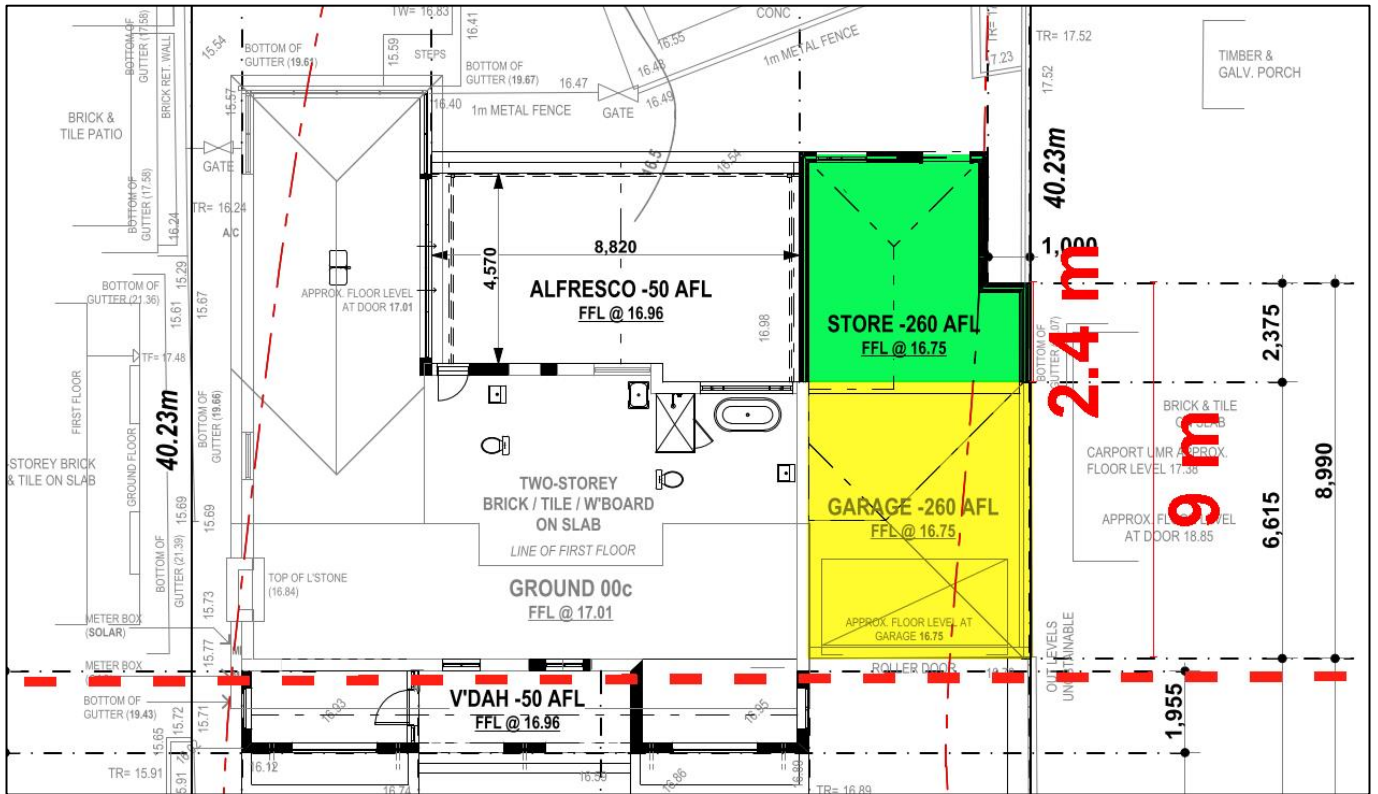


Figure 7: Front elevations of the existing verandah and proposed modifications.

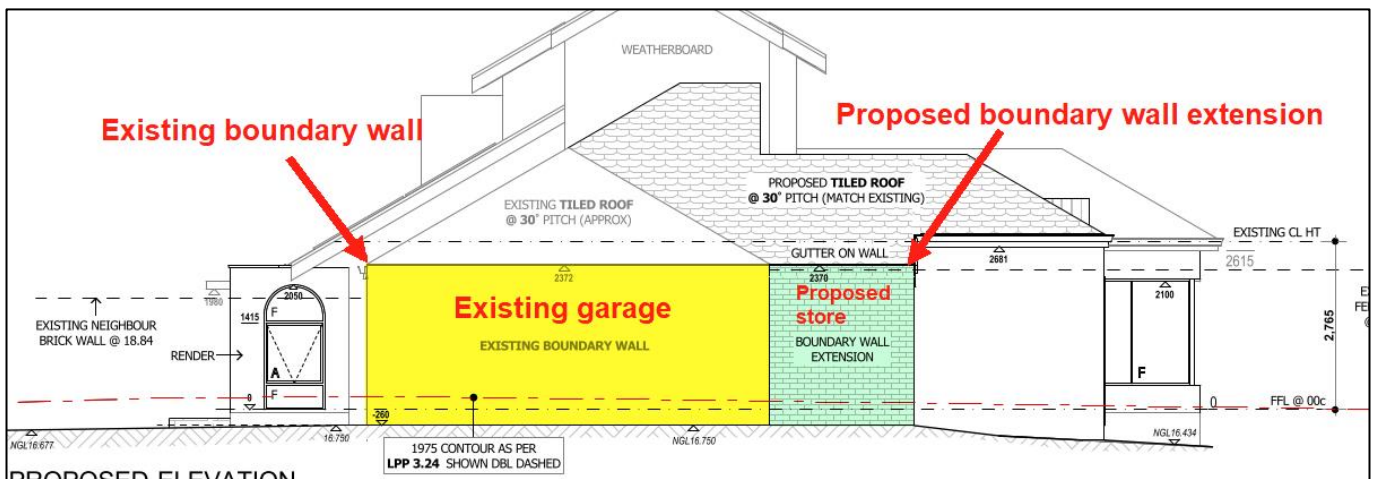


Figure 8: Front elevations of the existing verandah and proposed modifications.

In accordance with Clause 1 of the Town’s *Local Planning Policy 3.2 – Building on the Boundary* (LPP 3.2), there are no deemed-to-comply provisions for building on the boundary, as the site is located within the Floreat Precinct and has a density coding of R12.5. This means that boundary walls in the Floreat Precinct on sites coded R12.5 are not permitted ‘as of right’ and are always subject to an assessment against the relevant design principles and any other relevant provisions in the planning framework.

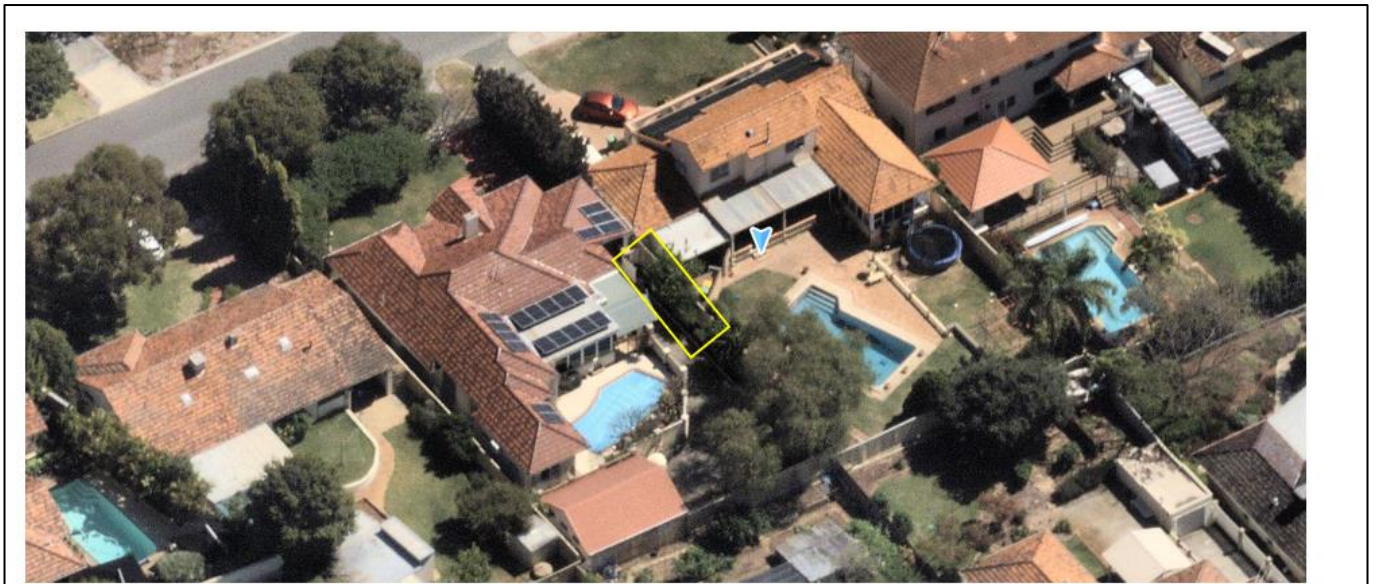
Clause 1.1 of LPP 3.2 states that boundary walls on sites coded R12.5 in the Floreat Precinct are required to be assessed against the design principles under Clause 5.1.3 of the R-Codes. Clause 1.1 of LPP 3.2 goes on to state that, in addition to the design principles of the R-Codes, Council shall have due regard to the objectives of LPP 3.2 and the Desired Future Character of the Floreat Precinct, as outlined in LPP 3.1.

The objectives of LPP 3.2 states that, while boundary walls are relatively common today in new residential development, buildings built up to the boundary were not a typical feature of Floreat and are considered out of character to the area. The objectives of the Policy go on to state that the overarching objective of the Policy is to ensure that buildings built up to the boundary are approved only where it can be demonstrated that the development is consistent with the Desired Future Character of the Floreat Precinct and where the design principles of the R-Codes are met.

While the design principles of the R-Codes are largely in relation to the impact a boundary wall can have on adjoining properties, the desired future character elements are about how a development fits in with the character of the area.

It is considered that the proposed boundary wall generally meets the design principles under Clause 5.1.3 of the R-Codes. This is because the boundary wall extension is relatively minor and will be largely obscured from view from the adjoining property by the existing dividing fence and thick vegetation along the dividing fencing within the boundary of the adjoining property.

The below panorama image shows the existing thick vegetation (yellow outline) along the dividing fence within the boundary of the adjoining property (refer Figure 9).



**Figure 9: Panorama image showing the location of thick vegetation (yellow outline) located along the boundary of the adjoining property.**

Based on the above, the proposed boundary wall extension will not have an adverse building bulk impact on the adjoining property.

The boundary wall extension will be adjacent to a driveway that runs along the entire length of the boundary. Because of this fact, the increased length of the existing boundary will not have an adverse impact on the adjoining property's access to natural light or ventilation.

It also considered that the proposal will not detract from the prevailing and future development context and streetscape, as outlined the Town's local planning framework through the objectives in LPP 3.2 and the desired future character elements in LPP 3.1.

In this case, the desired future character element of the Floreat Precinct, as outlined in LPP 3.1, that is relevant to the proposed building on the boundary is the same as one of the character elements considered for the proposed reduced street setback, which is as follows:

*“Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for.”*

Given that the proposed boundary wall extension will be obscured from view from the street, as it will be behind the existing garage and thick vegetation in the front setback of the adjoining property, it will not detract from the perceived desired future character of the precinct, which includes maintaining clear separation between buildings and lot boundaries.

It is also noted that the Town did not receive any submissions regarding the boundary wall during the public consultation period.

For the above reasons, it is considered that the proposed boundary wall extension satisfies the design principles and will not detract from the desired future character of the Floreat Precinct.

LL43 – Clause 8 LPP 3.1 – Clause 8		
	<b>Regulation</b>	<b>Proposed</b>
Reflective Roofing Materials	Metal roofing with a pitch of more than 5 degrees shall not be constructed with metal sheeting having a solar reflectivity index exceeding 40%.	The application proposes to replace a portion of the existing patio with a new alfresco that will have an 8-degree pitched roof constructed in ‘Surfmist Colorbond’ metal sheeting.  ‘Surfmist Colorbond’ has a solar reflectivity index of 81%.
<u>Clause 2B (LL43)</u> <i>“In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–</i> <ul style="list-style-type: none"> <li>a) <i>for use for a purpose which is not permitted in that district;</i></li> <li>b) <i>notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</i></li> </ul> <i>if the Council is satisfied by an absolute majority that:–</i> <ul style="list-style-type: none"> <li>i) <i>the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and</i></li> <li>ii) <i>the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality”.</i></li> </ul> <u>Design Principles of Cl.8 (LPP3.1)</u> <i>“Roofing materials shall not result in excessive glare upon neighbours and the streetscape due to the position, location, pitch, and finishes used.”</i>		

The application proposes to replace a portion of the existing patio at the rear of the dwelling with a new alfresco that will have ‘Surfmist Colorbond’ metal sheeting roofing.

Colorbond metal sheeting in ‘Surfmist’ has a solar reflectivity index of 81% in lieu of 40%.

It is accepted that, in some instances, metal sheeting in 'Colorbond Surfmist' can be highly reflective, which can result in excessive glare to the adjoining properties and the streetscape.

However, in this instance, the roofing will not have a glare impact on the streetscape or adjoining properties, as it will not be visible from the street or neighbouring sites. This is because the new alfresco will be in between the new Store room and Kitchen and the pitch of the alfresco roof will be lower than the roof pitches of the Store and Kitchen.

The below images show the location of the alfresco in between the Store and Kitchen and the height of the alfresco roof relative to the roof pitches of the Store and Kitchen (refer Figure 10 and Figure 11).



Figure 10: Marked-up site plan showing the locations of the proposed alfresco (pink) in between the Kitchen (blue) and new Store (green).



Figure 11: Marked-up elevation drawing showing the locations of the proposed alfresco (pink) in between the Kitchen (blue) and new Store (green).

As the roof of the alfresco pitches towards the Store and Kitchen, which both have higher roof pitches, and the alfresco roof does not pitch towards the rear boundary, the adjoining properties will not be able to see the roof.

It is also noted that the Town did not receive any submissions during the public consultation period regarding the proposed alfresco roof.

Considering the above, the application is considered to meet Clause 2B of Local Law 43 and the design principles of LPP3.1, as the ‘Surfmist Colorbond’ roof will not have an adverse glare impact on the surrounding properties or streetscape.

For the above reasons, it is considered that the application meets the provisions under Clause 2B of LL43 and the design principles of LPP 3.1. Therefore, it is recommended that the proposed ‘Surfmist Colorbond’ roofing be approved.

<i>6.1 – Landscaping</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Minimum % of the 9m total primary street setback area as landscaping.	50%	48%
Design Principles (of LPP 3.1): <i>“i. Landscaping that enhances the presentation of homes and gardens as viewed from the street;                      ii. The primary street setback area be predominantly garden, substantial plantings and/or the retention of existing vegetation;                      iii. The use of trees as a feature where possible;                      iv. Minimise the amount of hard surfaces in the front setback area;                      v. The proposed development is consistent with the Objectives of this Policy; and                      vi. The proposed development is consistent with the desired future character of the area as outlined in the Character Descriptions section of this Policy.”</i>		

Approximately 71% (39.2m<sup>2</sup>) of the total 9m primary street setback area is currently landscaping.

Under subclause 6.1(C2.2) of the Town’s *Local Planning Policy 3.1 – Streetscape*, the deemed-to-comply minimum landscaping is 60% of the total front setback area, which may be reduced to 50% if two advanced growth trees are planted within the street setback area.

The application proposes to plant three new trees within the street setback area and to narrow the width of the driveway to create a new landscaping strip along the side boundary, which will increase the total area of landscaping in the front setback to 88m<sup>2</sup> (48%).

Although the proposal results in a net increase in landscaping in the front setback, it will not meet the deemed-to-comply minimum landscaping area of 50% of the total street setback area.

The below marked-up site plan shows the locations of the three new trees and the new landscaping strip along the side boundary within the 9m street setback area (refer Figure 12).

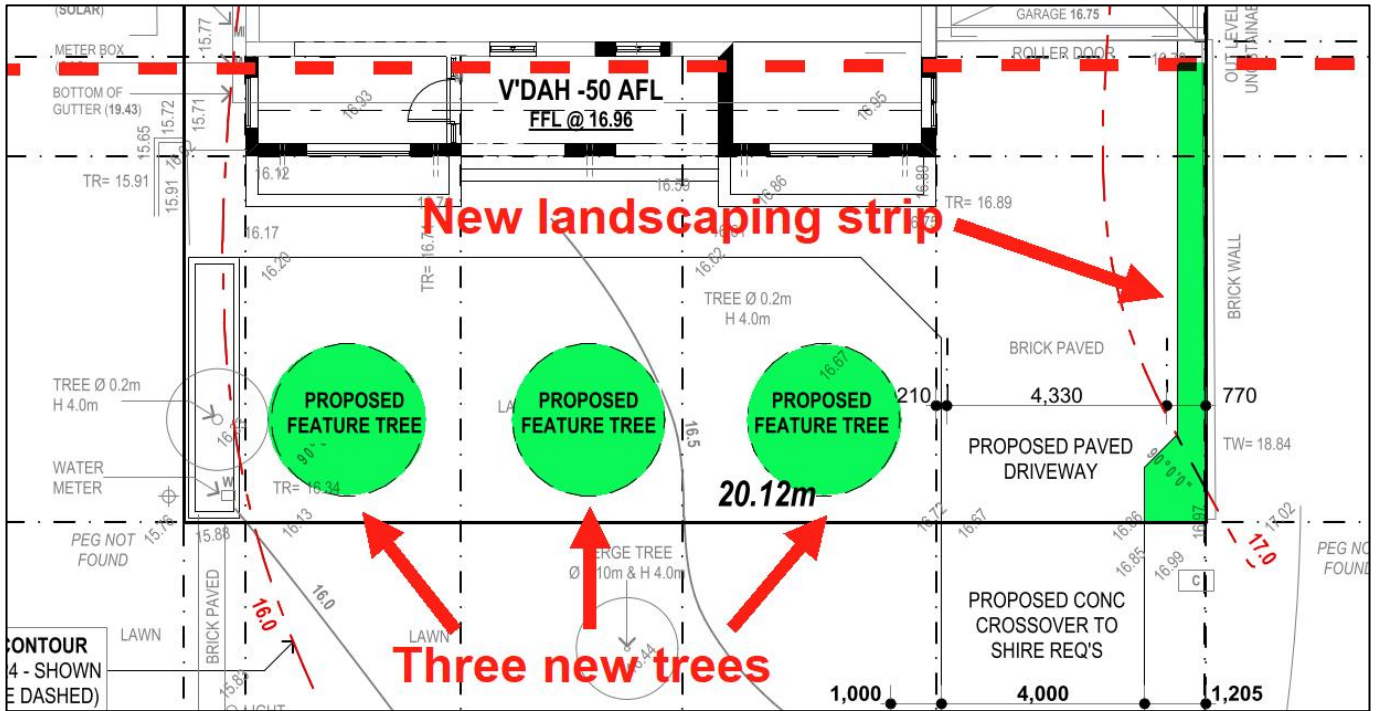


Figure 12: Marked-up site plan showing location of proposed three new trees and landscaping strip within the 9m primary street setback area.

The below marked-up site plan shows the total area of existing and proposed landscaping within the street setback area (refer Figure 13).

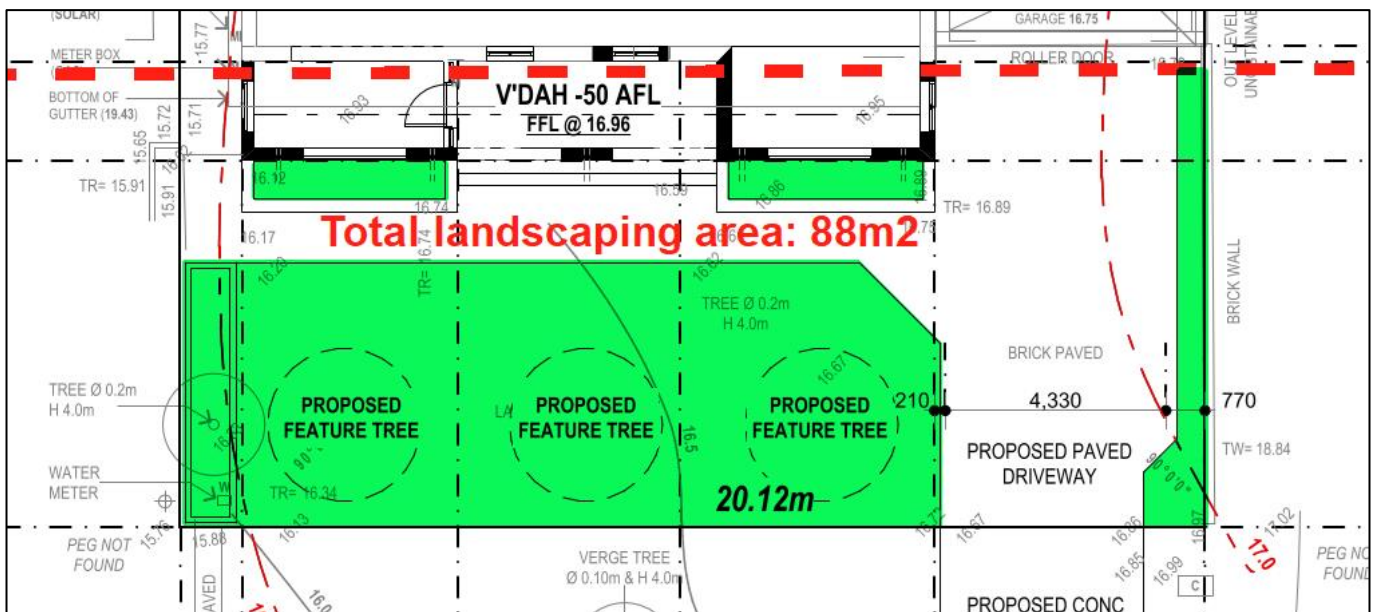


Figure 13: Marked-up site plan showing the total area of landscaping within the street setback area.

Notwithstanding that the proposal does not meet the deemed-to-comply minimum of 50% landscaping in the street setback, the application will result in an overall increase in landscaping and will include three new trees, which will improve the streetscape and enhance the gardenesque nature of the Floreat Precinct.

Given the above, it is recommended that the application meets the design principles, and the extent of reduced landscaping is therefore supported.

## **FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

## **LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme*  
*Planning and Development (Local Planning Schemes) Regulations 2015*  
*Local Planning Scheme No.1*  
*State Planning Policy 7.3 – Residential Design Codes Volume 1*  
*Local Planning Policies*  
*Local Law 43*

## **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

## **COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

## **COUNCIL DECISION:**

(COMMITTEE AND ADMINISTRATION RECOMMENDATION)

**Moved by Mayor Mack, seconded by Cr Kennerly**

**That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and the provisions of *Local Law 43 – Buildings on Endowment Lands & Limekilns Estate*, Council APPROVES BY ABSOLUTE MAJORITY the application for alterations and additions to the existing single house at Lot 897 (No. 10) Dunblane Road, Floreat, as shown on the attached amended plans stamped received 16 November 2023, subject to the following conditions:**

- 1. The development shall always comply with this application and the approved plans, subject to any modifications required because of any conditions of this approval;**
- 2. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town;**
- 3. The roofing shall be maintained by the landowners for the life of the development to the satisfaction of the Town;**
- 4. All structures and associated footings shall be contained within the lot boundaries of the subject site;**
- 5. Prior to practical completion of the development, the external surface of the boundary wall shall be finished to a professional standard (provided access is granted by the adjoining landowners, and**

**thereafter be maintained by the landowners for the life of the development to the satisfaction of the Town; and**

- 6. Within six months of practical completion of the development, the landscaping areas within the 9m primary street setback area (as shown on the approved plans) shall be installed and reticulated (and shall include at least three advanced growth trees, being a minimum 45L bag size or 2m in height and diameter, within the primary street setback area and thereafter maintained by the landowner for the life of the development to the Town's satisfaction.**

**Motion put and CARRIED BY ABSOLUTE MAJORITY EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 11.2.2 DV23.57 - Lot 212 (No. 48) Pandora Drive, City Beach - Retaining Wall Additions to Existing Two-Storey Single House

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Howard Wu (Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0208
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Development Plans [8.2.2.1 - 6 pages]

#### PURPOSE OF REPORT:

The purpose of this report is for the Council to consider a development application for proposed retaining wall additions to an existing single house.

#### SUMMARY:

This application proposes tiered retaining walls within the 7.5m street setback area to provide landscaped garden beds.

The natural topography of the land within the street setback area slopes down approximately 2.5m from the front boundary to the front of the existing dwelling. The area within the street setback area is currently loose sand with sparse vegetation.

Most of the proposed retaining walls will have maximum heights that will be less than 0.5m above the historical natural ground levels, which means those retaining walls are not subject to the 7.5 minimum street setback requirement under Clause 26 of *Local Planning Scheme No. 1*.

However, minor portions of the retaining walls will have maximum heights that are up to 1.1m above the natural ground levels. As portions of the retaining walls exceed 0.5m in height and are located within the 7.5m street setback area, the application varies the street setback requirement of the Scheme.

After consideration under the relevant planning provisions, it is recommended that the application be approved as:

- Only minor portions of the proposed retaining walls will have maximum heights of up to 1.1m above the historical natural ground levels.
- Most of the retaining walls will have maximum heights less than 0.5m above the natural ground levels.
- The retaining walls will not be visible from the street due to the street levels being significantly higher than the levels within the street setback area.
- As the proposed retaining walls will be tiered, the natural topography of the site will still be able to be interpreted.
- There are several properties along the same side Pandora Drive that also feature steep sloping levels in the front setback area and have tiered retained garden beds. Because of this, the proposal will be consistent with the character of the locality.

**BACKGROUND:**

<b>Applicant:</b>	Landscapes WA
<b>Owner:</b>	Warringa Blue Pty Ltd
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P1 – City Beach
<b>Development Description:</b>	Retaining Wall Additions to Existing Two-Storey Single House
<b>Development Value:</b>	\$18,800
<b>Existing Land Use:</b>	Residential
<b>Proposed Land Use:</b>	N/A – works associated with existing land use
<b>Land Area:</b>	931m <sup>2</sup>
<b>Heritage Listing:</b>	Nil
<b>Application Date:</b>	18 September 2023
<b>Application Process Days:</b>	84 days

**DELEGATION:**

In accordance with Clause 12.1.4 of the Town’s Delegation Register, the Council is required to determine a development application where a variation is sought under Clause 34 (2) of *Local Planning Scheme No. 1*.

In accordance with cl12.2.1 of the Town’s Delegation Register, the application must meet the following voting requirements for a determination to be made:

**Council - Simple Majority**

At least fifty per cent of the Members present at the Council meeting must cast the same vote for a determination to be made.

**DETAILS:**

Proposal

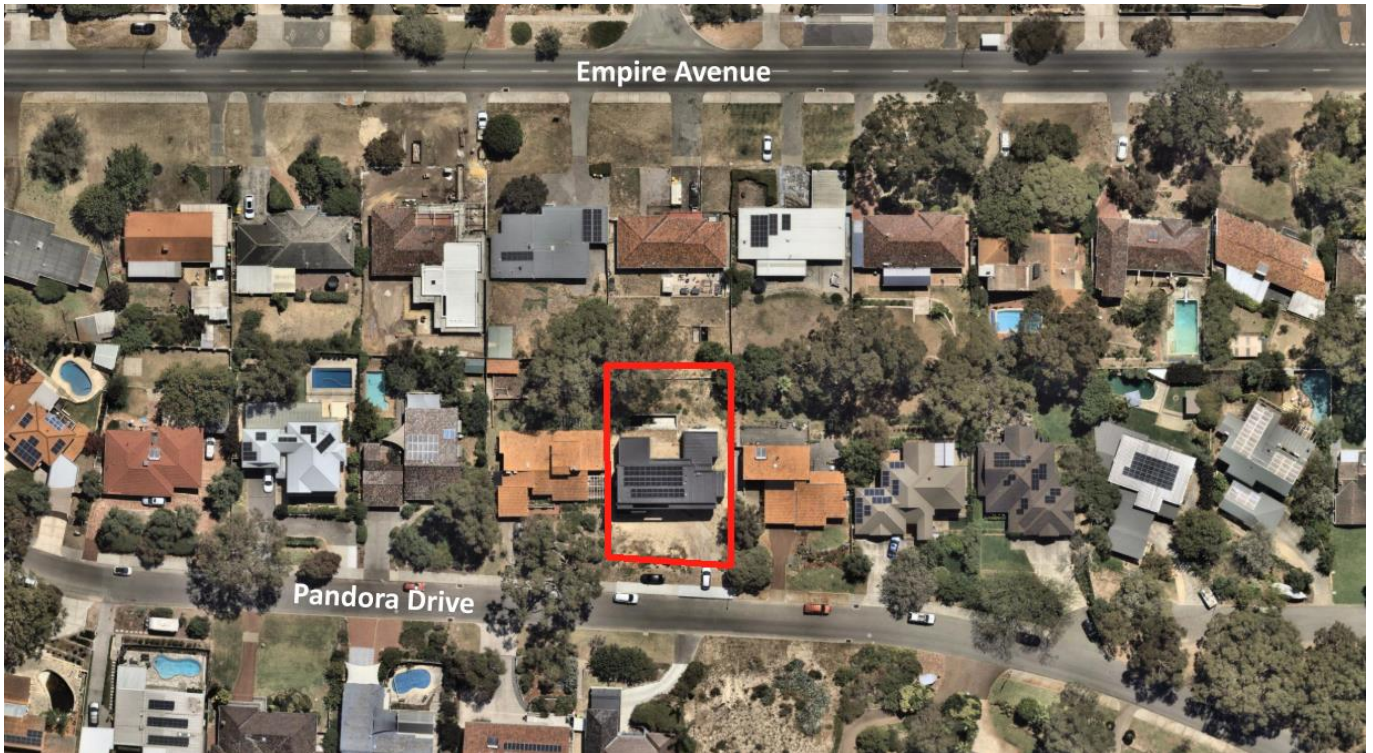
The application proposes tiered retaining walls with a maximum height of up to 1.1m above the historical natural ground levels within the 7.5m primary street setback area of the existing single house.

As portions of the retaining walls exceed 0.5m in height and are located within the 7.5m street setback area, the application varies the street setback requirement of the Scheme.

Site Context

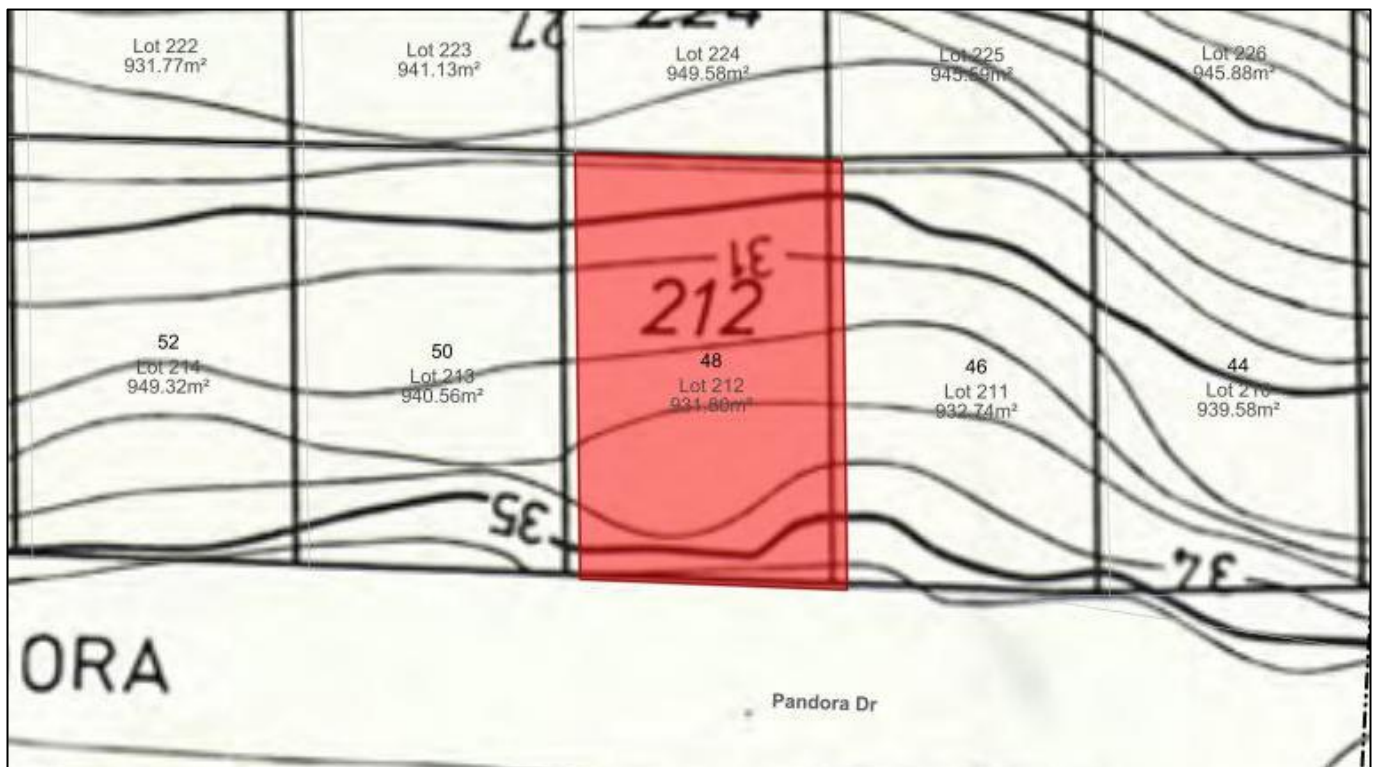
The subject site is located within the City Beach Precinct and is currently occupied by a two-storey single house.

The surrounding locality consists of single-storey and two-storey single houses. The below image shows the subject site (red outline) and the immediate surrounding area (refer Figure 1).



**Figure 1: Aerial image showing the subject property (red outline) and the immediate surrounding area.**

The natural topography of the site slopes approximately 6.5m down from the street boundary to the rear boundary. The below aerial map shows the historical natural ground levels at the subject site (highlighted red) based on the contours from the 1975 survey plans in the Town's *Local Planning Policy 3.24 – Determining natural ground levels* (refer Figure 2).



**Figure 2: Aerial map showing the 1975 natural ground levels at the subject site (shaded red).**

The levels within the 7.5m street setback area slope down approximately 2.5m from the front boundary to the front of the existing dwelling. The below site photo shows the steep slope in the front setback area of the site (refer Figure 3).



**Figure 3 – Site photo show the steep sloping levels within the street setback area.**

#### Site history

In October 2020, the Town under delegation approved a development application for the construction of the two-storey single house currently occupying the site.

It is noted that the previous approval did not include any retaining walls within the primary street setback area.

#### **CONSULTATION:**

##### Public Consultation

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 – Public Notification of Planning Proposals*.

No submissions were received during the public consultation period.

**STATUTORY ASSESSMENT:**

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	<b>Required</b>	<b>Proposed</b>
Tiered retaining walls with a maximum height of 1.1m above the historical natural ground levels	9m	3m
<p><u>Clause 34 - Variations to Site and Development Requirements</u></p> <p><i>"(1)a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i></p> <p><i>(2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i></p> <p><u>Local Planning Policy 3.1 – Streetscape</u></p> <p><i>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i></p> <p><i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i></p> <p><i>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i></p> <p><i>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i></p> <p><i>c. In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:</i></p> <p><i>i. The existing dwelling presents to the street as single storey or the original dwelling is two storey.</i></p> <p><i>ii. The existing garaging is sub-standard in terms of its internal dimensions, and cannot provide cover for two vehicles.</i></p> <p><i>iii. A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.</i></p> <p><i>iv. If the existing dwelling is remaining, whether adequate space is available to be provided to covered car space(s) behind the street setback area.</i></p> <p><i>d. Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:</i></p> <p><i>i. Do not detrimentally affect adjoining properties;</i></p> <p><i>ii. Are suitably landscaped to reduce the impact of building bulk; and</i></p> <p><i>iii. The natural topography of the land can still be interpreted, despite the retaining."</i></p> <p><i>The desired future Character for Floreat is defined as follows:</i></p> <ul style="list-style-type: none"> <li><i>• Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for;</i></li> <li><i>• The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape</i></li> <li><i>• New development shall be designed to preserve street trees, mature trees and verge treatments to maintain the green leafy character of the streetscape and the precinct.</i></li> <li><i>• New development shall be oriented toward the street to maintain streetscape consistency;</i></li> <li><i>• New development shall contribute to the streetscape through varied and high quality architecture, consistent with the original vision for diverse villas set within a gardenesque landscape;</i></li> <li><i>• New development shall reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located to the rear or side of properties.</i></li> </ul>		

The application proposes tiered retained garden beds within the 7.5m front setback area.

Most of the retaining walls will have a maximum height that is less than 0.5m above the natural ground levels. As such, those retaining walls are not subject to the 7.5m minimum street setback requirement of the Scheme.

Two of the retaining walls, however, will have maximum heights of up to 1.1m from natural ground level and will be setback a minimum of 3m from the primary street in lieu of 7.5m.

The below marked-up site plan and elevation drawing show the portions of the retaining walls that exceeds 0.5m above the natural ground levels (refer Figure 4).

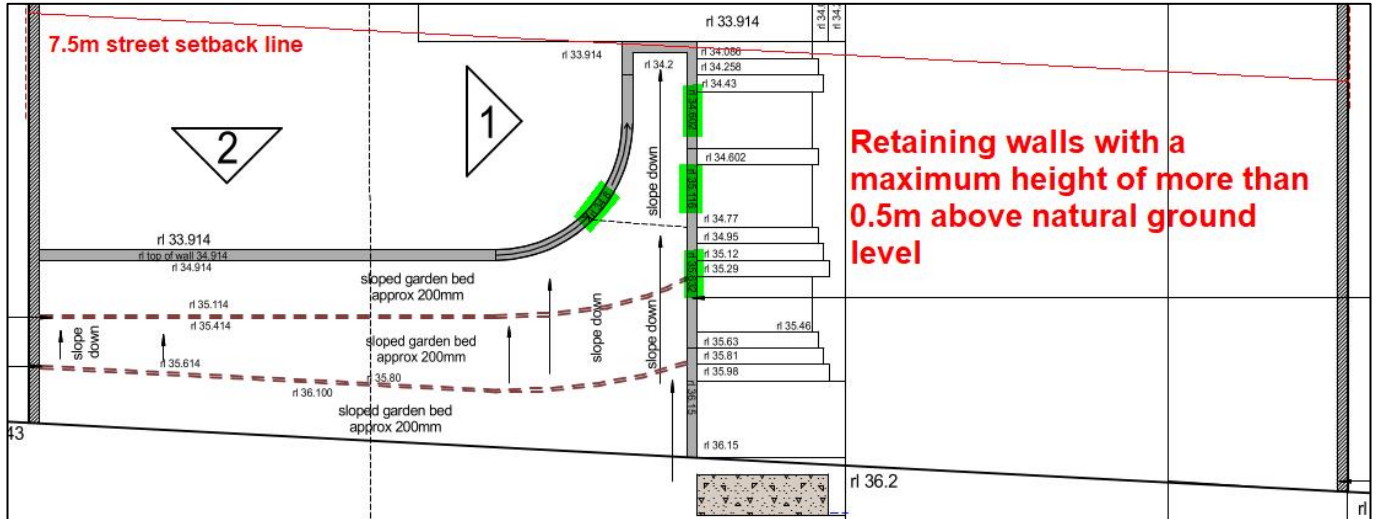


Figure 4: Marked-up site plan showing the portions of the retaining walls that exceed 0.5m above the natural ground level.

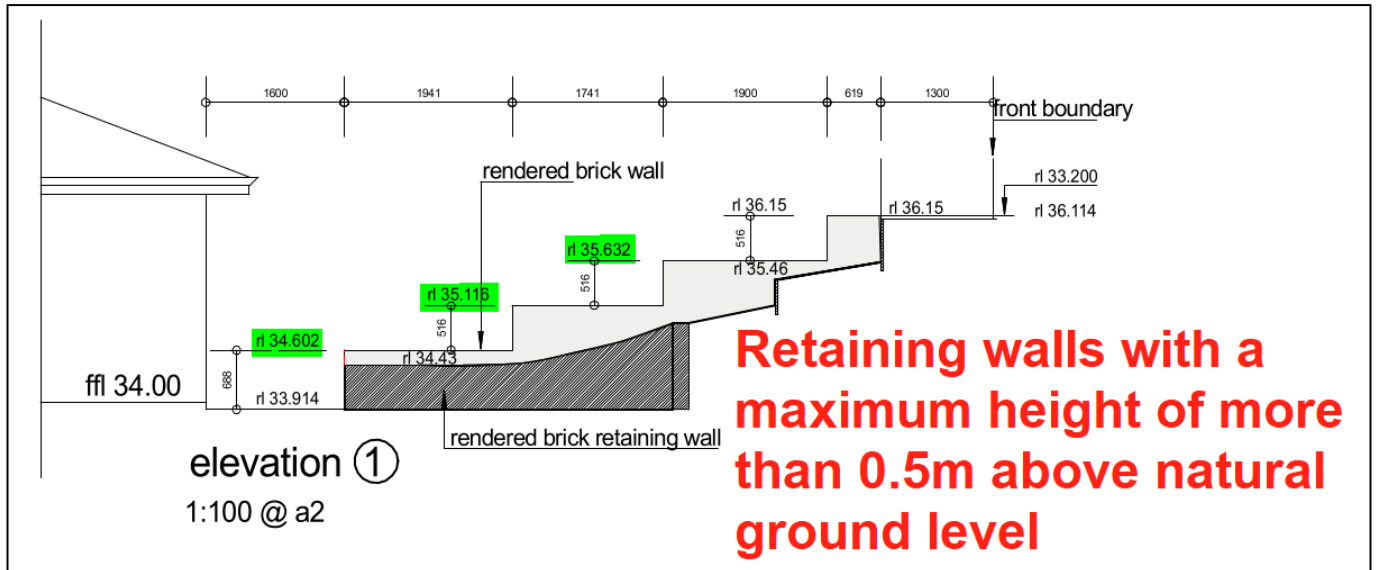


Figure 5: Marked-up elevation drawing showing the portions of the retaining walls that exceed 0.5m above the natural ground level.

Clause 1 of *Local Planning Policy 3.1 – Streetscape* (LPP 3.1), includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- “a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;

- d. *Retaining wall(s) proposed within the primary and/or secondary street setback may be permitted where:*
- i. *Do not detrimentally affect adjoining properties;*
  - ii. *Are suitably landscaped to reduce the impact of building bulk; and*
  - iii. *The natural topography of the land can still be interpreted, despite the retaining.*

The Desired Future Character referred to in criteria (a) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the City Beach precinct includes several desired future character elements. In this case, the desired future character element relevant to the proposed reduced street setback is as follows:

*“New development shall create and enhance open landscaped front gardens within the street setback area to maintain the green character of the streetscape and the precinct.”*

The following comments are based the above desired future character element and criterion (d) of Clause 1 of LPP 3.1.

In this case, the increased height of the retaining walls will not detrimentally affect the adjoining properties, as the walls are tiered and follow the natural topography of the site. As such, the increased height of the walls will not have an adverse bulk impact on the adjoining properties.

Also, the retaining walls will not be visible from the street, as the street levels are significantly higher than the retaining walls, and therefore the increased height of the retaining walls will not have a bulk impact on the streetscape.

Given that the retaining walls are tiered and follow the slope within the street setback area, the natural topography of the site will still be able to be interpreted.

In addition, the tiered retaining walls will be landscaped, which will maintain the green character of the streetscape and the precinct.

There are several properties along the same side Pandora Drive that also feature steep sloping levels in the front setback area and have tiered retained garden beds. Because of this, the proposal will be consistent with the character of the locality.

For the above reasons, it is recommended that the non-complying application be approved.

**FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

**LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No.1  
State Planning Policy 7.3 – Residential Design Codes Volume 1  
Local Planning Policies*

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

**COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

**COUNCIL DECISION:**

(COMMITTEE AND ADMINISTRATION RECOMMENDATION)

**Moved by Mayor Mack, seconded by Cr Kennerly**

**That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council APPROVES the application for retaining wall additions to the existing single house at Lot 212 (No. 48) Pandora Drive, City Beach, as shown on the attached plans stamped received 18 September 2023, subject to the following conditions:**

- 1. The development shall at all times comply with this application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;**
- 2. This development approval only pertains to the proposed retaining walls as shown on the approved plans; and**
- 3. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town.**

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 11.2.3 DV23.59 - Proposed Variations to Local Law 43

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Kane Smith (Senior Statutory Planning Officer), Twinkle Makwana (Statutory Planning Officer), Howard Wu (Planning Officer)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0224, DA23/0194, DA23/0177, & DA23/0222
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"> <li>1. Development Plans - 26 Tranmore Way, City Beach [8.2.3.1 - 3 pages]</li> <li>2. Development Plans - 40 The Boulevard, Floreat [8.2.3.2 - 1 page]</li> <li>3. Development Plans - 10 Tamala Place, City Beach [8.2.3.3 - 1 page]</li> <li>4. Development Plans - 16 Templetonia Crescent, City Beach [8.2.3.4 - 2 pages]</li> </ol>

#### BACKGROUND:

Property	Applicant/Landowner(s)
26 Tranmore Way, City Beach	Applicant: Extra Investment (WA) Pty Ltd Owner: Matthew K Regan & Penelope Regan
40 The Boulevard, Floreat	Applicant: Russell Brooks Building Owner: Geoffrey J Cowie & Jessica L R Dhrif
10 Tamala Road, City Beach	Applicant: Shayne Le Roy Designs Owner: Shanthikumar Sivaraj
16 Templetonia Crescent, City Beach	Applicant: Gary Long Owner: Gary Long

#### DELEGATION:

Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

In accordance with Clause 2B of Local Law 43 and s1.9 of the *Local Government Act 1995*, the application must meet the following voting requirements for a determination to be made:

#### Council - Absolute Majority

More than fifty per cent of the total number of positions on the Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote for a determination to be made.

#### CONSULTATION:

The applications were advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 – Public Notification of Planning Proposals*.

No objections in relation to the proposed wooden gable or cladding materials were received for any of the applications.

#### STATUTORY ASSESSMENT:

***Local Law 43 – Buildings on Endowment Lands & Limekilns Estate (Local Law 43)***  
***Local Planning Policy 3.21: Building on Endowment Lands and Limekilns Estate***

Property Address	Material Proposed
26 Tranmore Way, City Beach	'Scyon Linea' Weatherboard Cladding
40 The Boulevard, Floreat	Wooden Gable Roof
10 Tamala Road, City Beach	Timber Cladding
16 Templetonia Crescent, City Beach	Weatherboard Cladding

**Clause 2B (LL43)**

*"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:-*

- for use for a purpose which is not permitted in that district;*
- notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.*

*if the Council is satisfied by an absolute majority that:-*

- the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and*
- the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".*

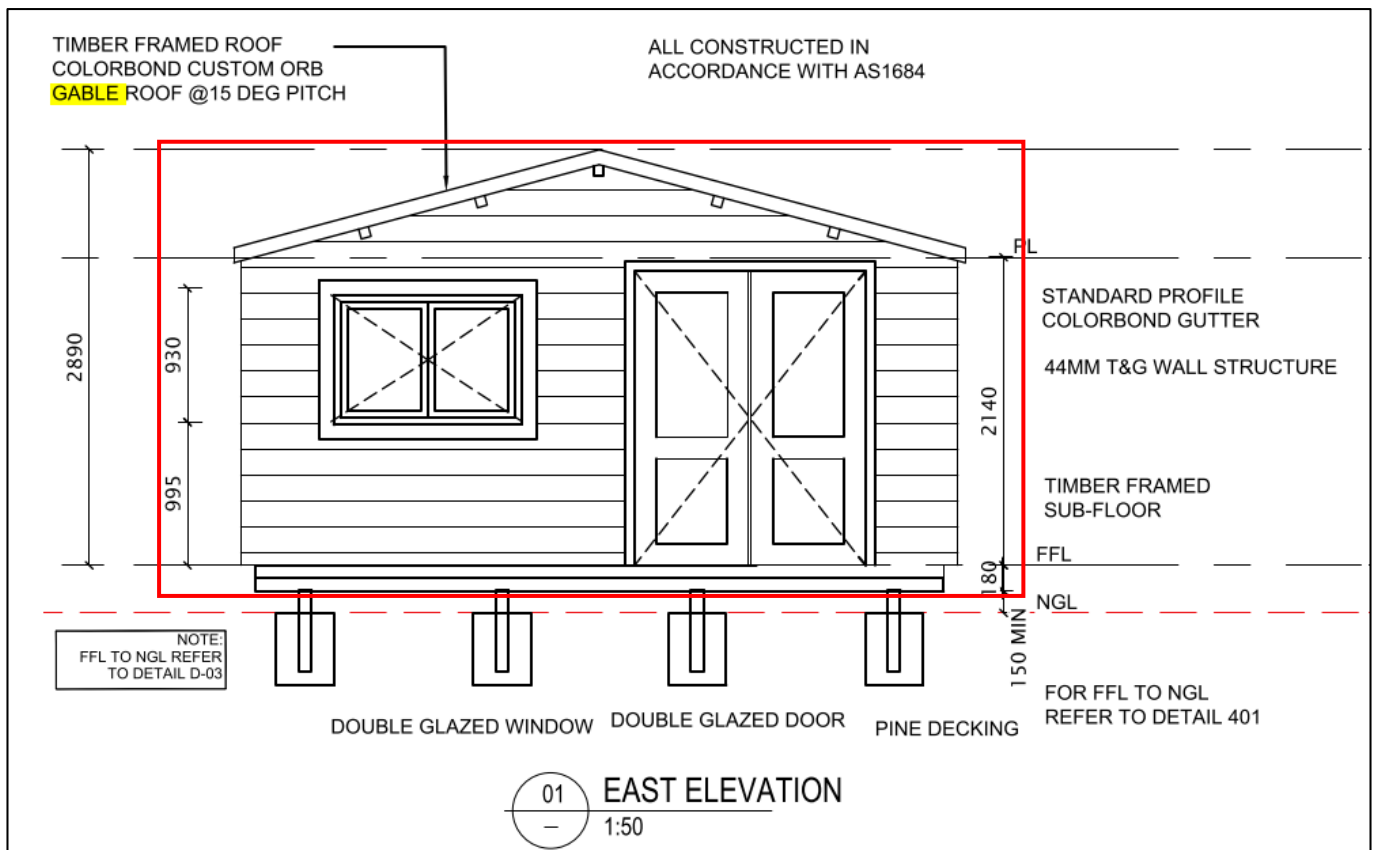
**Materials of Construction**

*Materials of a high quality finish, may be used, which result in buildings of a high architectural and structural standard.*

**26 Tranmore Way, City Beach**

The application proposes 'Scyon Linea' weatherboard cladding to the roof gable end and the external walls of the building.

The areas proposed to have cladding have been highlighted in the below eastern elevation (side).



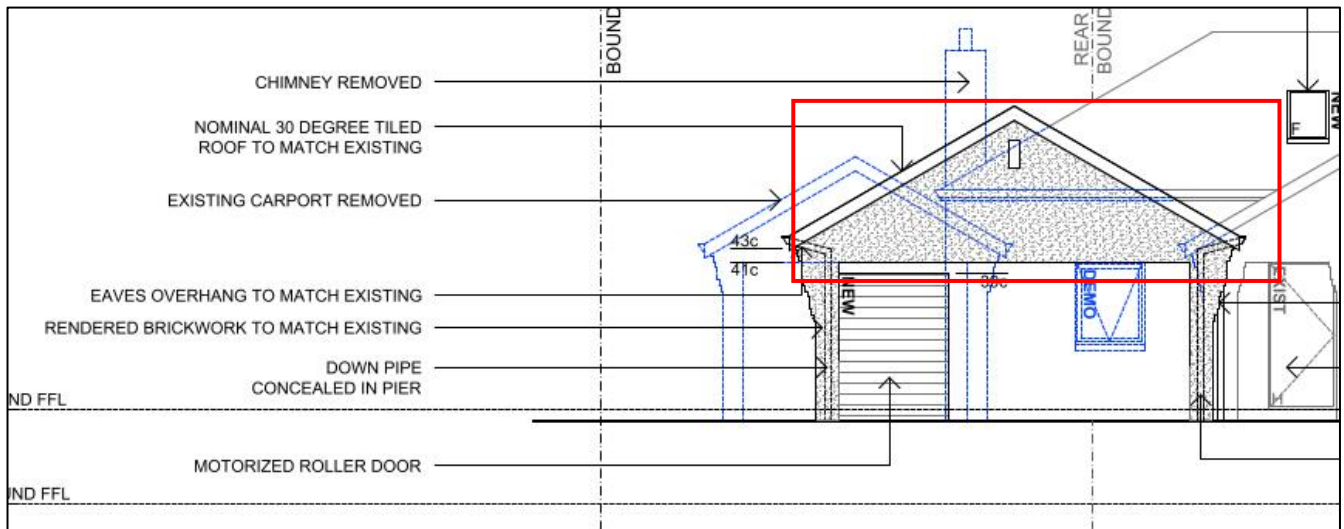
**Figure 3 - Proposed Wooden Gable Roof (East Elevation)**

The proposed cladding is high quality and is consistent with the existing and desired future character of its locality.  
 For the above reasons, it is recommended that the application be approved.

**40 The Boulevard, Floreat**

The application proposes a wooden gable roof end to the alfresco.

The proposed wooden gable roof end has been highlighted in the below southwestern (front) elevation.



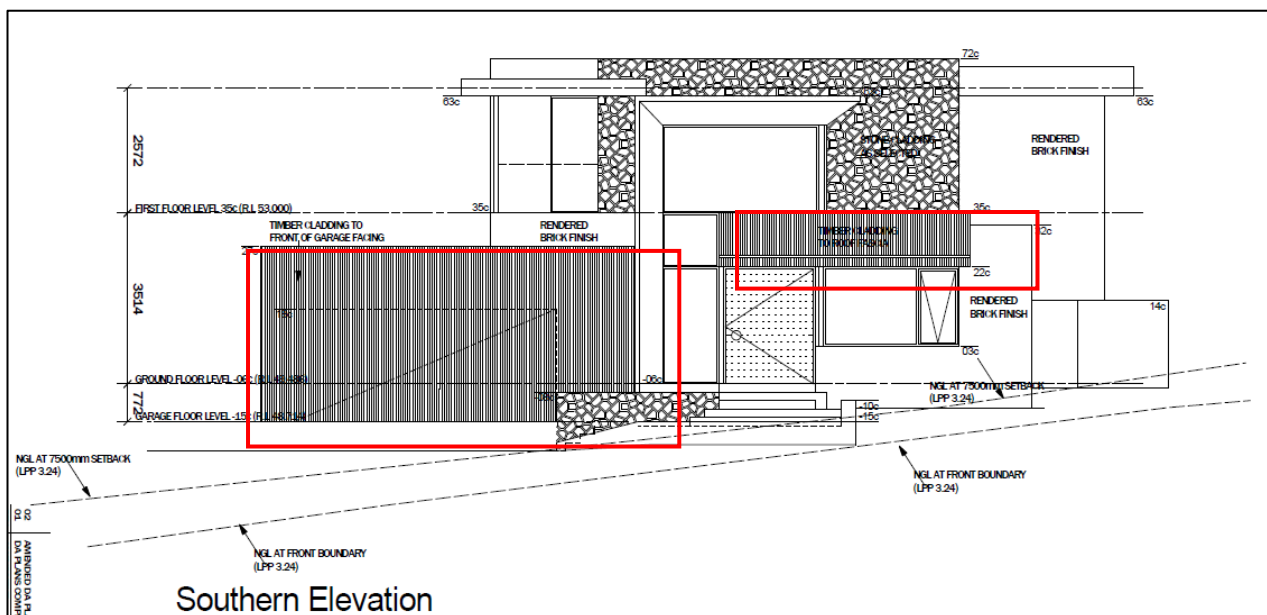
**Figure 4 - Proposed Wooden Gable Roof (Southwestern Elevation)**

The proposed gable roof is high quality and is consistent with the existing and desired future character of its locality.  
 For these reasons, it is recommended that the application be approved.

**10 Tamala Road, City Beach**

The application proposes timber cladding.

The areas proposed to have cladding have been highlighted in the below southern elevation (front).



**Figure 3: Proposed Timber cladding (Southern Elevation - Front)**

The proposed cladding is of high quality and is consistent with the existing and desired future character of its locality.

For these reasons, it is recommended that the application be approved.

### 16 Templetonia Crescent, City Beach

The application proposes weatherboard cladding.

The areas proposed to have cladding have been highlighted in the below southern elevation (side).

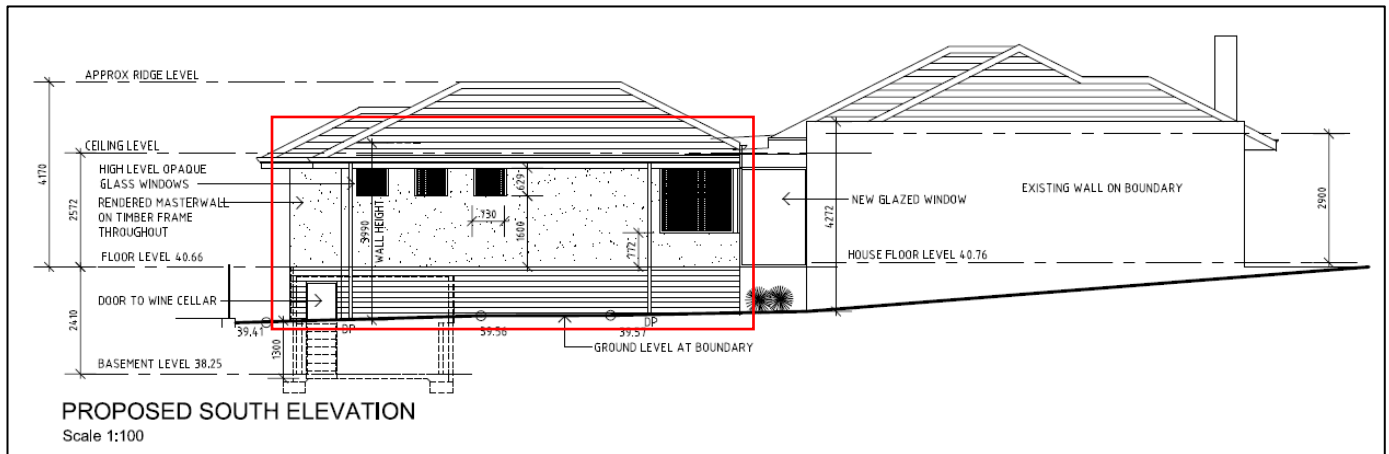


Figure 3: Proposed Timber cladding (Southern Elevation - Front)

The proposed cladding is of high quality and is consistent with the existing and desired future character of its locality.

For these reasons, it is recommended that the application be approved.

### LEGISLATIVE CONSIDERATIONS:

*Local Law 43 – Buildings on Endowment Lands & Limekilns Estate*

### STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces.

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

### COMMUNITY ENGAGEMENT:

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

### **Impartiality Interest Declaration - Cr Randklev**

Prior to consideration of the item, the Cr Randklev disclosed an interest affecting impartiality and declared as follows: "with regard to Item 11.2.3, I declare that one of the owners is known to me and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (COMMITTEE AND ADMINISTRATION RECOMMENDATION)**

**Moved by Mayor Mack, seconded by Cr Kennerly**

**That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme* and *Local Law 43 – Buildings on Endowment Lands & Limekilns Estate (Local Law 43)*, Council APPROVES BY AN ABSOLUTE MAJORITY the following applications:**

- 1. Lot 90 (No.26) Tranmore Way, City Beach – ‘Scyon Linea’ Weatherboard Cladding**
- 2. Lot 3803 (No.40) The Boulevard, Floreat – Wooden Gable Roof**
- 3. Lot 667 (No. 11) Tamala Road, City Beach – Timber Cladding**
- 4. Lot 182 (No. 16) Templetonia Crescent, City Beach – Weatherboard Cladding**

**subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval.**
- 2. The wooden gable end/cladding to the external walls (as shown on the approved plans) shall be installed and thereafter maintained by the landowner for the life of the development to the Town’s satisfaction.**
- 3. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town.**

**Motion put and CARRIED BY AN ABSOLUTE MAJORITY EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

## 12 COUNCIL REPORTS

### 12.1 Office of the Chief Executive Officer

#### 12.1.1 Council, Committee Meeting and Elected Member Forum Schedule 2024

<b>DIRECTORATE:</b>	Office of the CEO
<b>AUTHOR:</b>	Denise Ribbands (Senior Governance Officer)
<b>AUTHORISER:</b>	Gary Tuffin, CEO
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. 2024 Council and Committee Meeting Schedule [12.1.1.1 - 1 page]

#### **PURPOSE OF REPORT:**

To seek Council approval of the Council Meeting Schedule for 2024 including the proposed dates for the Audit and Risk Committee.

#### **EXECUTIVE SUMMARY:**

Local Governments are required to set the yearly Council meeting schedule in advance, and to provide local public notice of the time, date and place of meetings.

#### **BACKGROUND:**

Section 5.25 (1)(g) of the *Local Government Act 1995* and Regulation 12(1) of the *Local Government (Administration) Regulations 19906*, requires each local government to give public notice at least once per year of the dates, time and place at which the Ordinary Meetings of Council are to be held in the next 12 months.

#### **DETAILS:**

##### **Council meeting schedule**

The Council and Committee Schedule for 2024, as shown in Attachment 1, is proposed as follows:

- 1<sup>st</sup> Tuesday = Elected Member Forum
- 2<sup>nd</sup> Tuesday = Elected Member Forum (if required)
- 3<sup>rd</sup> Tuesday = Ordinary Council Meeting Agenda Briefing
- 4<sup>th</sup> Tuesday = Ordinary Council Meeting

It is noted that the September and December meetings have been moved forward one week to avoid clashes with school holidays.

Two Elected Member Forums have been scheduled per month. Should the second Elected Member forum not be required, Elected Members will be advised in advance.

## **Committee meetings**

Audit and Risk Committee meetings have been scheduled quarterly as follows:

Tuesday 13 February 2024  
Tuesday 14 May 2024  
Tuesday 13 August 2024  
Tuesday 12 November 2024

The Public Art Committee will meet on an as-required basis.

Whilst public notice is not required for Committee meetings that are not open to the public, the dates have been included in the schedule to provide an overview of the all scheduled 2024 meetings.

## **Timing of meetings**

Council meetings are normally held at 6.00 pm. Elected Member Forums have been held at 7.30am and Audit and Risk Committee meetings at 4.00 pm. It is proposed to continue with this arrangement for 2024.

## **January 2024 Meeting (if required)**

A Special Council Meeting may be required to deal with any urgent matters of business that may arise during the Xmas/New Year Recess period which may require a Council decision. For example, this may be necessary to determine development matters where Council is required to make a decision within a statutory timeframe.

Closer to the date, it can be determined that firstly a meeting is required, and secondly on which day/week to hold the meeting, depending on Officer and Elected Member availability. Further, a Special Council Meeting is confined to the items of business provided for in the Notice of the Meeting.

## **POLICY / STATUTORY IMPLICATIONS:**

1. *Local Government Act 1995.*
2. *Local Government (Administration) Regulations 1996.*

Regulation 12(1) of the *Local Government (Administration) Regulations 1996*, provides that at least once a year, local public notice of the time, date and place of Committee and Council Meetings is to be given. Regulation 12(3) and (4) provides for the calling of a Special Council Meeting.

## **RISK MANAGEMENT IMPLICATIONS:**

**Low:** There is minimal risk to the Town in association with the recommendation contained within this report. Adoption of the recommendation would meet the requirements of Regulations 12(1), (3) and (4) of the *Local Government (Administration) Regulations 1996*.

## **FINANCIAL IMPLICATIONS:**

There is no direct financial impact to the Town in relation to adopting the recommendation contained within this report.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Town: A transparent organisation that drives performance with leadership and integrity**  
**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

Not Applicable

**COUNCIL DECISION:**  
**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. ADOPTS the Council, Committee Meeting and Elected Member Forum Schedule for 2024, as shown at Attachment 1; and**
- 2. NOTES that local public notice of the Ordinary Council Meeting Schedule 2024 will be provided in accordance with Regulations 12(2) and 12(3) of the *Local Government (Administration) Regulations 1996*.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.1.2 Elected Member Information Bulletin - December 2023

<b>DIRECTORATE:</b>	Office of the CEO
<b>AUTHOR:</b>	Denise Ribbands (Senior Governance Officer)
<b>AUTHORISER:</b>	Gary Tuffin, CEO
<b>AUTHORITY / DISCRETION:</b>	Information
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Information Bulletin - 19 December 2023 [12.1.2.1 - 122 pages] 2. CONFIDENTIAL - Confidential Information Bulletin - December 2023 [12.1.2.2 - 3 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is to provide general information and updates to the Community and Elected members on various projects and activities within the Town.

#### **BACKGROUND:**

An Elected Member Confidential Information Bulletin was introduced, effective from 1 July 2018, as an additional form of communication between the Town of Cambridge Administration and Elected Members.

#### **DETAILS:**

The attached information is considered to be of interest to Elected Members; however, the items do not require Council to make a decision

#### **POLICY / STATUTORY IMPLICATIONS:**

There are no policy or statutory implications related to this report.

#### **RISK MANAGEMENT IMPLICATIONS:**

**Low/Medium/High:** The risk in this matter has been assessed as low.

#### **FINANCIAL IMPLICATIONS:**

There are no financial implications related to this report.

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Community engagement** - Engage with the community to build partnerships, increase community capacity, inform and provide transparency in decision making.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

**INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

**COUNCIL DECISION:**

**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council RECEIVES the Information Bulletin dated 30 November 2023.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 12.1.3 Annual Financial Report for the year ended 30 June 2023 and Annual Electors Meeting

<b>DIRECTORATE:</b>	Office of the CEO
<b>AUTHOR:</b>	Joanne Casey (Manager Corporate Strategy and Communications), Vicki Cobby (Acting Director Corporate and Commercial Services), Beth O'Callaghan (Acting Manager Finance), Cassandra Jaeger (Manager Governance)
<b>AUTHORISER:</b>	Gary Tuffin, CEO
<b>AUTHORITY / DISCRETION:</b>	Legislative
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Town of Cambridge 2022-2023 Annual Report [12.1.3.1 - 110 pages]

#### PURPOSE OF REPORT:

To seek Council's acceptance of the Town of Cambridge the 2022-2023 Annual Report including the Financial Report for the year ended 30 June 2023, and the independent auditors report prepared by the Office of the Auditor General (OAG).

Council's approval is also sought for the date and time of the Annual General Meeting of Electors.

#### EXECUTIVE SUMMARY:

The draft Annual Report 2022-2023 is submitted with attachments for consideration and referral to Council for adoption, in accordance with Section 5.54 of the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the Australian Accounting Standards.

#### BACKGROUND:

The financial audit for the year ended 30 June 2023 has been completed and accordingly the audited Annual Report for the year ended 30 June 2023 is attached for acceptance (**Attachment 1**).

#### DETAILS:

The statement of comprehensive income, statement of financial position, statement of cash flows, rate setting statement and supporting notes have been prepared for the financial year ended 30 June 2023. In summary, the results are:

1. Statement of Comprehensive Income - operating result of \$3,831,678 (surplus) against the original budgeted operating surplus of \$2,554,900
2. Statement of financial position - net assets increased by \$39,492,736
3. Net cash flows from operating activities were \$13,726,444
4. Statement of financial activity - \$6,968,403 surplus compared to the adopted balanced budget

It should be noted that the surplus funds the opening balance of the 2023/2024 annual budget, which is \$6,203,175, resulting in an end of year surplus of \$765,228.

#### 1. Statement of Comprehensive Income

The Statement of Comprehensive Income shows the net result including non-operating grants, subsidies and contributions and disposal of assets.

The net result (including depreciation) is \$3,831,678 against the original adopted budget result of \$2,554,900 a surplus of \$1,276,778.

The main factors attributing to this operating result were a combination of the following variances to budget:

Operating Revenue

An increase in operating revenue of \$7,421,561 largely due to increase in fees and charges and interest revenue.

Non-Operating Revenue

A decrease in capital grants, subsidies and contributions of \$1,864,533.

Operating Expenditure

An increase in operating expenses of \$4,670,018 which consists of increases in other expenditure and employee costs.

This report also shows the total comprehensive income for the period was \$39,492,736 which includes \$34,806,281 for the asset revaluation of infrastructure that occurred this financial year.

**2. Statement of Financial Position**

Current Assets

Total current assets have increase by \$5,664,377.

Non-Current Assets

Total non-current assets have increased by \$35,785,369.

Current Liabilities

Total current liabilities have increased by \$1,100,822.

Non-Current Liabilities

Total non-current liabilities have increased by \$856,188.

Equity

Total equity has increased by \$39,492,736.

**3. Statement of Cash Flows**

The following observations are made with respect to the Statement of Cash Flows.

The cash at the end of the financial year increased by \$6,878,738 compared to the opening balance at the beginning of the year.

**4. Statement of Financial Activity**

The statement of financial activity (formally known as the Rate Setting Statement) has resulted in a surplus of \$6,968,403 compared to the original balanced budget.

**5. Audit Opinion (OAG)**

The 2022/2023 year-end audit has been completed. The scope of the audit included verification of all statement of financial position account closing balances at year end, ensuring that Australian Accounting Standards, *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* had been complied with.

A copy of the OAG Independent Auditors Report, including audit opinion with respect to the 2022/2023 Audit is provided in the annual report.

## 6. 2022/23 Annual General Meeting of Electors

Should Council accept the Annual Report as presented, the Town is required to hold the 2022/2023 Annual General Meeting of Electors within 56 days of the decision. The Town must provide 14 days public notice of the date of the AGM.

With consideration to the above timeframes, it is recommended that the Annual General Meeting be held on Tuesday 6 February 2024, commencing at 6pm.

Motions adopted at the AGM will be presented to Council at the next practical Ordinary Council Meeting for consideration.

### **POLICY / STATUTORY IMPLICATIONS:**

The *Local Government Act 1995 (the Act)* requires the Town to prepare an Annual Report for each financial year. Section 5.53 outlines that the annual report is to contain the following:

1. A report from the Mayor;
2. A report from the Chief Executive Officer;
3. An overview of the plan for the future of the district made in accordance with Section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
4. The financial report for the financial year;
5. Such information as may be prescribed in relation to the payments made to employees;
6. The auditor's report for the financial year;
7. A matter on which a report must be made under Section 29(2) of the Disability Services Act 1993;
8. Details of entries made under Section 5.121 (Elected Member Minor Breaches) during the financial year in the register of complaints, including:-
  - (a) the number of complaints recorded in the register of complaints;
  - (b) how the recorded complaints were dealt with; and
  - (c) any other details that the regulations may require; and such other information as may be prescribed.

The Act requires the Town to prepare an Annual Report for each financial year. A public notice of the time, day and place of the meeting must be given at least 14 days prior to the meeting under Section 5.27 of the Act.

Section 5.53 outlines that the annual report is to contain information as detailed above. The requirement to conduct an Annual General Meeting of Electors is provided for in Section 5.27 of the Act.

#### *"5.29 Convening electors' meetings*

- (1) The CEO is to convene an electors' meeting by giving –*
  - (a) at least 14 days' local public notice; and*
  - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting."*

#### *"5.54 Acceptance of annual reports*

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted by the local government no later than 31 December after that financial year.*
- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available."*

*"5.55 Notice of annual reports*

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government."*

Clause 14 of the *Local Government (Administration) Regulations 1996* specifies that the matters to be discussed at an Annual General Meetings of Electors are the contents of the Annual Report and then any other general business.

**RISK MANAGEMENT IMPLICATIONS:**

**Low:** The Annual Financial Statements have been produced in accordance with applicable local government legislation and Australian Accounting Standards. The acceptance of the Annual Report and the setting of the date for the Annual Meeting of Electors will ensure compliance with legislation.

**FINANCIAL IMPLICATIONS:**

The report presents the Town's financial position at 30 June 2023.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Community engagement** - Engage with the community to build partnerships, increase community capacity, inform and provide transparency in decision making.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy.

In accordance with the relevant legislation, public availability of the Annual Report is to be advertised in local newspapers for a period of 14 days prior to the Annual General Meeting of Electors.

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. APPROVES BY ABSOLUTE MAJORITY to ACCEPT, pursuant to Section 5.54 of the Local Government Act 1995, the Annual Report for the Town of Cambridge for the year 2022-2023 incorporating the Annual Financial Statements and the Auditor General's Report 2022-2023, as shown in Attachment 1, and SUBMITS the Report for presentation at the Annual General Meeting of Electors to be held on 6 February 2024, subject to the Chief Executive Officer making any minor amendments to the text as necessary;**
- 2. RESOLVES to hold the Annual General Meeting of Electors of the Town of Cambridge to be held on Tuesday 6 February 2024 at the Town's Civic and Administration Centre, 1 Bold Park Drive, Floreat, commencing at 6.00pm;**

- 3. APPROVES the notice of the Annual General Meeting of Electors to be advertised in accordance with the provisions of Section 5.29 of the Local Government Act 1995; and**
- 4. CONSIDERS, pursuant to Section 5.33 of the Local Government Act 1995, any decisions made at the Annual General Meeting of Electors will be presented to the next practical Ordinary Council meeting.**

**Motion put and CARRIED BY AN ABSOLUTE MAJORITY (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

**PROCEDURAL MOTION:**

**Moved by Cr Cutler, seconded by Cr Foley**

**That the Planning Reports be brought forward and considered following 12.3.1.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

## 12.2 Corporate and Commercial Services

### 12.2.1 Payment of Accounts - November 2023

<b>DIRECTORATE:</b>	Corporate and Commercial Services
<b>AUTHOR:</b>	Jennifer Fenlon (Coordinator Finance)
<b>AUTHORISER:</b>	Vicki Cobby, Acting Director Corporate and Commercial Services
<b>AUTHORITY / DISCRETION:</b>	Information
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Accounts Payment Listing by Creditor - November 2023 (002) [12.2.1.1 - 16 pages]

#### PURPOSE OF REPORT:

To provide and confirm the schedule of payments for the month of November 2023 in accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

#### EXECUTIVE SUMMARY:

Under the *Local Government (Financial Management) Regulations 1996*, payments of accounts made by the Town are to be submitted to Council. The report contains a summary of payments made for the month with detailed payment listings attached providing more information.

#### BACKGROUND:

Section 6.10 of the *Local Government Act 1995* requires the keeping of financial records and general management of payments, which is further specified in Regulation 13 of the *Local Government (Financial Management) Regulations 1996*. A list of accounts is to be prepared each month which is presented to the Ordinary Meeting of Council showing the payee's name, the amount of payment, the date of the payment and sufficient information to identify the transaction.

#### DETAILS:

A list of the cheques raised and electronic funds transfers (EFTs) for the payment of accounts from the Municipal Account (and Trust Account where applicable) for the past month.

#### POLICY / STATUTORY IMPLICATIONS:

Payments are in accordance with Policy No. 008 Bank Accounts and Payments.

#### RISK MANAGEMENT IMPLICATIONS:

**Low:** The schedule of payments has been produced in accordance with applicable local government legislation.

#### FINANCIAL IMPLICATIONS:

Expenses incurred are charges to the appropriate items included in the annual budget.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2018-2028:-

**Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**

**Land and investment** - Leverage and improve the Town’s economic assets to grow the local economy.

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**Own-source revenue** - Enhance the Town’s financial sustainability through opportunities to increase commercial revenue.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

This matter has been assessed under Council Policy No: 019 Community Engagement, and does not require community consultation, as this matter is administrative in nature.

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

Moved by Cr Barlow, seconded by Cr Mayes

That Council RECEIVES, in accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, the schedule of accounts, as detailed below and attached.

**SUMMARY**

**CHEQUE PAYMENTS**

	Date From	Date To	Details	Amount
Municipal Fund	01-November-2023	30-November-2023	061255 - 061309	\$ 92,977.04
Wembley Golf Course	01-November-2023	30-November-2023	00129 - 00133	\$ 9,669.22
				<u>\$ 102,646.26</u>

**ELECTRONIC FUND TRANSFERS (EFT)**

	Date From	Date To	Details	Amount
Accounts Payable - Admin	01-November-2023	30-November-2023	E062020 - E062450	\$ 4,205,716.87
Accounts Payable - WGC	01-November-2023	30-November-2023	E062086 - E062387	\$ 289,791.76
Investments	01-November-2023	30-November-2023	INV1355 - INV1359	\$ 6,285,273.13
Payroll	01-November-2023	30-November-2023	1389 - 1392	\$ 1,296,600.68
Direct Bank Charges	01-November-2023	30-November-2023	Sup744 - Sup751	\$ 710,702.36
WGC Direct Debits	01-November-2023	30-November-2023	DD789 - DD793	\$ 45,858.98
				<u>\$ 12,833,943.78</u>

**CREDIT CARD PAYMENTS**

	Date From	Date To	Details	Amount
Credit Card Payments	01-November-2023	30-November-2023	NA	\$ 9,560.54

**TOTAL PAYMENTS**

\$ 12,946,150.58

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 12.2.2 Monthly Financial Statements November 2023

<b>DIRECTORATE:</b>	Corporate and Commercial Services
<b>AUTHOR:</b>	Jennifer Fenlon (Coordinator Finance)
<b>AUTHORISER:</b>	Vicki Cobby, Acting Director Corporate and Commercial Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Investment Report Pack November 2023 [12.2.2.1 - 23 pages] 2. Monthly Financial Statements November 2023 [12.2.2.2 - 23 pages]

**PURPOSE OF REPORT:**

To receive the Financial Statements for the period ended 30 November 2023, and provide information on the Town’s investment portfolio performance during November 2023.

**EXECUTIVE SUMMARY:**

The November 2023 Financial Statements have been completed. Comments have been provided on the financial position compared to budget including any permanent and timing variances that have occurred during the period and their impact on financial results for the year to date (YTD) 30 November 2023.

The Council invests funds that are surplus to operational requirements with various financial institutions and reports on the amounts invested, the distribution of those funds and the financial performance of each investment, being interest earned, against budget.

**BACKGROUND:**

The 2023-24 Annual Budget was adopted by Council on 29 August 2023. The measurement of the materiality is a percentage or value and adopted each financial year by Council. The variance thresholds of \$30,000 and 10% was adopted by Council on 29 August 2023 and will continue to apply for all reporting for the 2023-24 financial year.

The 2022-23 Financial Statements are subject to audit and until the audit is final, the opening balances may change.

**DETAILS:**

Key financial indicators are provided below comparing YTD actual against YTD budget.

**Funding surplus / (deficit)**

In previous reports the funding surplus / deficit has been called Cash Surplus (Closing Funds). It is anticipated that this will be low until Rates have been issued, when it will be at its highest level. This will gradually reduce as the year progresses.

	<b>Funding surplus / (deficit)</b>			
	<b>Adopted Budget</b>	<b>YTD Budget (a)</b>	<b>YTD Actual (b)</b>	<b>Var. \$ (b)-(a)</b>
<b>Opening</b>	<b>\$6.20 M</b>	<b>\$6.20 M</b>	<b>\$6.11 M</b>	<b>(\$0.09 M)</b>
<b>Closing</b>	<b>\$0.00 M</b>	<b>\$22.23 M</b>	<b>\$24.25 M</b>	<b>\$2.01 M</b>

Refer to Statement of Financial Activity

The YTD closing surplus of \$24,245,554 to 30 November 2023 is compared directly with the budgeted surplus of \$22,232,026. As detailed below, the \$2,013,528 variance is made up of:

**Under Budget**

Opening balance	(89,839)
Operating expenses	1,333,412
Inflows from investing activities	(1,323,449)
Outflows from investing activities	847,302
Outflows from financing activities	239,006

**Over Budget**

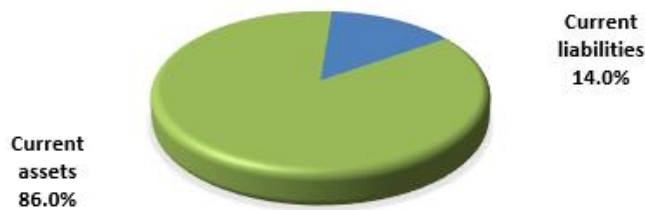
Operating revenue	577,334
Inflows from financing activities	429,762
	<u>\$2,013,528</u>

For more information on variances, please see note 3 of Attachment 1.

**Net Current Assets**

The chart below shows the composition of our net current assets, in terms of assets and liabilities.

**NET CURRENT ASSETS - \$67,062,509**

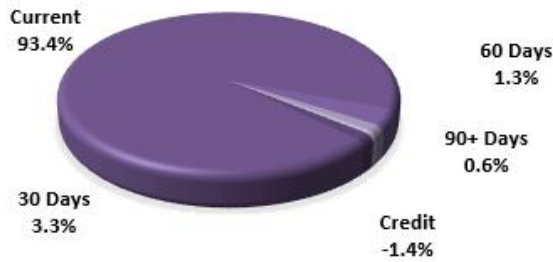


The graphs below show the ageing of our accounts receivable and accounts payable on 30 November 2023 and the percentage of each period in comparison to the total outstanding. Both graphs indicate a healthy distribution with the balance classified as current at 36% and 93% respectively.

**ACCOUNTS RECEIVABLE (NON-RATES) - \$1,219,090**

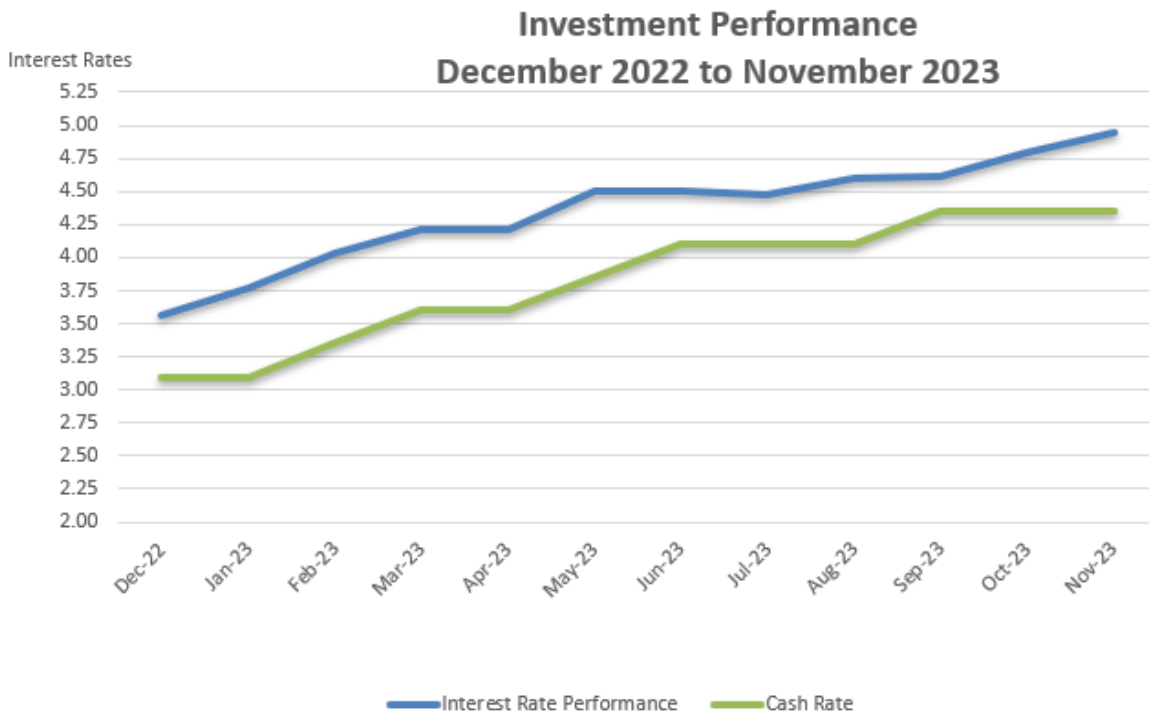


### AGED PAYABLES - \$9,680,605

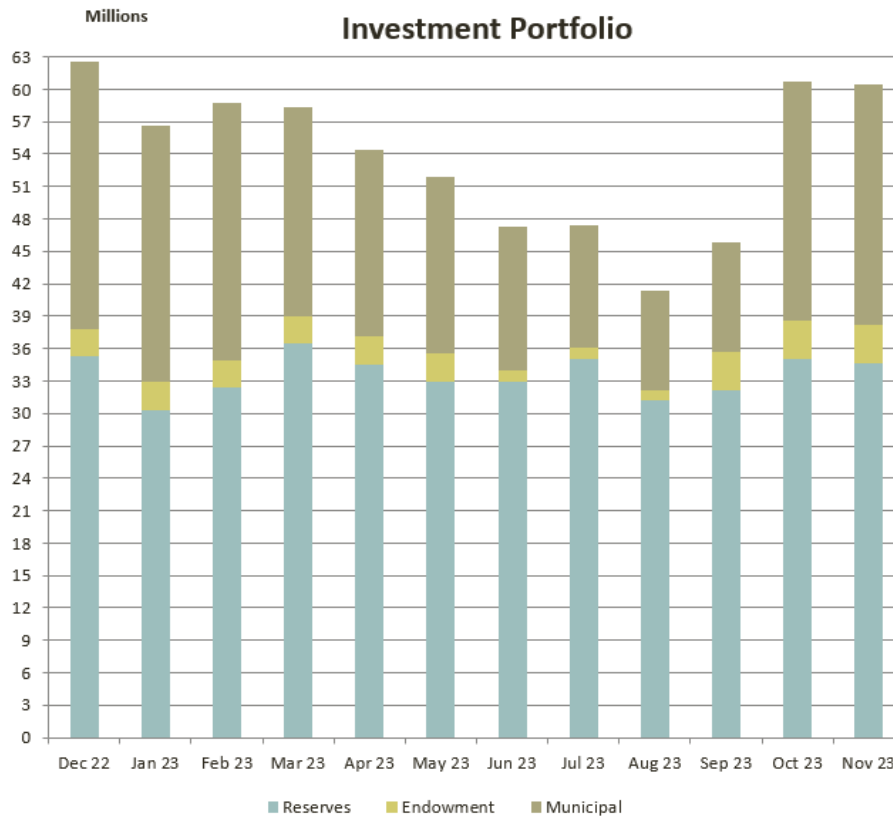


### Investments

The graph below shows the interest rate performance of the Town’s investment portfolio for the 12 month period ending November 2023.



The graph below represents the total investment portfolio of the Town for the 12 month period ending November 2023.



For more detail on the Town’s investments, please refer to Attachment 2 – Investment Report Pack November 2023.

**Operating Activities**

Operating revenue year to date is \$41.6 million compared to the anticipated budget of \$41.1 million, a favourable variance of \$577 thousand or 1%.

The significant variances are detailed in note 3 of Attachment 1 and are as follows:

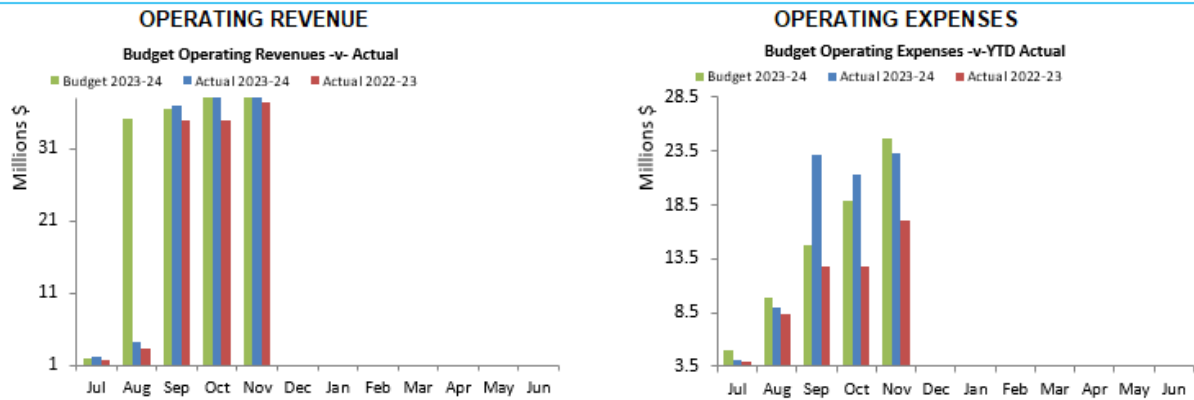
- Fees and charges - over budget by \$1.3m or 11%
- Interest revenue – under budget by \$496k or 53%
- Profit on asset disposal – under budget by \$156k or 100%

Operating expenses YTD is \$23.3 million compared to YTD budget of \$24.7 million, which is a favourable variance of \$1.39 million or 6%.

The significant variances are detailed in note 3 of Attachment 1 and are as follows:

- Employee costs - under budget by \$722k or 8%
- Materials and contracts – under budget by \$1.64m or 19%
- Depreciation – under budget by \$142k or 3%
- Insurance – under budget by \$219k or 42%
- Other expenses – under budget by \$106k or 18%

**OPERATING ACTIVITIES**



**Legal Expense**

YTD expenditure to 30 November is \$76 thousand compared to YTD budget of \$159 thousand.

Items	Budget	YTD Budget	November YTD Actual	Variance	
Planning Legal Expenses	185,500	77,292	39,182	38,110	49%
Governance Management	150,000	62,500	1,515	60,985	98%
Wembley Sports Ground	30,000	12,500	31,875	- 19,375	-155%
Parking Control	5,000	2,083	-	2,083	100%
Compliances Expenses	7,000	2,917	2,960	43	-1%
Animal Control	5,000	2,083	-	2,083	100%
	<b>382,500</b>	<b>159,375</b>	<b>75,532</b>	<b>83,843</b>	<b>60%</b>

**Investing (Capital) Activities**

There have been minimal inflows from investing activities (also referred to as capital revenue); Actual spend of \$71 thousand compared to YTD budget of \$1.39 million, giving an unfavourable variance of \$1.32 million or 94%.

The significant variances are detailed in Note 3 of Attachment 1:

- Proceeds from capital grants, subsidies and contributions

Outflows from investing activities (also referred to as capital expenses) YTD is \$4.15 million compared to budget of \$5 million, giving a favourable variance of \$847 thousand or 17%.

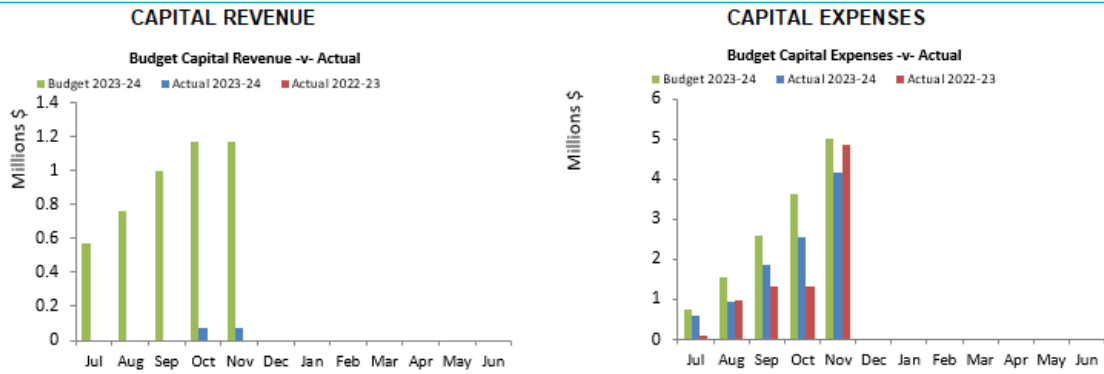
The variances are detailed in Note 3 of Attachment 1:

- Payments for property, plant and equipment – over budget by \$314k or 17%
- Payments for construction of infrastructure – under budget by \$1.16m or 37%

For variance reporting by asset classification and acquisition funding, refer to Note 12 Capital Acquisitions in Attachment 1.

For variance reporting by project, refer to Note 13 Capital Acquisitions – Detailed in Attachment 1.

**INVESTING ACTIVITIES**



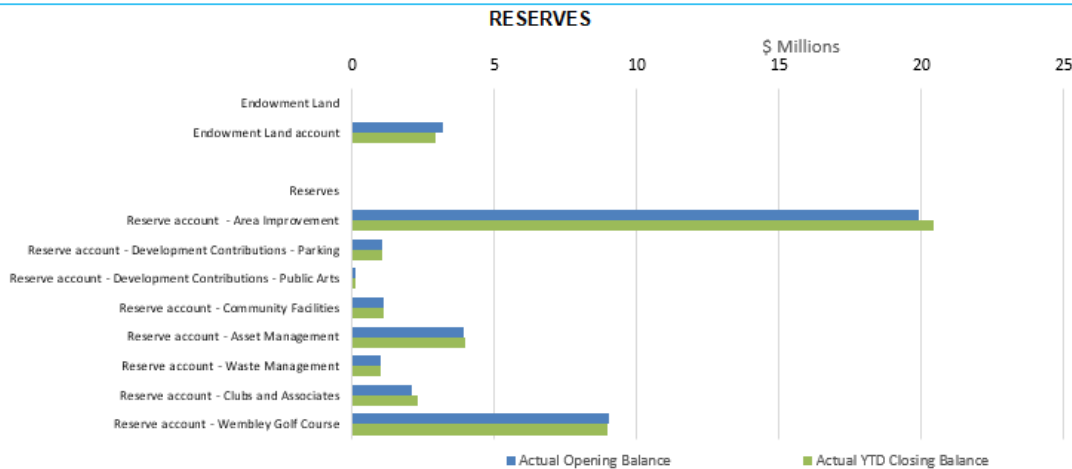
**Financing Activities**

Transfers from Reserve year to date is \$1.4 million compared to YTD budget of \$971 thousand, a favourable variance of \$429 thousand or 44%

Transfers to Reserves YTD is \$2.05 million compared to YTD budget of \$2.29 million, giving a favourable variance of \$239 thousand or 10%.

For detailed reporting on Reserves and ELA, refer to Note 11 – Reserves and Endowment Lands Account in Attachment 1.

**FINANCING ACTIVITIES**



**POLICY / STATUTORY IMPLICATIONS:**

The *Local Government Act 1995*, Section 6.4 requires the preparation of financial reports. The *Local Government (Financial Management) Regulations 1996*, in particular Regulation 34, expands on this requirement to include a monthly financial report to be prepared identifying significant variations between actual and budget. This report complies with this requirement.

Council’s Investment Policy No. 052 allows for investing of funds into direct investment products and managed funds which comply with both the credit risk rating and terms to maturity guidelines as set out in the policy.

**RISK MANAGEMENT IMPLICATIONS:**

**Low:** The financial statements have been produced in accordance with the adopted budget for the 2024 financial year and in accordance with applicable local government legislation. The investments are in accordance with Council's adopted Investment Policy 052 and applicable local government legislation.

**FINANCIAL IMPLICATIONS:**

The variations in expenditure and revenue line items, compared to budget, may have an impact on Council funds.

Interest from investments represents a significant revenue item in the Council's Budget and it is therefore important that the Council's investment performance is monitored closely. Detailed monthly reports together with detailed policy investment guidelines support this.

The Investment Schedule, as circulated, provides details of the performance of each individual investment to date.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**

**Land and investment** - Leverage and improve the Town's economic assets to grow the local economy.

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**Own-source revenue** - Enhance the Town's financial sustainability through opportunities to increase commercial revenue.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under Council Policy No: 019 Community Engagement, and does not require community consultation, as this matter is administrative in nature.

**COUNCIL DECISION:**

**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council RECEIVES the Monthly Financial Statements and Investment Report Pack for November 2023 as attached.**

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 12.2.3 Long Term Financial Plan 2023 - 2038

<b>DIRECTORATE:</b>	Corporate and Commercial Services
<b>AUTHOR:</b>	Jaye Parker (Corporate Support Officer)
<b>AUTHORISER:</b>	Vicki Cobby, Acting Director Corporate and Commercial Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Town of Cambridge Strategic Resource Plan [12.2.3.1 - 33 pages]

#### **PURPOSE OF REPORT:**

To adopt the Draft Strategic Resource Plan (formally referred to as the Long-Term Financial Plan) for the fifteen-year period 2023 to 2038, as prepared by KPMG Australia.

#### **EXECUTIVE SUMMARY:**

The previous Town of Cambridge Long Term Financial Plan was prepared and completed by Moore Australia in November 2018. The plan has now been updated and covers the next fifteen years, incorporating the latest forecast revenue and expenditure trends, land sales, major capital projects, as per the Town's asset replacement plans and potential cash drawn downs on reserves.

#### **BACKGROUND:**

Integrated Planning requires the adoption and review of the Strategic Community Plan and the Corporate Business Plan. These plans are integrated with key informing strategies, namely the Strategic Resource Plan, Workforce Plan, Strategic Asset Plan and Information Communication & Technology Plan (ICT).

The Strategic Resource Plan is a key informing strategy in that it:

1. Enables local governments to set priorities, based on their resourcing capabilities, for the delivery of short, medium and long-term community priorities;
2. Presents an indicator of long-term financial stability and allows for early identification of financial issues and their longer-term impacts; and
3. Highlights linkages between specific plans and strategies and enhances the transparency and accountability of the Council to the community

There is no requirement to formally adopt the Strategic Resource Plan, however, being such an important informing strategic document, it should be formally considered by Council as it functions to form the basis for the forthcoming annual budget. It is important to note that the process of financial planning is continuous, and the financial plan is not necessarily a static document.

The current Long Term Financial (Strategic Resource) Plan was prepared and completed by Moore Australia Pty Ltd in November 2018. Given the period that has since elapsed, it is prudent to update the plan to incorporate the changes that have occurred since that time and reflect Council's current strategic direction. Accordingly, KPMG were engaged to review and update the current Town's Long Term Financial Plan.

#### **DETAILS:**

The Strategic Resource Plan has now been updated by KPMG, with input from various Council staff. The plan takes into account the Town's Strategic Community Plan 2023-2033, the annual financial statements 2021/2022 and 2022/2023, current annual 2023/2024 budget and the various asset management plans. A presentation giving an overview of the plan was held by KPMG at a Council Forum, on Tuesday, 7th December 2023.

## Overview

### Key Assumptions

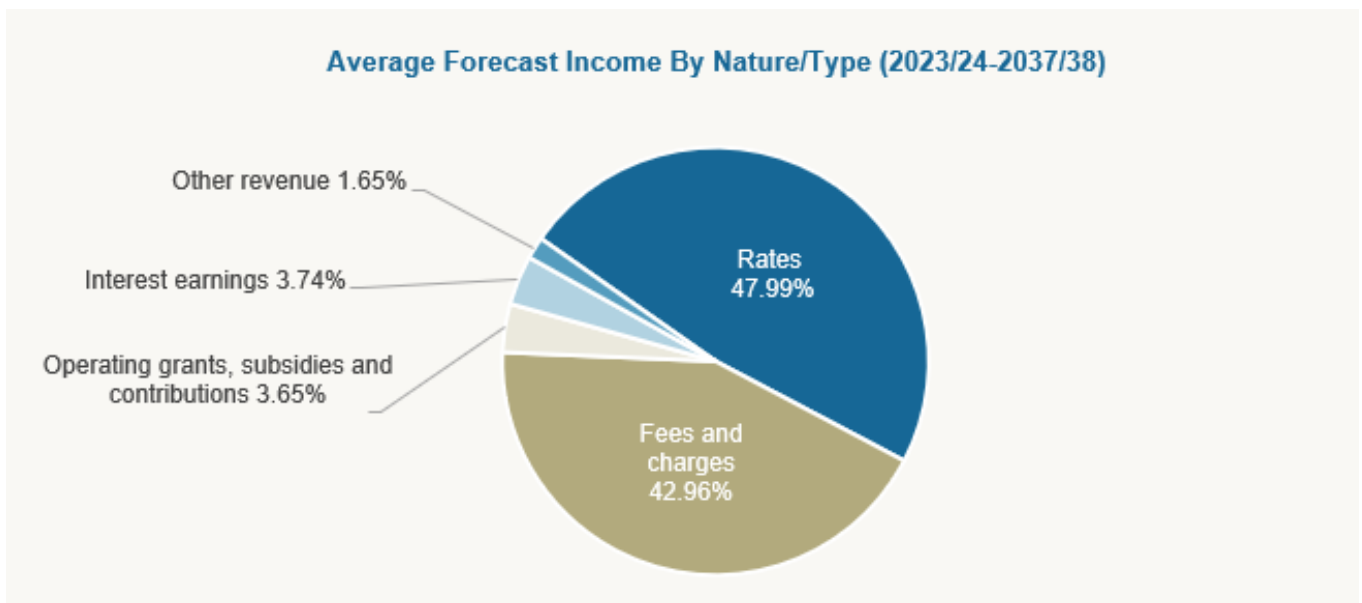
The Strategic Resource Plan has been prepared based on the following key assumptions (averages):

1. Inflation Rate of 2.5%
2. Stable Population
3. Level of services remaining stable
4. Annual budgets balanced each year
5. Employee costs annual increase of 2.84%
6. Operations remaining stable
7. Rates revenue growth 3%
8. Fees and charges growth 2.67%

### Revenue

Revenue composition over the fifteen-year period includes rates increasing from their current level of \$27 million to \$41 million in the 2037/2038 financial year. Fees and charges revenue are expected to generate \$448 million over this period, with untied operating grants, subsidies and contributions adding another \$38 million. Non-operating grants are expected to remain relatively stable being predominantly related to road renewal.

Revenue composition estimated over the 15-year plan is:

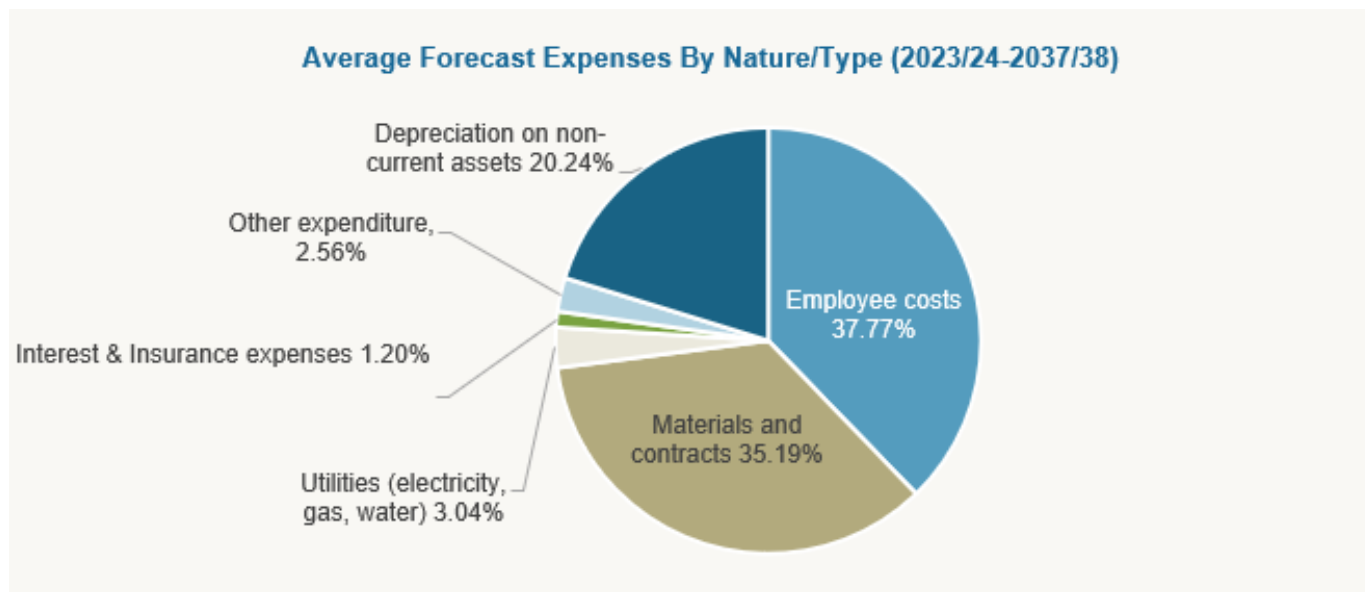


The plan also includes land sales of some \$8.9 million, including the sale of the Ocean Village Carparks.

### Expenditure

Expenditure is forecast to increase in line with inflation with the exception of depreciation expense which is impacted by the addition of assets over the term of the plan. Employee expenditure represents \$419 million over the period of the plan or 38% of total forecast operating expenditure. Materials and contracts make up the majority of the remainder with \$394 million expenditure over the forecast period.

Expenditure composition estimated over the 15-year plan is:



### Capital Programme

A total planned expenditure of \$255 million is forecast for new, renewal and upgrade asset expenditure over the term of the plan aimed at ensuring the continued provision of high-quality community infrastructure to the property owners of the Town. The major capital spend occurs across the following asset classes:

Capital expenditure	(\$,000)
Renewal & Upgrade Projects	209,047
New Projects	46,291
	<b>255,338</b>

Capital expenditure by category	(\$,000)
Buildings	62,172
Furniture and equipment	19,132
Plant and equipment	6,542
Roads and lanes	85,544
Drainage	8,531
Footpaths	15,849
Parks and Reserves	57,568
	<b>255,338</b>

The detailed draft Strategic Resource Plan 2023-2038, together with commentary, is attached giving more detail.

### **COMMENT:**

The Strategic Resource Plan is a significant informing document, as it provides information regarding the resourcing requirements and financial capacity of the Town to achieve its stated objectives and priorities. It will be used to guide council when making decisions about the future, ensuring the longer-term impacts are considered.

**POLICY / STATUTORY IMPLICATIONS:**

Section 5.56(1) and (2) of the Act requires that each local government is 'to plan for the future of the district', by developing plans in accordance with the regulations. The *Local Government (Administration) Regulations 1996* require each local government to adopt a Strategic Community Plan and a Corporate Business Plan. Section 19DA (3)(c) of the Administration Regulations relating to the Corporate Business Plans state that a local government develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.

**RISK MANAGEMENT IMPLICATIONS:**

**Low:** The Strategic Resource Plan forms part of the integrated planning and reporting process and informs the budget which is adopted each year by Council in accordance with applicable local government legislation.

**FINANCIAL IMPLICATIONS:**

The variations in expenditure and revenue line items, compared to budget, may have an impact on Council funds.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**Own-source revenue** - Enhance the Town's financial sustainability through opportunities to increase commercial revenue.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement and does not require community consultation as this matter is administrative in nature.

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council ADOPTS the Strategic Resource Plan for the fifteen-year financial period 2023 to 2038.**

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

## 12.3 Planning and Community Services

### 12.3.1 Turf Maintenance and Management Renewal 2023 - 2028

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Thomas Gosling (Community Development Officer)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"> <li>1. CR19.34 TURF MAINTENANCE AND MANAGEMENT RENEWAL - SUBIACOFLOREAT CRICKET CLUB, WEMBLEY ATHLETIC CLUB AND CAMBRIDGE CROQUET CLUB [12.3.1.1 - 10 pages]</li> <li>2. Subiaco Floreat Cricket Club - Turf Management Letter [12.3.1.2 - 7 pages]</li> <li>3. Wembley Athletic Club (Cricket Section) - Turf Management Letter [12.3.1.3 - 2 pages]</li> <li>4. Cambridge Croquet Club - Turf Maintenance Letter [12.3.1.4 - 7 pages]</li> <li>5. Leederville Sporting Club - Turf Maintenance Letter [12.3.1.5 - 1 page]</li> </ol>

#### PURPOSE OF REPORT:

This report seeks Council approval to renew the turf maintenance and management agreements between the Town and Subiaco Floreat Cricket, Wembley Athletic Club and Cambridge Croquet Club for another five year period, effective from 1 July, 2024, to 30 June 2029, under the same terms and conditions.

#### EXECUTIVE SUMMARY:

The five year turf maintenance and management agreements between the Town and Subiaco Floreat Cricket Club, Wembley Athletic Club (Cricket Section – Wembley Districts Cricket Club) and Cambridge Croquet Club will expire on 30 June 2024. As the Town is in 2024/2025 Draft Budget process, it is timely to review level of financial support provided.

It is proposed to continue to provide financial support for turf maintenance and management, for the above three clubs, for a term of five (5) years, 30 June 2024 – 1 July 2029 to:

- Subiaco Floreat Cricket Club;

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$65,000
2025/2026 - Year 2	\$65,000
2026/2027 - Year 3	\$70,000
2027/2028 - Year 4	\$70,000
2028/2029 - Year 5	\$75,000

- Wembley Athletic Club;

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$28,000
2025/2026 - Year 2	\$28,000
2026/2027 - Year 3	\$31,000
2027/2028 - Year 4	\$31,000
2028/2029 - Year 5	\$33,000

- Cambridge Croquet Club;

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$35,000
2025/2026 - Year 2	\$35,000
2026/2027 - Year 3	\$37,500
2027/2028 - Year 4	\$37,500
2028/2029 - Year 5	\$40,000

The Town also received a new request from Leederville Sporting Club for financial support for the ongoing maintenance of the clubs bowling greens. Leederville Sporting Club seeks a 50% contribution from the Town per year towards its turf management.

It is proposed the Town does not financially support Leederville Sporting Club with the ongoing maintenance of their greens due to its non-competitive club structure nor alignment to a State Sporting Association (SSA). Leederville Sporting Club has two bowling greens and they do not currently utilise these for competitive purposes. This request for financial support therefore does not align with the existing turf maintenance and management agreements, as specified above. These three other clubs all utilise their turf facilities for competitive sport, which is essential to their operation.

**BACKGROUND:**

Since 2006 formalised turf management agreements have been implemented with Subiaco Floreat Cricket Club (32 turf wickets) and the Wembley Athletic Club (Cricket Section) (14 turf wickets). The Town has provided a total of \$830,000 (ex GST) to the Subiaco Floreat Cricket Club and \$320,000 (ex GST) to the Wembley Athletic Club (Cricket Section) towards costs associated with managing turf facilities.

The Town has also provided a total of \$325,000 (ex GST) to the Cambridge Croquet Club (4 lawns) from 2014 to 2023 for the maintenance of their competition lawns (turf).

The combined total of turf specific financial assistance for the three clubs amounts to \$1,475,000 (ex GST) as provided as outlined in Table 1 below:

**Table 1: Annual totals for turf specific financial assistance for competitive sport clubs (2006 to 2023)**

Financial Year	Subiaco Floreat Cricket Club (ex GST)	Wembley Athletic Club (Cricket Section) (ex GST)	Cambridge Croquet Club (ex GST)
2006/07	\$40,000	\$10,000	N/A
2007/08	\$40,000	\$10,000	N/A
2008/09	\$40,000	\$10,000	N/A
2009/10	\$40,000	\$10,000	N/A
2010/11	\$40,000	\$15,000	N/A
2011/12	\$40,000	\$15,000	N/A
2012/13	\$40,000	\$15,000	N/A
2013/14	\$40,000	\$15,000	N/A
2014/15	\$45,000	\$17,500	\$30,000
2015/16	\$45,000	\$17,500	\$30,000
2016/17	\$47,500	\$20,000	\$30,000
2017/18	\$47,500	\$20,000	\$30,000

2018/19	\$50,000	\$20,000	\$30,000
2019/20	\$55,000	\$25,000	\$35,000
2020/21	\$55,000	\$25,000	\$35,000
2021/22	\$55,000	\$25,000	\$35,000
2022/23	\$55,000	\$25,000	\$35,000
2023/24	\$55,000	\$25,000	\$35,000
<b>SUBTOTAL</b>	<b>\$830,000</b>	<b>\$320,000</b>	<b>\$325,000</b>
<b>TOTAL</b>	<b>\$1,475,000 (ex GST)</b>		

Note: Highlighted boxes include current Turf Management Agreement 2019/2020 - 2023/2024.

Prior to 2006, the Town exclusively managed turf facilities for the Subiaco-Floreat Cricket Club and the Wembley Athletic Club (Cricket Section). Prior to 2014, the Town maintained the Cambridge Croquet Club competitive lawns (turf). The role of the Town in overseeing the maintenance and management of these turfs resulted in a significant cost solely borne by the Town. This was mainly due to the need for specialist machinery and equipment and staff costs. The respective turf maintenance and management agreements have been successful since their inception, as they have reduced the cost and resource burden on the Town and has proved to be a more cost-effective option, than the Town directly maintaining and managing the turf.

Since 2005, several reports have been presented to Council on the matter of turf management for competitive cricket clubs, and 2014 for competitive croquet and lawn (turf) maintenance. The 2019 report includes the most recent turf maintenance and management agreement and recommendations (CR19.34, 30 April 2019). This is provided as **attachment 1**.

The current turf maintenance and management agreements, effective from 30 June 2019 between the Town and the Subiaco- Floreat Cricket Club, Wembley Athletic Club and Cambridge Croquet Club will expire at the end June 2024. As the Town is in the process of preparing a Draft 2024/2025 Budget, it is appropriate to examine the level of financial assistance to the clubs.

Consideration of the Leederville Sporting Clubs request also forms part of this assessment and review.

**DETAILS:**

The Town has received written submissions from the Subiaco-Floreat Cricket Club, the Wembley Athletic Club (cricket section) and the Cambridge Croquet Club in relation to their requests for future financial support from the Town for maintenance and management of competitive turf facilities. Copies of these requests are provided as **attachments 2-4**.

The Town has also received a written request from the Leederville Sporting Club requesting financial support from the Town for maintenance of their social bowling green facilities. **Copy provided as attachment 5**

A summary of various points raised by the Clubs are outlined below:

**1. Subiaco Floreat Cricket Club**

Subiaco Floreat Cricket Club has provided a detailed letter requesting an increase from \$55,000 per annum to \$65,000 per annum plus annual National Consumer Price Index increases each year for a five (5) year period. Subiaco Floreat Cricket Club have a contractor who provides turf management services, and they have indicated an increase in contract costs will be forthcoming. Subiaco Floreat Cricket Club are requesting approximately 60% of its turf management costs be subsidised by financial support from the Town.

### **1.1 Reasons cited by the club for the request for an increase in funding**

- Increased capital costs of turf contractor's machinery and equipment to maintain the turf wickets;
- There is a duplication of capital costs associated with the repair and maintenance, as the club hire two reserves – Floreat Oval and Alderbury Reserve (NOTE: the contractor has equipment stored on each reserve);
- Increased club membership numbers including six (6) Junior Teams, five (5) Senior Men's Teams and two (2) Senior Women's Teams (Note: Since the last review of the turf management agreement the club has introduced two (2) further junior girls teams - u14s and u17s). Increased membership has resulted in higher usage of the 32 turf facilities, which has increased the subsequent costs to prepare and manage;
- No financial support from WA Cricket for turf management. Subiaco Floreat Cricket Club has lobbied WA Cricket and Cricket Australia to increase their funding to support the costs of operating a club, with limited success. However, the Club relies on its members and supporters to continue to fund the shortfall; and
- Inflation.

### **1.2 Request for similar terms of agreement**

#### **a) Engagement of specialist to complete turf management**

- Turf management and wicket preparation is a specialist skill set and SFCC feels it is best positioned to engage a contractor to provide these services, to obtain the best value for money and to ensure the turf facilities are prepared to an acceptable competition standard.
- The contractor works on weekends and public holidays to ensure the turf facilities are prepared appropriately. The contractor provides a flexible service, to work when required, which may be more difficult to achieve in another management model.
- The contractor's equipment is kept onsite which assists with the ongoing maintenance of the ground. The contractor's presence deters vandalism, identifies watering and other issues on a timely basis, and assists with the upkeep of the facility as a whole which is enjoyed by the community. The club and contractors work has resulted in the ground consistently receiving awards for the best maintained wickets in the WACA Premier Cricket competition.

#### **b) Competitive performance**

Subiaco Floreat Cricket Club has been the recipients of the following awards:

2021/22 - Premierships for the male 1st Grade and female A grade

2021/22 - Club champions for both the males and females

2022/23 - Floreat Oval was the winner of the best premier league turf wicket in WA

#### **c) Term of Agreement**

- To allow for the Club's medium term planning a minimum of a 5-year agreement is requested. Given the lifecycle of plant equipment and the ability to engage suitable contractors, a lesser period would impact on the ability to plan appropriately and obtain the best value for money.

### **2. Wembley Athletic Club (Cricket Section)**

The Wembley Athletic Club (Cricket Section) have requested an increase from \$25,000 per annum to \$35,000 per annum plus annual National Consumer Price Index increases each year, for a five (5) year period. Wembley Athletic Club (Cricket Section) are requesting approximately 50% of its turf management costs be subsidised by financial support from the Town.

## **2.1 Reasons cited for the request for an increase in funding**

- Significant cost increases through period of current agreement;
- Volunteer labour, and turf maintenance equipment continue to increase in cost; and
- Pat Goodridge Reserve remains one of the best turf cricket facilities in the West Australian Suburban Turf Cricket Association. Wembley Athletic Club (Cricket Section) take great pride in providing the highest possible turf cricket facilities for the club and competition.

## **3. Cambridge Croquet Club**

The Cambridge Croquet Club have requested the same level of financial support received previously of \$35,000 per annum each year for a five (5) year period. Cambridge Croquet Club are requesting approximately 60% of its turf maintenance be subsidised by financial support from the Town.

### **3.1 Reasons cited for funding request**

- To maintain the club's standing as the premier Croquet Club in WA by employing a specialist contractor to complete a professional turf management on its lawns;
- To know the Town's commitment before contract negotiations, to support in renegotiating its turf management contract;
- Long term financial viability.

### **3.2 Financial Assessment**

- It costs the club approximately \$50,000 per year to maintain its lawns (approx. \$12,600 per lawn) with the club absorbing the shortfall from the Town's annual contribution.
- The club foresees a cost increase to at least \$55,000 in the renewed turf contractors term (plus CPI increases annually) and therefore estimates up to a \$100,000 out of pocket expense over the next 5-years.

### **3.2 Other Considerations**

#### **a). Community Involvement**

- The Club has moved away from being purely a Sporting Club and has extended its service to support people with early onset of Dementia and Parkinsons disease, in addition to several community lead initiatives. The Club recognises the social benefit exercise can have for the community.

#### **b). New Member Initiatives**

- The Club has 140 active members which is quickly reaching capacity of the clubs four (4) croquet lawns. The Club, however, continues to investigate opportunities to increase its membership base and it understands the importance that a strong membership base will do to generate income to support its long-term financial viability.

## **4. Leederville Sporting Club**

Leederville Sporting Club have requested 50% of a \$45,000 expected per annum turf contractor cost. Subsequent discussions with the club have clarified that the tendered amount is \$33,000 (excl GST). This would amount to \$16,500 (excl GST) per annum. No time frame for financial support was included.

#### **4.1 Reasons cited for funding request**

- Leederville Sporting Club grass bowling greens are the only heritage listed in the State; and
- Volunteer resources to routinely complete required maintenance on greens is becoming impossible
- Due to reduction in volunteer labour Leederville Sport Club has engaged a turf contractor to complete turf maintenance on the club's greens.
- Leederville Sporting Club has continued to evolve to cater for community needs, which has meant a greater number of people using the club's facilities.

#### **COMMENT:**

##### **Administration Assessment**

The Administration has had correspondence with Subiaco Floreat Cricket Club, Wembley Athletic Club (Cricket Section) and Cambridge Croquet Club to determine an appropriate level of funding for each organisation. For budgeting purposes this assessment has excluded Subiaco Floreat Cricket Club and Wembley Athletic Club (Cricket Section) requests to include an annual Consumer Price Index (CPI) increase, instead the Town has set a proposed increase at regular intervals throughout the 5-year term to allow the Town to make budget arrangements and future proof the agreements to ensure they remain appropriate over the 5-year term. The application of CPI annually can create significant fluctuations across financial years and the Town's approach creates stability and certainty for the Town and Clubs to appropriately plan their budgets.

Subiaco Floreat Cricket Club, Wembley Athletic Club (Cricket Section), and Cambridge Croquet Club all engage specialist contractors to complete the required work to maintain and manage respective turf facilities. The Town acknowledges that in addition to the capital components of turf maintenance and management, the cost of labour through relevant contractors has increased significantly given the challenging economic environment.

Both Cricket Clubs have advised a fundamental requirement to increase the level of current funding, as without the Town's financial support their current contractor relationship may be undermined. The current contractor provides services at a significantly lower cost than other professional turf curators, which allows the club's to maintain a competitive level of turf facilities.

Cambridge Croquet Club has also advised the expected increase in specialist contractor costs, and although the club has requested the same level of financial assistance toward turf maintenance it acknowledges an anticipated \$100,000 out of pocket expense of the following (5) five-year period.

##### **Cricket Clubs (Subiaco Floreat Cricket Club and Wembley Athletic Club – Cricket Section)**

NOTE: Cricket Training Wickets can vary in width dependent on several factors, including turf condition, number of users, time of the season and reasons for preparation. Each training wicket is approximately 2.6m x 24m. Each playing wicket is approximately 3.4m x 24m.

Subiaco Floreat Cricket Club has approximately thirty-two (32) turf facilities to prepare and manage: five (5) Turf Playing Wickets at Floreat Oval, five (5) Turf Playing Wickets at Alderbury Reserve and approximately twenty-two (22) Training Wickets at Floreat Oval.

Wembley Athletic Club has approximately fourteen (14) Turf Wickets to prepare and maintain: five (5) Turf Playing Wickets and approximately nine (9) Turf Training Wickets at Pat Goodridge Reserve.

The Administration notes that Subiaco Floreat Cricket Club has a limited capacity to increase revenue from participation fees given the club is constrained by the size and level of the competition in which it competes. The WA Premier Cricket Competition only allows each club to provide one team per competitive grade. As such Subiaco Floreat Cricket has the maximum number of teams available: Men's Grades 1-4, Female Grades A and B, Junior Male (u17, u15s, u14s and u13s) and Junior Female (u17s and u14s).

It is noted that Subiaco Floreat Cricket Club and Wembley Athletic Club (Cricket Section) both faced similar circumstances regarding significant increases in capital costs to maintain its turf facilities, and therefore the Administration believe this formula captures an adequate increase appropriate to the number of turf facilities. The Administration used the following formula to determine how much it would be providing Subiaco Floreat Cricket Club per turf facility and applied that figure to the fourteen (14) turf facilities Wembley Athletic Club (Cricket Section) is required to maintain. It is therefore recommended the formula below be applied to determine the appropriate increase in funding over the next 5 years. The formula is based on the nominated annual agreement amount divided by the number of turf wickets on the hired reserves, with annual increases to manage increased costs over future budgets.

Agreement/Financial Years	Formula
Year 1 and 2 2024/2025 and 2025/2026	$\$65,000/32 = \$2,031.25$  $14 \times \$2,031.25 = \$28,437.50$ (Rounded down to \$28,000)
Year 3 and 4 2026/2027 and 2027/2028	$\$70,000/32 = \$2,187.50$  $14 \times \$2,187.50 = \$30,625$ (Rounded up to \$31,000)
Year 5 2028/2029	$\$75,000/32 = \$2,343.75$  $14 \times \$2,343.75 = \$32,812.50$ (Rounded up to \$33,000)

#### Cambridge Croquet Club

Cambridge Croquet Club has requested the same level of funding for the next 5 years. The Administration however acknowledges that Cambridge Croquet Club forecasts a \$100,000 out of pocket expense over the next 5 years. It is therefore recommended Cambridge Croquet Club's level of funding remain the same for years 1 and 2, a \$2,500 increase be applied for years 3 and 4, and another \$2,500 increase be applied for year 5.

Agreement/Financial Years	Proposed Contribution
Year 1 and 2 2024/2025 and 2025/2026	\$35,000
Year 3 and 4 2026/2027 and 2027/2028	\$37,500
Year 5 2028/2029	\$40,000

#### Leederville Sporting Club

Leederville Sporting Club was not considered appropriate for including in this type of turf management and maintenance program, due to the primary use of the clubs bowling greens being for non-competitive purpose and are purely a social recreational asset, compared to the other clubs' which have requested financial support, which is imperative for the ongoing operation and their competitive purpose. Leederville Sporting Club also is not aligned to the parent State Sporting Association, Bowls WA which is a requirement for competitive bowls in Western Australia.

Sport & Recreation Clubs who have turf/grass facilities as part of their leased areas (including Leederville Sporting Club) are all required to service and maintain these facilities in accordance with their respective leases. This includes.

1. Leederville Sporting Club
2. Lake Monger Recreation Club

3. Cambridge Bowling Club
4. City Beach Tennis Club
5. Floreat Park Tennis Club
6. Reabold Tennis Club

If the Town was to approve the Leederville Sporting Club request this would set a precedent for turf maintenance contributions and could open the opportunity for the other five Sport and Recreation Clubs, who have turf/grass facilities in their leased areas to request similar arrangements. This could become a significant annual financial commitment by the Town.

**POLICY / STATUTORY IMPLICATIONS:**

There are no Policy or Statutory Implications related to this report.

**RISK MANAGEMENT IMPLICATIONS:**

**High:** The Town’s Strategic Community Plan 2023 - 2033 outlines a commitment to support local clubs and their capacity to run community activities. Failure to support the competition grade clubs through provision of core requirements for their continued operation will cause clubs to reduce or cease operation in the local community.

**FINANCIAL IMPLICATIONS:**

Based on the recommendation from the Administration three competition clubs would be offered Turf Management and Maintenance Agreements, as outlined below totaling \$681,000 for the life of the (5) five year agreements.

**Table 2: Budget Allocations 2024/2025 to 2028/2029**

Club	Year 1 2024/2025	Year 2 2025/2026	Year 3 2026/2027	Year 4 2027/2028	Year 5 2028/2029	Total
Subiaco Floreat Cricket Club	\$65,000	\$65,000	\$70,000	\$70,000	\$75,000	<b>\$345,000</b>
Wembley Athletic Club (Cricket Section)	\$28,000	\$28,000	\$31,000	\$31,000	\$33,000	<b>\$151,000</b>
Cambridge Croquet Club	\$35,000	\$35,000	\$37,500	\$37,500	\$40,000	<b>\$185,000</b>
<b>Total</b>	<b>\$128,000</b>	<b>\$128,000</b>	<b>\$138,500</b>	<b>\$138,500</b>	<b>\$148,000</b>	<b>\$681,000</b>

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2018-2028:-

**Our People: A community that supports wellbeing, connection and inclusion**

**Places for People** - Together with our community, plan, create and activate neighbourhoods that are distinctive, welcoming and accessible.

**Our Environment: An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces**

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**Local identity** - Elevate the Town's identity as the best place to live, led by an organisation with a clear vision for our future.

**COMMUNITY ENGAGEMENT:**

Administration has discussed requests with each of the four clubs.

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

**INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

**Impartiality Interest Declaration - Cr Barlow**

Prior to consideration of the item, the Cr Barlow disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.1, I declare that I am a member of the Bowlo and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**Impartiality Interest Declaration - Cr Le Page**

Prior to consideration of the item, Cr Le Page disclosed an interest affecting impartiality and declared as follows: "with respect to Item 12.3.1, I declare that I am a member of Reabold Tennis Club and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.1, I declare that I am a member of the Leederville Sporting Club and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. NOTES the requests from Subiaco Floreat Cricket Club, Wembley Athletic Club, Cambridge Croquet Club and Leederville Sporting Club for financial assistance in maintaining respective surfaces;**
- 2. APPROVES the renewal of the Turf Maintenance and Management Agreements between the Town and the Subiaco Floreat Cricket Club, Wembley Athletic Club and Cambridge Croquet Club.**

**3. APPROVES a total of \$345,000 (ex GST) for a five (5) year period, effective from 1 July 2014 to 30 June 2029 for Subiaco Floreat Cricket Club for turf management at Floreat Oval and Alderbury Reserve;**

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$65,000
2025/2026 - Year 2	\$65,000
2026/2027 - Year 3	\$70,000
2027/2028 - Year 4	\$70,000
2028/2029 - Year 5	\$75,000

**4. APPROVES a total of \$151,000 (ex GST) for a five (5) year period, effective from 1 July 2014 to 30 June 2029 for Wembley Athletic Club (Cricket Section) for turf management at Pat Goodridge Reserve;**

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$28,000
2025/2026 - Year 2	\$28,000
2026/2027 - Year 3	\$31,000
2027/2028 - Year 4	\$31,000
2028/2029 - Year 5	\$33,000

**5. APPROVES a total of \$185,000 (ex GST) for a five (5) year period, effective from 1 July 2014 to 30 June 2029 for Cambridge Croquet Club for turf maintenance of its lawns;**

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$35,000
2025/2026 - Year 2	\$35,000
2026/2027 - Year 3	\$37,500
2027/2028 - Year 4	\$37,500
2028/2029 - Year 5	\$40,000

**6. REFUSE financial assistance for Leederville Sporting Club to subsidise turf maintenance costs for its grass bowling greens.**

**AMENDMENT:**

Moved by Cr Mayes, seconded by Cr Randklev

That clause 6 of the motion be AMENDED to read as follows:

**1. APPROVES a total amount of \$82,500 for a five (5) year period, effective from 1 July 2024 to 30 June 2029 for the Leederville Sporting Club for turf maintenance of it lawns:**

Financial Year	Financial Support Contribution (ex GST)
2024/2025 - Year 1	\$16,500
2025/2026 - Year 2	\$16,500
2026/2027 - Year 3	\$16,500
2027/2028 - Year 4	\$16,500
2028/2029 - Year 5	\$16,500

**Motion put and LOST (4/5)**

For: Cr Cutler, Cr Carr, Cr Mayes and Cr Randklev

Against: Mayor Mack, Cr Barlow, Cr Le Page, Cr Kennerly and Cr Foley

**PROCEDURAL MOTION:**

**Moved by Cr Randklev, seconded by Cr Cutler**

**That Council DEFERS the item to the March 2024 Ordinary Meeting of Council to enable further information to be obtained.**

**Procedural motion put and LOST (4/5)**

For: Cr Cutler, Cr Carr, Cr Mayes and Cr Randklev

Against: Mayor Mack, Cr Barlow, Cr Le Page, Cr Kennerly and Cr Foley

**Original Motion put and CARRIED (7/2)**

For: Mayor Mack, Cr Barlow, Cr Carr, Cr Cutler, Cr Foley, Cr Kennerly and Cr Le Page

Against: Cr Mayes and Cr Randklev

### 12.3.2 Disability Access and Inclusion Advisory Group Terms of Reference Adoption and Appointment of Council Members

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Sarah Kitis (Community Development Officer), Renee McIntosh (Coordinator Community Development)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Attachment 1 - Terms of Reference Disability Access and Inclusion Advisory Group [12.3.2.1 - 2 pages] 2. CONFIDENTIAL - Attachment 2 - CONFIDENTIAL Community Member List [12.3.2.2 - 1 page]

#### PURPOSE OF REPORT:

The purpose of this report is to appoint Elected Member representatives to the Disability Access and Inclusion Advisory Group (DAIAG) and to present updated Terms of Reference for Council endorsement.

#### EXECUTIVE SUMMARY:

Under Outcome Area 6 of the Town's DAIP 2022-2028, there is a requirement to update the Terms of Reference for the DAIAG. Administration has developed the draft Terms of Reference (**Attachment 1**) for Council endorsement.

Additionally, to the updated Terms of Reference, and because of the 2023 Council Election, there are several vacant positions on the DAIAG. A call for nominations from Elected Members is requested to appoint a minimum of one and a maximum of two positions on the DAIAG, for a two-year term.

#### BACKGROUND:

In September 2022, the Town established a Disability Access and Inclusion Plan (DAIP) Review Working Group to support the development of the Town's DAIP, which was finalised and subsequently endorsed by the Council in August 2023.

To continue with the positive momentum of the DAIP Review Working Group, in May 2023 the former Mayor requested the formation of a Disability Access and Inclusion Advisory Group to identify initiatives to promote disability access and inclusion within the Town.

#### DETAILS:

Community members who participated in the DAIP Review Working Group were invited to continue to support disability access and inclusion in the Town, through being part of the new DAIP Advisory Group. Additionally other representatives who have diverse experiences, skills, and qualifications in the field of disability, access and inclusion were approached to join.

A confidential attachment to this report lists the current community group members.

Past Elected Member representatives are listed below:

- the former Mayor;
- the former Deputy Mayor; and
- a former Councillor.

The Town's new DAIP provides a planned approach to progressively improving access and inclusion in the community. It also builds upon the work already achieved in improving physical access to buildings and facilities, raising awareness through training and events, encouraging inclusive programs, and increasing information and communication opportunities for people with disability within the Town. The DAIP and supporting Implementation Plan outlines the various strategies and actions the Town plans to undertake, to meet outcome goals.

The Implementation Plan under Outcome 6 *People with disability have the same opportunities as other people in any public consultation by the Town of Cambridge* in the Town's DAIP, outlines the following-

**Strategy 2.** Establish a Disability and Inclusion Working Group as an expert consultative group.

- **Action 2. a:** Establish a DAIAG as an expert consultative group and promote the working group internally as a key stakeholder for feedback and guidance on access and inclusion in the Town;
- **Action 2. b:** Develop Terms of Reference for the DAIAG

These actions support the continuation and formalisation of the DAIP Advisory Group including the development of the Terms of Reference, which will serve as a framework to guide the group. As the DAIP is now established, it is recommended that the Working Group pivots to become an Advisory Group, as the role of the group has changed to one of review and oversight.

#### **POLICY / STATUTORY IMPLICATIONS:**

*Policy 002 - Access to Services and Facilities for People with a Disability.* This policy describes the Town's commitment to ensuring that Council facilities are accessible for people with disability, their families, and carers and that reasonable measures will be taken to provide this level of access. It also outlines the Town's commitment to consulting with people with disability, their families, and carers and, where required, disability organisations to ensure that barriers to access are addressed appropriately.

#### **RISK MANAGEMENT IMPLICATIONS:**

**Low:** Failure to support the DAIAG Terms of Reference will result in the Town's inability to deliver actions under Outcome 6 of the Town's DAIP.

#### **FINANCIAL IMPLICATIONS:**

The costs associated with the operation of the DAIAG are minimal, these are met through the current approved divisional budget. There are no additional costs associated with the review of the DAIAG Terms of Reference.

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our People: A community that supports wellbeing, connection and inclusion**

**Places for People** - Together with our community, plan, create and activate neighbourhoods that are distinctive, welcoming and accessible.

**Our Town: A transparent organisation that drives performance with leadership and integrity**

**Community engagement** - Engage with the community to build partnerships, increase community capacity, inform and provide transparency in decision making.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

**INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

**ADMINISTRATION RECOMMENDATION:**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. APPROVES two Elected Members as Council representatives to the Disability Access and Inclusion Advisory Group, for a term of two years, being:**
  - a. Name 1**
  - b. Name 2**
  
- 2. ADOPTS the proposed Disability Access and Inclusion Advisory Group Terms of Reference.**

Crs Barlow and Kennerly nominated.

**COUNCIL DECISION:**

**That Council:**

- 1. APPROVES two Elected Members as Council representatives to the Disability Access and Inclusion Advisory Group, for a term of two years, being:**
  - a. Cr Barlow**
  - b. Cr Kennerly**
  
- 2. ADOPTS the proposed Disability Access and Inclusion Advisory Group Terms of Reference.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.3 Heritage Grant Program 2023/2024

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Morgan Hutton (Senior Statutory Planning Officer)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Attachment 1 - Heritage Grant Program 2023-2024 Evaluation of Applications [ <b>12.3.3.1</b> - 17 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is to present applications received for the 2023/2024 round of the Heritage Grant Program to the Council for consideration for funding.

#### **EXECUTIVE SUMMARY:**

Five (5) applications were received for the 2023/2024 round of the Heritage Grant Program. A total of \$25,437.50 (including GST) for valid applications has been requested for conservation works that include repainting, replacing windows, repairing cracked brickwork, roof replacement, and other repair works.

#### **BACKGROUND:**

The Town's Heritage Grant Program was established in 2019 under *Local Planning Policy 1.6: Assistance for Heritage Places* (LPP 1.6) to support landowners with the conservation of places entered in the Town's Heritage List, located within a Heritage Area designated under the Scheme, or entered in the State Register of Heritage Places.

Funding is offered for 50% of the total costs of a project, up to a maximum contribution of \$5,500.00 (including GST). Eligibility and selection criteria are detailed in LPP 1.6. Grants are awarded by Council and paid once the project is completed. Successful applicants will be required to sign and submit a Heritage Grant Agreement before commencing the project.

For the Heritage Grant Program, 'Conservation' means:

*"the management of a place in a manner that will:*

- a) enable the cultural heritage significance of that place to be retained; and*
- b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place,*

*and may include the preservation, stabilization, protection, restoration, reconstruction, adaptation, and maintenance of that place in accordance with relevant professional standards, and the provision of an appropriate visual setting."*

The Heritage Grant Program funding provided to owners conducting conservation works on heritage places during the previous funding rounds is as follows:

- 2022/2023: \$16,370.00 (ex. GST)
- 2021/2022: \$19,055.00 (ex. GST)
- 2020/2021: \$13,500.00 (ex. GST)
- 2019/2020: \$6,458.50 (ex. GST)

**DETAILS:**

Applications for the 2023/2024 round of the Heritage Grant Program were accepted between 8 September 2023 and 22 October 2023. Five (5) applications were received, as shown in **Attachment 1**. All four properties listed in the below table are entered on the Town’s Heritage List.

A summary of the applications and evaluation against the LPP 1.6 provisions and heritage advice are provided in **Attachment 1**.

Administration sought independent heritage advice on the applications. This advice was supplied by Hocking Heritage & Architecture. The heritage advice recommended that the five applications could be supported, subject to some guidance to ensure compliance with accepted conservation principles. They are also considered to meet the relevant LPP 1.6 provisions and deliver a positive conservation outcome.

As it is an eligibility requirement that no property have a rates debt with the Town, all applications have been assessed accordingly and any applicants that are awarded a heritage grant by Council will be required to have any outstanding rates resolved prior to grant of funds.

In summary, it is recommended that Council approve funding contributions for the applications as follows:

Heritage Place and Grant Application	Recommended Grant Contribution	
	(Ex. GST)	(Incl. GST)
<b>12 The Boulevard, Floreat</b> Paint exterior of original dwelling	\$5,000.00	\$5,500.00
<b>12 Yanagin Crescent, City Beach</b> Repair cracked brickwork	\$2,400.00	\$2,640.00
<b>16 Lifford Road, Floreat</b> Replace roof of original dwelling	\$5,000.00	\$5,500.00
<b>23 Holyrood Street, West Leederville</b> Paint exterior of original dwelling, including sanding back current paintwork	\$5,000.00	\$5,500.00
<b>24 Dilkara Way, City Beach</b> Replace windows and sliding door to front lounge room	\$5,000.00	\$5,500.00
<b>TOTAL</b>	\$22,400.00	\$24,640.00

Following Council's determination, the applicants will be notified of the outcome. Successful applicants will be provided a grant agreement detailing the amount awarded and the standard terms of the grant.

**Exempt from Requiring Development Approval**

As per Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, development approval is not required for maintenance and repair works which are addressed in regulations 41(1)(b) to (i) of the *Heritage Regulations 2019*. The proposed works are considered to be ‘maintenance and repair’ and meet the below exemptions as per regulations 41(1)(b) to (i) of the *Heritage Regulations 2019*:

“(b) maintenance of buildings, structures and other built forms that does not involve —

- (i) the removal of, or damage to, the existing fabric of the building, structure or built form; or
- (ii) the use of new materials;...

... (e) the repair of buildings, structures and other built forms by replacing missing or deteriorated fabric with like for like fabric;...

...(g) *repainting of the surface of a building —*

- (i) *in the same colour scheme and paint type if they are appropriate to the substrate and do not endanger the survival of earlier paint layers; and*
- (ii) *without disturbing or removing an earlier paint layer unless it is chalking, flaking or peeling;”*

#### **POLICY / STATUTORY IMPLICATIONS:**

The assessment and Council consideration is guided by the Heritage Grant Program provisions detailed in *Local Planning Policy 1.6: Assistance for Heritage Places*.

#### **RISK MANAGEMENT IMPLICATIONS:**

The assessment of grant applications and Council consideration is guided by the Heritage Grant Program provisions detailed in *Local Planning Policy 1.6: Assistance for Heritage Places*.

**Low:** *Local Planning Policy 1.6: Assistance for Heritage Places* outlines the Town’s commitment to support owners of heritage places to conserve places of cultural significance to the locality and the Town’s community. Failure to support grant applications may compromise the capacity for landowners to undertake conservation work in a timely manner.

#### **FINANCIAL IMPLICATIONS:**

The Heritage Grant Program is funded through the Planning Heritage Grants and Assessments allocation in the 2023/2024 Budget of \$25,000.00.

The current balance on the Heritage Grants and Assessment budget allocation is \$22,400 (ex. GST). Hocking Heritage & Architecture’s advice in relation to the grant applications was obtained for \$2,600 (ex. GST). The remaining budget allocation is \$22,400 (ex. GST).

If the recommended grant funding amounts are supported, a total of \$22,400 (ex. GST) will be expended. Funding is paid on completion of the project and acceptance of grant acquittal documentation. All grants are to be acquitted by the end of the 2023/2024 financial year.

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2018-2028:-

**Our People: A community that supports wellbeing, connection and inclusion**

**Culture, arts and heritage** – Celebrate our culture, arts and heritage to retain the Town’s unique character

**Our Environment: An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces**

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

#### **COMMUNITY ENGAGEMENT:**

The 2023/2024 round of the Heritage Grant Program opened Friday, 8 September 2023 and closed Sunday, 22 October 2023. Owners of eligible heritage places were advised in writing of the grant application period.

The recommendations of this report have been assessed under the Community Engagement Policy No: 019 as not requiring community consultation. The applicants will be advised of the outcome of this report.

**Proximity Interest Declaration - Cr Foley**

Prior to consideration of the item, Cr Foley, in accordance with Section 5.65 of the Local Government Act 1995, declared a proximity interest in this matter and left the meeting at 8.47 pm.

**COUNCIL DECISION:**  
(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. Through the Heritage Grant Program, APPROVES an allocation of:**
  - 1.1 \$5,500.00 (including GST) for the proposed repainting of the external walls at Lot 6 (No. 12) The Boulevard, Floreat, subject to the following conditions:**
    - (a) arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places;**
    - (b) the paint shall match the colour scheme of the existing dwelling;**
    - (c) any cleaning shall be low pressure, non-abrasive and non-chemical; and**
    - (d) all surfaces shall be fully prepped prior to repaint and all loose paint shall be removed prior to repainting.**
  - 1.2 \$2,640.00 (including GST) for the proposed works and repairs to the block work at Lot 613 (No. 12) Yanagin Crescent, City Beach, subject to the following conditions:**
    - (a) where possible, original blocks should be retained and reinstated;**
    - (b) the proposed repair work, including the materials used, shall match the existing fabric of the block work;**
    - (c) the details of the proposed materials shall be provided with the building permit application and shall be to the Town's satisfaction; and**
    - (d) the insertion of rods to secure the structure shall be unobtrusive.**
  - 1.3 \$5,500.00 (including GST) for the proposed roof replacement at Lot 1575 (No. 16) Lifford Road, Floreat, subject to the following conditions:**
    - (a) arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places; and**
    - (b) the proposed repair work, including the materials used, shall match the fabric of the existing roof.**

**1.4 \$5,500.00 (including GST) for the proposed repainting of the external walls at Lot 15 (No. 23) Holyrood Street, West Leederville, subject to the following conditions:**

- (a) arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places;**
- (e) the paint shall match the colour scheme of the existing dwelling;**
- (b) the proposed repair work, including the materials used, shall match the existing fabric of the dwelling; and**
- (c) all surfaces shall be fully prepped prior to repaint and all loose paint shall be removed prior to repainting.**

**1.5 \$5,500.00 (including GST) for the proposed replacement of the windows and sliding doors to the front lounge room at Lot 36 (No. 24) Dilkara Way, City Beach, subject to the following conditions:**

- (a) arrangements are made with the Town to address eligibility requirements in Local Planning Policy 1.6: Assistance for Heritage Places;**
- (b) the original proportion of the six window panes shall be retained; and**
- (c) the height and width of the replacement windows shall match the existing windows.**

**Motion put and CARRIED (8/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Mayes and Cr Randklev

Against: Nil

Cr Foley returned to the meeting at 8.49 pm.

### 12.3.4 Kind-Hearted Events - End of Summer Festival at Perry Lakes Reserve

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Renee McIntosh (Coordinator Community Development)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"><li>1. Kind- Hearted Events Assessment Matrix and corresponding Council Policy 028 [<b>12.3.4.1</b> - 5 pages]</li><li>2. Kind- Hearted Events Site Plan for 2024 End of Summer Event [<b>12.3.4.2</b> - 1 page]</li><li>3. Kind- Hearted Events Fee Waiver Request for 2024 End of Summer Event [<b>12.3.4.3</b> - 1 page]</li></ol>

#### PURPOSE OF REPORT:

This report seeks Council's approval or refusal for a proposed Large Event (Category 5) in accordance with Council *Policy 028: Open Space Booking and Events Policy*.

#### EXECUTIVE SUMMARY:

The Town has received a written request from Kind-Hearted Australia Ltd to hold an End of Summer Festival event on Saturday, 17 February 2024 at Perry Lakes Reserve, Floreat.

The purpose of the festival is to fundraise for Kind-Hearted Australia Ltd (a registered not-for-profit organisation based in Wembley) and to engage with the local community and local businesses. This event has been assessed under the event assessment matrix and classed as a Category 5 event (**Attachment 1**). Council approval is required for all Category 4 and 5 – extraordinary events in accordance with *Policy 028: Open Space Bookings and Events*.

#### BACKGROUND:

On 1 November 2023 the Town received a written request from Kind-Hearted Australia Ltd in relation to holding an End of Summer Festival event on Saturday, 17 February 2024 at Perry Lakes Reserve, Floreat.

Council at its meeting held on Tuesday, 22 November 2022 approved Kind-Hearted Events to run a similar “End of Summer” festival at Perry Lakes Reserve, on Saturday, 11 February 2023 (refer CR22.106). Subsequently, the organiser contacted the Town to postpone the event to 2024 to give themselves more planning and organisation time. A new application has been submitted for the February 2024 event.

#### DETAILS:

The End of Summer event will be a family-friendly festival involving a variety of food and drink vendors, attractions such as rides and inflatables, live entertainment provided by musicians, and market stalls selling a variety of products. The purpose of the festival is to fundraise for Kind-Hearted Australia Ltd (a registered not-for-profit organisation based in Wembley) and to engage with the local community and local businesses. Kind-Hearted Australia undertakes fundraising events to support organisations such as Telethon and the Perth Children’s Hospital Foundation. They also support new mothers of babies with various health conditions, as well as their immediate families including sibling support.

Set-up of the event will commence at 7:00am at Perry Lakes Reserve (Area 5). The event activities will commence at 11:00am and will conclude at 6:00pm. Pack-up will commence at 6:00pm and will be completed by 9:00pm. Attendee numbers over the course of the event have been anticipated to be around 5,000.

The details for the proposed event were referred to the relevant Town business areas (Health and Compliance, Parks, and Ranger Services) for feedback and there were some concerns raised in relation to the event. Each of these concerns have been outlined below along with the mitigation strategies provided by Kind-Hearted Australia Ltd, in conjunction with the Town.

### 1. Parking and Traffic Management

With the high volume of expected event attendees, effective parking management is a concern for the Town. Parking in the area is available at Perry Lakes Reserve by opening further areas for parking on the reserve as demonstrated in the Site Map (**Attachment 2**). The section of the reserve adjacent to the event area is often used for overflow car parking and has a history of providing adequate overflow parking for events of this nature and size. It is necessary for a traffic management plan to be developed and implemented by Kind-Hearted Australia Ltd, in conjunction with a qualified traffic management company, to ensure that vehicle use, and parking is conducted with effective controls to ensure attendee safety. Provision for parking would need to be addressed in the risk management plan along with the traffic management plan. This traffic management plan is to be submitted to the Town a minimum of four weeks prior to the event to ensure risks are effectively mitigated.

The cost for a traffic management plan and personnel on the day will be borne by Kind-Hearted Australia Ltd.

### 2. Noise Management

The event itself should not create any excessive noise levels, and as a Community Festival, the event is noise exempt under Regulation 16 of the Environmental Protection (Noise) Regulations 1997. As there will be live musical entertainment and amplified noise (announcements and music), a letter-drop to surrounding residences will be required prior to the event. This letter will be submitted to the Town for approval prior to distribution and will require full details of the event including a manned telephone hotline to respond to residents before and during the event in the case of disruptive noise. The event pack-up times have also been planned to ensure that any associated noise is restricted to before 9:00pm and the event site is located as far from residences as possible.

### 3. Antisocial Behaviour

Due to the increased number of event attendees anticipated, there is concern around the potential for antisocial behaviour. While the primary demographic of attendees are families and members of the local community the possibility of antisocial behaviour is still a concern and will be addressed by engaging a minimum of one qualified crowd control personnel per 500 people to undertake active surveillance during the event. Prior notification of the event will also need to be sent through to all relevant Emergency Services including WA Police and St John's Ambulance. St John's Ambulance personnel will also provide first aid at the event with 1-2 first aiders per 500 attendees required. The event is an alcohol-free event.

The cost for crowd control and St John's Ambulance will be borne by Kind-Hearted Australia Ltd.

### 4. Fee Waiver and In-kind Support

Kind-Hearted Australia Ltd have formally requested a fee waiver of the Open Space Hire Fees (**Attachment 3**). Table 1: Open Space Hire Fees, outlines the fees associated with the event and it is recommended that Council support the request to waive the application and hire fees to support Kind-Hearted Australia Ltd in their endeavour to provide a family-friendly festival for the local community.

**Table 1: Open Space Hire Fees**

<b>Event Application Fee</b>	\$ 648.00
<b>Perry Lakes Reserve Hire Fee</b> Light Commercial \$151/hr (max day rate 7hrs)	\$ 1057.00
<b>TOTAL</b>	<b>1705.00</b>

It is recommended that the Town support this fee waiver request.

## 5. Event Documents

Kind-Hearted Australia Ltd have provided the following event documents to support their application for their End of Summer Festival event at Perry Lakes Reserve:

- (i) Draft Risk Management Plan with Event Run Sheet
- (ii) Interim site plans of Perry Lakes Reserve

Pending Council approval, Kind-Hearted Australia Ltd would be required to provide more detailed information specific to the event including but not limited to:

- (a) final detailed event plan and site map
- (b) final risk management plan
- (c) traffic/parking/pedestrian management plan
- (d) noise management plan
- (e) waste management plan
- (f) engagement with the surrounding local community regarding the event
- (g) list of contractors
- (h) provision of all licenses and insurances relevant to the event organisers and its contractors
- (i) certifications for structural adequacy of erected structures, electrical sign off for vendors using power.

### COMMENT:

Kind-Hearted Australia Ltd's previous experience and detailed submission for their 2024 End of Summer event demonstrates their ability and capacity to undertake an event of this nature.

This event further activates the Town's open spaces with additional opportunities for the community to meet, socialise, and collaborate.

Although this is not a free community event, the money raised through ticketed activities will directly support Kind-Hearted Australia Ltd in their fundraising efforts for the various charities and organisations they assist.

### POLICY / STATUTORY IMPLICATIONS:

This report is guided by Council's Policy No: 028 – 'Open Space Bookings and Events under Category 5 Events'.

### RISK MANAGEMENT IMPLICATIONS:

**Medium:** The proposed event will be guided by Council Policy No: 028 - Open Space Bookings and Events under Category 5 events and a Memorandum of Understanding.

### FINANCIAL IMPLICATIONS:

All associated costs with the proposed event are the responsibility of Kind-Hearted Australia Ltd, who are aware that fees and charges may be applicable and may be imposed at the Town's discretion.

The event has been classed as Category 5 under Council Policy No: 028 – 'Open Space Bookings and Events', using the endorsed assessment matrix; along with the applicable event fees and charges.

In accordance with this, applicable Open Space hire fees for the event total \$1,705.00 as outlined in Table 1: Open Space Hire Fees which Kind-Hearted Australia Ltd have requested be waived by Council (refer Attachment 3).

Other potential fees associated with the event are outlined below:

1. Stallholder Permits - \$85.00 per stallholder
2. Noise Monitoring Costs - \$80.00/hr (duration of event)
3. Temporary Public Building assessment and inspection - \$80/hr (1-2hrs)
4. Application for Reg 18 (non-conforming event) \$1,000.00/per event

In line with the 2023/2024 Fees and Charges the reserve bond for a Category 4 or 5 event is at the discretion of Council. Given the number of people estimated to attend the event and the level of activity and infrastructure on the reserve, it is recommended to charge a bond of \$5,000.

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

#### **Our People: A community that supports wellbeing, connection and inclusion**

**Connectedness and capacity building** – encourage social connection by providing opportunities for the community to meet, socialise and collaborate

**Places for People** - Together with our community, plan, create and activate neighbourhoods that are distinctive, welcoming and accessible.

#### **Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**

**Local business** - Encourage a resilient local economy by supporting local businesses to thrive.

**Visitor Economy** - Attract visitors to the Town by providing exceptional experiences and iconic Perth destinations.

#### **COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

#### **INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

#### **COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

1. **APPROVES, the proposal by Kind-Hearted Australia Ltd to conduct the End of Summer 2024 event at Perry Lakes Reserve (Area 5), from 7:00am to 9:00pm Saturday, 17 February 2024 (including set-up and pack-up);**
2. **APPROVES in-kind support through the waiving of the following fees totaling \$1,705.00:**
  - 2.1 **Event Application fee of \$648.00;**
  - 2.2 **Perry Lakes Reserve Hire fee - \$1,057.00;**
3. **APPROVES a bond of \$5,000 to be charged to Kind-Hearted Australia Ltd for their use of Perry Lakes Reserve (Area 5) to conduct their End of Summer Event on Saturday, 17 February 2024;**

- 4. NOTES that support for the End of Summer Festival is subject to:**
- 4.1 Compliance with legislative requirements including Town policies, local laws and regulations, in particular conditions of Policy 028 – Open Space Bookings and Events (Category 5);**
- 4.2 Payment of the following event fees (if applicable):**
- (a) Stallholder Permits \$85/day;**
  - (b) Temporary Public Building assessment and inspection - \$80/hr (1-2hrs);**
  - (c) Application for Reg 18 (non-conforming event) \$1,000/per event;**
  - (d) Noise Monitoring Costs - \$80/hr (duration of event);**
- 4.3 The provision of more detailed information specific to the event by Kind-Hearted Australia Ltd as part of a Memorandum of Understanding (MOU) including, but not limited to:**
- (a) final detailed event plan and site map;**
  - (b) risk management plan;**
  - (c) traffic/parking/pedestrian management plan;**
  - (d) noise management plan;**
  - (e) waste management plan;**
  - (f) engagement with the surrounding local community regarding the event**
  - (g) list of contractors; and**
  - (h) provision of all licenses and insurances relevant to the event organisers and its contractors;**
- and**
- 5. AUTHORISES the Chief Executive Officer to sign a Memorandum of Understanding, in accordance with a Category 5 event as outlined in Council Policy 028 Open Space Bookings and Events and detailing matters identified in item 3.4 above, for the End of Summer Festival on behalf of Kind-Hearted Australia Ltd.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.5 Amendment to Delegated Authority 1.2.19 - Authority to Issue Refunds

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Seisha Fogarty-Pryor (Manager Community Services), Cassandra Jaeger (Manager Governance)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Proposed Amendments 1 2 19 [12.3.5.1 - 4 pages]

#### PURPOSE OF REPORT:

This report seeks to obtain Council approval by absolute majority to endorse a change to Delegated Authority 1.2.19 - *Defer, grant discounts, waive or write off debts*, to allow for refunds to hirers if their events or functions are cancelled or in the case of the Quarry Amphitheatre, evacuated.

#### EXECUTIVE SUMMARY:

Occasionally there are extenuating circumstances where a hirer of a community facility or open space has their booking cancelled by the Town. In the case of the Quarry Amphitheatre, there may be an evacuation of the site due to fire.

As hirers are required to pay fees and charges in advance it would be fair to offer a refund in these circumstances.

The current delegation 1.2.19 - *Defer, grant discounts, waive or write off debts*, does not allow for refunds and it is recommended this is amended.

The current hire agreement for the Quarry Amphitheatre, clause 14.3 states that 'In the event that a booking has to be canceled due to fire, a refund is applicable'. The current delegation does not allow for this contract obligation to be met.

#### BACKGROUND:

On Sunday, 21 October 2023 a bushfire broke out in Bold Park approximately 2km south west of the Quarry Amphitheatre. At this time a wedding was being held at the Quarry Amphitheatre. As per the Bush Fire Emergency Evacuation Framework the wedding was evacuated at approximately 9:30pm, in consultation with Police and Fire and Emergency response teams. The wedding was scheduled to finish at midnight, with the Duty Manager due to finish at 1:30am for clean-up and closure.

As per Clause 14.2 of the Hire Agreement the hirer has requested a refund for some of the venue hire fee and the fee for the Duty Manager's time not used.

Changes to the delegation would allow for this to be approved as per the attached amended document. This minor change will bring the delegation in line with established procedures for the hire of community facilities.

#### DETAILS:

Council are asked to approve changes to delegation 1.2.19 - *Defer, grant discounts, waive or write off debts*, to allow for refunds. **Attachment 1** outlines suggested changes.

The proposed changes are in line with the current delegation to the CEO to waive a debt where it is less than \$5,000.

**POLICY / STATUTORY IMPLICATIONS:**

- Delegated Authority Register, Delegation 1.2.19 - *Defer, grant discounts, waive or write off debts*

The following will be updated to reflect the intent of the updated delegation 1.2.19 - *Defer, grant discounts, waive or write off debts* and presented to Council as part of the 2024 Policy review process:

- Quarry Amphitheatre Hire Agreement
- Policy 014 Community Facilities, Parks and Reserves – Conditions of Hire
- Policy 073 Quarry Amphitheatres Bookings Policy

**RISK MANAGEMENT IMPLICATIONS:**

**Low:** This is a low risk change to the delegation to bring it in line with procedures set up to manage cancellations and evacuations at hireable facilities across the Twon.

**FINANCIAL IMPLICATIONS:**

N/A

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Town: A transparent organisation that drives performance with leadership and integrity**  
**Continuous improvement and organisational performance** - Develop a culture of continuous improvement and efficiency to improve value for money, customer service and accountability.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

**INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

Moved by Cr Barlow, seconded by Cr Mayes

**That Council AMENDS BY AN ABSOLUTE MAJORITY delegation 1.2.19 - *Defer, grant discounts, waive or write off debts* in the Delegated Authority Register in accordance with section 5.45(1)(b) of the *Local Government Act 1995* (WA) to include an additional delegation to the CEO for refunds to be provided to hirers in the event of a cancellation or evacuation of a community facility or open space at the behest of the Town up to an amount of \$5,000.**

**Motion put and CARRIED BY AN ABSOLUTE MAJORITY (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.6 Kilpa Court, City Beach - Partial Road Closure Request

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Brendan Jeans (Senior Strategic Planning Officer), Kelton Hincks (Director Infrastructure and Works)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Road Closure Subdivision Plan [12.3.6.1 - 1 page]

#### PURPOSE OF REPORT:

The purpose of this report is for Council to consider the proposed road closure of a portion of Kilpa Court, City Beach.

#### EXECUTIVE SUMMARY:

The Town has been contacted by the Department of Planning, Lands and Heritage (**DPLH**) advising of their recent discussion with developers Blackburne on the future development of the Ocean Village Shopping Centre site. In response to this discussion, the Land Use Management team at DPLH have advised Blackburne request a road closure for a portion of Kilpa Court from the Town. Blackburne have confirmed this with the Town and have submitted a surveyed road closure plan (refer to **Attachment 1**).

The partial closure of the road is a necessary action of the Town as a result of the disposal process and the intent to amalgamate these lots over the site.

In order to progress the partial road closure request, Council must consider whether to resolve to initiate the process required to permanently close the relevant portion of the Kilpa Court road reserve pursuant to section 58 of the *Land Administration Act 1997*.

For reasons outlined in this report, it is recommended Council initiate the process required to permanently close the relevant portion of Kilpa Court road reserve as proposed and to proceed to public advertising in accordance with the procedural requirements of section 58 of the *Land Administration Act 1997* and the associated regulations. Following public consultation, a report would be presented to Council for final consideration of the road closure request.

#### BACKGROUND:

Council resolved to dispose of the Ocean Village Shopping Centre site at its 25 July 2023 Ordinary Council Meeting (Item 11.16). This resolution endorsed the disposal and subdivision of the two adjacent carpark areas (currently contained within Lot 241 – known as the Ocean Village Park) that were constructed for the Ocean Village Shopping Centre complex.

As a result of the subdivision of this land and subsequent disposal, public road access from Kilpa Court to the carpark areas located at the Shopping Centre will no longer be required.

The Land Use Management team at DPLH have indicated that following their discussions with developers Blackburne, the future development of the site (and proposed amalgamation) would require the closure of a portion of the Kilpa Court road reserve.

Road closure is a process under the *Land Administration Act 1997* that requires the Town’s consideration and action to administer.

**DETAILS:**

Site Details

Kilpa Court is located north-west of the intersection of Hale Road and Brompton Road in City Beach. Kilpa Court is a gazetted road that is 162m in length. It currently provides formal access to Lot 244 Kilpa Court (a residential strata development) and the Ocean Village Shopping Centre land currently being Lots 243 and 245. Whilst Kilpa Court terminates at the Ocean Village park, it is not a formalised vehicle access point for the park.

The portion of Kilpa Court proposed to be closed is illustrated in Figure 1 below. The portion proposed to be closed is 1,859sqm in area and the closure extent represents the alignment of the disposal site, which is from the western boundary of Lot 244.

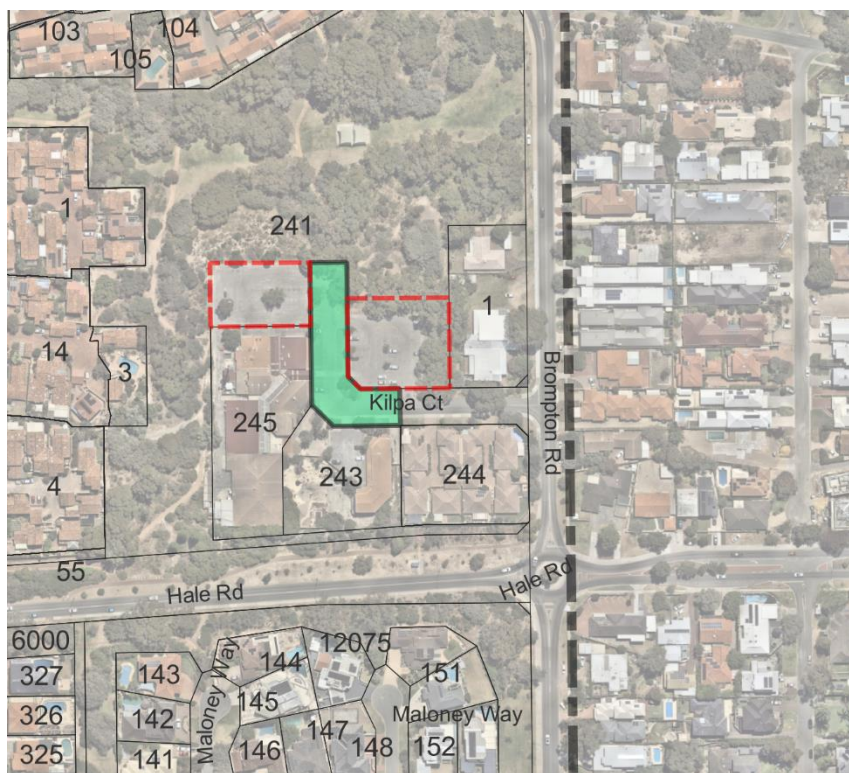


Figure 1: Proposed road closure portion (green) and carpark disposal sites (dashed red)

The subsequent subdivision of the site to close the road and amalgamate the disposed lots is illustrated in Figure 2 below. The subject lot would be 11,968sqm.

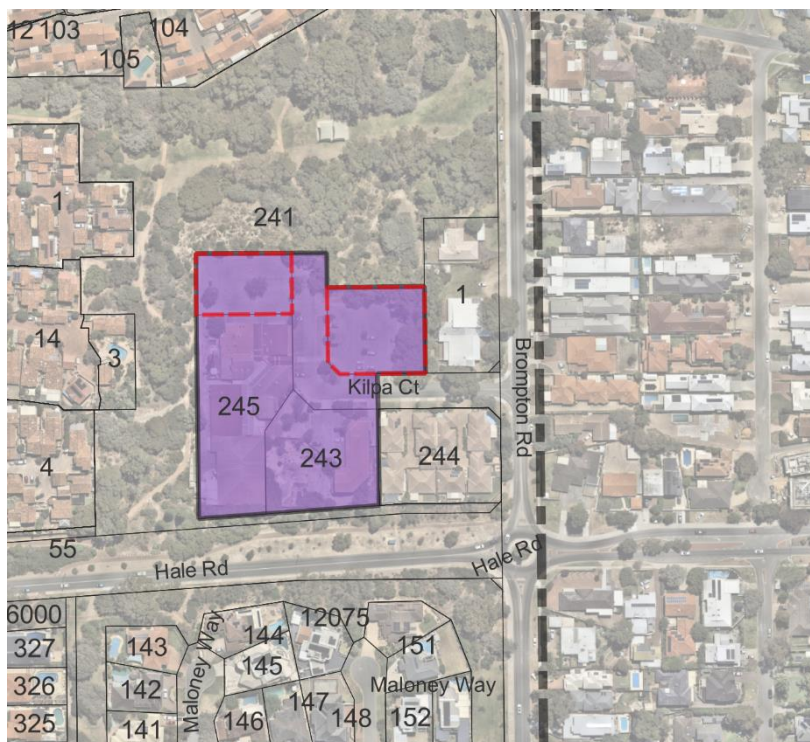


Figure 2: Amalgamated site (purple) and carpark disposal sites (dashed red)

Planning Framework – Local Planning Strategy

The Local Planning Strategy provides guidance for the Ocean Village Neighbourhood Centre. With respect to Kilpa Court, the Strategy envisages the redevelopment of the centre can provide an “opportunity for Kilpa Court to become the internal focal point within the neighbourhood centres, characterised by a shared movement network and a concentration of activities to create an activated ‘main street’”.

Planning Framework – Local Planning Scheme

As illustrated in Figure 3 below, Kilpa Court is reserved as a ‘local road’ in the Town’s current Local Planning Scheme. Road closures present no implications for the Local Planning Scheme and if closed, can be amended through a Scheme Amendment.



Figure 3: Subject site aerial view (left) and current Local Planning Scheme No. 1 (right)

### Road accessibility

The partial closure of Kilpa Court would not result in any land lock issues and would not remove or reduce property access. The extent of road proposed to be closed only services the Ocean Village Shopping Centre and going forward with the disposal, is not a portion of road reserve that the Town requires to retain or manage.

### Road Closure Process

The road closure process is outlined in section 58 of the *Land Administration Act 1997* and regulation 9 of the *Land Administration Regulations 1998*. A summary of the process for local government is listed below.

Step 1 – the local government receives a proposal or initiates a proposal to close a road.

Step 2 – Council is to consider whether to support and proceed with the proposed partial road closure. This resolution will support commencing the public advertising.

Step 3 – the local government carries out the public advertising process, which is for a minimum 35 day period.

Step 4 – Council is to then consider any submissions received and, if supported, Council is to resolve to request the Minister for Lands to close the road.

Step 5 – the local government submits the road closure request to the DPLH for determination by the Minister for Lands.

Step 6 – the Minister for Lands considers and makes a determination on the road closure. The DPLH administer this process and the amalgamation.

Step 7 – depending on the road closure determination, the local government may require updating the local planning scheme to reflect zoning of the new boundaries.

Further to Step 5 above, a request for road closure must be submitted to the DPLH and include:

1. a copy of the Council resolution to request the closure of a of the road
2. a copy of the advertisement to close the road
3. copies of any submission and objections to the advertisement as well as comments which address any comments or objections
4. copies of correspondence with service authorities and other government departments
5. plan of survey, sketch plan or document showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed
6. written confirmation that the local government authority has complied with section 58(2) and (3) of the *Land Administration Act 1997*

### **COMMENT:**

#### Road accessibility

Assessment of the proposed road closure of the portion of Kilpa Court reveals it would not result in removing any access rights to private properties. The portion of road proposed to be closed only services the land which is the subject of the approved disposal to Blackburne. The result of this disposal and subdivision to amalgamate the lots removes the need for the indicated portion of Kilpa Court to be retained as a public road.

#### Planning Framework

The proposed partial road closure is not considered to undermine the Spatial Consideration of the Town's Local Planning Strategy in relation to the opportunity to enhance Kilpa Court as an activated 'main street' for the Neighbourhood Centre. This particular consideration is complimentary to and ultimately reliant on the redevelopment opportunities of the site, which has now been clearly defined through the disposal process. The retention of the indicated portion of Kilpa Court as a road reserve is no longer required.

This request and process is specific to the road closure, which is legislated by the *Land Administration Act 1997*. As noted above, there are no perceived implications with the partial closure of the road for future use and development of the centre. Any matters or concerns directed at the future development of the Ocean Village site are to be dealt with through a Development Application. Based on the likely significant development value, this application would likely be processed through the Significant Development pathway (commonly referred to as SDAU) outlined in Part 17 of the *Planning and Development Act 2005* where the Western Australian Planning Commission (WAPC) is the decision-making authority.

**POLICY / STATUTORY IMPLICATIONS:**

Section 58 of the *Land Administration Act 1997* apply in relation to the proposed partial road closure as described in this report.

Regulation 9 of the *Land Administration Regulations 1998* applies to requests for a road closure resolved by local government under section 58(2) of the *Land Administration Act 1997*.

Section 87 of the *Land Administration Act 1997* details the process for the transfer of land from the Crown to an adjoining landowner.

**RISK MANAGEMENT IMPLICATIONS:**

**High:** The Town has committed to the creation and disposal of the two portions of land at the Ocean Village Shopping Centre site (proposed Lots 701 and 702) through an executed Contract of Sale. The partial closure of Kilpa Court is a condition within the Contract. If the partial closure of Kilpa Court is not approved, the sale will not progress resulting in an opportunity cost of \$8.9M. If the closure is not supported, there may be other contractual implications if reasonably defensible reasons are not provided.

**FINANCIAL IMPLICATIONS:**

There is no adopted fee for a permanent road closure in the Town's Schedule of Fees and Charges 2023-2024.

The costs associated with the advertising of the proposed partial road closure are considered minor and are to be borne by the Town. The estimated cost of a public notice in the local newspaper is expected to be approximately \$600.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**  
**Land and investment** - Leverage and improve the Town's economic assets to grow the local economy.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

**CONSULT**

To obtain public feedback on analysis, alternatives and/or decisions.

If the partial road closure is supported, in accordance with section 58 of the *Land Administration Act 1997*, the Town is to carry out public advertising for a period of not less than 35 days. This will include:

1. public notice in the local newspaper;
2. public notice on the Town's website;
3. letters to neighbouring landowners; and
4. referral to public utility service providers.

It is anticipated that public advertising will commence in mid-January 2024. This will allow sufficient time for the Town to prepare the necessary consultation material and avoid consultation over the Christmas and New Years period.

The DPLH have also indicated a "Dial Before You Dig" enquiry will be required to be undertaken by the Town.

### **Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.6, I declare that I was a Member of Council that resolved on 25 July 2023 Ordinary Council Meeting (Item 11.16) to dispose and subdivide the two adjacent carparks and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider the matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

1. **In accordance with section 58 of the *Land Administration Act 1997*, SUPPORTS the proposed road closure of a portion of Kilpa Court, as shown in Attachment 1, for the purpose of public advertising in accordance with section 58 of the *Land Administration Act 1997*; and**
2. **Following 1 above, CONSIDER the submissions received on the partial road closure request at a subsequent Council Meeting.**

**Motion put and CARRIED (7/2)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Le Page, Cr Kennerly, Cr Foley and Cr Mayes

Against: Cr Carr and Cr Randklev

### 12.3.7 St John of God Subiaco Hospital - Deed of Easement

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Deed of Easement - D'Arcy Lane [12.3.6.1 - 9 pages] 2. Deposited Plan 425211 (Draft Unlodged) [12.3.6.2 - 2 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is for Council to consider authorising the CEO to execute a Deed of Easement, which will grant an easement over a minor area of D'Arcy Lane for the purpose of electrical cabling to and from a service vehicle boom gate to the new site energy plant, which was approved by the WAPC, and of which the St John of God Hospital has programmed to be constructed in Stage 2 of the redevelopment.

#### **EXECUTIVE SUMMARY:**

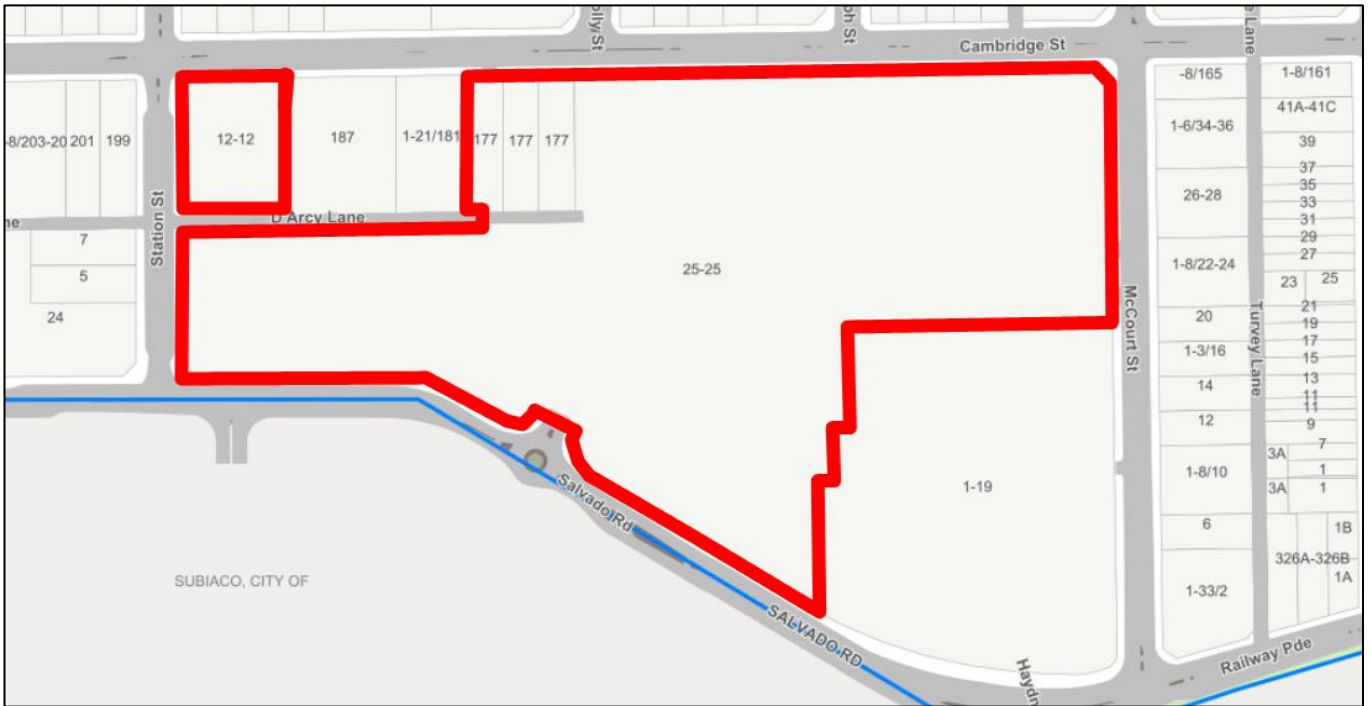
On 11 May 2023, the Western Australian Planning Commission (WAPC), through the *Planning and Development Act 2005* Part 17 pathway, approved a development application for a major redevelopment of the existing St John of God Subiaco Hospital (**the Hospital**).

At the November 2023 Ordinary Council Meeting, Council considered and supported the Hospital's proposal to satisfy Condition 13 of the their Development Approval in relation to the a Public Art Strategy. At the meeting, Council also appointed Councillors Cutler and Randklev to the Hospital's Public Art Committee.

Council deferred the third clause of the Administration recommendation regarding the execution of a Deed of Easement to enable further time to consider the matter. Further information has been provided to assist Council in considering the matter.

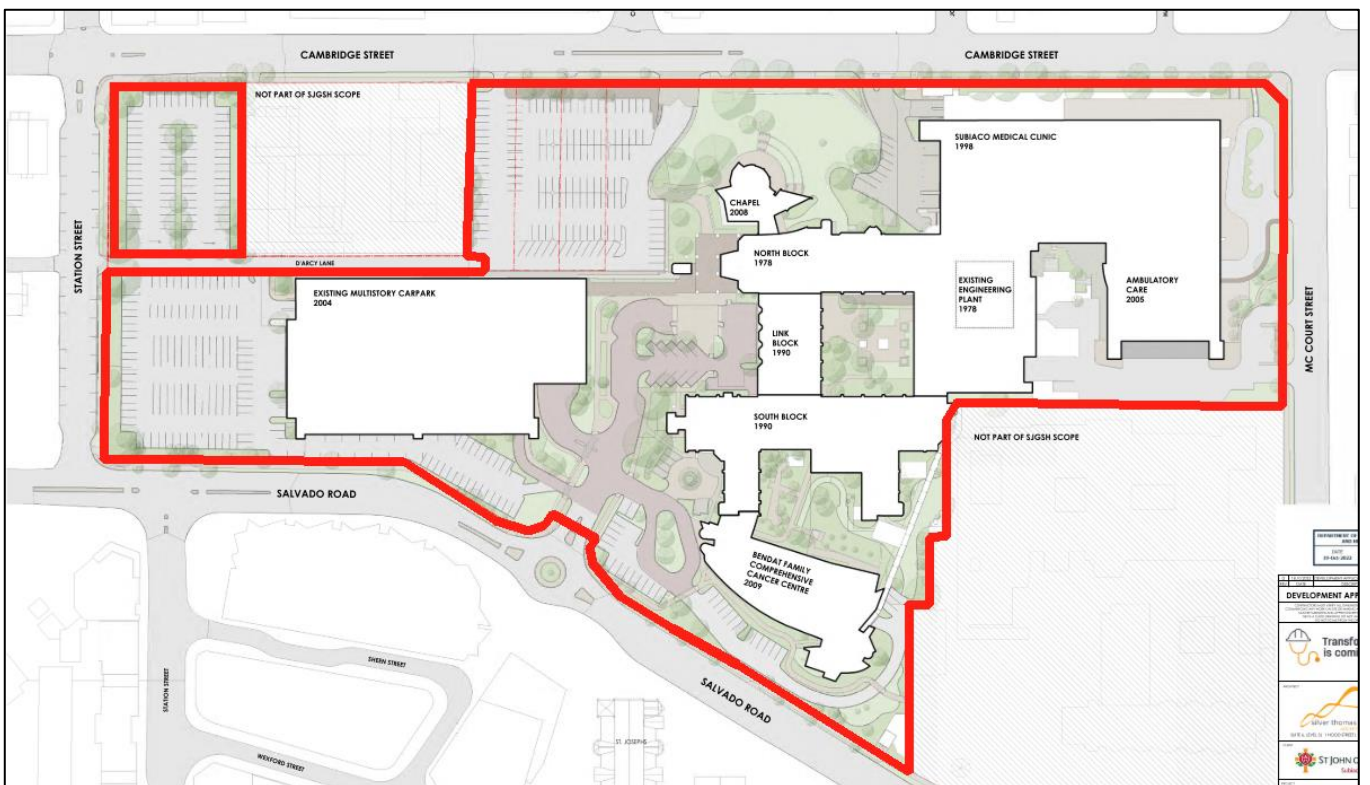
#### **BACKGROUND:**

The Hospital is located at 12 Salvado Road, Subiaco, 25 McCourt Street, Subiaco, and 177 Cambridge Street, West Leederville. The below image shows the lots that form the Hospital site (red outline) (refer Figure 1).



**Figure 1: Aerial map showing the lots that form part of the St John of God Subiaco Hospital (Source: Town of Cambridge Intramaps).**

The lots that form the Hospital site are currently occupied by various buildings, including hospital buildings, a chapel, and a multi-storey car park, and open car parking areas, internal access routes, and landscaping. The below marked-up existing site plan shows the general location of existing buildings and open areas on the site (refer Figure 2).



**Figure 2: Existing site plan showing the general location of existing buildings and open area on the site (Source: WAPC approved development plans, SDAU Ref: SDAU-041-21).**

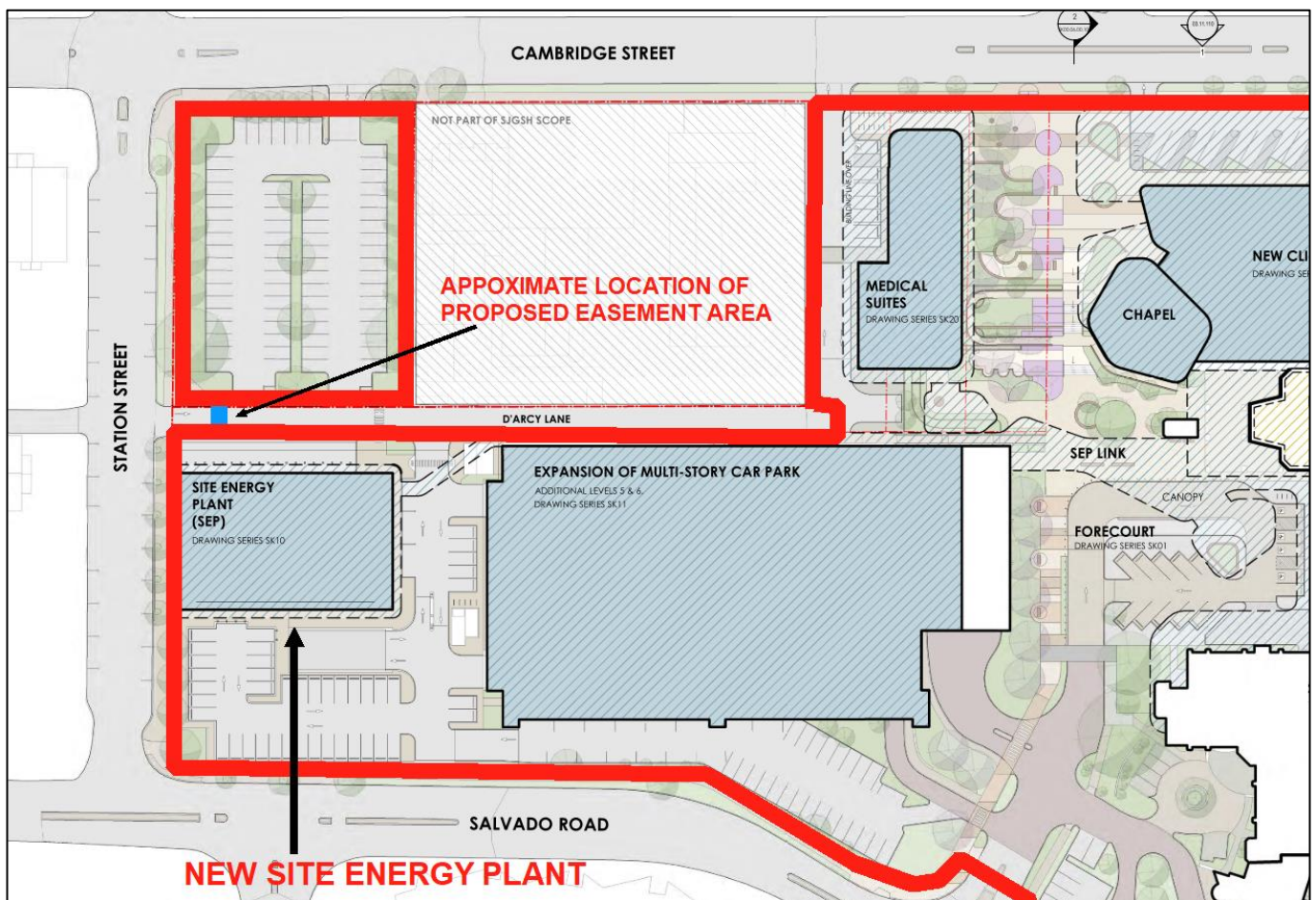
On 11 May 2023, the Western Australian Planning Commission (WAPC), through the *Planning and Development Act 2005* Part 17 pathway, approved a development application for a major redevelopment of the existing St John of God Subiaco Hospital.

**DETAILS:**

Background Information – Deed of Easement

The new site energy plant, as shown on the development plans approved by the WAPC and of which the Hospital has programmed to be constructed in Stage 2 of the redevelopment, will be located in the western end of Lot 800 (25 McCourt Street) on the corner of Salvado Road and Station Street, adjacent to D’Arcy Lane.

The new site energy plant will be constructed on what is currently an open car parking area for the hospital. The below marked-up proposed site plan shows the location of the new site energy plant (refer Figure3).



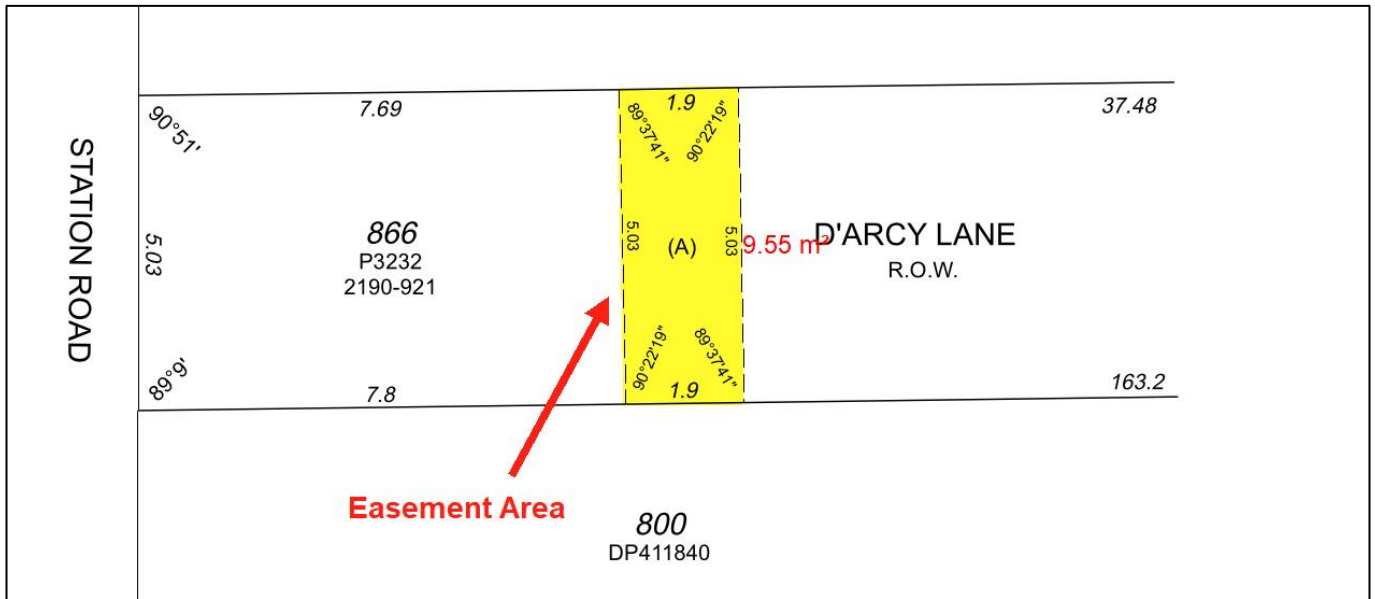
**Figure 3: Marked-up proposed site plan showing the location of the new site energy plant on the corner of Salvado Road and Station Street, adjacent to D’Arcy Lane (Source: WAPC approved development plans, SDAU Ref: SDAU-041-21).**

The Hospital plans to install a service vehicle boom gate on Lot 800 to facilitate access to the new site energy plant.

The Hospital has submitted a Deed of Easement (the Easement) to the Town, which will grant the Hospital an easement over a 9.55m<sup>2</sup> area (the Easement Area) of D’Arcy Lane for the purpose of establishing an underground service route for electrical cabling to the service vehicle boom gate. The Easement is included as **Attachment 1**.

The approximate location of the proposed Easement Area (blue) is shown in the above marked-up proposed site plan (refer Figure 3).

The below marked-up draft Deposited Plan 425211 (refer **Attachment 2**) shows the location of the proposed Easement Area (highlighted yellow) on D'Arcy Lane (refer Figure 4).



**Figure 4: Marked-up draft Deposited Plan 425211 showing the location of the proposed location of the Easement Area (highlighted yellow) on D'Arcy Lane.**

The cabling will be underground through the Easement Area and there will be nothing visible above ground. The use of D'Arcy Lane above ground will not be changed.

#### Easement

Under the proposed Deed of Easement:

- St John of God Hospital has full and free right to:
  - Enter on and to go pass and repass at all times with or without motor vehicles (laden or unladen), or on foot over and along the Easement Area or any part of the Easement Area for the purposes of constructing, installing, cleaning, operating, extending, maintaining, testing, certifying, altering, removing and improving the Cables on, in or under the Easement Area from time to time;
  - Inspect or survey the Easement Area or any Cables (whether overhead or underground);
  - Break open the soil of the Easement Area for the purpose of doing or getting ready to do anything permitted under this clause 2(a); and
  - To transmit and distribute electricity and data through the Cables.
- St John of God Hospital must not cause inconvenience to the Town or any owners or occupiers adjoining D'Arcy Lane.
- St John of God Hospital indemnifies the Town against all actions, liabilities, proceedings, claims, costs and expenses which the Town may suffer, incur or sustain in connection with or arising in any way out of the loss of or damage to any property or the death or injury of any person resulting from the use of the Easement Area by St John of God Hospital.
- St John of God Hospital is to keep a current public liability policy in the amount of \$20,000,000 for any one claim in respect of any loss.
- There is no fee payable to the Town.

While the Easement does not include any conditions that explicitly state that the Hospital is required to restore D'Arcy Lane to its original condition after the required works for the underground cabling are complete, it is considered that conditions in the Easement adequately address this requirement.

Clause 1.3 of the easement states the deed does not diminish the Town's rights and powers or fetters any discretion that the Town has under any Law – which includes property law rights to not have their property modified by a Grantee under an easement and rights under the *Local Government Act 1995*.

Clause 2(d)(ii) allows the Town to impose reasonable rules and restrictions in relation to the use of the of the Easement Area and the Hospital must and must ensure that their Permitted Persons comply with the rules and restrictions.

Clause 5 requires the Hospital not to cause any injury, damage, wear, or degradation to the Easement Area and if they do, they must rectify it at its sole cost, in a good and workmanlike manner and within the time period specified by the Town (if the Hospital doesn't, the Town may rectify the damage and the costs will be payable by the Hospital).

Clause 8 requires the Hospital to indemnify the Town against all actions, liabilities, proceedings, claims, costs, and expenses which the Town may suffer. This would include a loss in property value if D'Arcy Lane were not restored to its original condition.

Clause 9 requires the Hospital to have insurance covering any loss, damage or destruction to any property and the loss of use of any property. This would include loss if D'Arcy Lane were not restored to its original condition.

Based on all the above, it is considered that the conditions of the Easement will ensure that the Town has the power to ensure that D'Arcy Lane is restored to its original condition and any damages could be claimed by the Town.

#### *Executing the Easement*

As the Town owns D'Arcy Lane in freehold and is the registered proprietor, the Hospital has requested that the Town executes the Deed of Easement to allow for the easement.

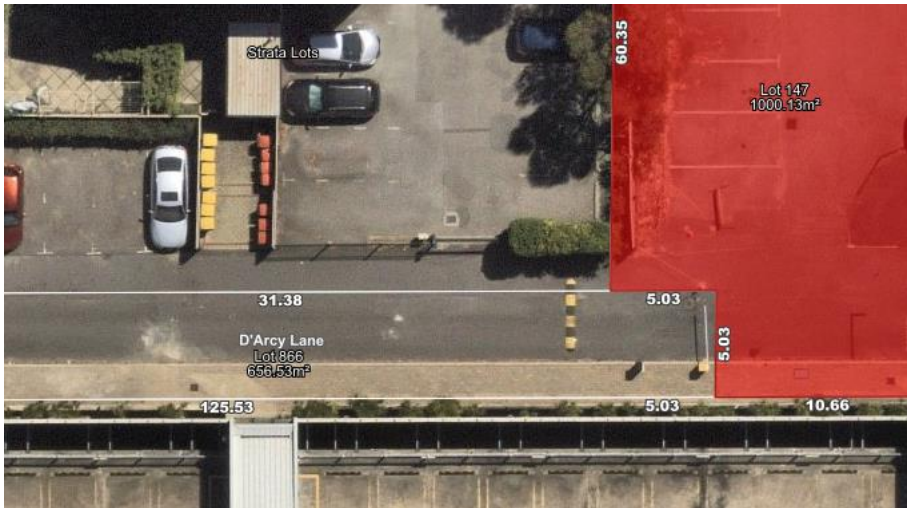
Section 9.49A of the *Local Government Act 1995* (the Act) governs the execution of documents by local governments.

Under Section 9.49A(4) of the Act, the Council may either resolve to authorise the CEO or another employee to execute the Deed of Easement on behalf of the local government.

It is recommended that the Council resolves to authorise the CEO to execute the Deed of Easement, as the easement area is minor, and the works required for the proposed underground cabling will have negligible impact on the other users of D'Arcy Lane.

#### Further information

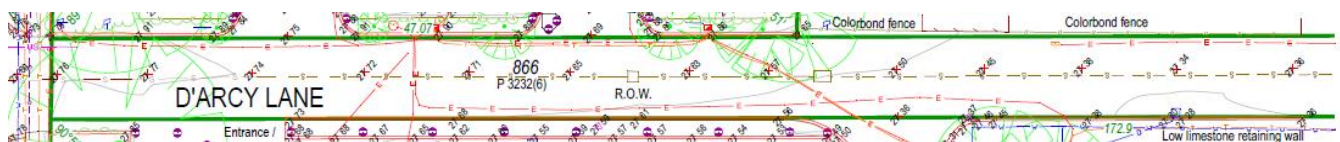
On 28 November 2023, Council deferred this item as the Council queried why the easement is required. During the meeting, it was stated that there is an existing boom gate on the subject land that they believe is solar powered. It was suggested that, even if the existing boom gate is not solar powered, there may be power access already on the subject land and therefore questioned whether an easement for servicing another boom gate is required.



The Town has obtained more information from St John of God Hospital (**Hospital**). The Hospital has confirmed that there is a powered serviced boom gate on the Hospital's land, Lot 147. The Hospital also advised that the current boom gate is powered by cables running beneath D'Arcy Lane and the current boom gate will be retained to ensure no unauthorised vehicle access to the carpark at the eastern end of D'Arcy Lane.

Above is a screenshot taken from the Town's Intramaps aerial photography which shows the current boom gate at the eastern end of D'Arcy Lane. It appears on Intramaps as if the boom gate is within D'Arcy Lane (the subject land, Lot 866 on Plan 3232) but the boundary lines can be slightly off in Intramaps because the images are taken from an angle and the boom gate could actually sit within Lot 147 (highlighted in red in the screenshot), which is owned by the Hospital.

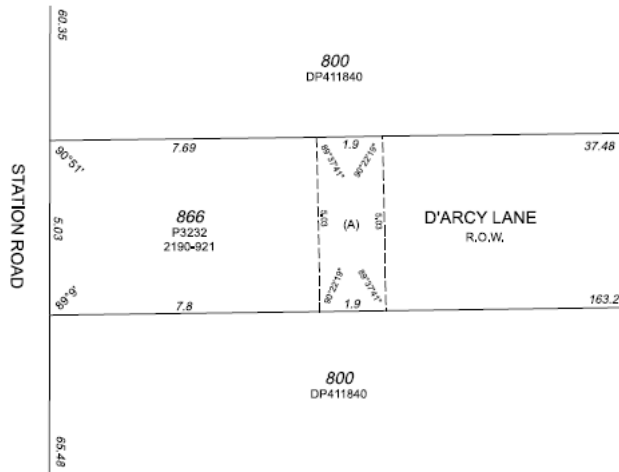
The Town confirms there isn't an existing easement on the title of D'Arcy Lane for the cabling for the current boom gate. This is a historical error and it would be too costly and unreasonable to have the Hospital pay for another survey to create a new Deposited Plan to include all parts of D'Arcy Lane that has cabling under it. The lines in red in the diagram below are electricity cables that the Hospital currently has running under D'Arcy Lane. The brown hashed line is sewerage.



However, the Town can ensure that all future dealings are done properly, which includes granting an easement for new cables to be laid under D'Arcy Lane.

The new boom gate will be installed on the northeastern corner of Lot 800 on Deposited Plan 411840, which is owned by the Hospital. This will be for heavy service vehicles entering from Cambridge Street directly into Lot 800. However the boom gate's cables (for communication and power) will run from the lot south of D'Arcy Lane, west of the current multi-level carpark.

Here is a screenshot of the Deposited Plan to be lodged, with (A) marking the easement area where the cabling will sit, running vertically through D'Arcy Lane.



**POLICY / STATUTORY IMPLICATIONS:**

Section 9.49A - *Local Government Act 1995 (WA)*

**RISK MANAGEMENT IMPLICATIONS:**

**Medium:** There is a risk that if the Council does not resolve to execute the Deed of Easement, the Hospital may complain to the Minister of Local Government that the Town is not administering its land reasonably.

**FINANCIAL IMPLICATIONS:**

There are no financial implications related to this report.

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

- Our People:** A community that supports wellbeing, connection and inclusion.
- Culture, arts and heritage:** Celebrate our culture, arts and heritage to retain the Town's unique character.
- Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces.
- Built environment:** Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

**COMMUNITY ENGAGEMENT:**

Not applicable.

### **Proximity Interest - Cr Barlow**

Prior to consideration of the item, Cr Barlow, in accordance with Section 5.65 of the Local Government Act 1995, declared a proximity interest in this matter and left the meeting at 8.54 pm.

#### **ADMINISTRATION RECOMMENDATION:**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council AUTHORISES the CEO in accordance with section 9.49A(4) of the Local Government Act 1995 (WA) to sign the Deed of Easement on behalf of the Town of Cambridge as included in Attachment 1.**

#### **AMENDMENT:**

**Moved by Cr Foley, seconded by Cr Randklev**

**That the motion be amended to read as follows:**

**That Council AUTHORISES the CEO, subject St John of God being responsible for all costs associated with the Deed of Easement, in accordance with section 9.49A(4) of the Local Government Act 1995 (WA) to sign the Deed of Easement on behalf of the Town of Cambridge as included in Attachment 1.**

**Amendment put and CARRIED (8/0)**

For: Mayor Mack, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

#### **COUNCIL DECISION:**

**That Council AUTHORISES the CEO, subject St John of God being responsible for all costs associated with the Deed of Easement, in accordance with section 9.49A(4) of the Local Government Act 1995 (WA) to sign the Deed of Easement on behalf of the Town of Cambridge as included in Attachment 1.**

**Substantive Motion, as AMENDED, put and CARRIED (8/0)**

For: Mayor Mack, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

Cr Barlow returned to the meeting at 8.58 pm

**12.3.8 Lot 192 (No. 8) Falmouth Avenue, City Beach - Alterations and Additions to Existing Single House**

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Kane Smith (Senior Statutory Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0007
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Development Plans [12.3.8.1 - 9 pages] 2. Schedule of Submissions [12.3.8.2 - 10 pages]

**PURPOSE OF REPORT:**

The purpose of this report is for the Council to consider a development application for alterations and additions to an existing single house.

**EXECUTIVE SUMMARY:**

The application proposes a total of 17 variations to the Town’s planning framework.

After consideration under the relevant planning provisions, it is recommended that the application be refused as:

- The cumulative bulk impact of the existing raised levels, existing portion of the front terrace, proposed front terrace extension, the proposed carport, and the proposed pergola being within the street setback area will adversely impact the streetscape and will not be consistent with the desired future character of the City Beach Precinct, as the traditional street setback will not be maintained.
- The reduced side boundary setbacks to the additions to the existing dwelling will have adversely impact the amenity of the adjoining eastern and western properties, as the reduced setbacks will not provide sufficient bulk relief from and will allow for direct overlooking into visually sensitive areas of those properties.
- The reduced landscaping within the street setback area will not be consistent with the desired future character of the City Beach Precinct, as it will not maintain the green character of the streetscape and the precinct.
- The proposed nil setback of the driveway to the eastern boundary will reduce the area for additional landscaping within the street setback area, which is not supported given that the proposal does not meet the minimum landscaping requirement.
- The proposed increased width of the crossover will increase the bituminised area on the verge, which will reduce the area of grass that allows for natural stormwater run off and drainage. Additional bituminised area also adds to the urban heat island effect.

**BACKGROUND:**

<b>Applicant:</b>	Damian Broderick & Courtenay Harris
<b>Owner:</b>	Damian Broderick & Courtenay Harris
<b>Zoning:</b>	R12.5
<b>Precinct:</b>	P1 City Beach
<b>Development Description:</b>	Alterations and Additions to Existing Single House
<b>Development Value:</b>	\$200,000
<b>Existing Land Use:</b>	Residential
<b>Proposed Land Use:</b>	Residential

<b>Land Area:</b>	898m <sup>2</sup>
<b>Heritage Listing:</b>	N/A
<b>Application Date:</b>	1 February 2023
<b>Application Process Days:</b>	89 days (not including 'Stop the clock' days)

#### DELEGATION:

In accordance with Clause 12.1.4 of the Town's Delegation Register, the Council is required to determine the application as a variation is sought under Clause 34(2) of the Town's *Local Planning Scheme No. 1*.

Additionally, Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires the Council to determine development applications which do not meet the requirements of Local Law 43.

In accordance with cl12.2.1 of the Town's Delegation Register, the application must meet the following voting requirements for a determination to be made:

#### Council - Absolute Majority

More than fifty per cent of the total number of positions on the Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote for a determination to be made.

#### DETAILS:

The application proposes alterations and additions to the existing single house, which includes the following variations:

- i. The proposed carport will be set back a minimum of 6.3m from the primary street boundary in lieu of 7.5m.
- ii. The proposed front terrace extension will be set back a minimum of 4.8m from the primary street boundary in lieu of 7.5m.
- iii. The proposed pergola will be set back a minimum of 6.4m from the primary street boundary.
- iv. The proposed front terrace extension will be set back of 1.8m to the western boundary in lieu of 2m.
- v. The proposed extension to the rear of the dwelling will be set back a minimum of 1.8m to the western boundary in lieu of 5.5m.
- vi. The proposed extension to the rear of the dwelling will be set back a minimum of 3.6m to the eastern boundary in lieu of 6.4m.
- vii. The proposed deck to the western side of the dwelling will have a nil setback to the western boundary in lieu of being set back a minimum of 1.5m
- viii. The proposed terrace extension will be set back 1.8m from the western boundary within the cone-of-vision in lieu of being set back a minimum of 7.5m for visual privacy.
- ix. The proposed deck to the western side of the dwelling will have a nil setback from the western boundary within the cone-of-vision in lieu of being set back a minimum of 7.5m for visual privacy.
- x. The proposed deck to the rear of the dwelling will be set back a minimum of 2m from the western boundary within the cone-of-vision in lieu of being set back a minimum of 7.5m for visual privacy.
- xi. The proposed deck to the rear of the dwelling will be set back a minimum of 3.6m from the eastern boundary within the cone-of-vision in lieu of being set back a minimum of 7.5m for visual privacy.
- xii. The proposed studio/workshop (outbuilding) will be set back a minimum of 1m from the northern and western boundaries in lieu of 1.1m.
- xiii. The proposed studio/workshop (outbuilding) will have a maximum wall height of 3.2m in lieu of 2.4m.
- xiv. The application proposes 37.5% of the 7.5m total street setback area as landscaping in lieu of 55%.
- xv. The proposed driveway will have a nil setback to the side boundary in lieu of being set back a minimum 0.5m.

- xvi. The proposed crossover will have a maximum width of 7.6m in lieu of 6m.
- xvii. The external walls of the proposed rear addition to the dwelling will include timber cladding materials, and 'Firestone' cladding to the external walls of the proposed studio/workshop (outbuilding), in lieu of masonry materials.

### Application History

Following the Town's initial assessment, the Administration requested amended plans addressing the variations noted above. The Administration also noted that discrepancies are shown on the plans, including dimensions for the same measurement that are inconsistent across different plan pages, dimensions with varying scales, differing locations of retaining walls, and an inconsistent setback to the proposed carport.

The Applicant requested several extensions of time to prepare amended plans, however, amended plans were not provided to the Town.

### Site Context

The site is located within the City Beach Precinct (P1) and is occupied by a single-storey single house with an undercroft single garage. While the natural topography of the site along the eastern (right) side of the site is relatively flat, the levels in the western (left) side of the front setback area slope up approximately 2m.

There is also an existing large mature tree located on the raised levels within the 7.5m primary street setback area.

The below Google Streetview image shows the existing dwelling as viewed from Falmouth Avenue, including the raised levels and existing large mature tree in the front setback area in the western side of the site (refer Figure 1).



**Figure 5: Google Streetview image showing the existing dwelling as viewed from Falmouth Avenue, including the raised levels in the front setback area in the western side of the site.**

The surrounding locality consists of single-storey and two-storey dwellings. The below aerial image shows the location of the subject site (red outline) and the immediate surrounding area (refer Figure 2).



**Figure 2: Aerial image showing the location of the subject site (red outline) and the immediate surrounding area.**

### Site History

The existing single house, which included an undercroft single garage, and raised levels, pedestrian steps, and a front terrace within the street setback area, was originally constructed in 1959.

There have been no substantial alterations and additions to the existing dwelling since then.

### **CONSULTATION:**

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

In response, a total of two submissions were received, of which both objected to the proposal.

The main concerns raised in the submissions are summarised as follows:

- i. The proposed reduced primary street setbacks will have an adverse impact on the streetscape.
- ii. The proposed reduced lot boundary setback will have an adverse bulk impact on the adjoining properties.
- iii. The built form will not be consistent with the streetscape.
- iv. The proposed visual privacy overlooking will impact the amenity of adjoining properties.
- v. The application could include additional areas of landscaping within the primary street setback area if the existing front terrace is not extended. In addition, the application includes insufficient details of proposed landscaping in the front setback area.
- vi. It is noted that when the subject dwelling was built circa 1961, a significant amount of loose sand fill was placed across the site, which was never compacted and was eventually pushed up to the neighbouring lot boundary. This required the adjoining property owner to, at their own cost, construct retaining walls to retain the sand from encroaching onto the adjoining property.

The neighbour concerns summarised in points ‘i, ii, iii, iv, and v’ above are addressed below in the ‘Statutory Assessment’ section of this Report.

With regards to the neighbour concerns summarised in point ‘vi’ above, the background information about the fill on the subject site and the construction of the retaining wall on the adjoining property is noted.

A Schedule of Submissions that includes the submissions in their entirety is attached to this Report (refer **Attachment 2**).

**STATUTORY ASSESSMENT:**

<i>Clause 26(1)(a) Modification of R-Codes</i>		
Minimum Primary Street Setback	<b>Required</b>	<b>Proposed</b>
Terrace extension	7.5m	4.8m
Carport		6.3m
<i>Clause 34 - Variations to Site and Development Requirements</i>		
<p><i>"1) a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...</i></p> <p><i>2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</i></p> <p><i>(a) Consult with the party or parties who, in the opinion of Council, may be affected by the approval of the development; and</i></p> <p><i>(b) have regard to any submissions before making its decision to grant the variation.</i></p> <p><i>8) The Local government may only approve an application for development approval under this clause if the local government is satisfied that—</i></p> <p><i>a) Approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions".</i></p>		
<i>Local Planning Policy 3.1 – Streetscape</i>		
<i>"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme</i>		
<i>...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</i>		
<p><i>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;</i></p> <p><i>b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;</i></p> <p><i>c. In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:</i></p> <p><i>i. The existing dwelling presents to the street as single storey or the original dwelling is two-storey.</i></p> <p><i>ii. The existing garaging is sub-standard in terms of its internal dimensions and cannot provide cover for two vehicles.</i></p> <p><i>iii. A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.</i></p> <p><i>iv. If the existing dwelling is remaining, whether adequate space is available to be provide covered car space(s) behind the street setback area."</i></p>		
Desired Future Character elements of the City Beach Precinct (relevant to the proposal):		
<ul style="list-style-type: none"> <li><i>Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for; and</i></li> </ul>		

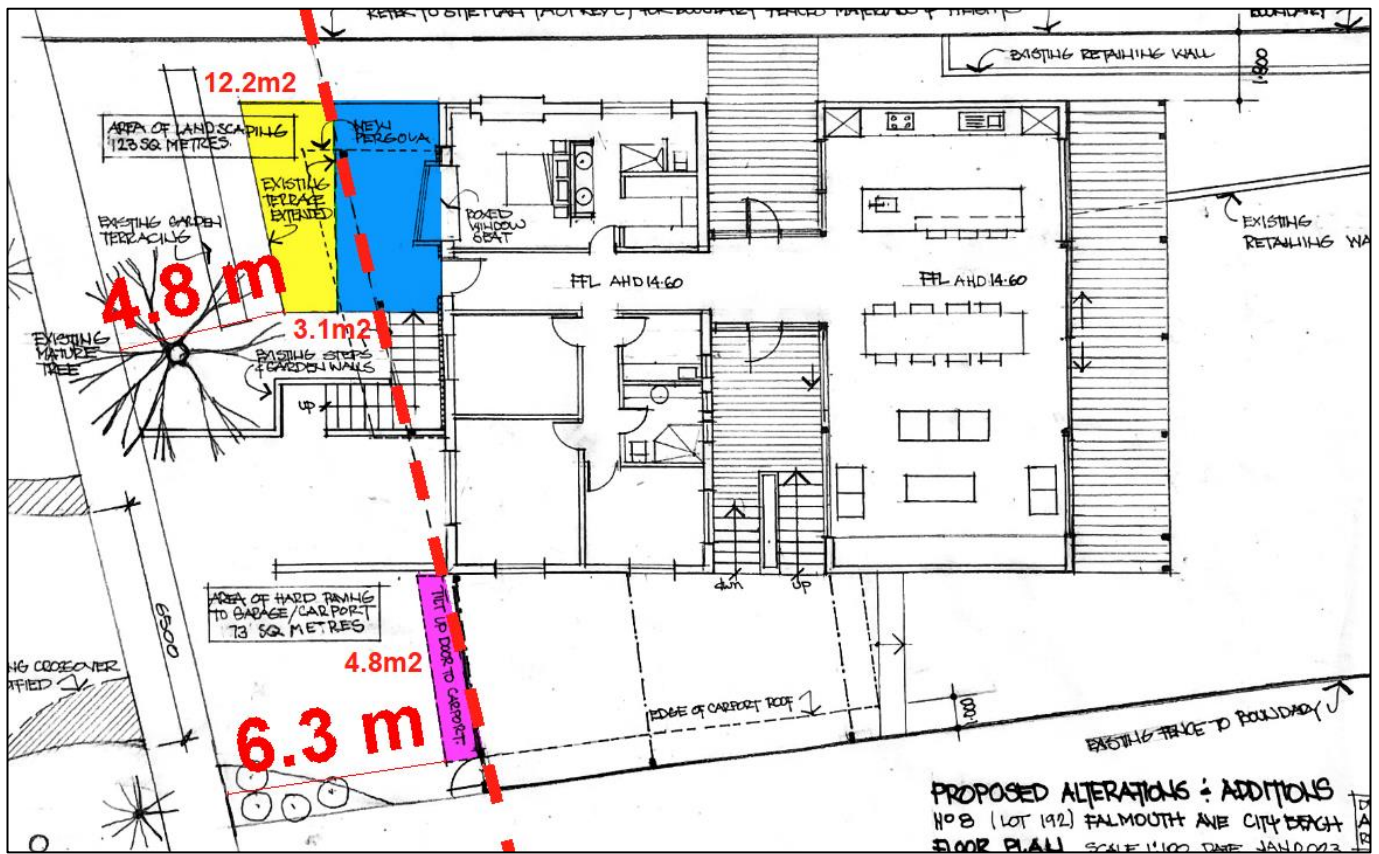
- The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape.

**Assessment:**

The application proposes an extension to the existing front terrace located on the western (left) side of the site above the existing raised levels. While the existing front terrace is partially within the 7.5m street setback area, the proposed extension will be fully within the street setback.

The application also proposes a new carport, which will be located on the eastern (right) side of the existing dwelling and will be partially located within the street setback area.

The below marked-up floor plan shows the location of the existing front terrace (highlighted blue), proposed front terrace extension (highlighted yellow), and the portion of the proposed carport within the 7.5m street setback area (refer Figure 3).



**Figure 3: Marked-up floor plan showing the location of the existing front terrace (highlighted blue), proposed front terrace extension (highlighted yellow), and carport (highlighted pink).**

The above marked-up floor plan shows the proposed front terrace extension (highlighted yellow) will be set back a minimum of 4.8m and the carport (highlighted pink) will be set back a minimum of 6.3m from the primary street boundary.

The marked-up floor plan also shows that the existing front terrace (highlighted blue) has an area of 3.1m<sup>2</sup> within the 7.5m primary street setback area. The entire 12.2m<sup>2</sup> area of the proposed front terrace extension and a 4.8m<sup>2</sup> portion of the carport will be within the street setback area, which, including the area of the existing front terrace, will result in a total combined area of 20.1m<sup>2</sup> within the street setback.

During the public consultation period, the Town received two objections to the proposal, which both noted that the proposed structures will add additional bulk to the existing raised levels within the street setback area, which will impact the streetscape.

Additionally, the objections commented that the angle of the proposed pergola will be significantly different from the roof angle of the existing dwelling, which will change the aesthetic of the character home and will impact the streetscape.

Clause 1 of Local Planning Policy 3.1 – Streetscape (LPP 3.1) includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- “a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;*
- b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;*
- c. In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:*
  - i. The existing dwelling presents to the street as single storey or the original dwelling is two-storey.*
  - ii. The existing garaging is sub-standard in terms of its internal dimensions, and cannot provide cover for two vehicles.*
  - iii. A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.*
  - iv. If the existing dwelling is remaining, whether adequate space is available to be provide covered car space(s) behind the street setback area.”*

The Desired Future Character referred to in criterion (a) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the City Beach Precinct (P1) includes several desired future character elements. In this case, the desired future character element relevant to the proposed reduced street setback is as follows:

*“Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original and desired open nature of the precinct’s designed for.”*

The following assessment comments are in relation to the above desired future character element and criteria (b) and (c) of Clause 1 of LPP 3.1.

As the proposed terrace extension and carport will be set back a minimum of 1.8m and 1m respectively from the side lot boundaries, the application satisfies criterion (b) of Clause 1 of LPP 3.1, as it will preserve a streetscape of distinctly separate single residences separated by open space.

The application also meets criteria (c)(i) and (ii) of Clause 1 of LPP 3.1, as the existing dwelling being retained was constructed prior to 1970, presents as single storey to the street and the existing undercroft garage can only provide coverage for a single car.

However, the application does not satisfy criterion (c)(iv) of Clause 1 of LPP 3.1, as a carport that meets the Australian Standards can be located sufficiently and wholly behind the setback area, without the need for substantial alterations to the existing dwelling.

On balance, it is considered that the cumulative bulk impact of the existing raised levels, existing portion of the front terrace, proposed front terrace extension, and the proposed carport being within the street setback area will not be consistent with the desired future character of the City Beach Precinct, as the traditional street setback will not be maintained.

For the above reasons, the proposed reduced street setbacks are not supported.

### **Proposed Pergola:**

The application also proposes a pergola addition to the front of the existing dwelling that will be partially located within the 7.5m street setback area.

It is noted that Clause 26 of the Town's *Local Planning Scheme No. 1* does not apply to pergolas constructed in the primary street setback area, as a pergola is not considered to meet the definition of a building under the Residential Design Codes – Volume 1 (R-Codes). However, a pergola is a form of work which is not exempt from requiring development approval under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

When determining development applications proposing a pergola within the primary street setback area, due regard is to be given to the matters listed under Clause 67(2) of the Regulations, which includes State planning policies and local planning policies.

Despite the R-Codes including a definition for 'pergola', it does not include any deemed-to-comply provisions specifically in relation to such work. The Town does not currently have an adopted local planning policy which has provisions in relation to pergolas within street setback areas (only a policy which relates to pergolas behind the street setback area). In the absence of any specific provisions, it is considered appropriate to give due regard to the design principles and objectives of the Town's *Local Planning Policy 3.1 - Streetscape* due to the pergola being proposed within the street setback area.

These matters are discussed in the following section of this Report.

### **Planning and Development (Local Planning Schemes) Regulations 2015**

#### *Clause 67 (2) - Matters to be considered*

*"In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —*

*(g) any local planning policy for the Scheme area;*

*(m) the compatibility of the development with its setting, including —*

*i) the compatibility of the development with the desired future character of its setting; and*

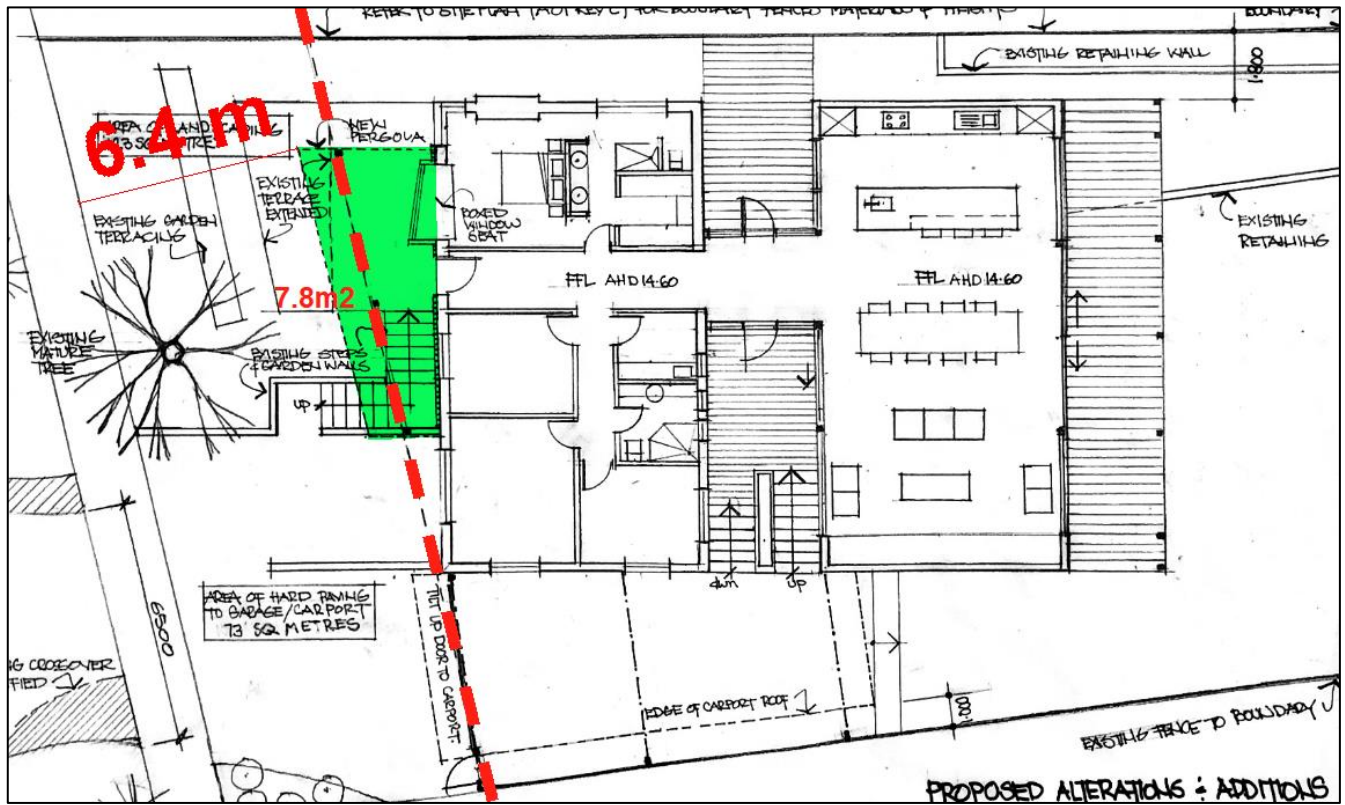
*ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

*(n) the amenity of the locality including the following —*

*i) the character of the locality."*

#### Assessment:

The proposed pergola will be located over the front terrace and existing pedestrian steps and will be partially within the 7.5m primary street setback area. The below marked-up site plan shows the location of the proposed pergola, that it will be set back minimum of 6.4m from the front boundary, and that a 7.8m<sup>2</sup> portion of the pergola will be within the street setback area (refer Figure 4).



**Figure 4: Marked-up floor plan showing location of the proposed pergola (highlighted green) and that it will be set back a minimum of 6.4m from the front boundary.**

The combined total area of structures within the street setback area, including the pergola, the existing front terrace, the proposed terrace extension, and the proposed carport will be 27.9m<sup>2</sup>.

Following on from comments made in the Clause 26 street setback assessment above, it is considered that the cumulative bulk impact of the pergola, the existing raised levels and the other existing and proposed structures being within the 7.5m primary street setback area will not be compatible with the desired future character of the City Beach Precinct, which includes maintaining traditional street setbacks.

Although the pergola is unenclosed with a pervious roof form, its height, bulk, and scale will result in the structure being a visually dominant projection from the dwelling and will therefore not be compatible with character of the immediate locality.

Even if there were no other existing or proposed structures within the 7.5m street setback area, the Administration would consider that the pergola is not compatible with the character of the area and will not be consistent with the desired future character of the area.

If the pergola is approved, it may set an undesirable perceived precedent for similar development within primary street setback areas to be proposed within the City Beach precinct.

For the above reasons, the proposed pergola projecting into the street setback area is not supported.

5.1.3 Lot Boundary Setback		
	Deemed-to-comply Requirement	Proposed
Additions to dwelling - Western (side) boundary	5.5m	1.8m
Front Terrace Extension - Western (side) boundary	2m	1.8m

Deck Abutting Boundary - Western (side) boundary	1.5m	0m
Additions to dwelling - Eastern (side) boundary	6.4m	3.6m

**Design Principles (of R-Codes):**

"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- reduce impacts of building bulk on adjoining properties;
- provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
- minimise the extent of overlooking and resultant loss of privacy on adjoining properties".

**Design Principles Assessment:**

The application proposes additions to the rear of the existing dwelling, an extension to the front terrace, and a deck, which have reduced setbacks to the western and eastern side lot boundaries.

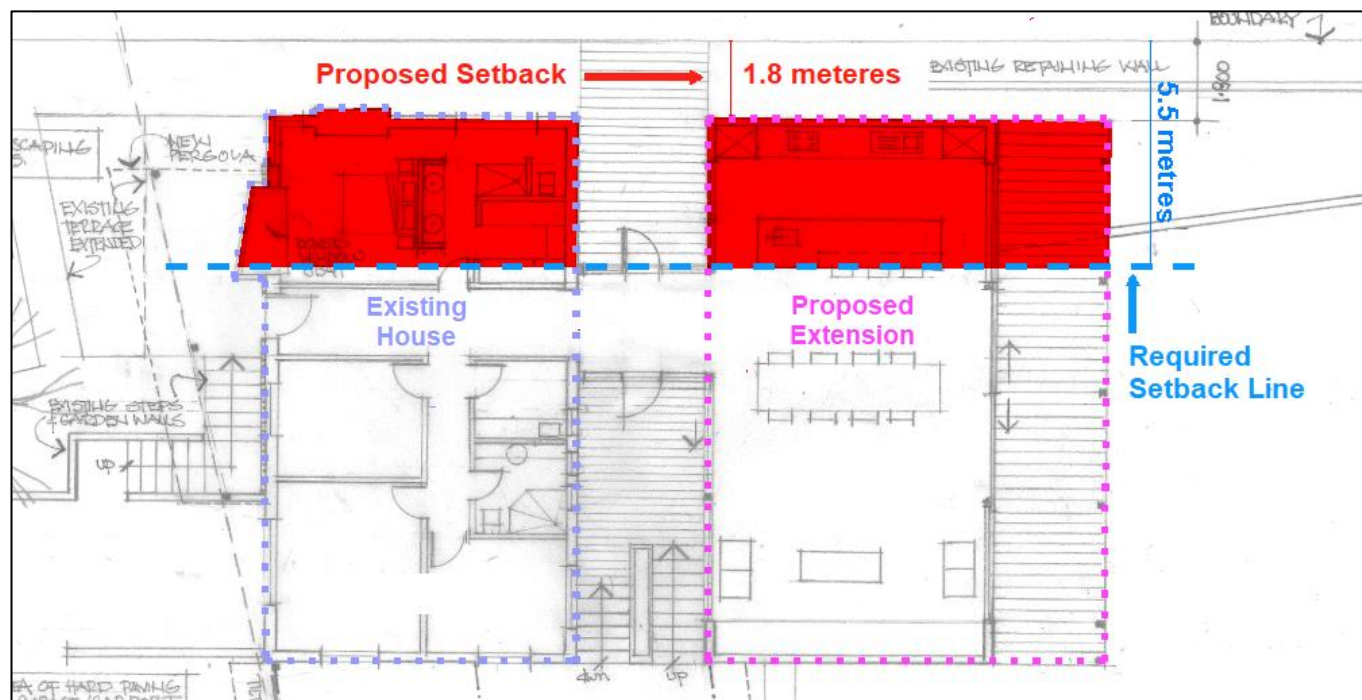
During the public consultation period, the Town received two submissions objecting to the proposal, which both commented that the reduced lot boundary setbacks will result in adverse building bulk and visual privacy impacts on the adjoining properties.

Each of the proposed reduced setbacks and the Administration’s assessment of each variation against the design principles are discussed below.

**Additions to dwelling - Western (side) boundary**

The proposed additions to the rear of the existing dwelling will be set back a minimum of 1.8m from the western boundary in lieu of 5.5m.

The below marked-up ground floor plan shows the reduced setback from the proposed extension at the rear of the existing dwelling to the western boundary (refer Figure 5).



**Figure 5: Marked-up floor plan showing the proposed extension to the rear of the existing dwelling (pinked dotted outline) will be set back a minimum of 1.8m from the western boundary in lieu of 5.5m.**

The subject property is oriented north-to-south with frontage onto Falmouth Avenue. The adjoining western properties, which are oriented west-to-east, have frontage onto Branksome Gardens and have their private open space and outdoor living areas abutting the western boundary of the subject site.

The below aerial image shows the subject site (red outline) and the adjoining western properties (blue outline) that have rear boundaries adjacent to the location of the existing and proposed portions of the subject dwelling (refer Figure 6).



**Figure 7: Aerial map showing the subject site (red outline) and the adjoining western properties (blue outline) that have rear boundaries adjacent to the location of the existing and proposed portions of the subject dwelling.**

It is considered that the reduced western lot boundary setback to the proposed additions at the rear of the existing dwelling will have an adverse bulk impact on the adjoining western properties, as the existing and proposed portions of the dwelling run directly parallel to the boundary and are not adequately articulated (i.e. separation between the walls or recesses in each wall) to provide relief to the adjoining properties.

As the property is oriented north-to-south, the reduced lot boundary setback will result in some increase to morning overshadowing to the outdoor living area of the adjoining properties. However, given that the subject dwelling is single storey, it is considered that the reduced western boundary setback will not have an adverse impact on the adjoining property's access to natural morning light.

It is also considered that the proposed setback of 1.8m will provide adequate area between the dwelling and the lot boundary for natural ventilation to the subject and adjoining sites.

The reduced lot boundary setback, in combination with the finished floor level of the open deck addition being more than 0.5m above the natural ground levels, results in visual privacy overlooking to the adjoining western properties, which will impact the privacy of those properties. The impact on visual privacy of the adjoining properties is discussed further in the 'Visual Privacy' assessment section of this report.

Based on all the above, the proposed reduced western lot boundary setback is not supported as it will have an adverse building bulk and visual privacy impact on the adjoining western properties.

*Front Terrace - Western (side) lot boundary*  
*Deck Abutting Boundary - Western (side) lot boundary*

The proposed front terrace extension and the deck addition abutting the western boundary have finished floor levels that are greater than 0.5m above the natural ground level.

Clause 5.1.3(C3.1)(iii) of the R-Codes states that unenclosed areas for use as outdoor living areas, elevated 0.5m or more above natural ground levels, shall be set back in accordance with Table 2b of the R-Codes as though they have a wall height of 2.4m above the floor level.

Because of the above provision, the proposed front terrace extension will be set back a minimum of 1.8m from the western boundary in lieu of 2m and the proposed deck will have a nil setback from the western boundary in lieu of 1.5m.

The below marked-up floor plan shows the portions of the front terrace extension (highlighted green) and deck (highlighted yellow) within the deemed-to-comply minimum setback areas (refer Figure 9).

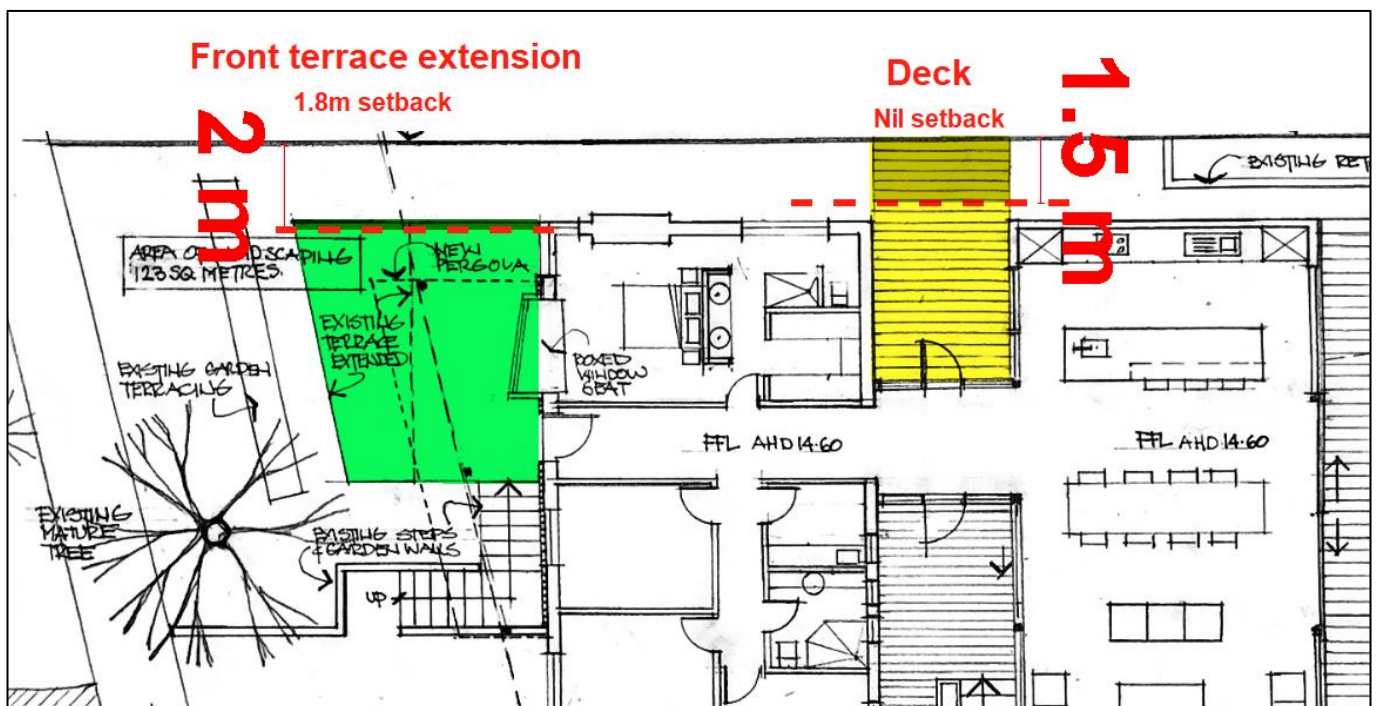


Figure 9: Marked-up floor plan showing portions of the front terrace extension (highlighted green) and deck (highlighted yellow) within the deemed-to-comply minimum setback areas.

While the reduced setbacks to the front terrace extension and deck will not impact the adjoining property with regards to building bulk, or access to natural light and ventilation, they will impact the visual privacy of the adjoining property as each structure will allow for overlooking.

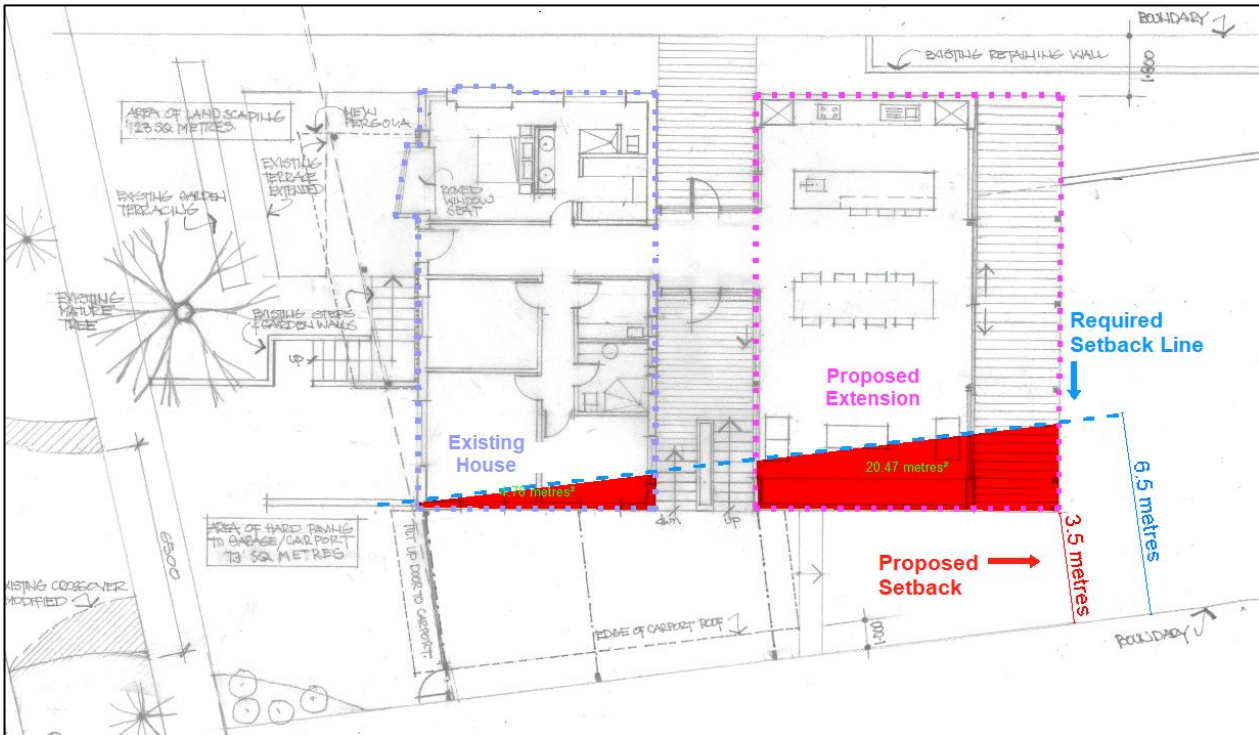
The impacts on visual privacy are discussed further below in the 'Visual Privacy' assessment section of this report.

For the above reasons, the proposed reduced western boundary setbacks to the front terrace extension and the deck are not supported.

#### *Additions to dwelling - Eastern (side) boundary*

The proposed additions to the rear of the existing dwelling will be set back a minimum of 3.6m from the eastern boundary in lieu of 6.4m.

The below marked-up ground floor plan shows the reduced setback from the proposed additions to the rear of the existing dwelling to the eastern (side) boundary (refer Figure 7).



**Figure 7: Marked-up floor plan showing the proposed extension to the rear of the existing dwelling (pinked dotted outline) will be set back a minimum of 3.5m from the eastern boundary in lieu of 6.5m.**

The adjoining eastern property shares the full length of the eastern boundary with the subject site. The existing dwelling on the adjoining eastern site is situated near to the boundary. The below aerial image shows the subject site (red outline) and the adjoining eastern site (blue outline) (refer Figure 8).



**Figure 8: Aerial map showing the subject site (red outline) and the adjoining eastern property (blue outline).**

It is considered that the proposed additions will not have an adverse bulk impact on the adjoining eastern property due to the orientation of the subject building and the obtuse angle of the boundary. The setbacks of both the existing and proposed sections of the dwelling taper from the boundary, providing sufficient relief to the adjoining property.

While the reduced setback will lead to increased afternoon overshadowing in the private open space behind the adjoining property, as the subject dwelling is single-storey and the adjoining property is oriented north-to-south, there will still be ample access to natural light.

The proposed minimum setback of 3.6m, increasing as the building tapers away from the boundary, provides adequate space between the dwelling and the lot boundary for natural ventilation for both the subject and adjoining sites.

However, the combination of the reduced lot boundary setback and the deck addition's finished floor level being over 0.5m higher than the natural ground level results in visual privacy concerns. This overlooking impacts the adjoining eastern property and is further discussed in the 'Visual Privacy' assessment section of this report.

In summary, the proposed reduced eastern lot boundary setback is not supported, as it will result in an adverse visual privacy impact on the adjoining eastern property.

5.4.1 Visual Privacy		
	Deemed-to-comply Requirement	Proposed
Front Terrace Extension – Western (Side) Boundary	7.5m	1.8m
Deck Abutting Boundary – Western (Side) Boundary		0m
Rear Deck – Western (Side) Boundary		2m
Rear Deck – Northern (Side) Boundary		3.6m
<b>Design Principles (of R-Codes):</b>		
<i>"P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i>		
<ul style="list-style-type: none"> <li>• <i>building layout and location;</i></li> <li>• <i>design of major openings;</i></li> <li>• <i>landscape screening of outdoor active habitable spaces; and/or</i></li> <li>• <i>location of screening devices.</i></li> </ul>		
<i>P1.2 Maximum visual privacy to side and rear boundaries through measure such as:</i>		
<ul style="list-style-type: none"> <li>• <i>offsetting the location of ground and first floor windows so that viewing is oblique rather the direct;</i></li> <li>• <i>building to the boundary where appropriate;</i></li> <li>• <i>setting back the first floor from the side boundary;</i></li> <li>• <i>providing higher or opaque and fixed windows; and/or</i></li> <li>• <i>screening devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).</i></li> </ul>		

**Design Principles Assessment:**

As noted above, the application proposes an extension to the existing front terrace, a deck abutting the western boundary, and a deck at the rear of the proposed extensions to the dwelling, which are defined as 'unenclosed active habitable spaces' in the R-Codes and all have finished floor levels that are more than 0.5m above the natural ground level.

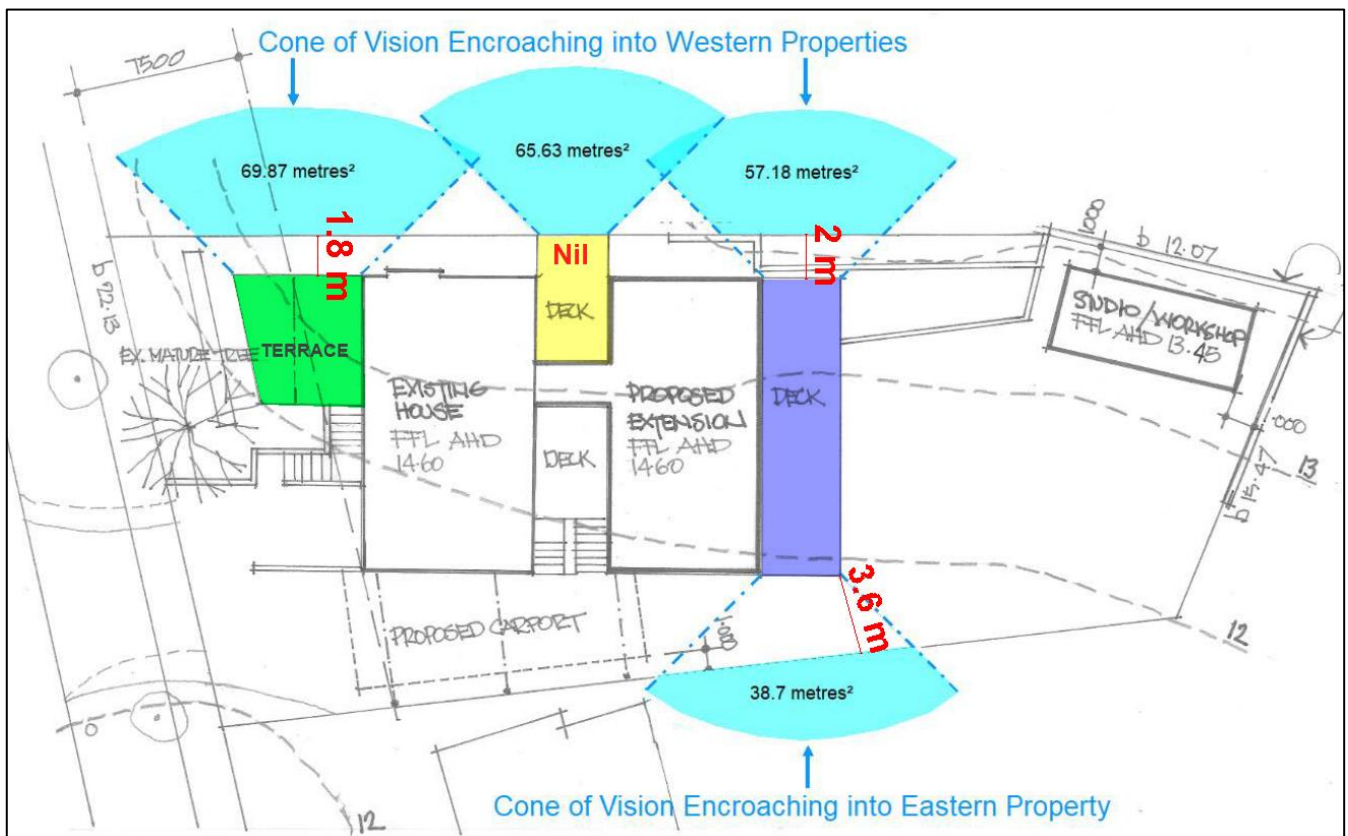
The deemed-to-comply minimum visual privacy setback from unenclosed active habitable spaces with finished floor levels greater than 0.5 above natural ground level to neighbouring lot boundaries is 7.5m.

The proposed front terrace extension will be set back a minimum of 1.8m from the western boundary, the central deck will have a nil set back from the western boundary, and the rear deck will be set back a minimum of 2m and 3.6m from the western and eastern boundaries respectively, all of which are less than the deemed-to-comply minimum setback of 7.5m.

As the proposed front terrace extension and decks are not screened to a minimum height of 1.6m above the finished floor levels within the cone-of-vision, the proposal allows for overlooking to the adjoining western and eastern properties.

During the public consultation period, the Town received two submissions objecting to the proposal that both commented that the proposed overlooking would impact their enjoyment of their outdoor living areas.

The below marked-up site plan shows the minimum setbacks to the front terrace extension (highlighted green), central deck (highlighted yellow), and rear deck (highlighted purple), and the extent of overlooking (blue) to the adjoining properties within 7.5m setback cone-of-vision area (refer Figure 11).



**Figure 11: Marked- up site plan showing the extent of overlooking (blue) into the adjoining properties from the proposed front terrace extension (green), central deck (yellow), and rear deck (purple).**

The above marked-up site plan has been overlaid with the aerial image of the site and surrounding properties in Figure 12 below. This demonstrates the extent of overlooking from the subject site to the outdoor living areas and private open space of the adjoining western and eastern properties.



**Figure 6: Marked-up site plan with overlaid with aerial image of the site and adjoining properties showing the extent of proposed overlooking to the adjoining properties.**

While in some cases a raised terrace or deck with no visual privacy screening may be appropriate, if, for example, the extent of overlooking is oblique or falls onto visually non-sensitive areas such as a blank wall or roof.

However, in this instance, as shown in the above aerial overlay, the proposal will result in direct overlooking into visually sensitive areas of the adjoining properties, including their outdoor living areas, pool areas, and private open spaces. This will significantly impact the amenity of the neighbouring residents.

For the above reasons, the proposed overlooking is not supported.

5.4.3 Outbuildings		
	Deemed-to-comply Requirement	Proposed
Studio/workshop located at the rear of the site	Set back a minimum of 1.1m	Northern boundary: 1m Western boundary: 1m
	Maximum wall height of 2.4m	3.2m
<b>Design Principles (of R-Codes):</b> <i>"P3 Outbuildings that do not detract from the streetscape or visual amenity of residents or neighbouring properties.</i>		

**Design Principles Assessment:**

The proposed studio/workshop located at the rear of the site meets the R-Codes definition of ‘outbuilding’ as follows:

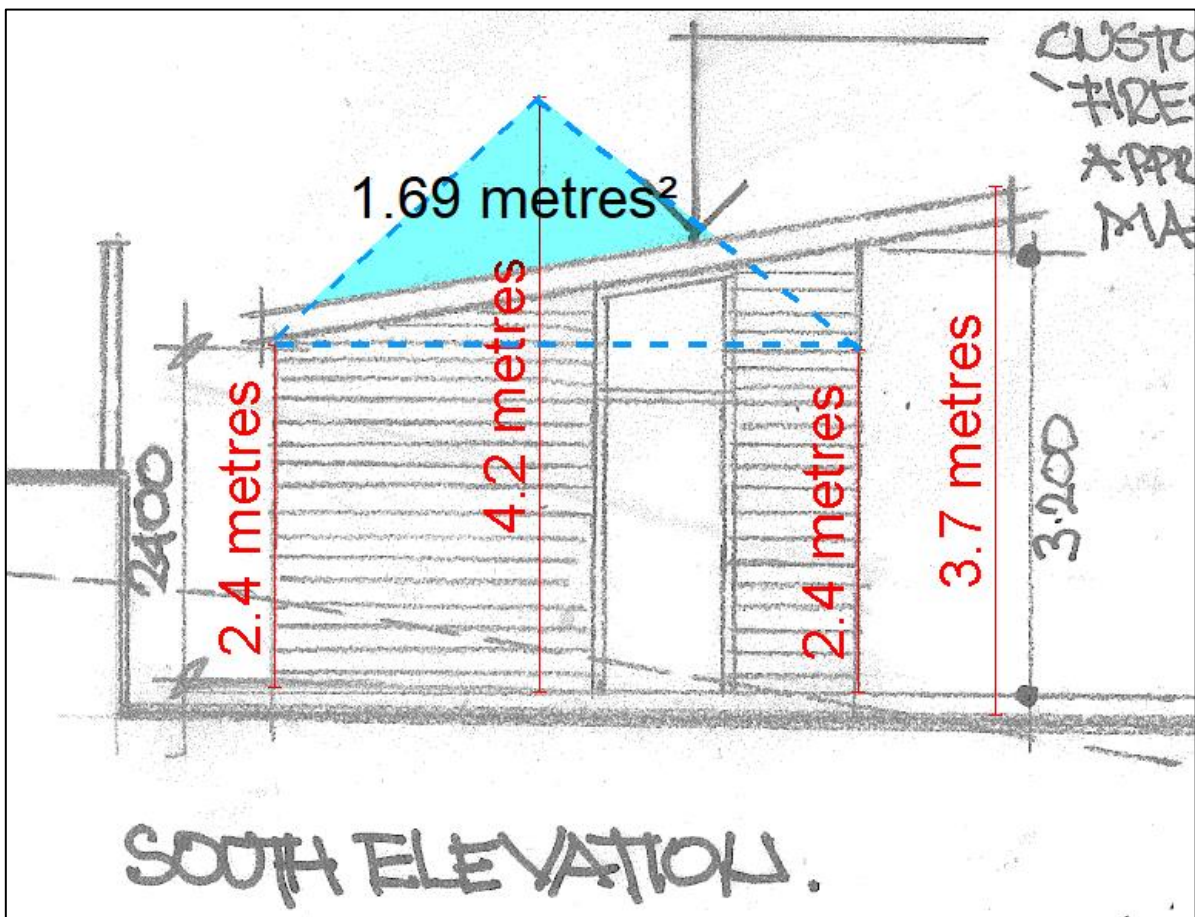
*“An unenclosed non-habitable structure that is detached from any dwelling.”*

The proposed outbuilding will be set back a minimum of 1m from the northern and western lot boundaries in lieu of 1.1m. It is considered that the setback variation of 0.1m is minor and will not have an adverse impact on the amenity of the neighbouring properties.

The proposed outbuilding will also have a maximum wall height of 3.2m underneath the skillion roof form in lieu of 2.4m.

It is noted that an alternative proposal with a pitched roof form consisting of a deemed-to-comply maximum wall height of 2.4m wall and a maximum ridge height of 4.2m would have a greater visual bulk impact on the adjoining properties than what is proposed, as a greater area of a pitched roof form would be visible to the neighbouring sites above the fence line.

The below marked-up elevation drawing shows a hypothetical pitched roof form with a maximum ridge height of 4.2m (blue dotted outline) to the proposed outbuilding, which also shows what would be the increased roof area if there was a pitched roof form (highlighted blue) (refer Figure 13).



**Figure 7: Marked-up southern elevation showing an alternative pitched roof form (blue dotted outline) to the proposed outbuilding.**

In this instance, given that a compliant roof form would result in greater area of the roof being visible to the neighbouring sites above the dividing fence line, it is considered that the proposed increased wall height of the outbuilding will not adversely affect the adjoining properties.

Based on all the above, it is considered that the reduced setbacks and increased wall height of the proposed outbuilding will not have an adverse impact on the streetscape or neighbouring properties and are therefore supported.

*Local Planning Policy 3.1, Clause 6.1 – Landscaping*

	Deemed-to-comply Requirement	Proposed
Minimum % of 7.5m total street setback as landscaping.	55%	37.6%

Landscaping Design Principles

Variations to the deemed-to-comply requirements of Clause 6.1 may be approved at Council's discretion, subject to the development meeting the following criteria:

- i. Landscaping that enhances the presentation of homes and gardens as viewed from the street;
- ii. The primary street setback area be predominantly garden, substantial plantings and/or the retention of existing vegetation;
- iii. The use of trees as a feature where possible;
- iv. Minimise the amount of hard surfaces in the front setback area;
- v. The proposed development is consistent with the Objectives of this Policy; and
- vi. The proposed development is consistent with the desired future character of the area as outlined in the Character Descriptions section of this Policy.

Design Principles Assessment:

The 7.5m primary street setback area of the site currently includes some grassed areas on the eastern side of the site and a large mature tree and sparse vegetation on the raised levels on the western side of the site. The below Google Streetview image shows the existing landscaping within the street setback area.



**Figure 8: Google Streetview image of the subject site showing the existing landscaping within the street setback area.**

Clause 6.1(C2.2) of the Town's *Local Planning Policy 3.1 – Streetscape* (LPP 3.1) requires a minimum of 60% of the total primary street setback area to be landscaping, which can be reduced to 55% if an existing mature tree located within the street setback area is being retained.

The application proposes to retain the existing mature tree within the street setback area, which means the deemed-to-comply minimum landscaping is 55% of the total street setback.

The application proposes 60m<sup>2</sup> of landscaping within the front setback area, which is 37.6% of the 7.5m total street setback area in lieu of 55%.

It is also noted that the application proposes to increase the area of driveway within the street setback area and the driveway will have a nil setback to the eastern boundary, which will reduce the area to provide additional landscaping. This is discussed further below in the 'Vehicle Access' assessment section of this Report.

The below marked-up floor plan shows the areas of landscaping within the primary street setback area.

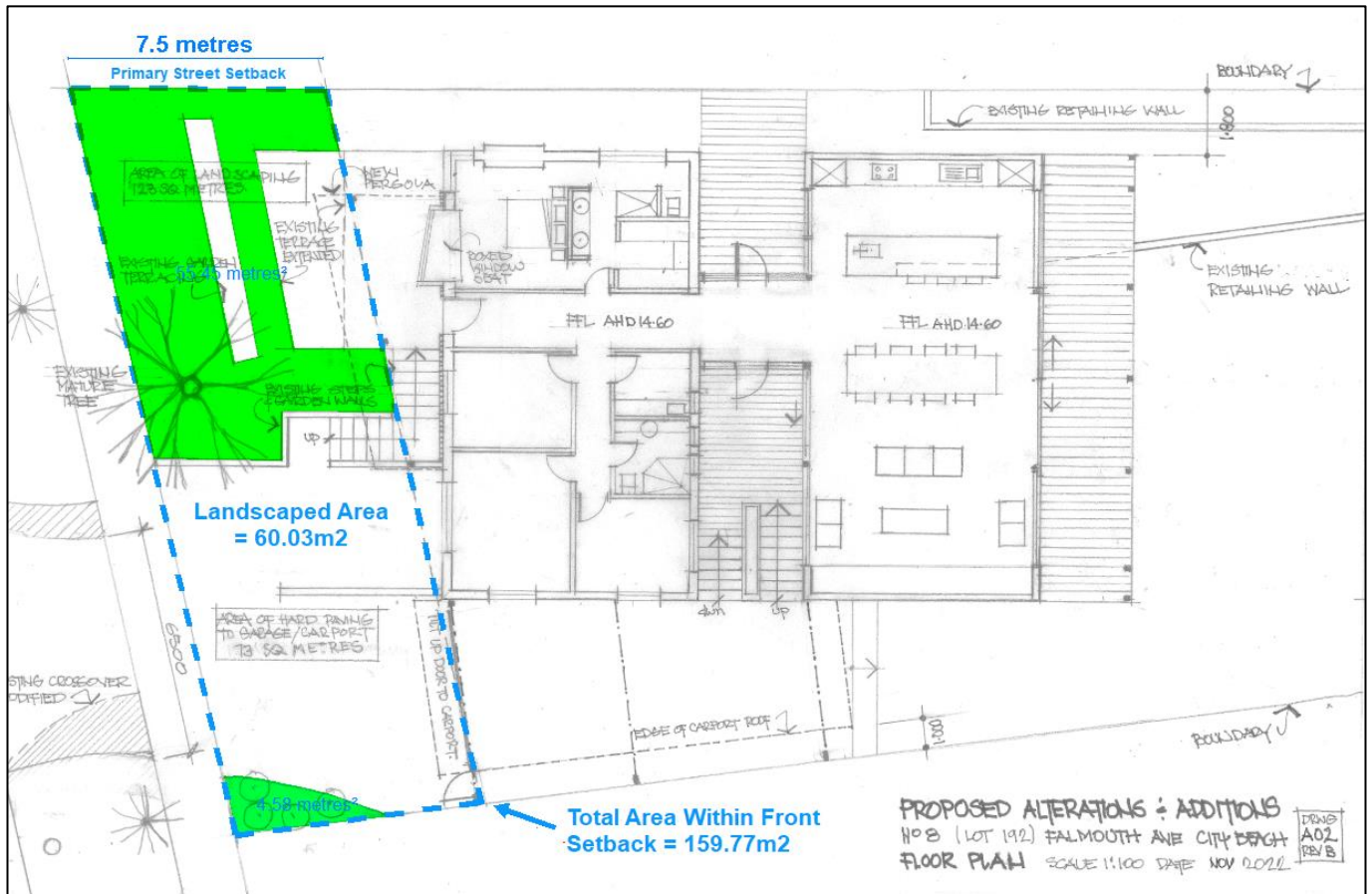


Figure 9: Marked-up floor plan showing the proposed areas of landscaping within the street setback area.

During the advertising period, one of the submissions received commented that the application includes insufficient details of proposed landscaping in the front setback area and that additional areas of landscaping could be provided within the street setback if the existing front terrace is not extended.

Clause 6.2(vi) of LPP 3.1 states that reduced landscaping within the street setback area may be approved if it is consistent with the Desired Future Character of the City Beach Precinct. The desired future character element relevant to the proposed landscaping is as follows:

*“New development shall create and enhance open landscaped front gardens within the street setback area to maintain the green character of the streetscape and the precinct.”*

While retaining the existing mature tree will be a positive outcome for the streetscape, the proposed landscaping of only 37.6% of the total front setback area will overall detract from the streetscape. As such, it is considered that the proposed reduced landscaping will not be consistent with the desired future character of the City Beach Precinct, as the application will not maintain the green character of the streetscape and the precinct.

For the above reasons, the proposed reduced landscaping is not supported.

<i>Local Planning Policy 3.1, Clause 7.1 – Vehicle Access</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Minimum setback of driveway from the side boundary.	0.5m	Nil
Maximum width of crossover (not inclusive of splays)	6m	7.6m

*Design Principles (of R-Codes):*

*P5.1 Vehicle access provided for each development site to provide:*

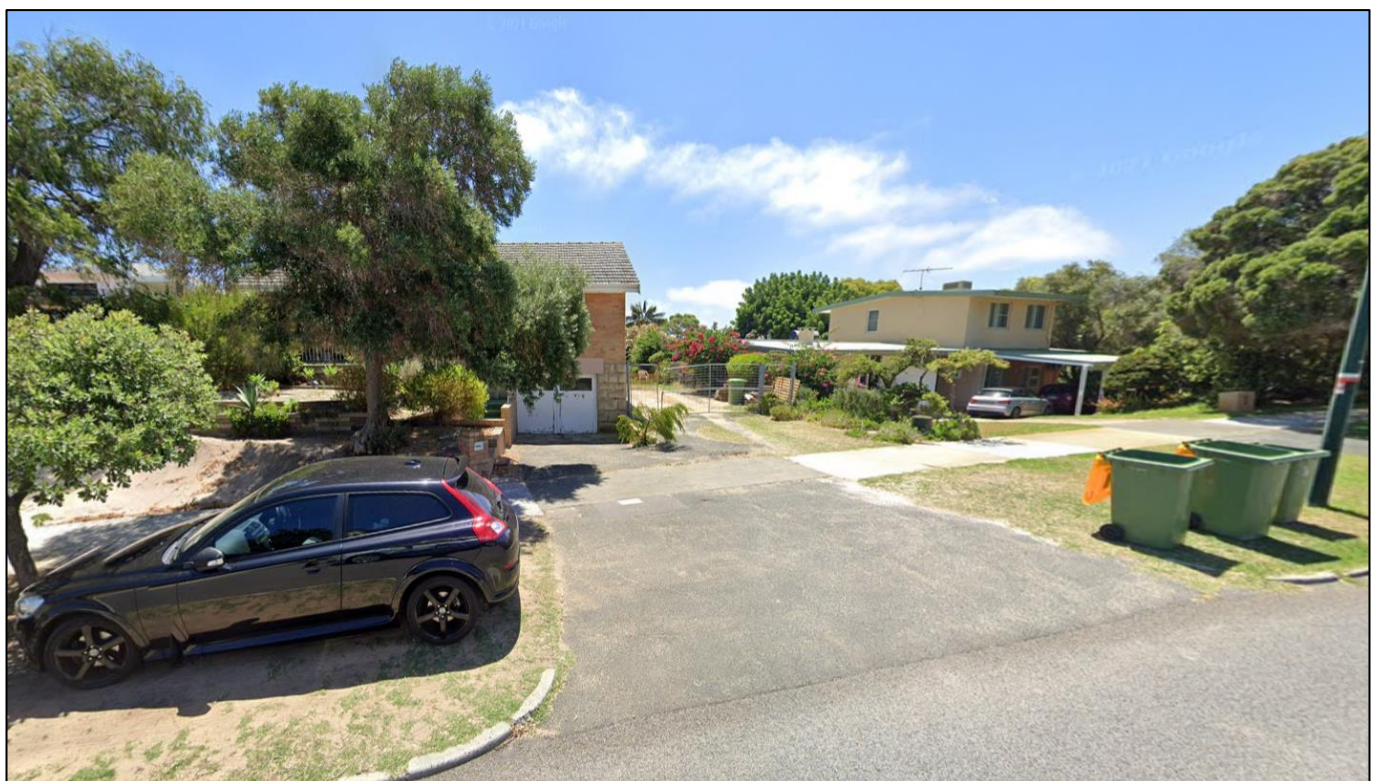
- *Vehicle access safety*
- *Reduced impact of access points on the streetscape*
- *Legible access*
- *Pedestrian safety*
- *Minimal crossovers; and*
- *High quality landscaping features.*

*Where a development application proposes to address the design principles it is to be assessed against the relevant design principles of 5.3.5 Vehicle Access of the R-Codes. In addition to this Council shall have regard to the following matters for consideration in applying the design principles:*

- i. The Objectives of this Policy; and*
- ii. The Desired Future Character of the area as outlined in the Character Descriptions section of this Policy.*
- iii. The placement and width of crossovers and driveways along a street shall aim to maximise opportunities for on street parking.*

Design Principles Assessment:

The existing dwelling includes a double bituminised crossover that accesses a single bituminised driveway to the undercroft single garage. An additional minor portion of bitumen leads to a loose soil track that runs along the eastern side dwelling. The below Google Streetview and Nearmaps aerial images show the existing bituminised crossover and driveway and loose soil track.



**Figure 10: Google Streetview image showing the existing bituminised crossover and driveway and loose soil track.**



Figure 11: Nearmaps aerial image showing the existing bituminised crossover and driveway and loose soil track.

The application proposes to modify the existing driveway by replacing the existing bitumen with hard paving, extending the driveway up to the eastern boundary, and replacing the loose soil track with hard paving.

The extended portion of the driveway will have a nil setback to the eastern boundary in lieu of being set back a minimum of 0.5m.

In addition, the application proposes to modify the existing crossover by increasing its width to a maximum of 7.6m (not inclusive of splays), which will exceed the deemed-to-comply maximum width of 6m (not inclusive of splays) for crossovers in the City Beach Precinct.

The below marked-up floor plan shows the proposed increased crossover width of 7.6m and the proposed additional driveway area with a nil setback to the eastern boundary.

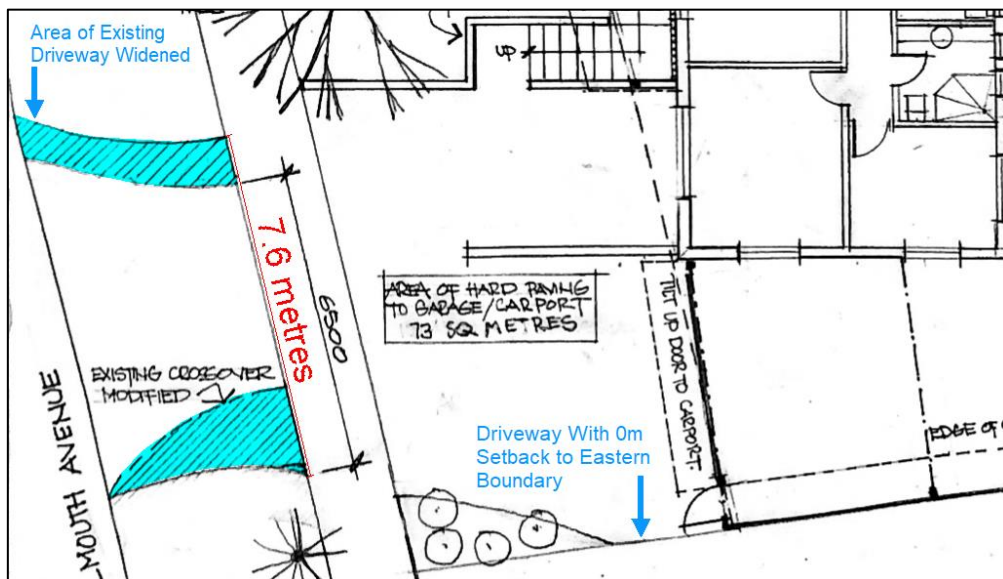


Figure 12: Marked-up floor plan showing proposed increased crossover width of 7.6m (not inclusive of splays) and the proposed additional driveway area with a nil setback to the eastern boundary.

It is considered that the proposal to increase the width of the crossover is not necessary, as the area of the driveway that will run along the eastern side of the dwelling could be accessed adequately via the existing crossover width.

Increasing the bituminised area on the verge will reduce the area of grass that allows for natural stormwater run off and drainage. Additional bituminised area also adds to the urban heat island effect.

Regarding the proposed increased area of the driveway with a nil setback to the eastern boundary, it is noted that this will reduce the area for additional landscaping within the street setback area, which is not supported given that the proposed area of landscaping (37.6%) does not meet the minimum required area of landscaping (55%).

Also, a nil setback of the driveway to the eastern boundary increases the risk that a vehicle will damage the eastern boundary dividing fencing, which undermines vehicle access safety to the site.

For all the above reasons, the proposed reduced setback from the driveway to the boundary and the increased width of the crosser is not supported.

Local Law 43 - Clause 7(a)/(b)		
	Deemed-to-comply Requirement	Proposed
Construction materials	All other dwelling-houses [ie. non-single-storey dwellings] shall be constructed of brick, stone, concrete, or similar material.	'Timber Cladding' to the external walls of the proposed extensions to the existing dwelling.  'Firestone' cladding to the external walls of the proposed studio/workshop (outbuilding).
<p><b>Clause 2B</b>  <i>"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–</i></p> <ul style="list-style-type: none"> <li><i>a) for use for a purpose which is not permitted in that district;</i></li> <li><i>b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</i></li> </ul> <p><i>if the Council is satisfied by an absolute majority that:–</i></p> <ul style="list-style-type: none"> <li><i>i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and</i></li> <li><i>ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".</i> </li></ul>		

**Assessment**

The application proposes 'Timber Cladding' to the external walls of the additions to the rear of the existing dwelling, and 'Firestone' cladding to the external walls of the studio/workshop (outbuilding), in lieu of masonry materials.

As the original dwelling is primarily constructed of traditional masonry brickwork, the proposed timber cladding to the external walls of the rear extension will provide a variety of materials that will improve the architectural interest of the building.

It is noted that it is common for relatively small structures, such as the proposed studio/workshop (outbuilding), to be constructed in lightweight materials such as the proposed 'Firestone' cladding.

The proposed cladding materials are commonly used within the City Beach Precinct and will not adversely impact the character of the locality.

For the above reasons, the proposed cladding materials are supported.

## CONCLUSION

The Administration supports the proposed reduced setbacks to, and the increased wall height of, the outbuilding and the proposed cladding materials, as these variations will not have an adverse impact on the adjoining properties or the streetscape.

However, the Administration considers that the proposed reduced street setbacks, reduced lot boundary setbacks to the additions to the dwelling, the proposed extent of direct overlooking, reduced landscaping in the front setback area, increased width of the crossover, and the reduced driveway side boundary setback will adversely impact the adjoining properties and the streetscape and will detract from the existing and desired future character of the City Beach Precinct.

For the above reasons, the Administration recommends that the application be refused.

## FINANCIAL IMPLICATIONS:

Costs may be incurred by the Town if the Landowner requests a review of the determination from the State Administrative Tribunal (SAT).

## LEGISLATIVE CONSIDERATIONS:

*Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 1  
State Planning Policy 7.3 - Residential Design Codes Volume 1  
Local Planning Policies  
Local Law 43*

## STRATEGIC DIRECTION:

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces.

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

## COMMUNITY ENGAGEMENT:

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

## COUNCIL DECISION:

(ADMINISTRATION RECOMMENDATION)

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and the provisions of *Local Law 43 – Buildings on Endowment Lands & Limekilns Estate*, Council REFUSES BY ABSOLUTE MAJORITY the application for additions and alterations to the single house at Lot 192 (No. 8) Falmouth Avenue, City Beach, as shown on the attached plans stamped received 1 February 2023, for the following reasons:**

1. **The proposal is a non-conforming application under Clause 26(1)(a) of *Local Planning Scheme No. 1*;**
2. **The proposal does not satisfy Policy Objective 3 of the Town's Local Planning Policy 3.1 – Streetscape, as the proposed reduced primary street setbacks would not be respectful of the established streetscape character and amenity of the locality as the proposal will not reduce the impact of building bulk within traditional street setbacks;**
3. **The proposal does not satisfy Clause 67(m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the cumulative bulk of the existing and proposed structures within the street setback area will have an adverse impact on the streetscape and will not be consistent with the Desired Future Character of the City Beach Precinct, as outlined in Local Planning Policy 3.1 – Streetscape, which includes maintaining the traditional street setback of the precinct;**
4. **The proposal does not meet the Design Principles of Clause 5.1.3 – Lot Boundary Setbacks of the Residential Design Codes Volume 1, as the proposed reduced side lot boundary setbacks will result in building bulk visual privacy impacts on adjoining properties;**
5. **The proposal does not meet the Design Principles of Clause 5.4.1 – Visual Privacy of the Residential Design Codes Volume 1, as the proposed overlooking to adjoining properties will not be oblique and will be directly onto visually sensitive areas of the adjoining properties, including outdoor living areas and private open spaces;**
6. **The proposal does not meet Policy Objective 6 or the Design Principles of Clause 6.2 of the Town's Local Planning Policy 3.1 – Streetscape, as the proposed reduced landscaping within the primary street setback area will result in the street setback area being predominantly hard surfaces, which will not enhance the presentation of the dwelling as viewed from the street;**
7. **The proposal does not meet the Design Principles of Clause 5.3.5 of the Residential Design Codes Volume 1, as the increased width of the crossover and reduced setback of the driveway to the side boundary will not reduce the impact of the vehicle access point on the streetscape and will reduce the available area within the street setback for high quality landscaping features; and**
8. **If the proposal is approved it may set a perceived precedent for similar developments in nearby properties, which would have an adverse impact on the existing and desired future character of the locality.**

**PROCEDURAL MOTION:**

**Moved by Mayor Mack, seconded by Cr Cutler**

**That Council DEFERS the item to the March 2024 Ordinary Meeting of Council to enable the owner to make amendments to the plans.**

**Motion put and CARRIED (9/0)**

**For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev**

**Against: Nil**

**12.3.9 Lot 213 (No. 50) Pandora Drive, City Beach - Proposed Extension to Existing Garage to Existing Single House**

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Twinkle Makwana (Statutory Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0231
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"> <li>1. Development Plans [12.3.9.1 - 8 pages]</li> <li>2. Applicant Justification [12.3.9.2 - 10 pages]</li> <li>3. Evidence of Non-Objection [12.3.9.3 - 8 pages]</li> </ol>

**PURPOSE OF REPORT:**

The purpose of this report is for the Council to consider a development application for an extension of an existing garage to an existing single house.

**EXECUTIVE SUMMARY:**

The existing skillion roof double garage, which is enclosed on three side and does not have a garage door, is set back a minimum of 7.6m from the primary street boundary, which is behind the 7.5m street setback.

The application proposes a flat roofed and open sided extension to the existing garage, which will be set back a minimum of 6.4m from the front boundary in lieu of 7.5m.

After consideration under the relevant planning provisions, it is recommended that the application be approved as:

- Only a minor portion of the garage extension will be within the 7.5m primary street setback area and therefore the traditional street setback will be largely maintained.
- The garage extension will be a lightweight and flat roof structure that will not add significant bulk to the appearance of the existing garage.
- On balance, the proposal will not have an adverse bulk impact within the Pandora Drive streetscape.
- The extension will result in the garage meeting the Australian Standards minimum car bay length dimension, by increased the length from 5.25m to 6.45m.

**BACKGROUND:**

<b>Applicant:</b>	Scatena Clocherty Architects
<b>Owner:</b>	Nicole Belbin and William Belbin
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P1: City Beach
<b>Development Description:</b>	Extension to Existing Garage to Existing Single House
<b>Development Value:</b>	\$50,000
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – Works associated with existing use
<b>Land Area:</b>	941m <sup>2</sup>
<b>Heritage Listing:</b>	No
<b>Application Date:</b>	9 October 2023
<b>Application Process Days:</b>	57 days

## **DELEGATION:**

In accordance with Clause 12.1.4 of the Town's Delegation Register, the Council is required to determine a development application where a variation is sought under Clause 34 (2) of the Town's *Local Planning Scheme No. 1*.

### **Council - Simple Majority**

At least fifty per cent of the Members present at the Council meeting must cast the same vote for a determination to be made.

## **DETAILS:**

### Proposal

The application proposes a flat roof and open sided extension to the existing skillion roof double garage, which is enclosed on three sides, does not have a garage door, and is currently located behind the 7.5m primary street setback area.

The proposed flat roof extension will be set back a minimum of 6.4m from the front boundary in lieu of 7.5m.

The proposed development plans are included as **Attachment 1**.

### Application History

The proposed extension to the double garage was originally included in a previous development application for alterations and additions to the existing single house.

Following the Administration's initial assessment of the previous application, the Applicant was advised that that proposal would require determination by Council at one of its meetings due to the proposed reduced street setback the garage extension.

The Applicant responded with amended plans omitting the garage extension, as they stated they wished to proceed with the works for the remaining alterations and additions to the dwelling as soon as possible. The Applicant then submitted the subject proposal for the garage extension as a separate development application.

The previous development application for the alterations and additions to the existing dwelling was determined under delegation by the Administration in November 2023.

### Site Context

The site is located within the City Beach Precinct (P1) and is currently occupied by a two-storey dwelling with a skillion roof double garage that is set back a minimum of 7.6m from the front boundary, which is behind the 7.5m primary street setback area.

The street setback area of the site is relatively flat. Behind the street setback area, however, the site slopes significantly down to the rear boundary.

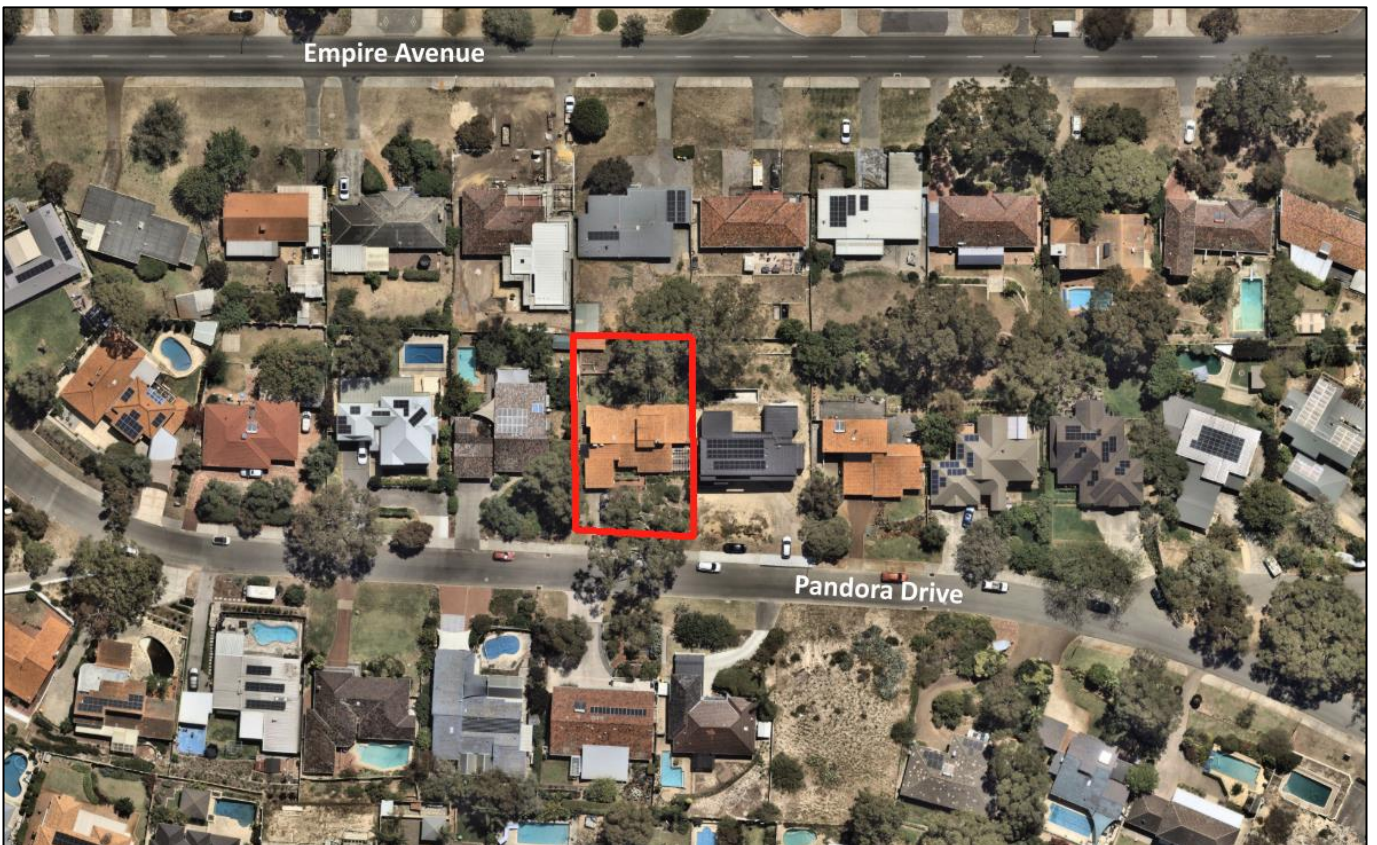
The existing garage, which is located behind the street setback area, is situated on a raised pad level that is only slightly below the street level. Due to the steep slope of the site, the ground floor of the existing dwelling, which sits behind the garage, is below the street level with only the roof of the ground floor being visible from the street.

The below Google Streetview image shows the level of the existing garage is just below the street level and the existing dwelling sits significantly lower than the carport, within only the roof of the ground floor being visible from the street (refer Figure 1).



**Figure 1: Google Streetview image showing the existing carport level is just below the street level and the existing dwelling sits significantly below the carport.**

The surrounding locality consists of single-storey and two-storey dwellings. The below aerial image shows the subject property and the immediately surrounding area (refer Figure 2).



**Figure 213: Aerial image showing the subject property and the immediately surrounding area.**

It is noted that the Pandora Drive streetscape is well preserved, with most dwellings along the street being set back a minimum of 7.5m from the primary street boundary. Some dwellings have portions of the dwelling or carports that project into the street setback area.

**CONSULTATION:**

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the consultation period.

The Applicant also provided signed evidence of non-objection from the owners of the adjoining western property at 52 Pandora Drive, City Beach (refer **Attachment 3**).

**APPLICANT(S) COMMENTS:**

The Applicant has provided comments in support of those aspects of the application that do not meet the street setback requirement of the Scheme.

The Applicant's comments are summarised as follows:

- i. The existing carport is sub-standard in terms of its internal dimensions and cannot provide cover for two vehicles. The existing carport internal dimensions measure 5.25m deep x 5.22m wide which does not meet the Australian Standards AS/NZS 2890 that require a double bay parking with obstruction on both sides, to measure 5600mm x 5500mm.
- ii. The current design of the dwelling due to the steep contours of the land and the limited size of the existing carport, the existing owner's children have to store their bicycles down on the lower level which is 2.5metres below the existing carport level. This affects both the access and livability for the occupants.
- iii. The proposed extension of the carport will enhance the livability of the site and will not impact the streetscape.
- iv. The existing site conditions and house design prevents any other options for other solutions.
- v. The proposal maintains significant open space and achieves the minimum requirement for landscaping within the front setback.
- vi. Precedent – there are numerous examples of carports in the vicinity which are located within the front setback.

With reference to the Applicant's comment summarised in point (i) above, it is noted that under the current Australian Standards *AS/NZS 2890.1:2004 - Parking Facilities - Part 1: Off-street car parking*, the minimum dimensions for a double garage with obstructions on each side of the car bays is 5.4m x 5.4m.

Standards Australia recently proposed changes to the Australian Standards *AS/NZS 2890.1:2004 - Parking Facilities - Part 1: Off-street car parking*, which includes increasing the internal length of off-street car parking spaces from 5.4m to 5.6m.

Those changes have not yet come into effect.

**STATUTORY ASSESSMENT:**

***Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes***

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	<b>Required</b>	<b>Proposed</b>
Primary Street Setback (Carport Extension)	7.5m	6.4m

Clause 34 - Variations to Site and Development Requirements

- "1) a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...
- 2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".
- (a) Consult with the party or parties who, in the opinion of Council, may be affected by the approval of the development; and
- (b) have regard to any submissions before making its decision to grant the variation.
- 8) The Local government may only approve an application for development approval under this clause if the local government is satisfied that—
- a) Approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions".

Local Planning Policy 3.1 – Streetscape

"1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme

...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.

- (ii) The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;
- (iii) Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;

Desired Future Character of the Area:

- Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for;
- The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape.

Assessment

The existing covered car parking structure, which is enclosed on three sides, does not meet the definition of 'carport' in the R-Codes, which is as follows:

*"A roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable."*

Therefore, the structure is a 'garage', which is defined in the R-Codes as follows:

*"Any roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling."*

The existing skillion roof double garage is set back a minimum of 7.6m from the primary street boundary, which is behind the 7.5m primary street setback area.

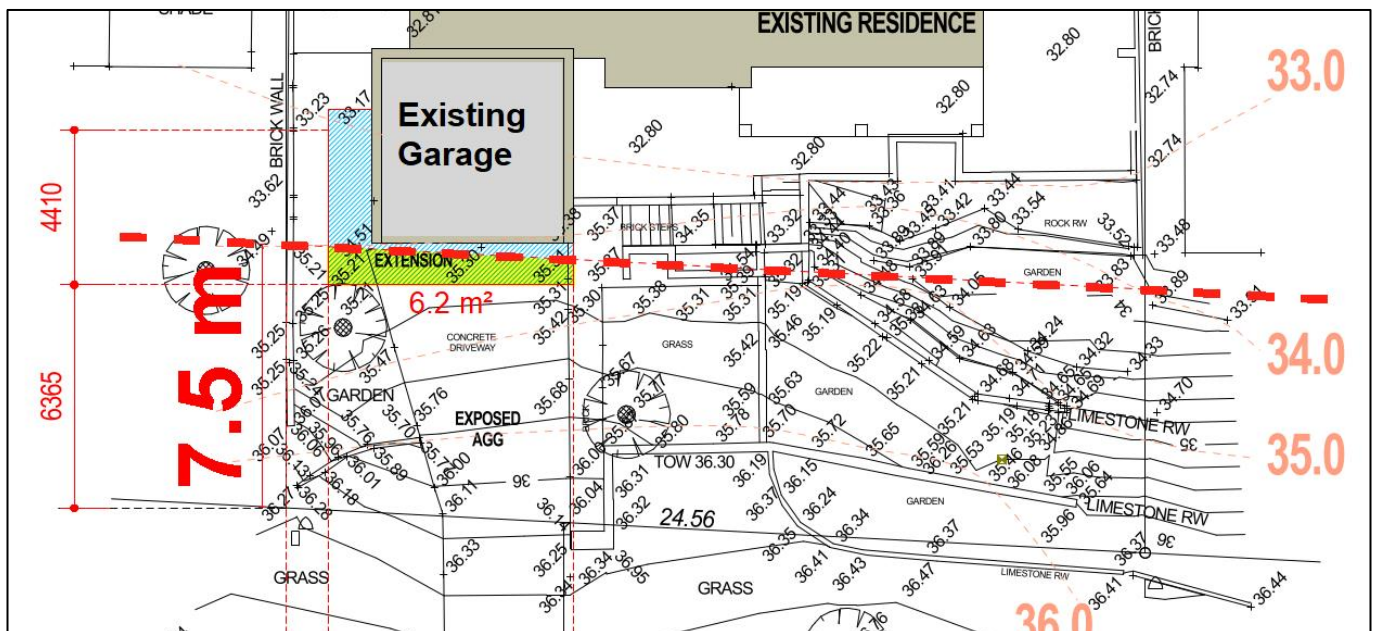
The existing garage has internal dimensions of 5.25m long x 5.22m wide, which do not meet the current Australian Standards minimum dimensions of 5.4m x 5.4m for a double garage with obstructions on each side of the car bays.

The application proposes a flat roof and open sided extension to the existing garage, which will be set back a minimum of 6.4m from the primary street boundary in lieu of 7.5m. The proposal will result in a 6.2m<sup>2</sup> portion of the proposed extension being within the street setback area, which is 3.3% of the total front setback area of 185.4m<sup>2</sup>.

As the existing garage does not have a garage door and no garage door is proposed, the proposed extension will increase the covered car bay length dimension from 5.25m to 6.45m, which will meet the current Australian Standards for off-street parking bays to have a minimum length of 5.4m.

While the proposal will increase the overall width of the garage from 5.8m to 7m as the flat roof extension wraps around the side of the garage, the existing internal car bay width of 5.22m will not be increased, as the application does not include removing or modifying the walls of the existing garage. As such, the application will not result in the garage meeting the minimum double garage width dimension of 5.4m in accordance with the Australian Standards.

The below marked-up site plan shows the existing garage, the proposed flat roof extension (blue hatching), and the 6.2m<sup>2</sup> portion of the carport extension (highlighted yellow) that will be set back a minimum of 6.4m from the front boundary (refer Figure 3).



**Figure 14: Marked-up site plan showing a 6.2m<sup>2</sup> portion of the proposed carport extension will be within the 7.5m street setback area.**

The below marked-up floor plan shows the internal car bay dimension of the existing garage is 5.22m and the proposed extension (highlighted yellow and blue) will result in the car bay length dimension being 6.45m.

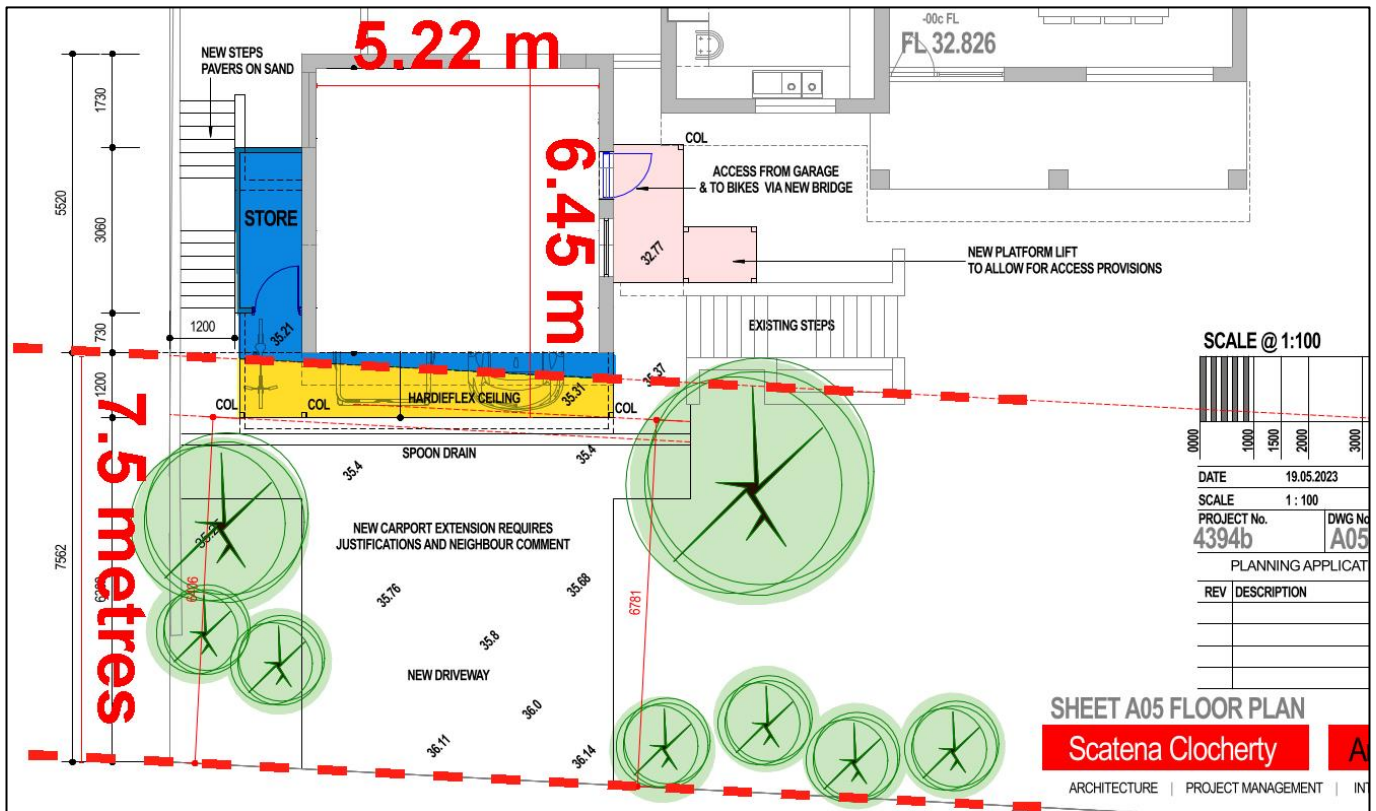


Figure 4: Marked-up floor plan showing the proposed combined garage/carport structure will have a .

Clause 1 of Local Planning Policy 3.1 – Streetscape (LPP 3.1) includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;
- b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties.”

The Desired Future Character referred to in criteria (a) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the City Beach Precinct (P1) includes several desired future character elements. In this case, the desired future character element relevant to the proposed reduced street setback is as follows:

- (i) “Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original and desired open nature of the precinct’s design; and
- (ii) “New development shall reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located to the rear or side of properties.”

The following assessment comments are in relation to the above desired future character element and criterion (b) of Clause 1 of LPP 3.1.

As the proposed garage extension will be set back a minimum of 1.2m from the western (side) boundary, the application satisfies criterion (b) of Clause 1 of LPP 3.1, as the proposal will preserve a streetscape of distinctly separate residences.

In this instance, it is considered that the proposal will be generally consistent with the above (i) desired future character element, as the garage extension will occupy only 3.3% of the total front setback area and therefore the traditional street setback will be largely maintained.

Due to the steep slope of the site behind the existing garage, it would not be possible for a covered parking structure to be located to the rear or side of the property, as the driveway gradient to access the parking space would be too steep and non-trafficable. Because of this, it is considered that it is impractical for the development to meet the above (ii) desired future character element.

Increasing the length of the garage from 5.25m to 6.45m exceeds the requirements of the Australian Standards, which requires a minimum car bay length dimension of 5.4m. This results in the garage extension encroaching into the street setback area by 1.05 more than if the length of the garage was increased by 0.15m to meet the Australian Standards.

However, it is considered that the additional area of the garage extension within the street setback area will not have an adverse bulk impact on the streetscape, as the extension will be a lightweight and flat roof structure that will not add significant bulk to the appearance of the existing garage.

For the above reasons, the non-complying application is supported.

#### **FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

#### **LEGISLATIVE CONSIDERATIONS:**

Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 1  
State Planning Policy 7.3 - Residential Design Codes Volume 1  
Local Planning Policies

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

#### **COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

**COUNCIL DECISION:**  
**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council APPROVES the application for alterations and additions to the existing carport to the existing single house at Lot 213 (No. 50) Pandora Drive, City Beach, as shown on the attached plan stamped received 9 October 2023, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;**
- 2. All structures (and associated footings) shall be contained within the lot boundaries of the subject site;**
- 3. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town; and**
- 4. The carport shall remain unenclosed on all sides (except if it abuts the dwelling); and shall be without a door unless the door meets all deemed-to-comply provisions of cl3.1, C1.5(iii) of the Town's Local Planning Policy 3.1 – Streetscape.**

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Carr, Cr Cutler, Cr Foley, Cr Kennerly, Cr Le Page, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.10 Lot 159 (No. 6) Talgarth Way, City Beach - Proposed Three-Storey Single House - S31 Reconsideration

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Christian Parker (Coordinator Statutory Planning,), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA22/0223
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"><li>1. Amended Development Plans - S31 Reconsideration [<b>12.3.10.1</b> - 17 pages]</li><li>2. Summary of Submissions [<b>12.3.10.2</b> - 22 pages]</li><li>3. Applicant's Written Justification [<b>12.3.10.3</b> - 9 pages]</li><li>4. Applicant's Plans Justification [<b>12.3.10.4</b> - 4 pages]</li><li>5. Applicant's Surveyor Justification [<b>12.3.10.5</b> - 6 pages]</li><li>6. Applicant's Response to Neighbour Submissions [<b>12.3.10.6</b> - 4 pages]</li><li>7. 23 May 2023 Council Meeting Minutes - Original Application Refused [<b>12.3.10.7</b> - 13 pages]</li><li>8. Previously Refused Development Plans [<b>12.3.10.8</b> - 11 pages]</li></ol>

#### PURPOSE OF REPORT:

The purpose of this report is for the Council to reconsider a development application for a three-storey single house, which was previously refused by the Council and the Applicant subsequently lodged an appeal with the State Administrative Tribunal (SAT).

The SAT has invited the Council to reconsider amended plans under Section 31 of the *State Administrative Tribunal Act 2004*.

#### EXECUTIVE SUMMARY:

The application proposes a three-storey single house.

The original application, which proposed increased maximum building heights, raised fill within the 7.5m primary street setback area, increased fill along the side and rear boundaries, and 'Windspray Colorbond' metal sheeting roofing, was initially considered by the Council at the 23 May 2023 Ordinary Council meeting, where it was refused.

The Administration recommended that the Council refuse the application, as it was considered that the proposed increased maximum building heights would impact the views of significance from the surrounding properties. It was also considered that the proposed fill within the street setback area and surrounding the site did not respond to the natural topography of the site and would have an adverse bulk impact on the streetscape and surrounding properties.

The Council refused the application for the following reasons:

1. *The proposal does not satisfy objective three of Local Planning Policy 3.1 – Streetscape, as the proposed development is not considered to be respectful of the established and desired future character and amenity of the City Beach Precinct.*
2. *The proposal does not satisfy Clause 67(m) and (n) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed retaining and fill within the primary street setback area will have an adverse impact on the amenity of the surrounding properties due to the increase in bulk within the street*

*setback area, and will not be consistent with the Desired Future Character of the City Beach precinct under Local Planning Policy 3.1 – Streetscape.*

3. *The proposal does not satisfy the matters for consideration of Local Planning Policy 3.3: Building Height, including the Local Housing Objectives, as the application does not consider and respond to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.*
4. *The proposal does not satisfy the design principles of Clause 5.1.6 – Building Height of State Planning Policy 7.3 – Residential Design Codes Volume 1, as it results in an adverse impact on adjoining properties from building bulk and does not maintain access to access to views of significance.*
5. *The proposal does not satisfy the design principles of Clause 5.3.7 – Site Works of State Planning Policy 7.3 – Residential Design Codes Volume 1, as the proposed increased fill does not respond the natural features of the site and does not minimise the amount of fill required.*

The Applicant subsequently lodged an appeal to the State Administrative Tribunal (SAT) for a review of the Council's refusal decision.

Following mediation, amended plans were received, which are the subject of this reconsideration report.

In addition, the Applicant provided a report from a licensed surveyor, which justifies why the 1975 historical natural ground level contours as shown in the survey plans in the Town's *Local Planning Policy 3.24 – Determining natural ground levels* (LPP 3.24) do not accurately reflect the natural ground levels of the subject site.

Upon review of the licensed surveyor's justification and the survey plans in LPP 3.24, the Administration agrees that, in this case, the historical natural ground level contours shown in LPP 3.24 are vertically and horizontally misaligned and are not shown to be in the correct location.

Essentially, the contours shown in LPP 3.24 should be shifted north and west to align with existing site features, such as retaining walls on neighbouring properties in the locality, more accurately. This would result in the survey plans in LPP 3.24 correctly depicting the natural ground level on the subject site.

As the Administration's assessment of the original application was based on the location of the contours shown in LPP 3.24, which the Administration now believes are inaccurate, the Administration considers that the assessment as set out in the previous report to the Council in May 2023 is not correct. It is noted that if the assessment in the previous report was based on more accurately aligned natural ground level contours, the Administration would still have recommended that the application be refused due to the extent of the proposed maximum building height and increased levels of fill.

The changes made on the amended plans and the Administration's assessment of the amended proposal, which is based on more accurately aligned natural ground level contours, has resulted in several elements of the proposal that were previously non-compliant now being deemed-to-comply and has reduced the extent of the remaining variations that require the Council's discretion.

The amended proposal and the Administration's updated assessment have resulted in the following:

1. The amended plans show the maximum height of the proposed fill within the 7.5m primary street setback area has been reduced. Based on the reduced fill levels and the Administration's updated assessment, the fill within the street setback does not exceed more than 0.5m above the natural ground levels and as such does not vary the street setback requirement under Clause 26 of the Scheme.
2. The amended plans show the proposed maximum wall and roof heights of the dwelling have been reduced, however are still not deemed-to-comply.

3. The previously proposed fill along the southern and western boundaries has been removed from the amended proposal.
4. The amended plans show the maximum height of the proposed fill along the northern boundary has been reduced. Based on the reduced fill levels and the Town's updated assessment, the maximum height of the fill along the northern boundary has been reduced from 0.95m to 0.8m.
5. The side and rear lot boundary setbacks have been increased.
6. The previously proposed pitched roof has been changed to a flat/gable/skillion roof with a maximum pitch of 3.26 degrees, which means the amended proposal is not subject to the roof reflectivity requirements under Local Law 43 as those requirements only apply to roof pitches of 5 degrees or greater.
7. The amended proposal now includes 'Pertmatimber Castellated' cladding to the external walls of the dwelling in lieu of masonry materials.

Based on the changes and the Administration's updated assessment, the amended proposal seeks approval for increased maximum building heights, increased retaining/fill heights, increased driveway width, and cladding materials to the external walls in lieu of masonry materials.

It is considered that the amended proposal will not have an adverse building bulk impact on the streetscape or surrounding properties and will not impact the neighbouring properties' access to views of significance.

In addition, the proposed retaining/fill along the northern boundary will not impact the adjoining northern property, as it is only required to retain the existing raised levels on the neighbouring side of the boundary.

If the Council resolves to approve the application, it is recommended that a condition is included in the approval requiring the driveway to have a deemed-to-comply maximum width of 6m at the street boundary, which the Applicant has confirmed they agree to.

Also, it is considered that the proposed cladding will be consistent with materials used in the City Beach precinct and will provide a mix of high quality materials to the façade of the dwelling.

For the above reasons, it is recommended that the application is approved, subject to conditions.

**BACKGROUND:**

<b>Applicant:</b>	Antonelli Investments Pty Ltd T/AS Novus
<b>Owner:</b>	Maina P Kava & Ravisha M Srinivasjois
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P1: City Beach
<b>Development Description:</b>	Three-Storey Single House
<b>Development Value:</b>	\$2,276,632
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – works associated with existing use
<b>Land Area:</b>	850m <sup>2</sup>
<b>Heritage Listing:</b>	No
<b>Application Date:</b>	10 November 2022
<b>Application Process Days:</b>	N/A - S31 reconsideration

## **DELEGATION:**

In accordance with Clause 12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reasons:

- The granting of development approval where three or more submissions have been received:
  - a. During the advertising period of the development application that objects to the application on valid planning grounds; and
  - b. Which cannot be addressed by conditions of development approval.
- Reconsideration of applications pursuant to s31 of the State Administrative Tribunal Act 2004, where the application was originally determined by resolution of Council. All other conditions on these delegations apply in determining the Town's response to the s31 reconsideration.

Additionally, Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

### **Council - Absolute Majority**

More than fifty per cent of the total number of positions on the Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote for a determination to be made.

## **DETAILS:**

### Proposal

The application proposes to demolish the existing two-storey dwelling and to construct a new three-storey dwelling, which includes the following elements that don't meet the relevant deemed-to-comply provisions:

- Maximum wall height of 9.1m in lieu of 6.5m
- Maximum building height of 9.3m in lieu of 7.5m
- Fill along the northern boundary up to 0.8m in lieu of 0.5m
- Maximum driveway width of 6.5m (not inclusive of splays) in lieu of 6m
- 'Permatimber Castellated' cladding to the external walls of the dwelling in lieu of masonry materials

### Application History

This development application was initially lodged with the Town in October 2022.

The original application was presented to the Council at the May 2023 Ordinary Council meeting. The Administration recommended that the Council refuse the application, as it was considered that the proposed increased maximum building heights would impact the views of significance from the surrounding properties. It was also considered that the proposed fill within the street setback area and surrounding the site did not respond to the natural topography of the site and would have an adverse bulk impact on the streetscape and surrounding properties.

The Council refused the application for the following reasons:

1. *The proposal does not satisfy objective three of Local Planning Policy 3.1 – Streetscape, as the proposed development is not considered to be respectful of the established and desired future character and amenity of the City Beach Precinct.*
2. *The proposal does not satisfy Clause 67(m) and (n) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed retaining and fill within the primary street setback area will have an adverse impact on the amenity of the surrounding properties due to the increase in bulk within the street*

*setback area, and will not be consistent with the Desired Future Character of the City Beach precinct under Local Planning Policy 3.1 – Streetscape.*

3. *The proposal does not satisfy the matters for consideration of Local Planning Policy 3.3: Building Height, including the Local Housing Objectives, as the application does not consider and respond to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.*
4. *The proposal does not satisfy the design principles of Clause 5.1.6 – Building Height of State Planning Policy 7.3 – Residential Design Codes Volume 1, as it results in an adverse impact on adjoining properties from building bulk and does not maintain access to access to views of significance.*
5. *The proposal does not satisfy the design principles of Clause 5.3.7 – Site Works of State Planning Policy 7.3 – Residential Design Codes Volume 1, as the proposed increased fill does not respond the natural features of the site and does not minimise the amount of fill required.*

The 23 May 2023 Council meeting minutes are included in **Attachment 7** and the previously refused development plans are included in **Attachment 8**.

The Applicant subsequently lodged an appeal with the SAT for a review of Council's refusal decision.

Following mediation, the Applicant submitted amended plans and a report from a licenced land surveyor, which justifies why the 1975 historical natural ground level contours as shown in the survey plans in the Town's *Local Planning Policy 3.24 – Determining natural ground levels* do not accurately reflect the natural ground levels of the subject site.

The report from the licenced land surveyor and which natural ground levels the Administration used to assess the amended proposal are discussed in the comments that follow.

The changes made to the amended plans and the Administration's updated assessment are discussed further below.

#### Natural Ground Levels

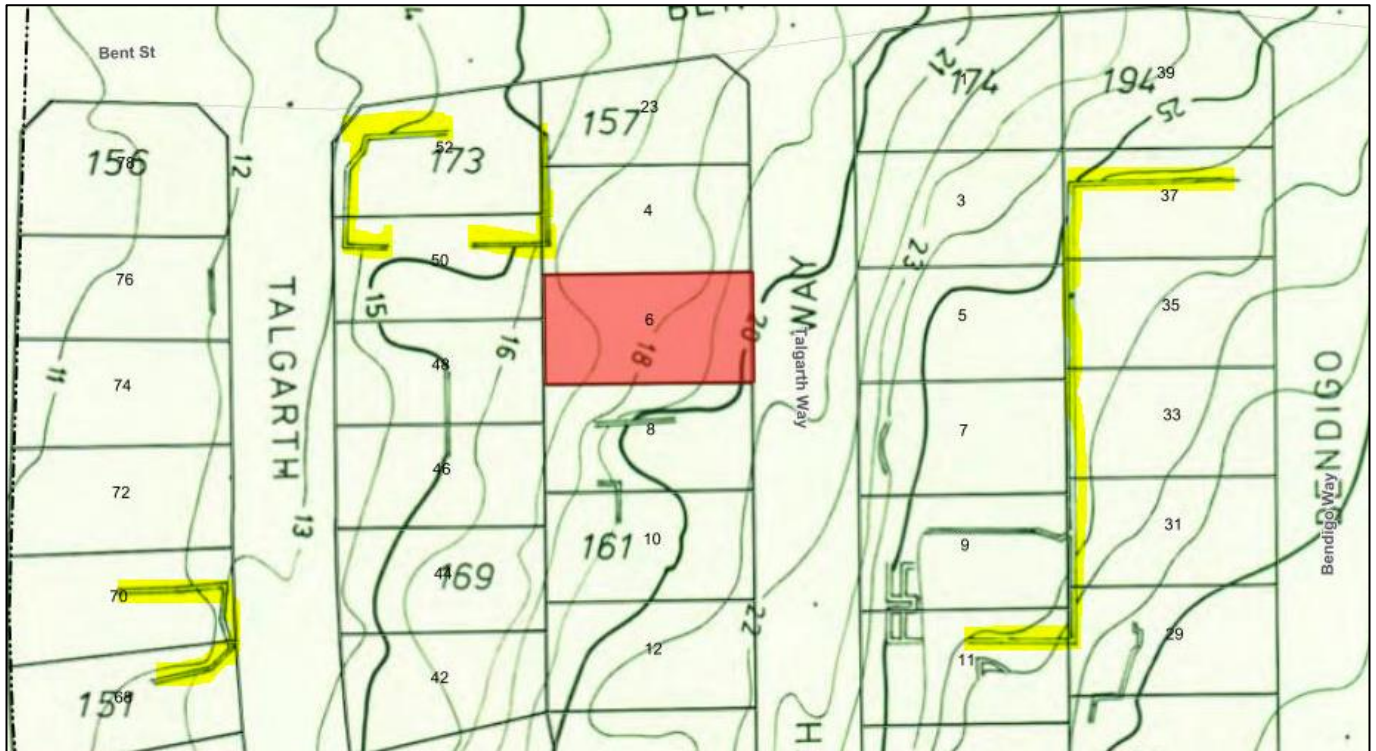
*Local Planning Policy 3.24 - Determining Natural Ground Levels* (LPP 3.24) sets out how the Town is to determine natural ground levels (NGL). By default, the Town uses the Department of Lands & Surveys 1975 Perth BG34 1:2000 series maps, which are the survey plans included in LPP 3.24, to determine NGL.

Clause 1.3 of LPP 3.24 allows the Town to use alternative survey levels to determine the natural ground levels if a licensed surveyor proves to the Town's satisfaction that the survey plans in LPP 3.24 are not appropriate for a particular area.

Following the SAT mediation, the Applicant provided a report from a licensed surveyor, which justifies why the 1975 historical natural ground level contours as shown in the survey plans in LPP 3.24 do not accurately reflect the natural ground levels of the subject site.

Upon review of the licensed surveyor's justification and the survey plans in LPP 3.24, the Administration agrees that, in this case, the historical natural ground level contours shown in LPP 3.24 are vertically and horizontally misaligned and are not shown to be in the correct location.

The below marked-up contour map from the survey plans in LPP 3.24 highlights existing retaining walls in yellow, which existed prior to the survey being carried out in 1975, that do not align to the respective property lot boundaries where they should be located (refer Figure 1).



**Figure 15: 1975 Contour map highlighting (yellow) retaining walls which should be generally aligned to property boundaries.**

Essentially, the contours shown in LPP 3.24 should be shifted north and west to align the retaining walls with the lot boundaries more accurately. This would result in the survey plans in LPP 3.24 correctly depicting the natural ground level on the subject site.

As the Administration's assessment of the original application was based on the location of the contours shown in LPP 3.24, which the Administration now believes are inaccurate, the Administration considers that the assessment as set out in the previous report to the Council in May 2023 is not correct.

In assessing the amended proposal, the Administration has shifted the contours from the survey plans in LPP 3.24 5.7m north and 1.2m west, which aligned the retaining walls highlighted yellow in Figure 1 above with the respective lot boundaries and resulted in a more accurate depiction of the natural ground levels on the subject site.

#### Amended Plans and the Administration's Updated Assessment

The changes made on the amended plans and the Administration's assessment of the amended proposal, which is based on more accurately aligned natural ground level contours, has resulted in several elements of the proposal that were previously non-compliant now being deemed-to-comply and has reduced the extent of the remaining variations that require the Council's discretion.

The amended proposal and the Administration's updated assessment have resulted in the following:

1. The amended plans show the maximum height of the proposed fill within the 7.5m primary street setback area has been reduced. Based on the reduced fill levels and the Administration's updated assessment, the fill within the street setback does not exceed more than 0.5m above the natural ground levels and as such does not vary the street setback requirement under Clause 26 of the Scheme.
2. The amended plans show the proposed maximum wall and roof heights of the dwelling have been reduced, however are still not deemed-to-comply.
3. The previously proposed fill along the southern and western boundaries has been removed from the amended proposal.

4. The amended plans show the maximum height of the proposed fill along the northern boundary has been reduced. Based on the reduced fill levels and the Town's updated assessment, the maximum height of the fill along the northern boundary has been reduced from 0.95m to 0.8m.
5. The side and rear lot boundary setbacks have been increased.
6. The previously proposed pitched roof has been changed to a flat/gable/skillion roof with a maximum pitch of 3.26 degrees, which means the amended proposal is not subject to the roof reflectivity requirements under Local Law 43 as those requirements only apply to roof pitches of 5 degrees or greater.
7. The amended proposal now includes 'Pertmatimber Castellated' cladding to the external walls of the dwelling in lieu of masonry materials.

It is the amended plans that are being presented to the Council as part of this reconsideration report. The amended plans are included as **Attachment 1**.

### Site Context

The site is located within the City Beach precinct on the western side of Talgarth Way.

The natural topography of the site slopes down approximately 3.3m from the south-eastern corner at the front of the lot to the north-western corner of the lot at the rear.

The prevailing character of the immediate locality mostly comprises two-storey and three-storey dwellings.

The below aerial image shows the subject property and the immediately surrounding area (refer Figure 2).



*Figure 16: Aerial image showing the subject property and the immediately surrounding area.*

### Site History

The existing dwelling was constructed in the 1970's and has remained relatively unchanged since its original construction.

## CONSULTATION:

As the amended proposal reduced the extent of variations and did not result in any new variations to what was previously advertised for public consultation, the amended proposal was not required to be readvertised for public comment in accordance with Clause 7 of the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

However, as strong objections were received during the consultation period of the original application, the amended proposal was readvertised for a period of 7 days. The Administration considered that this was appropriate to keep the previous submitters informed of the changes made to the amended plans.

During the consultation period of the amended proposal, a total of five submissions were received; all of which objected to the proposal.

It is noted that some of the submissions were received after the consultation closing date; however, these submissions have still been considered as part of this report.

It is also noted that one of the submissions consists of two separate letters prepared by a planning consultant and a lawyer.

The main concerns raised during the public consultation period are summarised below:

- The application is not respectful of the established and desired future character and amenity of the City Beach Precinct.
- The application will have an adverse impact on the surrounding properties due to increased bulk within the street setback area.
- The application does not consider and respond to the natural topography of the site and does not step in accordance with this topography.
- The application has an adverse impact on views of significance.
- The increased fill does not respond to the natural features of the site.
- The application is not consistent with the predominant building height of the surrounding area.
- The application would create an undesirable precedent.
- The application is more than a full storey above the allowed wall height.
- The application will have extensive overlooking for western neighbours.

A Schedule of Submissions that includes the submissions in their entirety is attached to this Report (refer **Attachment 2**).

## APPLICANT(S) COMMENTS:

The applicant has provided comments in support of those aspects of the application that do not meet the relevant deemed-to-comply requirements. These comments are attached to this Report (refer **Attachments 3, 4, 5 and 6**).

## STATUTORY ASSESSMENT:

*Local Planning Policy 3.3 – Building Height (LPP 3.3)*

*State Planning Policy 7.3 - Residential Design Codes Volume 1 (R-Codes)*

<i>LPP 3.3 Clause 1</i> <i>R-Codes Clause 5.1.6 - Building height</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Maximum external wall height	6.5m	9.1m
Maximum skillion/concealed roof height	7.5m	9.3m

Design Principles (of R-Codes):

*"Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:*

- *adequate access to direct sun into buildings and appurtenant open spaces;*
- *adequate daylight to major openings into habitable rooms; and*
- *access to views of significance".*

In addition, the following considerations of *Local Planning Policy 3.3 - Building Height (LPP 3.3)* are applicable:

- a) *"Whether the proposed building height is consistent with the predominant building height of the buildings within the surrounding area; and*
- b) *The natural topography of the site and whether the proposed building height considers and responds to the topography".*

*Local Planning Policy 3.3: Building Heights*

*"To provide for consistency with the established built form of residential development in the Town, the following supplementary Local Housing Objectives are to be considered when determining applications for single houses and grouped dwellings which do not satisfy the deemed-to-comply requirements of this Policy.*

1. *To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.*
2. *To ensure that the height of buildings does not adversely impact on the streetscape or locality.*
3. *To ensure that residential buildings present to the street and abutting properties as one or two storey dwellings and minimise the impact of basement garages on the overall building height by locating third storey garages entirely below the ground level of the street.*
4. *The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.*
5. *To promote high quality, creative architectural design."*

The original application that was refused by the Council proposed maximum external wall and pitched roof heights of 8.9m and 10.1m respectively. It is noted that the Administration's assessment of the original application measured the maximum building heights from the locations of the contours as shown in the survey plans in LPP 3.24.

The amended proposal has modified the roof of the dwelling from a pitched roof form to a combination of skillion and concealed roof forms. It is also noted that the Administration's assessment of the amended proposal has measured the proposed maximum building heights from realigned contours that reflect the natural ground levels more accurately on the subject site.

Based on the changes made to the amended plans and the Administration's updated assessment, the amended application proposes a maximum external wall height of 9.1m in lieu of 6.5m and a maximum skillion/concealed roof height of 9.3m in lieu of 7.5m.

The below marked up elevations show the area of the proposed dwelling that exceeds the deemed-to-comply maximum building height (highlighted in yellow) (refer Figures 3, 4, 5, and 6).

It is noted that, while the application varies both the deemed-to-comply maximum wall and skillion/concealed roof heights, for the purposes of keeping the Administration's assessment succinct, only the variation to the maximum skillion/concealed roof height is highlighted in the below images and discussed in the assessment comments that follow, as that is the greatest extent of the proposed maximum building height.

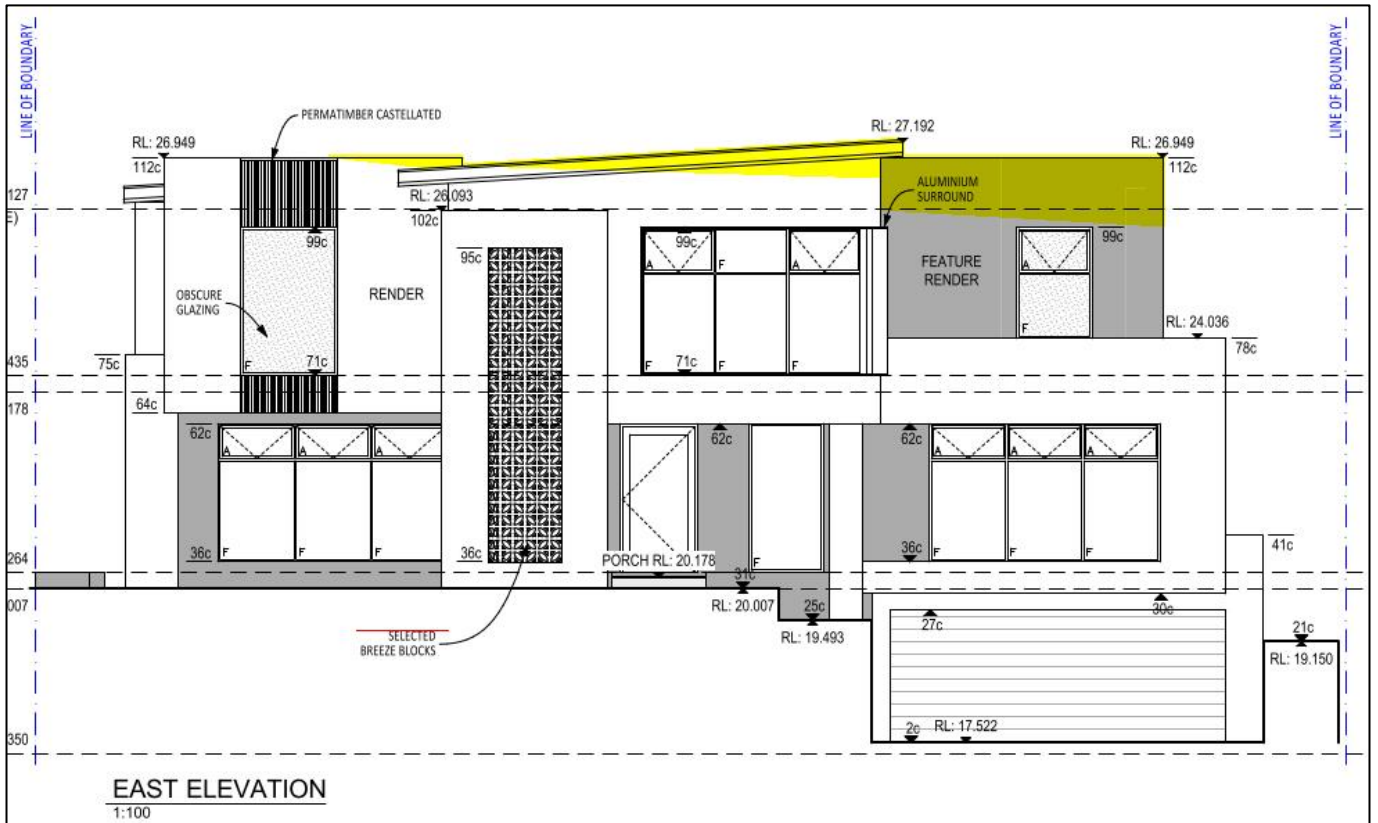


Figure 17: Diagram showing the over height portions of wall and roof from the eastern elevation (highlighted yellow).

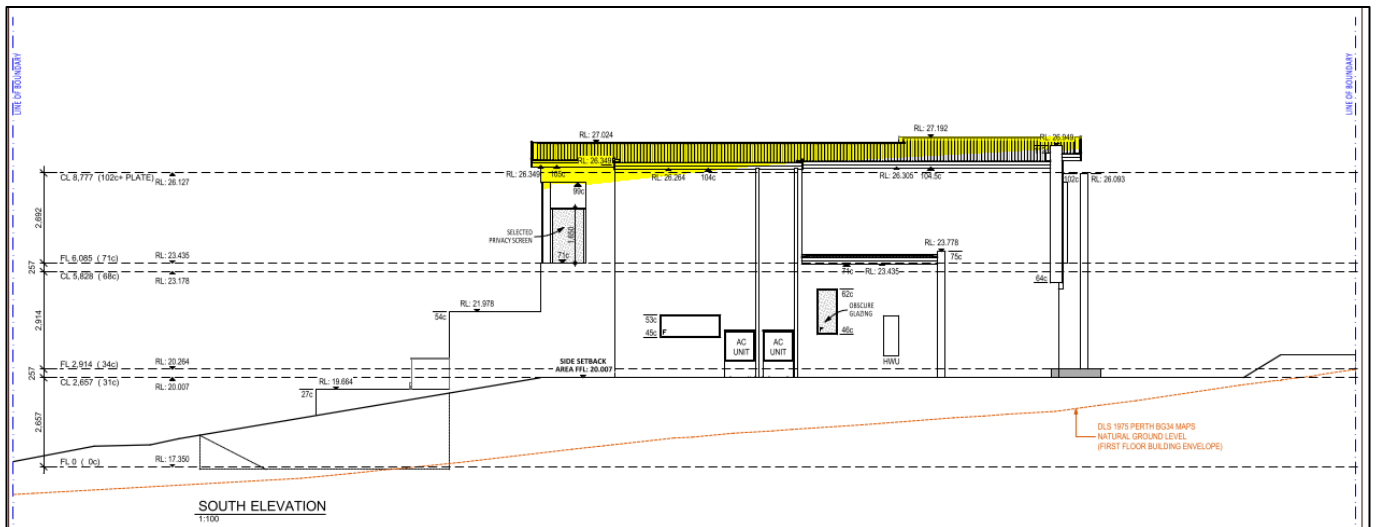


Figure 18: Diagram showing the over height portions of wall and roof from the southern elevation (highlighted yellow).

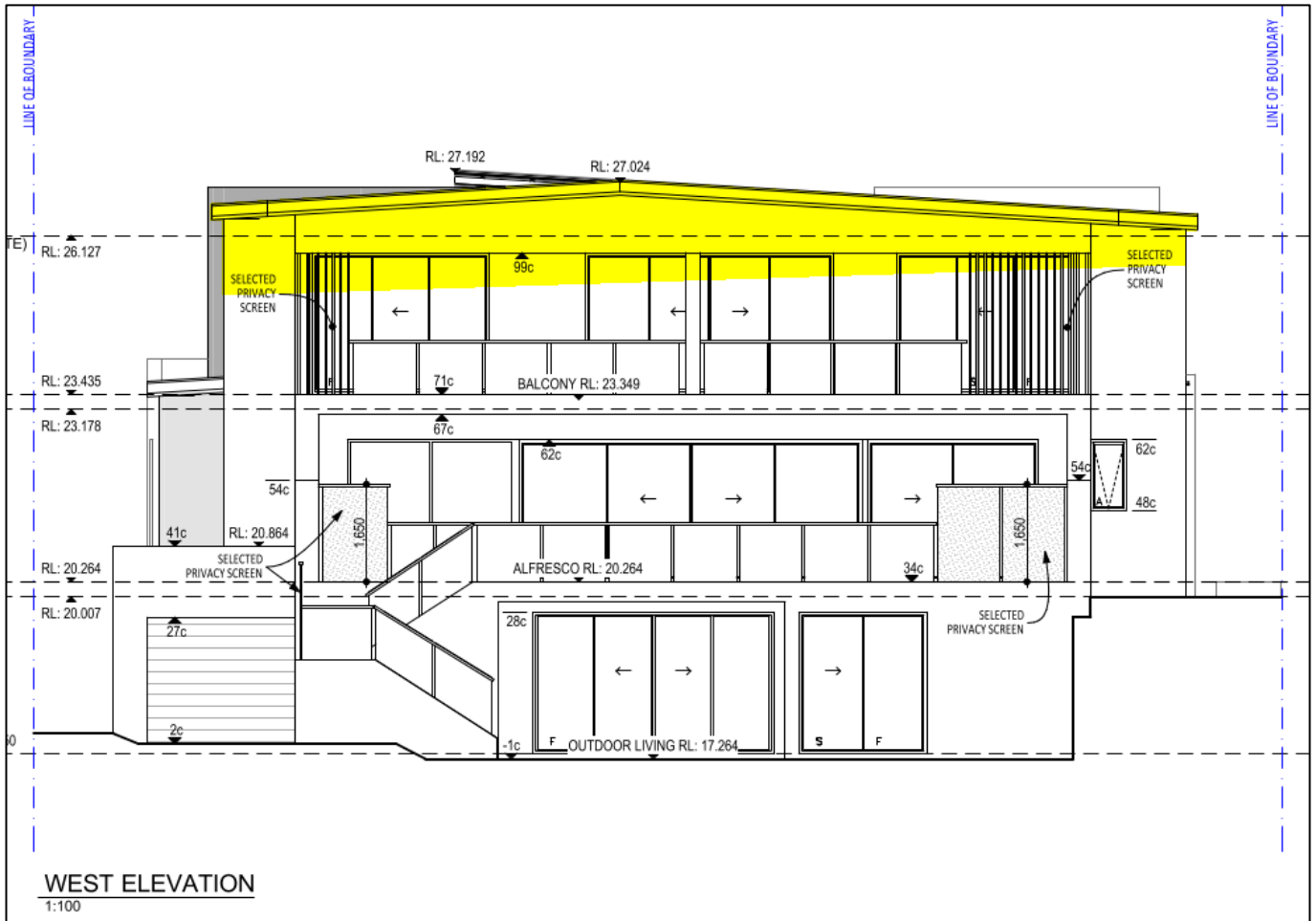


Figure 19: Diagram showing the over height portions of wall and roof from the western elevation (highlighted yellow).

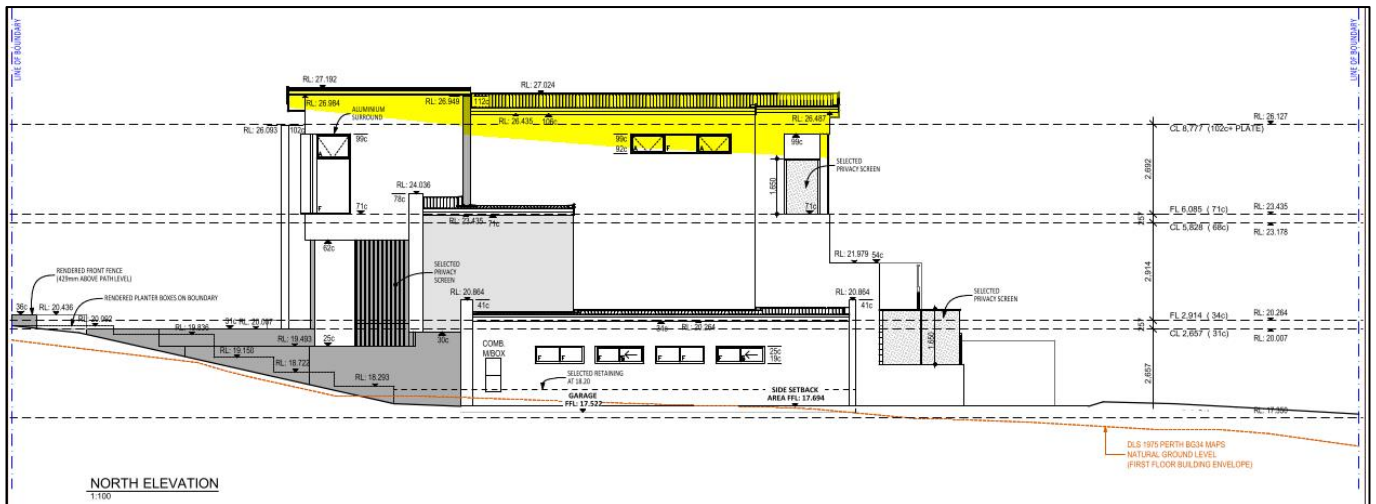


Figure 20: Diagram showing the over height portions of wall and roof from the northern elevation (highlighted yellow).

As the proposed maximum building height exceeds the deemed-to-comply requirements of the R-Codes, it is required to be considered under the following design principles:

*“Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:*

- *adequate access to direct sun into buildings and appurtenant open spaces;*
- *adequate daylight to major openings into habitable rooms; and*
- *access to views of significance”.*

The Administration addresses each of the above design principles in the comments that follow.

*“Adequate access to direct sun into buildings and appurtenant open spaces”*

*“Adequate daylight to major openings into habitable rooms”*

On the southern side of the subject site, the proposed height variation is directly adjacent to the existing property at 8 Talgarth Way. Therefore, any overshadowing from the proposed dwelling will fall directly onto the northern facade of the dwelling. However, as shown in the image below, there are no major openings on the northern side of the adjoining dwelling (refer Figure 7).



**Figure 21: Google Streetview image showing the adjoining southern property's northern façade.**

In addition, the northern side of the adjoining property comprises single storey roof cover that is near to the lot boundary, as shown in the below aerial plan (refer Figure 8).



**Figure 8: Aerial map showing the location of single-storey roof cover on the adjoining southern property that is near the lot boundary.**

Because of this, the proposed increased maximum building height will not result in any additional overshadowing open spaces that are not already shadowed by roof cover.

For the above reasons, the proposal is considered to meet these design principles.

*“Access to views of significance”*

As the application proposes to exceed the deemed-to-comply maximum building height, the Administration’s assessment is required to consider if the increased height will impact the neighbouring properties’ access to views of significance.

In this instance, the properties located east of the proposal on the opposite side of Talgarth Way have views of the coastal sand dunes and ocean to the west, which is a ‘view of significance’.

During the community consultation period, the Town received several objections which commented that the proposal will impact the access to views of significance from the neighbouring properties.

To assist with the Administration’s assessment of whether the proposal will have any impact on neighbouring properties’ access to views of significance, the Administration undertook extensive 3D modelling of the proposal and the locality.

It is noted that, while the Town has made every attempt to accurately represent the proposal in the 3D modelling images, the 3D modelling should only be used as a guide and the Town holds no responsibility for the accuracy of the modelling.

The below 3D model images, which were prepared by the Administration, depict the existing dwelling vs the proposed dwelling as viewed from approximately 1.6m above the finished floor level of the existing upper storey balcony of 5 Talgarth Way (refer Figures 9 and 10). A viewpoint height of 1.6m was used for the 3D modelling as that is an average standing height and there is no standard within the planning framework for which height assessment of views of significance should be taken from.



**Figure 9: 3D model image prepared by the Town showing an approximate view of the existing dwelling on the subject site from 1.6m above the balcony at 5 Talgarth Way.**



**Figure 10: 3D model image prepared by the Town showing an approximate view of the proposed dwelling on the subject site from 1.6m above the balcony at 5 Talgarth Way.**

The scale of the proposed dwelling on the site, as shown in the 3D model in Figure 9 above, is based on Australian Height Datum (AHD) levels of the existing and proposed levels on the site and the AHD levels of each floor level and the maximum building height of the proposed dwelling. This approach provides the most accurate representation of the proposed maximum building height in the 3D model image, as AHD is a constant measurement of the height a point above mean sea level.

Based on the above 3D model images, while the proposed dwelling may result in some minor loss of views of the coastal sand dunes from the upper storey balcony at 5 Talgarth, it is unlikely that the development will obstruct views of the ocean.

Views of significance were recently examined in the SAT decision [2021] WASAT 115. This decision refers to a four-stage assessment model embraced by the New South Wales Land and Environment Court. The model serves as a guide for evaluating the visual impact of a proposed development on a private property. The subsequent steps in this assessment process are outlined below, followed by an evaluation of the proposal against these criteria.

1. Identify the views to be affected; water views are valued more highly than land views, iconic views are valued more highly than views without icons, and whole views are valued more highly than partial views.
2. Consider from what part of the property the views are obtained; the expectation to retain side views and sitting views is often unrealistic.
3. Determine the extent of impact which should be undertaken for the whole of the property, not just for the view that is affected; the impact on views from living areas is more significant than from bedrooms or service areas.
4. Determine the reasonableness of the development that is causing the impact; a development that complies with all planning controls would be considered more reasonable than one that breaches them.

With reference to criterion '1' above, it is considered that any partial loss of view of the coastal dunes (land view) will not significantly detract from the access to the view of significance, as the 3D modelling indicates that the view of the ocean (water view) will be largely maintained.

As the existing view of the ocean to the west is afforded from the western facing upper storey balcony of the neighbouring property and the 3D modelling indicates that the view of the ocean will be maintained from an average standing height of 1.6m, it is considered that the proposal satisfies criterion '2' above.

At the time of preparing this report, the Administration was not able to confirm from which room the upper storey balcony on the neighbouring property is accessed from. However, as that balcony likely provides the optimal viewpoint to the ocean from the neighbouring property, and the 3D modelling indicates that view of the ocean will be maintained, it is considered that criterion '3' above is satisfied in this instance.

Notwithstanding that the proposed development exceeds the deemed-to-comply maximum building height, based on the 3D model images, the increased building height will not result in any loss of views of the ocean. As such, it is considered that criterion '4' above is satisfied.

While there have been significant objections to the proposal as neighbours are concerned that the proposed will impact their access to views of significance, the Administration's assessment indicates that highly valued views of the ocean will not be impacted by the development.

In addition to all the above, the Town's *Local Planning Policy 3.3 – Building Height* includes the following supplementary Local Housing Objectives, which the Administration has considered the proposal against in the comments further below:

1. *To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.*
2. *To ensure that the height of buildings does not adversely impact on the streetscape or locality.*
3. *To ensure that residential buildings present to the street and abutting properties as one or two storey dwellings and minimise the impact of basement garages on the overall building height by locating third storey garages entirely below the ground level of the street.*
4. *The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.*
5. *To promote high quality, creative architectural design.*

The proposed maximum height of the dwelling will sit appropriately within the heights of the adjoining northern and southern properties, as the maximum height to the top of the combined skillion/concealed roof form will not be higher than the pitched roof forms of the existing dwellings on the adjoining sites.

The below streetscape render, which was prepared by the Applicant, depicts the maximum of the height skillion/concealed roof form of the proposed dwelling will not be higher than the pitched roof form of the adjoining northern dwelling (refer Figure 11).



**Figure 11: Streetscape render depicting the proposed dwelling in the context of the adjoining northern dwelling.**

It is also noted that there are several dwellings in the locality that present as three storeys to the street, as shown in the Google Streetview images in Figures 12 and 13 below.



**Figure 12: Google Streetview image of 5 Talgarth Way, which presents as three storeys to the street.**



**Figure 223: Google Streetview image of 9 Talgarth Way, which presents as three storeys to the street.**

For the above reasons, it is considered that the scale and appearance of the dwelling, which presents as two storeys with an undercoft to the street, will be in keeping with the established and desired scale in the locality. As such, it is considered that the proposal meets Local Housing Objective 1.

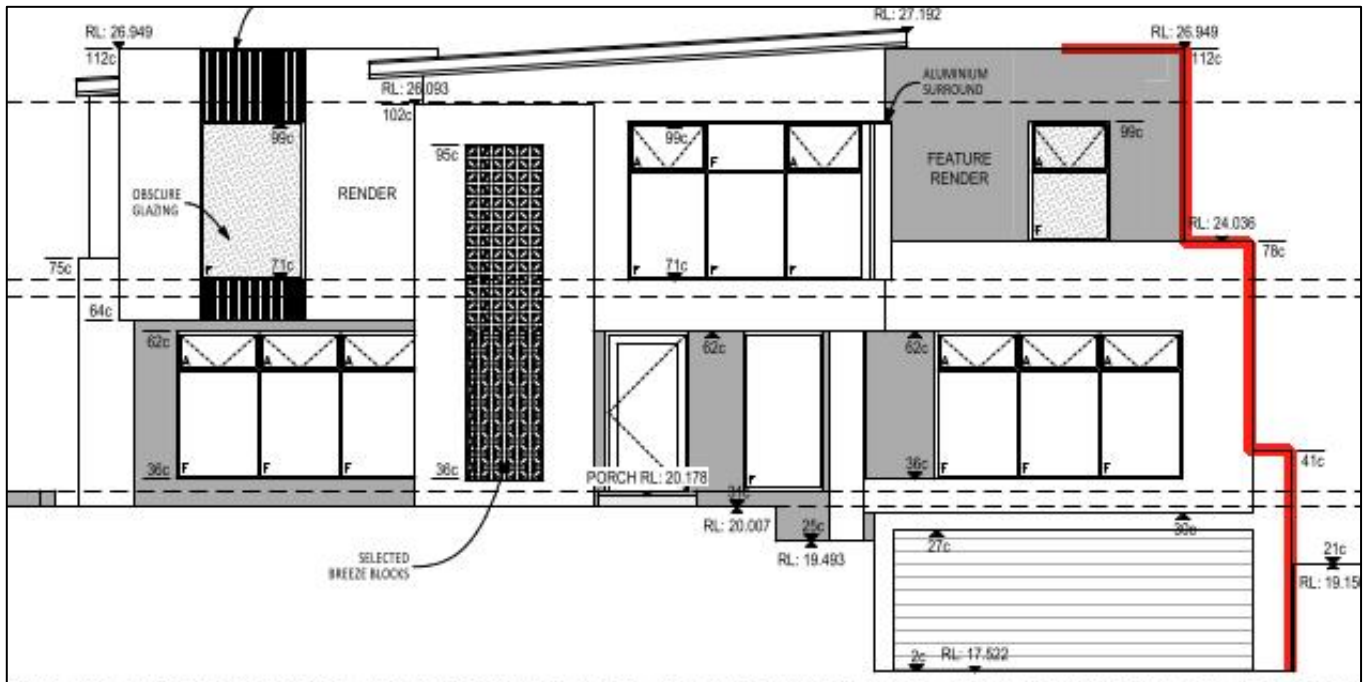
Similarly, as the proposed maximum height of the dwelling will not be greater than the adjoining properties, it is considered that the development not adversely impact on the established streetscape. Because of this, it is considered that the proposal meets Local Housing Objective 2.

As the proposed development presents to the street as a two-storey dwelling with an undercoft garage, the application satisfies Local Housing Objective 3.

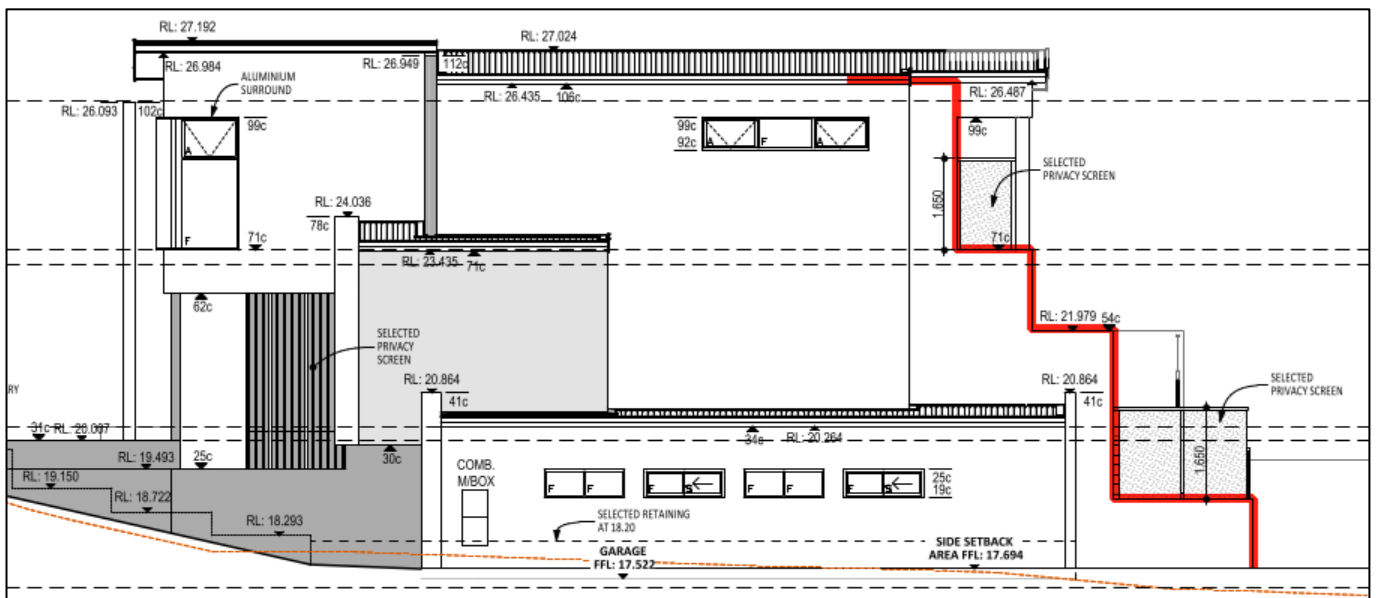
While the application proposes to raise the pad level by 0.06m (from 20.2 AHD to 20.26 AHD), the proposal largely will not modify the existing pad level on which the existing dwelling has sat upon since the 1970s. While Local Housing Objective 4 requires development to step down with the natural slope of the land, in this instance it is

considered appropriate for the dwelling to sit upon the existing pad level, given that it has been in place for more than fifty years.

In addition, the application proposes minimal fill across the site, with the only new retaining wall/fill being required in order to meet the existing higher level of the adjoining northern property. Furthermore, as the land slopes down towards the northwest corner at the rear of the site, the proposed building has been stepped to reduce its impact on the surrounding properties. The stepping of the building has been highlighted on the relevant elevations in Figures 14 and 15 below.



**Figure 23: Front Elevation highlighting (in red) the stepping of the building with the natural slope down of the terrain.**



**Figure 24: Side Elevation highlighting (in red) the stepping of the building with the natural slope down of the terrain.**

For the reasons outlined above, it is considered that the proposal meets Local Housing Objective 4.

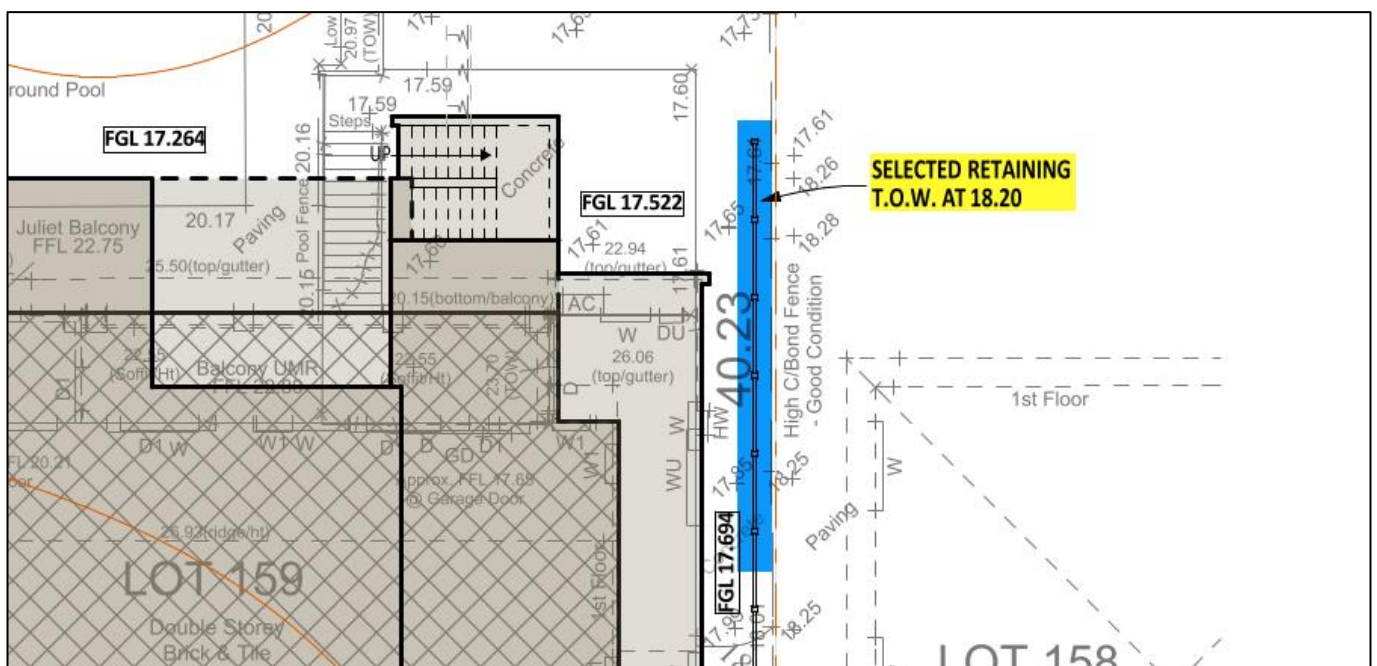
It is considered that the proposed development is of a high quality design that will be a positive contribution within the streetscape. As such, it is considered that the proposal meets Local Housing Objective 5.

For all the above reasons, the application is considered to meet the associated design principles and local housing objectives in relation to building height. Therefore, the proposed increased maximum building height is supported in this instance.

State Planning Policy 7.3 - Residential Design Codes Volume 1

5.3.7 Site Works		
	Deemed-to-comply Requirement	Proposed
Retaining/fill along northern boundary	Maximum height: 0.5m  Minimum setback if maximum height between 0.51m and 1m: 1m	Maximum height: 0.8m  Setback: nil
Design Principles (of R-Codes):		
<ul style="list-style-type: none"> <li>• “Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</li> <li>• Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.</li> <li>• Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered, and landscaped having due regard to clauses 5.3.7 and 5.4.1.”</li> </ul>		

The application proposes retaining/fill with a maximum height of 0.8m above the natural ground levels, which will have a nil setback to the northern boundary in lieu of being set back a minimum of 1m (refer Figure 25).



**Figure 25: Area of fill/retaining greater than 0.5m above Natural Ground Level (Highlighted Blue)**

Where an application seeks to vary the site works requirements, Council is to consider the application under the following design principles:

- “Development that considers and responds to the natural features of the site and requires minimal excavation/fill.
- Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.
- Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered, and landscaped having due regard to clauses 5.3.7 and 5.4.1.”

In this instance, the area of retaining/fill is minor in nature and considered appropriate to satisfactorily retain the higher existing level of 18.28 AHD on the adjoining northern property.

For the above reasons, the application is considered to meet the associated design principles.

Local Planning Policy 3.1: Streetscape

7. Vehicle Access		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Driveway width at street lot boundary	6m	6.5m
<u>Policy Objectives</u>		
<ul style="list-style-type: none"> <li>To encourage the retention and enhancement of plantings and landscaping on both private and public land to retain the green character of neighbourhoods, encourage canopy and improve the street presentation of dwellings.</li> </ul>		
<u>Design Principles</u>		
<ul style="list-style-type: none"> <li>The placement and width of crossovers and driveways along a street shall aim to maximise opportunities for on street parking.</li> </ul>		

The application seeks to have a driveway width at the lot boundary of 6.5m.

Where an application seeks to vary the site works requirements, Council is to consider the application under the following design principles:

- To encourage the retention and enhancement of plantings and landscaping on both private and public land to retain the green character of neighbourhoods, encourage canopy and improve the street presentation of dwellings.
- The placement and width of crossovers and driveways along a street shall aim to maximise opportunities for on street parking.

The proposed driveway width at the street boundary of 6.5m is considered to reduce the retention and enhancement of landscaping on both public and private land.

Additionally, a wider driveway width will likely lead to the Applicant seeking approval for a wider crossover width, which would further reduce the area of grass/soil in the verge area. This would reduce area in the verge for natural stormwater drainage.

For the above reasons, it is recommended that, if the Council resolves to approve the application, a condition is included in the approval requiring that, prior to the Town issuing a building permit, the building permit plans show the driveway has a maximum width of 6m at the street boundary.

The Applicant has confirmed that they agree to the above.

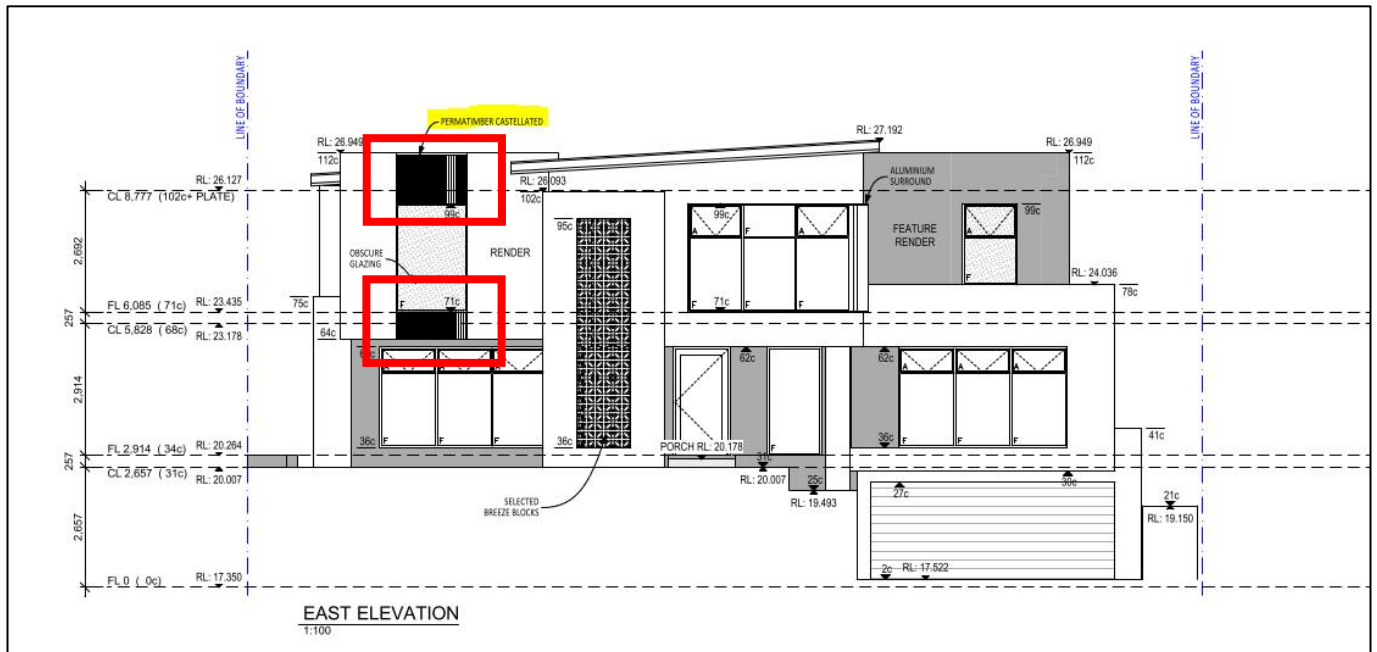
Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)

Clause 7(a)/(b)/8		
	<b>General Regulation</b>	<b>Proposed</b>
Roof Reflectivity	<i>Constructed of Masonry Materials</i>	Permatimber Castellated Cladding
<u>Clause 2B</u>		
<p>"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:</p> <p>a) for use for a purpose which is not permitted in that district.</p> <p>b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</p> <p>if the Council is satisfied by an absolute majority that:</p>		

- i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and
- ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".

*Materials of a high-quality finish may be used, which result in buildings of a high architectural and structural standard*

The application includes 'Permatimber Castellated' cladding to a minor portion on the external walls of the street elevation, as outlined in red in the below elevation plan (refer Figure 17).



**Figure 26: Elevation showing the locations of 'Permatimber Castellated' cladding (red outline) on the street frontage.**

This type of cladding is considered to be of high quality and frequently used in the City Beach Precinct.

As such, the proposed cladding is supported in this instance.

**CONCLUSION:**

The application proposes increased maximum building heights, increased retaining/fill heights, increased driveway width, and cladding materials to the external walls in lieu of masonry materials.

When considered in its context, the proposed additional height will have minimal impact on the streetscape and surrounding properties. The Administration's 3D modelling indicates that the proposal will not impact the neighbouring properties' access to highly valued views of the ocean.

The increased height of the proposed retaining/fill on the northern side boundary is required to meet the existing higher levels on the neighbouring site.

As the proposed increased width of the driveway will likely result in the Applicant seeking approval for a wider crossover, which would reduce the available area within the verge for natural stormwater drainage, it is recommended that a condition is included in the approval requiring the driveway to have a maximum width of 6m.

The proposed cladding will occupy a minor area of the street elevation and is appropriate in the Precinct.

For the above reasons, it is recommended that the application be approved, subject to conditions.

## **FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

## **LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme*

*Planning and Development (Local Planning Schemes) Regulations 2015*

*Local Planning Scheme No. 1*

*State Planning Policy 7.3 - Residential Design Codes Volume 1*

*Local Planning Policy 3.1 - Streetscape*

*Local Planning Policy 3.3 – Building Height*

*Local Law 43: Building on Endowment Lands and Limekilns Estate*

## **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

## **COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

### **Impartiality Interest Declaration - Cr Carr**

Prior to consideration of the item, Cr Carr disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.10, I declare that I know some people who live on Talgarth Way directly opposite the development and I know Andra Biondi and Tim Houwelling, who made a deputation on the item and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **Impartiality Interest Declaration - Cr Cutler**

Prior to consideration of the item, Cr Cutler disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.10, I declare that some of the neighbours are known to her and she has received an email from the applicant and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **Impartiality Interest Declaration - Cr Kennerly**

Prior to consideration of the item, Cr Kennerly disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.10, I declare that she knows the owners of the property and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.10, I declare that he has received correspondence from the proponent and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council pursuant to S31 of the *State Administrative Tribunal Act 2004*, In accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and the provisions of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate*, Council SETS ASIDE ITS PREVIOUS DECISION AND APPROVES BY AN ABSOLUTE MAJORITY the application for a three-storey single house at Lot 159 (No. 6) Talgarth Way, City Beach, as shown on the attached plans stamped received 15 November 2023, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;**
- 2. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town;**
- 3. All structures (and associated footings) shall be contained within the lot boundaries of the subject site;**
- 4. The maximum width of the crossover shall be 6m at the street boundary and the building permit plans shall be amended accordingly;**
- 5. Prior to practical completion of the development, the existing crossover shall be removed and the verge and kerb reinstated, and the new crossover, as shown on the approved plans, shall be constructed at the landowner's cost and thereafter maintained by the landowner(s) for the life of the development to the satisfaction of the Town;**
- 6. No verge trees shall be removed, pruned, or disturbed in any way without further approval of the Town;**
- 7. The landscaping area(s) within the 7.5m primary street setback area shown on the approved plans shall be installed and reticulated within six months of practical completion of the development and thereafter maintained by the landowner(s) for the life of the development to the satisfaction of the Town; and**
- 8. All fencing/privacy screening/obscure glazing to major openings/unenclosed outdoor active habitable spaces, as shown on the approved plans, shall restrict views within the applicable cone of vision in accordance with Provision 5.4.1 of *State Planning Policy 7.3 - Residential Design Codes Volume 1*.**

**The fencing/privacy screening/obscure glazing shall be installed prior to practical completion of the development and thereafter remain in place for the life of the development to the satisfaction of the Town.**

The meeting was adjourned at 8.27 pm and resumed at 8.32 pm.

**AMENDMENT:**

**Moved by Cr Mayes, seconded by Cr Foley**

**That a further clause be added to the motion as follows:**

**9. The plans shall be amended to include the following changes:**

- **Reduce the ridge height to match the ridge height of the existing dwelling at the property (ie lower the dwelling by a further 200 mm into the ground).**
- **Articulate and increase the upper floor wall side setback on the northern portion of the site.**
- **Flip the skillion roof, so the highest ridge point sits behind the existing verge tree.**

**Amendment put and LOST (3/6)**

For: Cr Carr, Cr Foley and Cr Mayes

Against: Mayor Mack, Cr Barlow, Cr Foley, Cr Kennerly, Cr Le Page and Cr Randklev

**Original Motion put and CARRIED (5/4)**

For: Mayor Mack, Cr Barlow, Cr Le Page, Cr Kennerly and Cr Foley

Against: Cr Cutler, Cr Carr, Cr Mayes and Cr Randklev

### 12.3.11 Lot 144 (No.54) Chipping Road, City Beach - Alterations and Additions to Existing Single House (Works Already Carried Out)

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Gabriela Poezyn (Senior Planning Officer)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0150
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Development Plans [ <b>12.3.11.1</b> - 4 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is for the Council to consider an application seeking approval for alterations and additions to an existing single house, which has already been carried out.

#### **EXECUTIVE SUMMARY:**

The site has dual frontage to Chipping Road and Calver Place.

The application seeks retrospective approval for works already carried out for a retaining wall that has a maximum height of 1.1m from the historical natural ground levels and ground floor roof eaves; both of which are located within the 7.5m primary street setback area to Chipping Road.

The application also seeks retrospective approval for fill that has been placed in front of the under-construction dwelling, which will have a finished ground level that will be up to 1.1m above the historical natural ground levels in lieu of 0.5m.

During construction of the approved two-storey single house, the Town became aware that:

- A retaining wall higher than 0.5m had been constructed and fill higher than 0.5m had been placed within the front setback area contrary to the development approval and without a building permit; and
- The retaining wall and fill also has a nil setback to the northern side boundary, behind the street setback, in lieu of being set back a minimum of 1.5m.

The matter was referred to the Town's Compliance team and resulted in this application for retrospective approval for the works. Work at the site has stopped until the appropriate approvals are in place.

The plans provided with the application also show a proposed encroachment of 0.2m of the ground floor eaves into the front setback area.

It is recommended that the variations associated with the already constructed retaining wall and fill in excess of 0.5m in the front setback and to the northern boundary are supported, but that a condition is imposed requiring the proposed eave (including gutter) to be reduced in width so there is no encroachment into the 7.5m front setback area.

**BACKGROUND:**

<b>Applicant:</b>	Refined Edge by Brian Burke Homes
<b>Owner:</b>	Donato and Monica Braccia
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P1 – City Beach
<b>Development Description:</b>	Retrospective construction of retaining wall and fill
<b>Development Value:</b>	Nil – work already completed
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	Single House
<b>Land Area:</b>	911m <sup>2</sup>
<b>Heritage Listing:</b>	no
<b>Application Date:</b>	17 July 2023
<b>Application Process Days:</b>	87 days

**DELEGATION:**

In accordance with sub-clause 12.1.2 of the Town’s Delegation Register, the Council is required to determine the application for the following reasons: -

*“2. The determination of a development application where a variation is sought under Clause 34 (2) of Town Planning Scheme No 1.”*

In accordance with cl12.1.2 of the Town’s Delegation Register, the application must meet the following voting requirements in order for a determination to be made:

**Council - Simple Majority**

At least fifty per cent of the Members present at the Council meeting must cast the same vote in order for a determination to be made.

**DETAILS:**

The application contains the following aspects:

1. Retrospective approval for retaining works already completed.
2. Proposed eaves within the front setback area.

The application contains the following variations from the deemed to comply provisions:

1. Retrospective retaining wall and fill up to 1.1m high within the 7.5m primary street setback area.
2. Retrospective retaining wall and fill up to 1.1m high with a Nil setback to the northern boundary.
3. Proposed eaves (including gutters) being setback 7.3m in lieu of 7.5m from the primary street setback.

Site Context

The site is located in the City Beach Precinct (P1) and has dual frontage to Chipping Road and Calver Place. The surrounding locality consists of two-storey single houses. The below image shows the subject site and the immediate surrounding locality.



**Figure 27: Aerial Image showing the subject site and surrounding properties.**

An approved two-storey single house is currently under construction on the site. The below Nearmaps satellite aerial image, which was taken on 14 October 2023, shows the extent of constructions works already carried out at that date.



**Figure 28: Nearmaps aerial image showing the extent of construction works already carried out on the site.**

**CONSULTATION:**

The application was advertised for a period of 14 days in accordance with the Town’s Local Planning Policy 1.2 – Public Notification of Planning Proposal (LPP 1.2).

During the advertising period one neighbour contacted the Town with queries that were addressed.

No submissions were received.

**APPLICANT’S COMMENTS:**

The applicant did not provide any supporting information for the variations sought.

**STATUTORY ASSESSMENT:**

Primary Street Setback

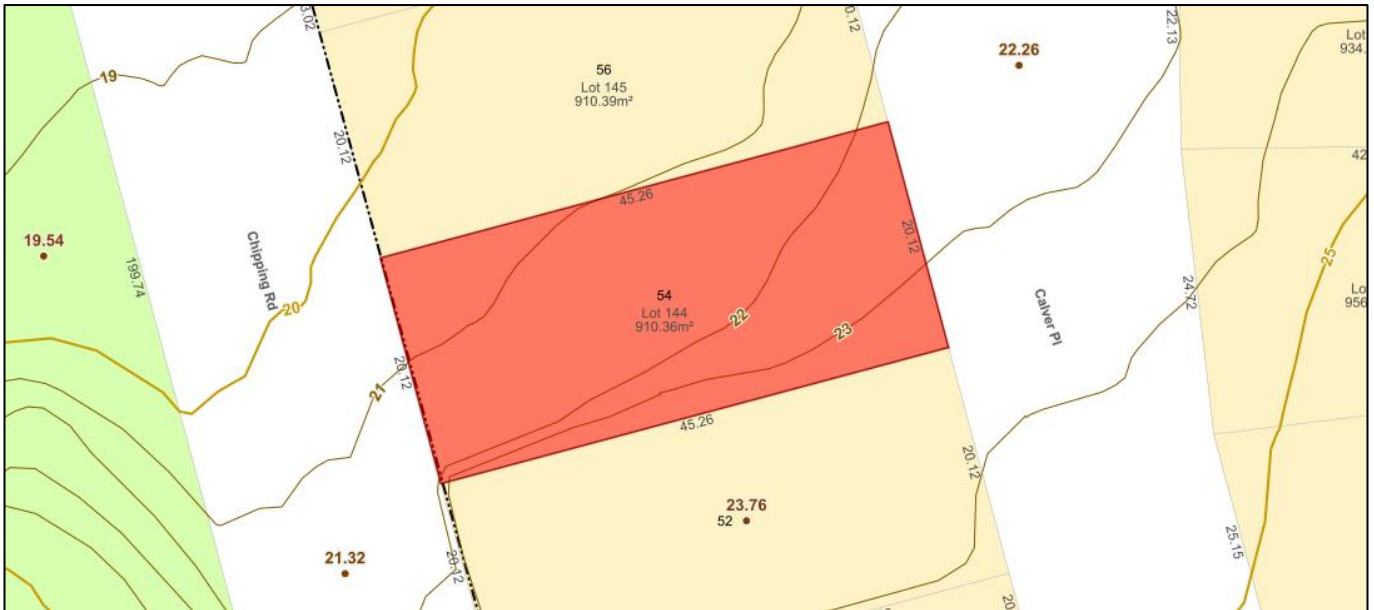
The Scheme requirement for primary street setbacks is set out in the below table.

<i>Clause 26(1)(a)</i>		
	<b>Required</b>	<b>Proposed</b>
Minimum primary street setback to paving, steps, and fill that have a maximum height that is greater than 0.5m above the natural ground level.	7.5m	<ul style="list-style-type: none"> <li>Existing retaining and fill up to 1.1m located within 7.5m front setback area</li> <li>Proposed encroachment of the ground floor eaves into the 7.5m front setback area by 0.2m.</li> </ul>
<p><u>Clause 34 - Variations to Site and Development Requirements</u>                      "(1)(a)an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...                      (2)Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".</p> <p><u>Local Planning Policy 3.1 – Streetscape</u>                      "1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme                      ...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.</p> <p>a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;                      b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;                      c. N/A                      d. N/A</p> <p><i>Desired Future Character</i></p> <ul style="list-style-type: none"> <li>New development shall respect natural site levels to maintain the precinct’s hilly topography and vistas;</li> <li>Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original and desired open nature of the precinct’s design;</li> <li>The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape.;</li> </ul>		

- *New development shall create and enhance open landscaped front gardens within the street setback area to maintain the green character of the streetscape and the precinct;*
- *Development shall be designed to preserve mature trees and street trees and verge garden landscaping to maintain the green leafy character of the streetscape and the precinct;*
- *New developments shall be oriented toward the street to maintain streetscape consistency;*
- *New development shall contribute to the streetscape through varied and high quality architecture, consistent with the original vision for an informal landscape of diverse villas;*
- *New development shall reduce the impact of parking structures on the existing streetscape by ensuring that such structures are located to the rear or side of properties.*

**Retaining Wall:**

The section of Chipping Road that contains the application site and its two neighbours includes a relatively steep incline that rises 3m from north to south over 20m.



**Figure 29: Topography of the site and surrounding properties**

With topography of this nature, retaining walls located towards the north-western corner of the lot can be expected. Similar retaining heights can be seen at 52 Chipping Road and 5 Calver Place (see **Figure 30**).



**Figure 30: Neighbouring retaining walls within the front setback.**

Unlike the neighbouring retaining walls within the front setback area, the already constructed retaining walls have been built 5m set back from the street boundary (see **Figure 31** and **Figure 32**). This setback reduces any impact on

the existing character of the street. The retaining continues to allow the desired open nature of the precinct's design and facilitates the development of open landscaped front gardens within the street setback area to maintain the green character of the streetscape area.



Figure 31: Subject retaining wall built 5m from front boundary

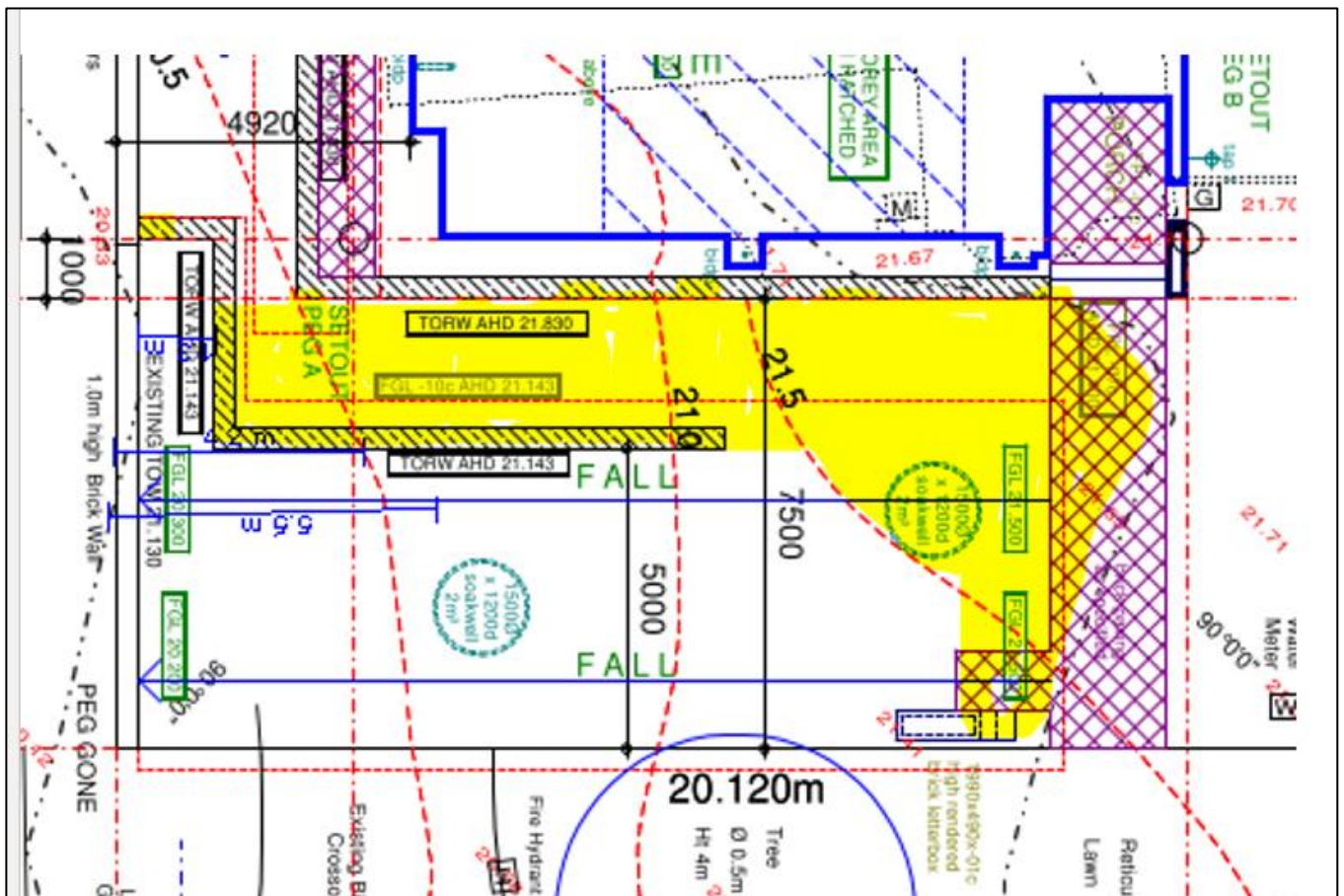


Figure 32: Diagram highlighting (in yellow) the retaining and fill greater than 0.5m above natural ground level within the front setback area.

Given the above, the existing retaining wall meets the design principles and is recommended to be approved.

**Ground Floor Eave:**

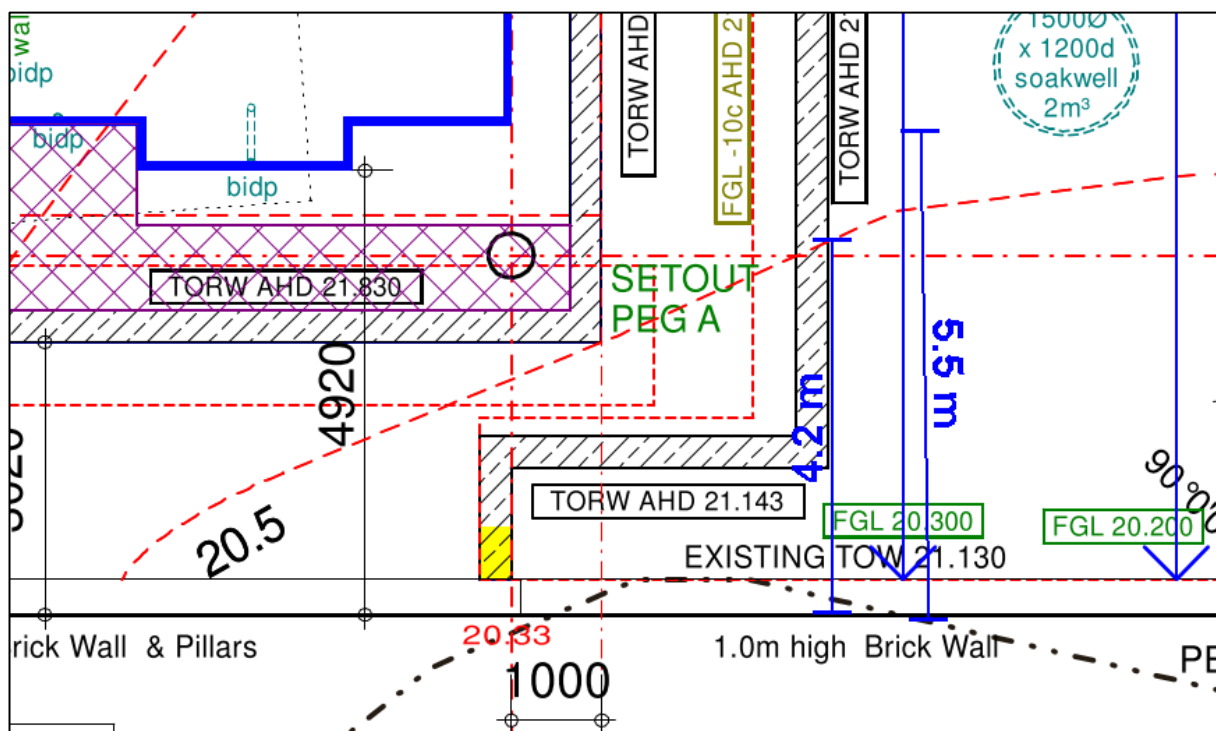
The overall depth of the ground floor eave measures 1.2m on the provided plans, which includes 0.2m for the gutter. It is therefore essentially the gutter that encroaches into the front setback area.

It is noted that the original Development Application plans show an eaves' width for the same eave at 0.8m, with a 0.2m gutter. This indicates that an eave's width of 1m including the gutter is possible and adequate. The proposed eaves encroachment is therefore not supported.

Accordingly, it is recommended that, should the application be approved, a condition is included that requires the eaves be setback behind the primary street setback area.

5.3.7 – Site works		
	Deemed-to-comply Requirement	Proposed
	Retaining wall and fill 1.1m high behind the required street setback to be setback 1.5m from a side boundary	Retaining wall and fill 1.1m high with a nil setback to the northern boundary.
<p><u>Design Principles (of R-Codes):</u>                      "P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.                      P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.                      P7.3 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clause 5.3.7 and 5.4.1."</p>		

Along the northern boundary there is currently a 2m high brick and pier wall that has been built on top of a 1.3m retaining wall (refer **Figure 33**).



**Figure 33: Diagram highlighting (in yellow) the retaining wall on the northern boundary greater than 0.5m above natural ground level**

The constructed retaining wall and fill in question, butts into the existing retaining wall. The height difference between the finished floor level which has resulted from the retaining wall and fill on the application site, and the top of the dividing wall, is approximately 2.3m. The retaining wall and fill therefore is not visible from the northern neighbour affected by the setback variation and has no other amenity implication for the northern neighbour.

As constructed, the retaining wall and fill will allow effective use of the area between the dwelling under construction and the northern boundary. As the application site rises from its northwestern corner to its southeastern corner by 3m, the retaining respects the natural ground level of the site.

Overall, the retaining wall and fill, despite the setback variation to the northern boundary, will not have a negative impact on the affected northern neighbour, meets the relevant design principles, and should be supported.

#### **FINANCIAL IMPLICATIONS:**

The Town may incur costs if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

#### **LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 1  
Residential Design Codes Volume 1  
Local Planning Policy 1.2 – Public Notification of Planning Proposal*

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Environment: An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces**

**Natural environment** - A natural environment that is respected and enhanced for future generations.

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

#### **COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

#### **COUNCIL DECISION:**

**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council in accordance with the provisions of Local Planning Scheme No. 1 and the authority delegated to the Town under the provisions of the Metropolitan Region Scheme, Council APPROVES the retrospective alterations and additions at Lot 144 (No. 54) Chipping Road, City Beach as shown on the attached plans stamped received 20 July 2023, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval.**

2. **All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town.**
3. **All structures (and associated footings) shall be contained within the lot boundaries of the subject site.**
4. **The ground floor eave (including the gutter) shall be set back behind the 7.5m front setback area.**

**Motion put and CARRIED EN-BLOC (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.12 Lot 69 (No. 6) Yaltara Road, City Beach - Proposed Alterations and Additions to Existing Three-Storey Single House - S31 Reconsideration

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Jacob Corbould (Senior Statutory Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0048
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"><li>1. Amended Development Plans - received 27 September 2023 [<b>12.3.12.1</b> - 9 pages]</li><li>2. Original Application Refused - 27 June 2023 Ordinary Council Meeting Minutes [<b>12.3.12.2</b> - 12 pages]</li><li>3. Previously Refused Development Plans [<b>12.3.12.3</b> - 6 pages]</li><li>4. Applicant's Planning Justification and Renders [<b>12.3.12.4</b> - 13 pages]</li></ol>

#### PURPOSE OF REPORT:

The purpose of this report is for the Council to reconsider a development application for alterations and additions to an existing three-storey single house, which was previously refused by the Council and the Applicant subsequently lodged an appeal with the State Administrative Tribunal (SAT).

The SAT has invited the Council to reconsider amended plans under Section 31 of the *State Administrative Tribunal Act 2004*.

#### EXECUTIVE SUMMARY:

The application proposes to extend the existing third storey, which will exceed the deemed-to-comply maximum building height of 7.5m with a maximum height of 8.18m.

The application also includes 'EPS insulated wall panels' to the external walls of the third-storey extension in lieu of masonry building materials.

The application was initially considered by the Council at the 27 June 2023 Ordinary Council Meeting, where it was refused.

The Administration recommended that the Council refuse the application, as it was considered that, while the proposed increased height of the third-storey extension would not impact the neighbouring properties' views of significance or access to natural light, it would have an adverse bulk impact on the streetscape and would detract from the character of the City Beach Precinct.

The Council refused the application for the following reasons:

1. *The proposed does not satisfy Clause 67(m) (i) and (ii) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the height and bulk of the third storey addition will result in an adverse bulk impact on the streetscape.*
2. *The proposal does not satisfy Clause 67(n)(ii) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the increased height of the third storey addition will detract from the character of the locality, which predominantly consists of single-storey and two storey dwellings.*

3. *The proposal does not satisfy Policy Objective 3 of the Town's Local Planning Policy 3.1 – Streetscape, as the proposed height and bulk of the third storey addition is not respectful of the established single-storey and two-storey character of the locality.*
4. *The proposal does not meet Local Planning Policy 3.3 – Building Height, as the increased height of the third storey addition does not step down to respond to the natural topography of the site.*

The Applicant subsequently lodged an application to the State Administrative Tribunal (SAT) for a review of the Council's decision. As part of the SAT review, an on-site mediation session was held, where the Town's officers visited the property, surveyed the immediate locality from various locations surrounding the site, and stood on the existing balcony where the third-storey extension is proposed to be constructed.

Following the mediation session, the Applicant submitted amended plans and supporting information, which the SAT has invited Council to reconsider in accordance with Section 31 of the *State Administrative Tribunal Act 2004*.

The amended plans include the following changes:

1. The primary street setback to the proposed extension has been increased from 7.5m to 8.3m
2. The eastern (side) boundary setback has been increased from 2.2m to 3.1m
3. The proposed third-floor extension has been reduced in area from 31.6m<sup>2</sup> to 24.1m<sup>2</sup>

It is noted that the above changes do not result in the maximum building height of the proposed third-storey extension being reduced from what was originally refused by the Council.

However, it is considered that the changes made on the amended plans reduce the bulk of the third-storey extension as much as practicable, by setting it back further from the primary street and side lot boundaries, which reduces the overall footprint of the extension. On balance, these changes reduce the visual prominence of the third-storey extension, and as such, it is considered that the increased maximum building height will not have an adverse bulk impact on the streetscape.

In addition, following the mediation, where the Town's officers were able to gain a better understanding that the character of the locality comprises multiple large three-storey dwellings, it is considered that the proposal will sit appropriately within and will not detract from the prevailing character of this particular area of City Beach.

Accordingly, it is recommended that the application be approved, subject to conditions.

**BACKGROUND:**

<b>Applicant:</b>	Dynamic Planning and Developments
<b>Owner:</b>	Ms Elizabeth A James
<b>Zoning:</b>	Residential R20
<b>Precinct:</b>	P1: City Beach
<b>Development Description:</b>	Alterations and Additions to Existing Three-Storey Single House
<b>Development Value:</b>	\$385,000
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – Works associated with existing use
<b>Land Area:</b>	823m <sup>2</sup>
<b>Heritage Listing:</b>	No
<b>Application Date:</b>	2 March 2023
<b>Application Process Days:</b>	288 days – including SAT review period

## DELEGATION:

In accordance with Clause 12.1.4 of the Town's Delegation Register, the Council is required to determine the application for the following reason:

"5. *Reconsideration of applications pursuant to Section 31 of the State Administrative Tribunal Act 2004, where the application was originally determined by resolution of Council.*"

In addition to the above, Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires the Council to determine development applications which do not meet the requirements of Local Law 43.

In accordance with cl12.2.1 of the Town's Delegation Register, the application must meet the following voting requirements in order for a determination to be made:

### **Council - Absolute Majority**

More than fifty per cent of the total number of positions on Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote in order for a determination to be made.

## DETAILS:

### Proposal

The application proposes alterations and additions to the existing three-storey single house, which includes the following elements that do not meet the relevant deemed-to-comply provisions:

- i. A third-storey extension consisting of a new master bedroom located above an existing third storey balcony, which has a maximum height of 8.18m in lieu of 7.5m; and
- ii. The external walls of the third storey extension are proposed to be clad in 'EPS insulated wall panels' in lieu of masonry building materials.

The proposed development plans are included in **Attachment 1**.

### Application History

In February 2023, the Town received an application for a Deemed-to-Comply Check for proposed alterations and additions to the existing three-storey single house. The Deemed-to-Comply Check plans showed the proposed third-storey extension had a minimum primary street setback of 7.2m in lieu of 7.5m in accordance with Clause 26(a) of *Local Planning Scheme No. 1*.

The Deemed-to-Comply Check plans also showed the proposed third-storey extension had a maximum building height of 8.18m, which exceeded the deemed-to-comply maximum height of 8m for concealed (flat) roofed developments in accordance with the provisions of *Local Planning Policy 3.3 – Building Height* (LPP 3.3) at the time.

On 2 March 2023, the applicant submitted a development application, which showed the third-storey extension met the minimum primary street setback requirement of 7.5m. In addition, the proposed maximum height of 8.18m exceeded the deemed-to-comply maximum height of 8m by 0.18m.

However, at the 28 March 2023 Council meeting, Council adopted amendments to LPP 3.3, which reduced the deemed-to-comply maximum building height for concealed (flat) roofed development in the City Beach Precinct from 8m to 7.5m, resulting in the proposal exceeding the deemed-to-comply maximum height by 0.618m.

The application was initially presented to the Council at the 27 June 2023 Ordinary Council meeting. The Administration recommended that the Council refuse the application, as it was considered that the proposed increased height of the third-storey extension would have an adverse bulk impact on the streetscape and would detract from the character of the City Beach Precinct.

The Council refused the application for the following reasons:

1. *The proposed does not satisfy Clause 67(m) (i) and (ii) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the height and bulk of the third storey addition will result in an adverse bulk impact on the streetscape.*
2. *The proposal does not satisfy Clause 67(n)(ii) of the Planning and Development (Local Planning Schemes) Regulations 2015, as the increased height of the third storey addition will detract from the character of the locality, which predominantly consists of single-storey and two storey dwellings.*
3. *The proposal does not satisfy Policy Objective 3 of the Town's Local Planning Policy 3.1 – Streetscape, as the proposed height and bulk of the third storey addition is not respectful of the established single-storey and two-storey character of the locality.*
4. *The proposal does not meet Local Planning Policy 3.3 – Building Height, as the increased height of the third storey addition does not step down to respond to the natural topography of the site.*

The minutes from the 27 June 2023 Council meeting are included in **Attachment 2** and the previously refused plans are included in **Attachment 3**.

The Applicant subsequently lodged an application to the State Administrative Tribunal (SAT) for a review of the Council's decision.

As part of the SAT review, an on-site mediation session was held, where the Town's officers visited the property, surveyed the immediate locality from various locations surrounding the site, and stood on the existing balcony where the third-storey extension is proposed.

Following the mediation session, the Applicant submitted amended plans, a revised justification report, and 3D architectural renders, which the SAT has invited Council to reconsider in accordance with Section 31 of the *State Administrative Tribunal Act 2004*.

The amended plans include the following changes:

1. The proposed third-floor extension has been reduced in area from 31.6m<sup>2</sup> to 24.1m<sup>2</sup>
2. The primary street setback to the proposed extension has been increased from 7.5m to 8.3m
3. The eastern (side) boundary setback has been increased from 2.2m to 3.1m

It is the amended plans that are being presented for reconsideration to the Council. The amended plans are included in **Attachment 1**.

#### Site Context

The site is located on the corner of Yaltara Road and Perina Way within the City Beach Planning Precinct and is occupied by a three-storey single house.

Based on the historical natural ground levels in the survey plans in the Town's *Local Planning Policy 3.24 – Determining natural ground levels*, the natural topography of the site slopes approximately 6m down from the north-eastern corner at the rear of the lot to the south-western corner of the lot at the intersection of Yaltara Road and Perina Way.

The prevailing character of the immediate locality mostly comprises of two-storey and three-storey dwellings.

The below aerial image shows the subject property and the immediately surrounding area (refer Figure 1).



**Figure 1: Aerial image showing the subject property and the immediately surrounding area.**

### Site History

The existing dwelling, which was constructed circa 1980, was two-storeys to Yaltara Road and single storey to Perina Way, as shown in the below Google Streetview images from December 2007 (refer Figure 2 and Figure 3).



**Figure 2: Google Streetview image dated December 2007 showing the existing dwelling was two-storeys from Yaltara Road.**



**Figure 3: Google Streetview image dated December 2007 showing the existing dwelling was single storey from Perina Way.**

In 2010, the Town approved a development application under delegation for alterations and additions to the existing dwelling, which included a third storey addition. The below Google Streetview images from 2019 show the dwelling was three storeys from Yaltara Road and two storeys from Perina Way (refer Figure 4 and Figure 5).



**Figure 4: Google Streetview image dated October 2019 showing the existing dwelling is three storeys from Yaltara Road.**



**Figure 5: Google Streetview image dated October 2019 showing the existing dwelling is two storeys from Perina Way.**

## **CONSULTATION:**

### Public Consultation

The original application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

It is noted that no submissions were received during the public consultation period for the original application.

As no objections were received during the consultation period of the original application and the amended plans do not propose any further variations to the deemed-to-comply provisions from what was previously advertised, the Town did not readvertise the amended proposal.

## **APPLICANT'S COMMENTS:**

As part of the SAT mediation process, the Applicant has submitted additional planning justification and 3D renders in support of the proposed maximum building height, which does not meet the deemed-to-comply maximum building height. These comments and 3D renders are included in **Attachment 4**.

The Applicant's comments are summarised as follows:

- The Town has previously accepted within its previous report presented to Council that the application meets the design principles in accordance with Clause 5.1.6 (Building Height) of the R-Codes, the proposal will not compromise solar access or views of significance for adjoining properties.
- The dwelling is already a three-storey dwelling and the proposed Master bedroom additions do not substantially modify the appearance of the existing three-storey dwelling.
- As the height of the addition is in keeping with the existing dwelling, the proposal will not have a negative impact upon the streetscape.

- The extent of the proposed additions is minor with respect to the additional floor space proposed, with the subject Master bedroom additions and additional extent of works proposed that meet the deemed-to-comply requirements accounting for 40m<sup>2</sup> in area, or 6% of the dwellings floor space.
- Due to the proposed top of wall height of the Master bedroom additions being located 0.3m below that of the existing dwelling, and the fact that the scope of works is relatively minor in area, the proposed additions will not materially affect the appearance of the dwelling as viewed from the street.
- There is no option for lowering the floor and/or ceiling height of the addition. The proposed addition is bound by the height of the existing balcony.
- Had alternate yet deemed-to-comply additions been proposed, such as building up to the street setback, or proposing a pitched roof, the bulk and visual impact of the additions would have a considerable impact on streetscape. The subject additions, whilst proposing a variation to building height, are consistent with the existing dwelling and will have a negligible impact on the streetscape.

**STATUTORY ASSESSMENT:**

**Local Planning Policy 3.3 – Building Height (LPP 3.3)  
 Residential Design Codes – Volume 1**

<i>LPP 3.3: Clause 1.0 - Building height</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Maximum building height - (Concealed roof)	7.5m	8.18m
<p><u>Design Principles (of R-Codes):</u></p> <p><i>"Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:</i></p> <ul style="list-style-type: none"> <li>• <i>adequate access to direct sun into buildings and appurtenant open spaces;</i></li> <li>• <i>adequate daylight to major openings into habitable rooms; and</i></li> <li>• <i>access to views of significance".</i></li> </ul> <p><i>Local Planning Policy 3.3: Building Heights</i></p> <p><i>"To provide for consistency with the established built form of residential development in the Town, the following supplementary Local Housing Objectives are to be considered when determining applications for single houses and grouped dwellings which do not satisfy the deemed-to-comply requirements of this Policy.</i></p> <ol style="list-style-type: none"> <li><i>1. To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.</i></li> <li><i>2. To ensure that the height of buildings does not adversely impact on the streetscape or locality.</i></li> <li><i>3. To ensure that residential buildings present to the street and abutting properties as one or two storey dwellings and minimise the impact of basement garages on the overall building height by locating third storey garages entirely below the ground level of the street.</i></li> <li><i>4. The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.</i></li> <li><i>5. To promote high quality, creative architectural design."</i></li> </ol>		

Design Principles Assessment

The original application that was refused by Council and the amended plans that are the subject of this reconsideration report both propose a maximum building height of 8.18m in lieu of 7.5m.

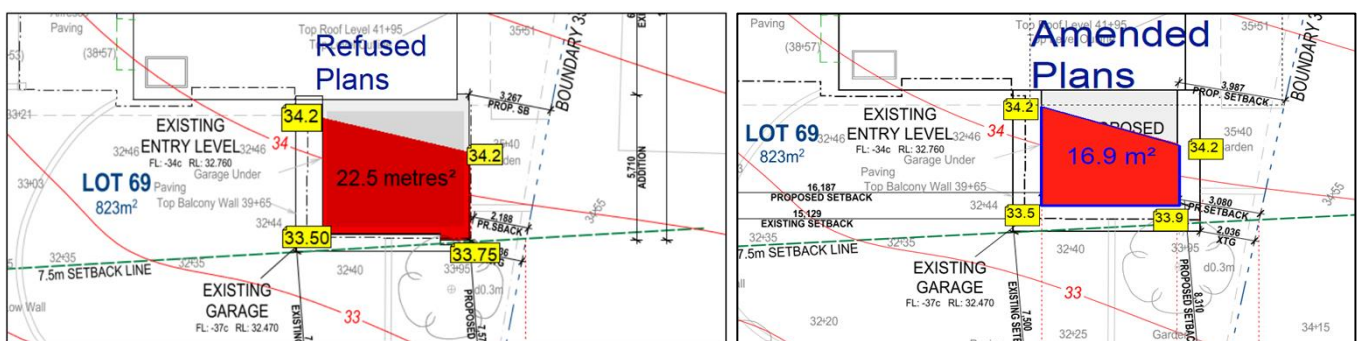
While the Administration recommended that the original application be refused, it is recommended that the amended proposal be approved for the reasons set out in the comments that follow.

The Administration recommended that the Council refuse the original application, as it was considered that, while the proposal met the design principles of the R-Codes, it did not meet the Local Housing Objectives of Local Planning Policy 3.3 – Building Height (LPP 3.3), as it would have an adverse bulk impact on the streetscape and would detract from the character of the City Beach Precinct.

Following the SAT mediation, amended plans were received that include the following changes:

1. The primary street setback to the proposed extension has been increased from 7.5m to 8.3m
2. The eastern (side) boundary setback has been increased from 2.2m to 3.1m
3. The proposed third-storey extension has been reduced in area from 31.6m<sup>2</sup> to 24.1m<sup>2</sup>
4. As such, the total area of the third-storey extension that exceeds the deemed-to-comply maximum building height has been reduced from 22.5m<sup>2</sup> to 16.9m<sup>2</sup>

The below marked-up refused and amended site plans show the area of the third-storey extension that exceeds the deemed-to-comply maximum building height has been reduced from 22.5m<sup>2</sup> to 16.9m<sup>2</sup>.



**Figure 6: Refused plans (left image) showing 22.5m<sup>2</sup> of the third-storey extension exceeds the deemed-to-comply maximum building height of 8m. Amended plans (right image) showing the area of the extension that has a maximum height greater than 8m has been reduced to 16.9m<sup>2</sup>**

The following assessment comments discuss why the Administration considers that the amended proposal now meets the Local Housing Objectives of LPP 3.3. The assessment against the design principles of the R-Codes is included further below.

#### *Assessment against the Local Housing Objectives of LPP 3.3*

It is noted that the changes made to the amended plans do not result in the maximum building height of the proposed third-storey extension being reduced from what was originally refused by the Council.

However, it is considered that the changes made on the amended plans reduce the bulk of the third-storey extension as much as practicable, by setting it back further from the primary street and side lot boundaries, which reduces the overall footprint of the extension.

In addition, setting the extension further back from the primary street boundary results in the amended proposal responding better to the natural topography of the land as it slopes up from the front to the rear boundary.

The Applicant has provided a 3D render that depicts how the third-storey extension will sit in the proposed location on the existing balcony. Figure 7 below shows the existing dwelling as viewed from Yaltara Road (left image) and the proposed third-storey extension superimposed over the existing dwelling (right image).



**Figure 34: Left image: Photo of the existing dwelling as view from Yaltara Road. Right image: Site photo of the existing dwelling with the proposed third-storey extension superimposed.**

On balance, it is considered that the changes made to the amended plans will reduce the impact of building bulk the increased maximum building height will have on the streetscape.

For the above reasons, it is considered that the proposal will be consistent with Local Housing Objectives 2 and 4 of the Town’s Local Planning Policy 3.3 – Building Height (LPP 3.3), which are as follows:

- “2. To ensure that the height of buildings does not adversely impact on the streetscape or locality.*
- 4. The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.”*

In addition to the above, during the SAT mediation, the Town’s officers were able to gain a better understanding of the character of the locality.

During the mediation site visit, the Town’s officers stood on the existing balcony where the proposed extension will be located, surveyed the locality from various points surrounding the site, and travelled along Hale Road, which runs parallel to Yaltara Road. From those locations, several large three-storey dwellings located on Chipping Road, which runs parallel to the opposite side of Hale Road, were visible.

The below marked-up aerial plan shows the locations of the existing three-storey dwellings on Chipping Road that are visible from the existing balcony of the subject property, including the locations of several other three-storey dwellings in the locality (refer Figure 6).



**Figure 8: Marked-up aerial plan showing the locations of existing three-storey dwellings that are visible from the subject property and other three-storey dwellings in the locality.**

As the locality comprises multiple three-storey dwellings, it is considered that the proposal will sit appropriately within and will not detract from the prevailing character of this particular area of City Beach. For these reasons, it is considered that the proposal will be consistent with Local Housing Objective 1 of LPP 3.3, which states the following:

- “1. To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.”*

It is also considered the proposed extension will be visually compatible with the external appearance of the existing dwelling. The proposed materiality of the extension is predominantly glazing to the western and southern elevations, which will complement the existing glazing to the primary and secondary street frontages of the building.

Overall, it is considered that the proposed extension will be a high-quality design and therefore it is considered that the development meets Local Housing Objective 5 of LPP 3.3, as follows:

- “5. To promote high quality, creative architectural design.”*

While Local Housing Objective 3 of LPP 3.3 states that a dwelling should present as a maximum of two storeys to the street, in this instance it is considered that the proposal presenting as three-storeys to the street will not be detrimental to the character of the locality, as it comprises multiple three storey dwellings.

*Assessment against the Design Principles of the R-Codes*

As noted within the previous report presented to Council in June 2023, the proposed increased maximum building is considered to meet the design principles of the R-Codes in relation to adjoining properties’ access to adequate direct sun and daylight and impacts on views of significance for the reasons discussed below.

As the third-storey extension is located on the southern side of the existing dwelling and the shadow cast from the building falls onto the street, the increased height of the extension will not impact the adjoining eastern property's access to adequate direct sun or daylight.

The increased height of the third-storey extension will not have an adverse impact on the adjoining eastern property's access to views of significance. This property does not have any second-storey windows that provide a clear view of the ocean. In addition, the ground floor windows on the street elevation of the dwelling will maintain a south-western ocean vista.

The below aerial image shows the south-western view corridor to the ocean from the ground floor windows at 4 Yaltara Road.



**Figure 9: Aerial image showing the south-western ocean vista from the ground floor windows on the street elevation at 4 Yaltara Road.**

The increased height of the master bedroom addition will also not have an adverse impact on the adjoining northern property's (43 Perina Way) access to views of significance, as that property does not have any second storey major opening windows on the southern elevation of the building.

For the reasons discussed above, the revised application is recommended for approval.

**Local Law 43 - Buildings on Endowment Lands & Limekilns Estate (Local Law 43)**

Clause 7		
	General Regulation	Proposed
Construction materials	<i>All other dwelling-houses [ie. non-single-storey dwellings] shall be constructed of brick, stone, concrete or similar material.</i>	The external walls are clad in 'EPS insulated wall panels' with a textured acrylic render finish
<p><b>Clause 2B</b>  <i>"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–</i></p> <ul style="list-style-type: none"> <li><i>a) for use for a purpose which is not permitted in that district;</i></li> <li><i>b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.</i></li> </ul> <p><i>if the Council is satisfied by an absolute majority that:–</i></p> <ul style="list-style-type: none"> <li><i>i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and</i></li> </ul>		

- ii) *the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".*

### Assessment

The proposed master bedroom addition is proposed to be clad in 'EPS insulated wall panels', which will be finished in a texture coated rendered acrylic that resembles a cement rendered finish, in lieu of masonry building materials. The proposed cladding will be visually similar to the existing rendered brick dwelling.

The applicant has provided the following comments in support of the choice of construction materials.

1. Masonry or concrete material is not appropriate due to the additional weight associated with these construction materials;
2. Visually speaking, the acrylic rendered wall finish will be "virtually indistinguishable" from the existing rendered masonry;
3. The material is consistent with the visually appearance of the existing building material; and
4. The EPS cladding is a superior product to traditional masonry construction with respect to thermal performance.

The proposed cladding is high quality, durable, and lightweight and is a common construction material used in the City Beach Precinct.

It is noted that that the Town did not receive any submissions objection to the proposed cladding materials during the consultation period.

For the above reasons, the application is considered to meet Clause 2B of *Local Law 43* and the proposed cladding materials are therefore supported.

### **FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

### **LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme*  
*Planning and Development (Local Planning Schemes) Regulations 2015*  
*Local Planning Scheme No. 1*  
*State Planning Policy 7.3 - Residential Design Codes Volume 1*  
*Local Planning Policies*  
*Local Law 43*

### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

**COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

**Impartiality Interest Declaration - Cr Kennerly**

Prior to consideration of the item, Cr Kennerly disclosed an interest affecting impartiality and declared as follows: "with regard to Item 13.2.12, I declare that I know the owners of the property and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 13.2.12, I declare that I have received correspondence from the proponent and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**COUNCIL DECISION:**

(ADMINISTRATION RECOMMENDATION)

Moved by Cr Barlow, seconded by Cr Mayes

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That Council pursuant to S31 of the *State Administrative Tribunal Act 2004*, and in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, and the provisions of *Local Law 43 – Buildings on Endowment Lands & Limekilns Estate*, Council **SETS ASIDE ITS PREVIOUS DECISION AND APPROVES BY ABSOLUTE MAJORITY** the application for proposed alterations and additions to the existing three-storey single house, at Lot 69 (No. 6) Yaltara Road, City Beach, as shown on the attached plans stamped received 27 September 2023, subject to the following conditions:

1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;
2. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town;
3. All privacy screening and obscure glazing to major openings and unenclosed outdoor active habitable spaces, as shown on the approved plans, shall restrict views within the applicable cone of vision in accordance with Provision 5.4.1 of *State Planning Policy 7.3 - Residential Design Codes Volume 1*;

The privacy screening and obscure glazing shall be installed prior to practical completion of the development and thereafter remain in place for the life of the development to the satisfaction of the Town.

4. All structures (and associated footings) shall be contained within the lot boundaries of the subject site.
5. The 'textured EPS' cladding, as shown on the approved plans, shall be finished and maintained thereafter by the landowner to the satisfaction of the Town.

Standard Advice Notes to be included by the Administration.

Motion put and **CARRIED BY ABSOLUTE MAJORITY (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

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**12.3.13 Lot 199 (No. 33) Pandora Drive, City Beach - Proposed Two-Storey Single House**

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Kane Smith (Senior Statutory Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"> <li>1. Development Plans [12.3.13.1 - 7 pages]</li> <li>2. Schedule of Submissions [12.3.13.2 - 12 pages]</li> <li>3. Applicant's Justification Report [12.3.13.3 - 6 pages]</li> <li>4. Site Photos of Existing Dwellings Along Pandora Drive [12.3.13.4 - 3 pages]</li> </ol>

**PURPOSE OF REPORT:**

The purpose of this report is for the Council to consider a development application for a two-storey single house.

**EXECUTIVE SUMMARY:**

The proposal includes a reduced street setback, increased building height, reduced lot boundary setbacks, reduced sightlines, increased retaining wall heights, a garage projecting in front of the dwelling, increased letterbox width and front fencing solid wall height, and cladding to the external walls in lieu of masonry materials.

After consideration under the relevant planning provisions, it is recommended that the application be refused as:

- The proposed reduced setbacks to the south-eastern boundary will have an adverse building bulk impact on the adjoining south-eastern properties and will not maintain the low-density open character of the City Beach Precinct.
- The dwelling will present as three-storeys to the street, which will not be consistent with the established character of the locality, which predominantly consists of dwellings that present as two-storeys to the street.
- The proposed increased maximum building height is to the front portion of the skillion roof of the dwelling, which will be highly visible from the street and will therefore have an adverse bulk impact on the streetscape.
- The development is not appropriately stepped to minimise the visual prominence of the upper floors on the streetscape, which would reduce the impact of the building presenting as three storeys to the street.

Accordingly, it is recommended that the application be refused.

**BACKGROUND:**

<b>Applicant:</b>	Urbanista Town Planning
<b>Owner:</b>	Rachel Hurley
<b>Zoning:</b>	R12.5
<b>Precinct:</b>	P1: City Beach
<b>Development Description:</b>	Two-Storey Single House
<b>Development Value:</b>	\$950,000
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – works associated with existing land use
<b>Land Area:</b>	930m <sup>2</sup>
<b>Heritage Listing:</b>	No
<b>Application Date:</b>	17 July 2023
<b>Application Process Days:</b>	125 days (not including 'Stop the Clock' days)

## **DELEGATION:**

In accordance with Clause 12.1.4 of the Town's Delegation Register, the Council is required to determine a development application where a variation is sought under Clause 34 (2) of the Town's *Local Planning Scheme No. 1*.

Additionally, Clause 2B of *Local Law 43 - Buildings on Endowment Lands & Limekilns Estate* (Local Law 43) requires Council to determine development applications which do not meet the requirements of Local Law 43.

In accordance with cl12.2.1 of the Town's Delegation Register, the application must meet the following voting requirements for a determination to be made:

### **Council - Absolute Majority**

More than fifty per cent of the total number of positions on Council (regardless of the number of Members present at the meeting or the number of Members that vote) must cast the same vote for a determination to be made.

## **DETAILS:**

### Proposal

The application proposes to demolish the existing two-storey single house and to construct a new two-storey single house, which includes the following elements that do not meet the relevant requirements of the Scheme or deemed-to-comply provisions of the R-Codes and Town's policies:

- 1) The proposed entry canopy will be set back a minimum of 7m from the primary street boundary in lieu of 7.5m.
- 2) A maximum building height of 8.25m in lieu of 7.5m.
- 3) Reduced south-eastern (side) boundary setbacks:
  - a. Ground floor 'void to theatre' wall will be set back 1.1m in lieu of 1.2m.
  - b. Ground floor 'guest ensuite to laundry' wall will be set back 1m in lieu of 4.5m.
  - c. Ground floor 'bathroom to bed 2' wall will be set back 1.1m in lieu of 1.5m.
  - d. First floor 'ensuite to lounge' wall will be set back 1.4m in lieu of 1.7m.
- 4) Reduced north-western (side) boundary setback:
  - a. Ground floor 'kitchen to scullery' wall will be set back 1.33m in lieu of 1.5m.
- 5) Reduced south-western (rear) boundary setback:
  - a. Ground floor 'bed 2 to bed 3' wall will be set back 3.5m in lieu of 6m.
- 6) The letterbox within the 1.5m x 1.5m visual truncation area adjacent to the driveway will have a maximum height of 1.2m in lieu of 0.75m.
- 7) The proposed retaining walls along the south-eastern boundary will have a maximum height of 1.2m with a nil setback in lieu of being set back a minimum of 1.5m.
- 8) The garage is proposed to project 4.4m in front of the dwelling in lieu of being set back in line with or behind the dwelling.
- 9) The front fence will have a maximum solid wall height of 1.8m in lieu of 0.75m.
- 10) The letterbox has a maximum width of 1.8m in lieu of 1m maximum.
- 11) Cladding to the external walls of the dwelling in lieu of masonry materials.

### Application History

The application initially proposed reduced primary street setbacks of 5.8m to the garage and 7m to the store in lieu of 7.5m, and an increased maximum building height of 8.96m in lieu of 7.5m.

Following the consultation period, amended plans were received, which include the following changes:

- The primary street setback of the garage has been increased from 5.8m to 7.5m, which meets the street setback requirement of the Scheme.
- The primary street setback for the store has been increased from 7m to 7.9m, which meets the street setback requirement of the Scheme.
- The maximum building height has been reduced from 8.96m to 8.3m, which still does not meet the deemed-to-comply maximum height of 7.5m for a concealed roof.

The amended plans have reduced the maximum building height through the following changes:

- The ground floor ceiling height has been reduced by 50mm.
- The upper floor slab level has been reduced by 150mm.
- The height of the skillion roof form has been reduced by 80mm.
- The angle of the skillion roof form has been flipped to align with the natural ground level cross-slope.

In addition to the above, the amended plans include the following additional details:

- The rear dividing fence line has been added to the rear elevation.
- The elevations include the 7.5m deemed-to-comply maximum building height outline.
- An additional set of elevations has been included with modified colours to more clearly depict the adjacent wall heights and the 7.5m deemed-to-comply maximum building height outline.

It is the amended plans, which are included in **Attachment 1**, that are being presented to Council for consideration.

#### Site Context

The site is located within the City Beach Precinct (P1) and is occupied by a two-storey single house. The natural topography of the site slopes up approximately 9m from the front to the rear boundary.

The front of the site features extensive retaining and a steep driveway, as shown in the below Google Streetview images (refer Figures 1 and 2).



**Figure 35: Google Streetview image showing the existing steep driveway on 33 Pandora Drive.**



**Figure 2: Google Streetview image showing the existing front retaining walls on 33 Pandora Drive.**

The existing retaining wall along the front boundary of the subject site is partially located outside the lot boundary.

The site is located directly opposite Malton Park, which is a local reserve for Parks and Recreation in the Town's *Local Planning Scheme No. 1*. The surrounding locality consists of single-storey and two-storey single houses. The below aerial image shows the location of the site (red outline) and the immediate surrounding locality (refer Figure 3).



**Figure 3: Aerial image showing the subject property and the immediately surrounding area.**

Most of the existing dwellings on Pandora Drive present as two-storeys to the street. The majority of the lots along Pandora Drive include extensive retaining walls along the street boundary.

Photos of the existing dwellings on Pandora Drive, which were taken by the Town’s officers during a site visit of the subject property, are included in **Attachment 4**.

The existing levels at the rear of the subject site have been cut in to create a relatively flat surface area at 40.58 AHD. Along the rear and side boundaries of the subject site, there are existing large retaining walls that retain the higher levels of the adjoining properties. The existing dividing fence on the adjoining rear site has a maximum height of 45.17 AHD, which is 4.59m high than the existing levels at the rear of the subject site.

The below Nearmaps panoramic image shows the location of the existing large retaining walls (blue outline) at the rear of the subject site (refer Figure 4).



**Figure 4: Nearmaps panoramic image showing the location of the existing large retaining walls (blue outline) at the rear of the subject site.**

Due to the higher levels of the adjoining lots and the existing dwelling being lower than the existing dividing fence height, the adjoining properties currently have views over the top of the existing dwelling to the Wembley Golf Course, bushland, and the open skyline.

## **CONSULTATION**

### Public Comments

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

In response, a total of four submissions were received, of which three were provided as a group submission prepared by a planning consultant, and all of which objected to the proposal.

The main concerns raised during the public consultation period are summarised below:

- The proposed reduced primary street setback will have an adverse impact on the streetscape.
- The proposed reduced lot boundary setbacks will result in adverse bulk impacts on the adjoining properties.
- The proposed increased building height will impact the amenity of the adjoining properties and their access to views of significance.
- The proposal does not meet the Local Housing Objectives of Local Planning Policy 3.3: Building Height.
- Retaining along the south-eastern boundary and the reduces setbacks.

A Schedule of Submissions that includes the submissions in their entirety is attached to this Report (refer **Attachment 2**).

Applicant’s Comments

The Applicant has provided comments in support of the elements of the proposal that do not meet the requirements of the Scheme or the deemed-to-comply provisions in the R-Codes or the Town’s policies.

The Applicant’s justification report is attached (refer **Attachment 3**).

**STATUTORY ASSESSMENT**

**Local Planning Scheme No. 1 - Clause 26 - Modification of R-Codes**

<i>Clause 26(1)(a) Modification of R-Codes</i>		
	<b>Required</b>	<b>Proposed</b>
Minimum Primary Street Setback (Entry Canopy)	7.5m	7m

Clause 34 - Variations to Site and Development Requirements

- “1) a) *an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...*
- 2) *Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".*
  - (a) *Consult with the party or parties who, in the opinion of Council, may be affected by the approval of the development; and*
  - (b) *have regard to any submissions before making its decision to grant the variation.*
- 8) *The Local government may only approve an application for development approval under this clause if the local government is satisfied that—*
  - a) *Approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions”.*

Local Planning Policy 3.1 – Streetscape

*“1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme*

*...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.*

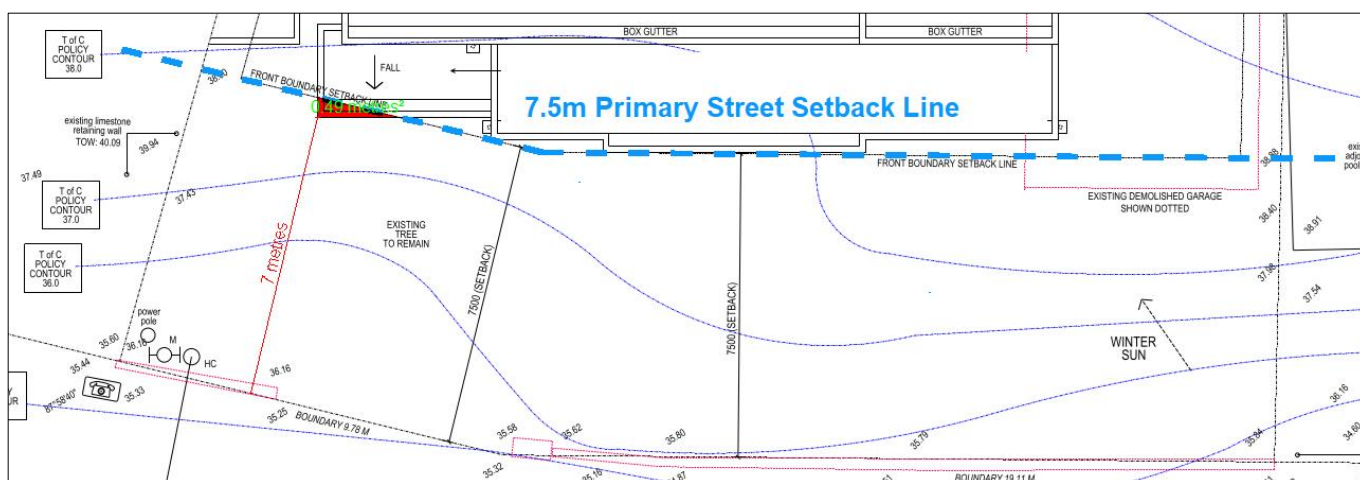
- a. *The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;*
- b. *Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;*

*Desired Future Character of the Area:*

- *Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for;*
- *The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape.*

**Assessment**

The application proposes 0.5m<sup>2</sup> of an ‘entry canopy’ to be located within the 7.5m primary street setback area, as shown in the below marked-up site plan (refer Figure 5).



**Figure 5: Marked-up site plan showing a 0.5m<sup>2</sup> portion of the proposed front entry canopy (highlighted red) will be within the 7.5m primary street setback area.**

Clause 1 of *Local Planning Policy 3.1 – Streetscape* (LPP 3.1) includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;*
- Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;*

The Desired Future Character referred to in criterion (a) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the City Beach Precinct (P1) includes several desired future character elements. In this case, the desired future character element relevant to the proposed reduced street setback is as follows:

*‘Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original and desired open nature of the precinct’s design.’*

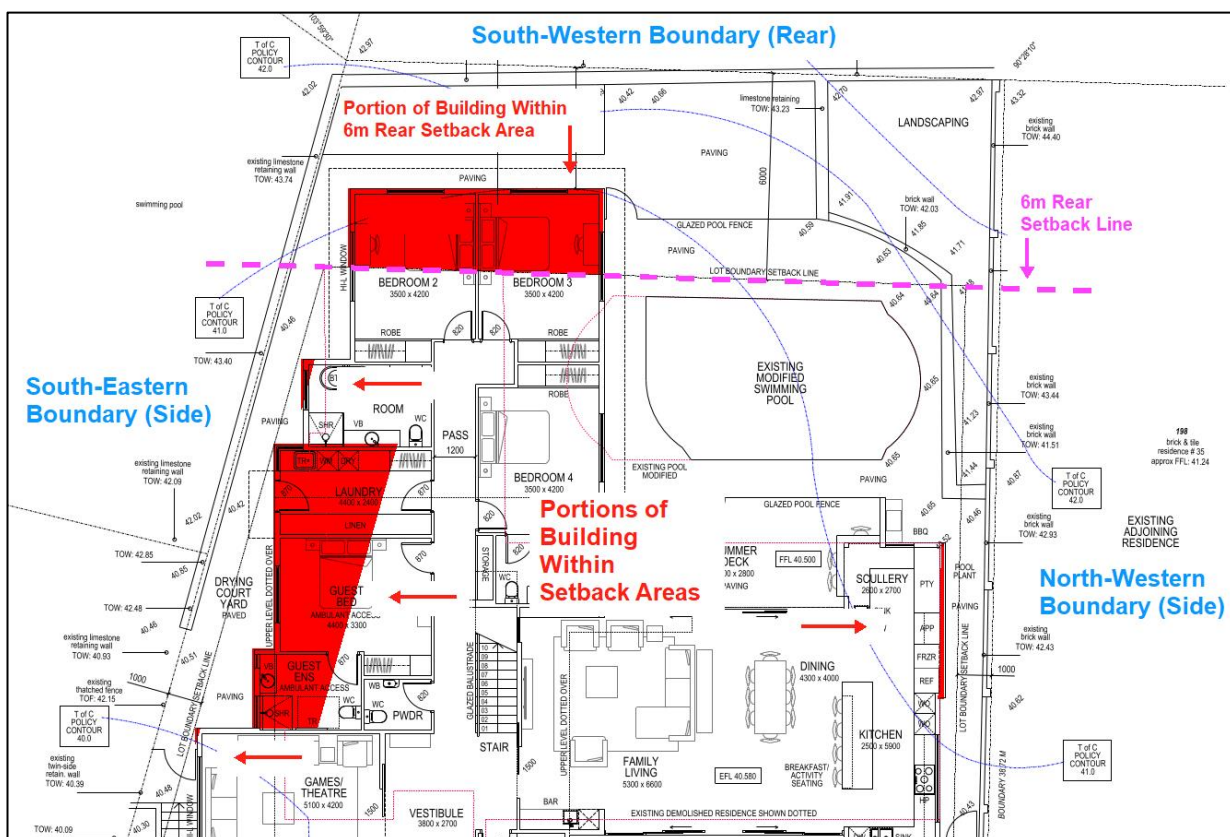
As the entry canopy will occupy only 0.5m<sup>2</sup> of the 7.5m street setback area, it is considered that the reduced street setback to the structure will not have an adverse bulk impact on the streetscape and will not detract from the desired future character of the precinct, as the traditional street setback will be largely maintained.

For this reason, the proposed reduced street setback to the entry canopy is supported.

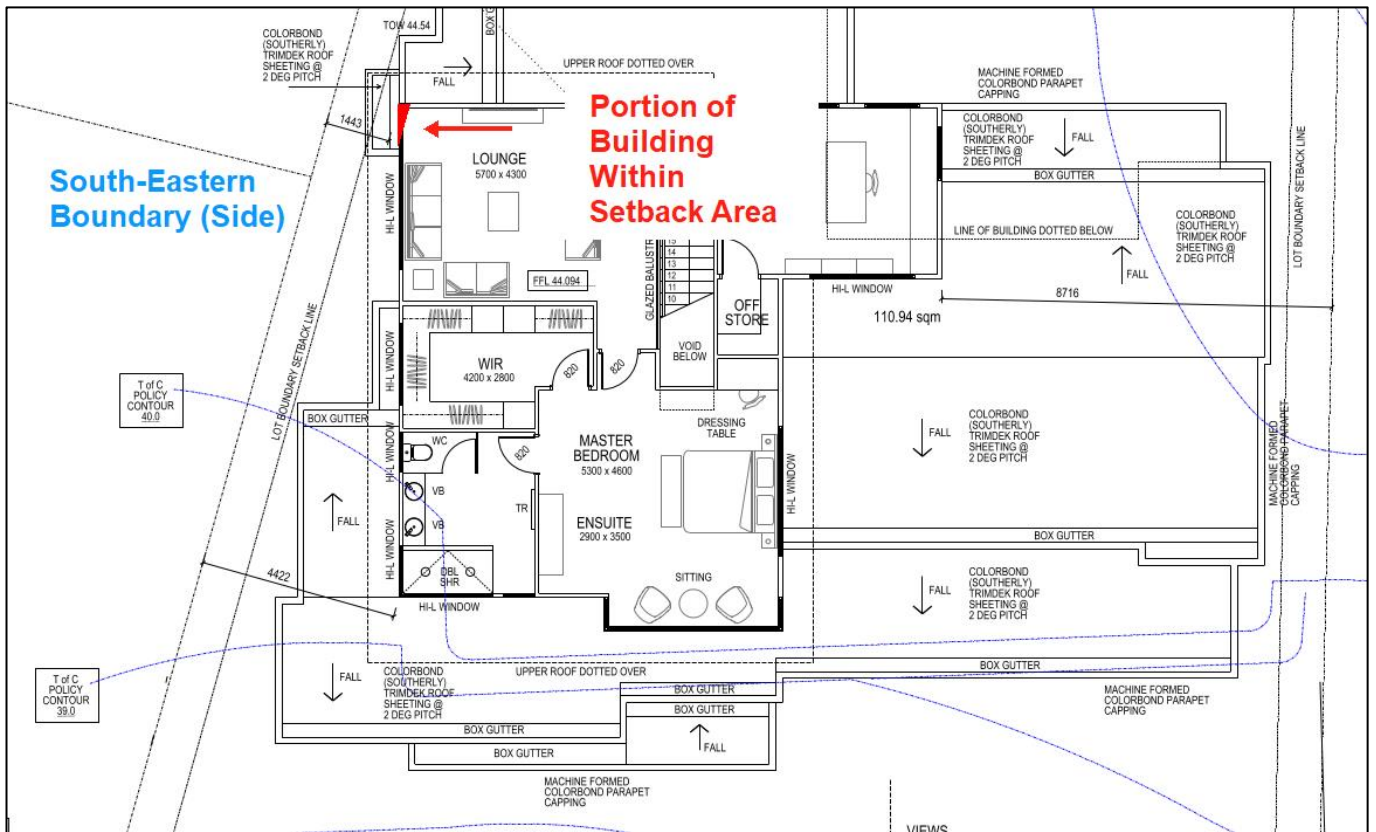
5.1.3 - Lot Boundary Setbacks		
	Deemed-to-comply Requirement	Proposed Minimum Setback
<b>South-Eastern (side)</b>		
Ground Floor - Guest Ens to Laundry	4.5m	1m
Ground Floor - Void to Theatre	1.2m	1.1m
Ground Floor - Bathroom to Bed 2	1.5m	1.1m
1 <sup>st</sup> Floor - Ensuite to Lounge	1.6m	1.4m
<b>North-Western (side)</b>		
Ground Floor - Kitchen to Scullery	1.5m	1.33m
<b>South-Western (rear)</b>		
Ground Floor - Bed 2 to Bed 3	6m	3.5m
<b>Design Principles (of R-Codes):</b>		
<i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i>		
<i>a) reduce impacts of building bulk on adjoining properties;</i>		
<i>b) provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i>		
<i>c) minimise the extent of overlooking and resultant loss of privacy on adjoining properties".</i>		

**Design Principles Assessment**

The proposal includes several wall portions that do not meet the deemed-to-comply minimum lot boundary setbacks, which are highlighted red in the below marked-up ground and first floor plans (refer Figures 6 and 7).



**Figure 6: Marked-up ground floor plan showing the portions of the dwelling that do not meet the deemed-to-comply minimum lot boundary setbacks (highlighted red).**



**Figure 7: Marked-up first floor plan showing the portion of the dwelling that does not meet the deemed-to-comply minimum lot boundary setback (highlighted red).**

The submissions received during the public consultation period objected to the proposed reduced lot boundary setbacks, as there is strong concern that the proposal will result in adverse building bulk and overshadowing impacts on the adjoining properties and will impact the adjoining properties' access to views.

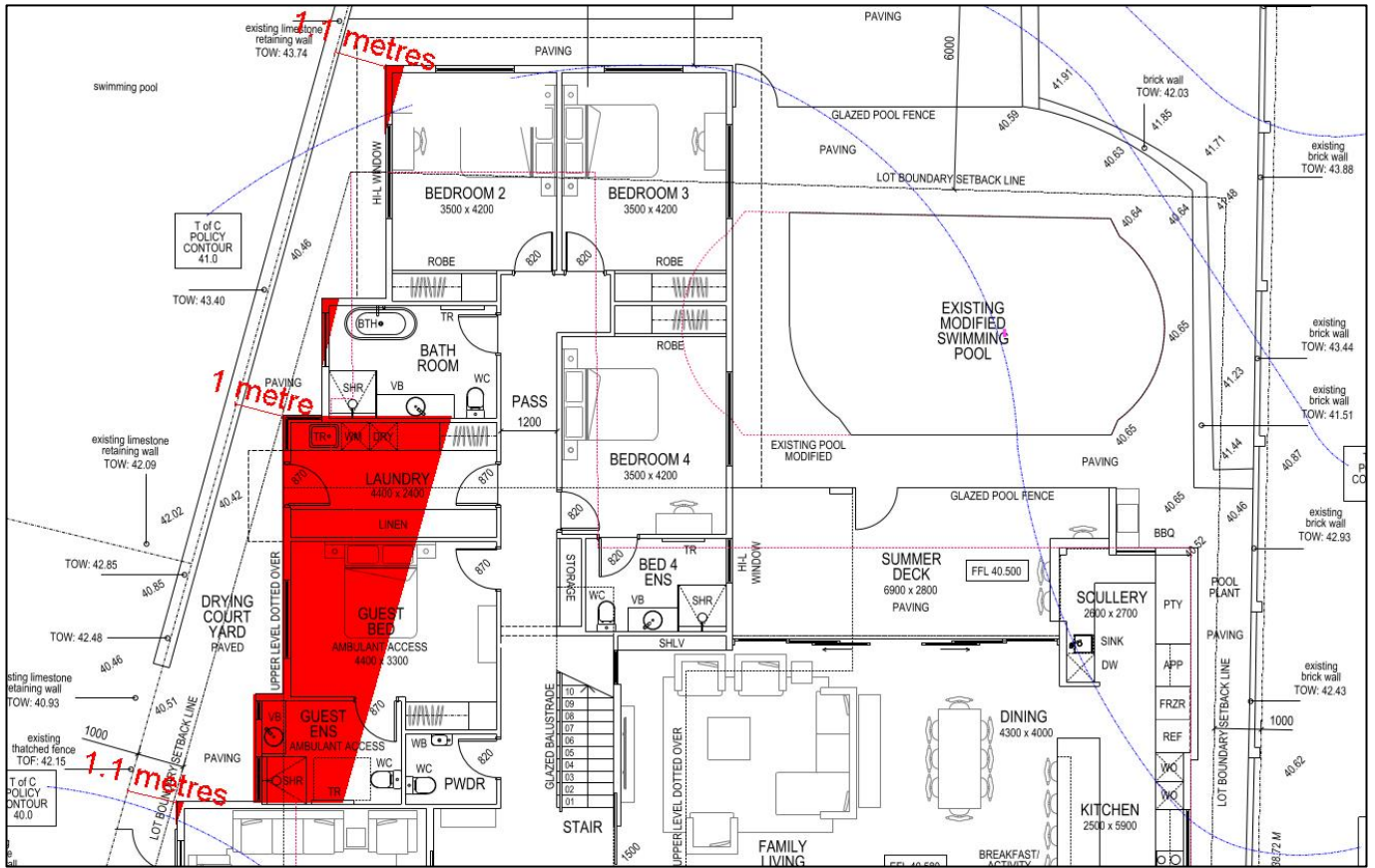
The submissions also commented that the cumulative impact of the proposed reduced setbacks and increased maximum building height would compound the concerns detailed above.

While the Administration supports the proposed reduced setbacks to the north-western (side) and south-western (rear) boundaries, the reduced setbacks to the south-eastern boundary are not supported.

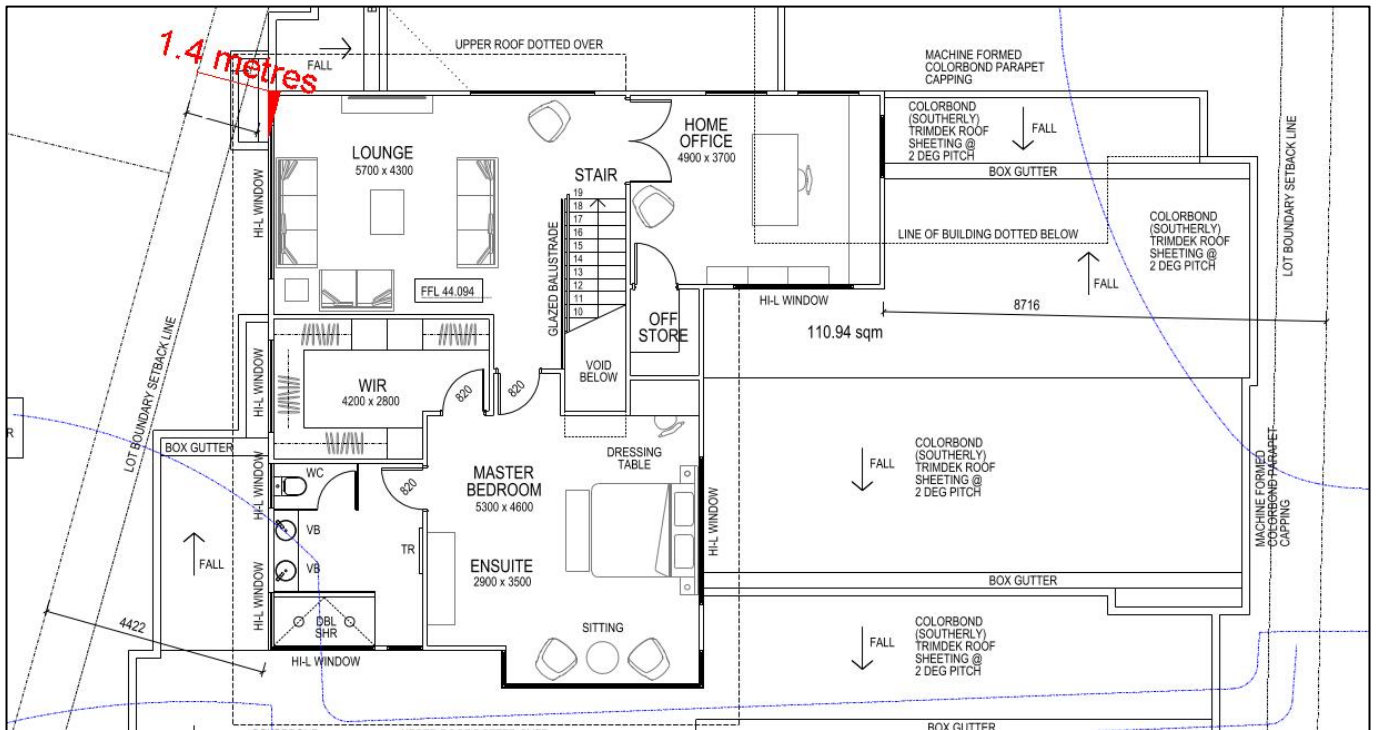
The comments that follow assess the proposed reduced setbacks in relation to each lot boundary against each of the design principles.

*South-Eastern Boundary (side)*

The application proposes reduced setbacks from several wall portions on the ground and first floors to the south-eastern (side) lot boundary. The below marked-up ground and first floor plans show the minimum setbacks and areas of each wall portion within the deemed-to-comply setback areas (highlighted red) (refer Figures 8 and 9).



**Figure 8: Marked-up ground floor plan showing the minimum setbacks and areas of each wall portion within the deemed-to-comply setbacks (highlighted red).**



**Figure 9: Marked-up first floor plan showing the minimum setback and area of the wall within the deemed-to-comply setback (highlighted red).**

The Figure 4 series in the R-Codes allows the deemed-to-comply setbacks of different portions of wall to be assessed independently of each other if the walls are recessed or separated by specified distances.

The intent of the Figure 4 series is to encourage long wall lengths to be articulated to provide building bulk relief to adjoining properties.

In this instance, as the ground floor of the dwelling on the south-eastern elevation is articulated in accordance with Figure 4C, the deemed-to-comply setbacks to each wall portion are assessed independently of each other.

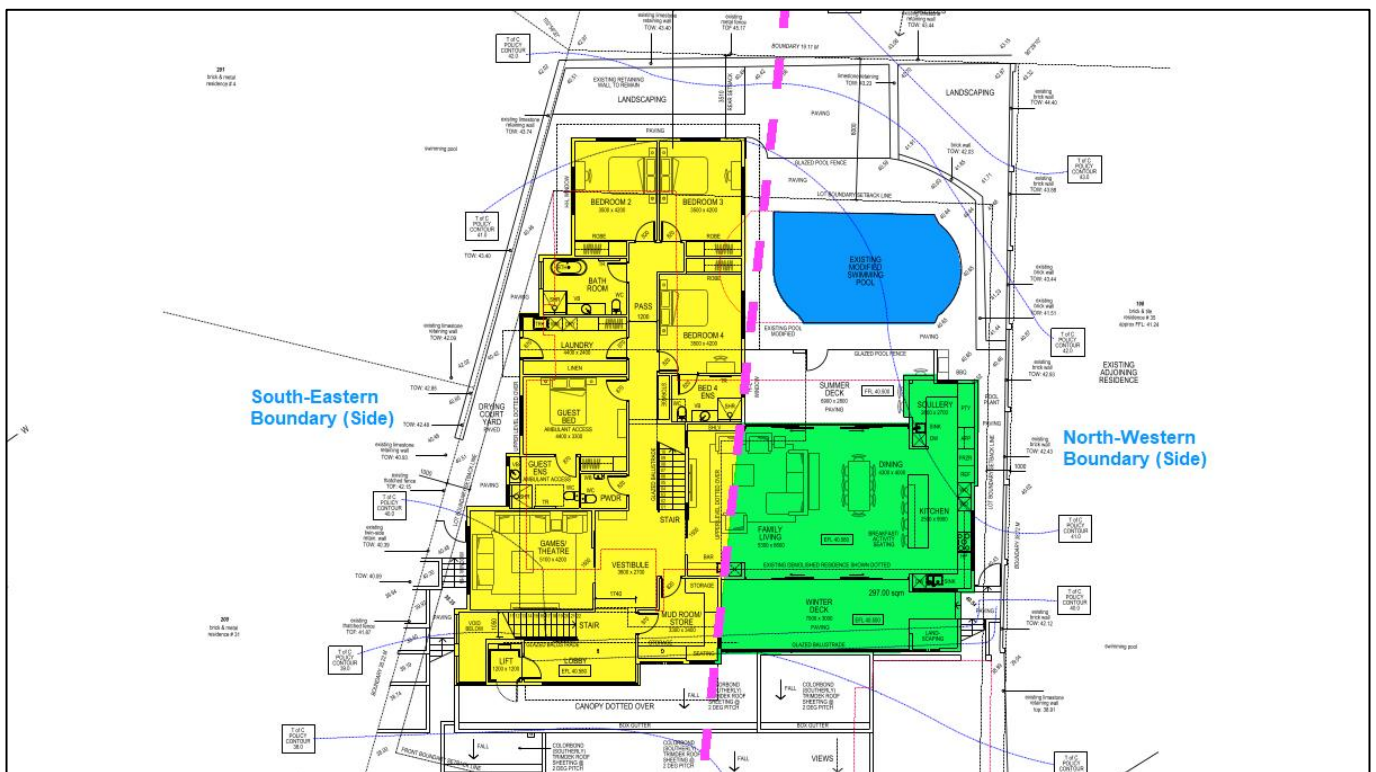
As the first floor only has one wall portion, the entire wall is subject to the same deemed-to-comply minimum setback.

Notwithstanding that the ground floor walls on the south-eastern elevation are articulated with varying wall lengths and setbacks, each wall includes portions that do not meet the relative deemed-to-comply minimum setbacks.

It is considered that the development does not provide adequate building bulk relief to the adjoining south-eastern properties, given that the entire south-eastern elevation includes ground and first floor wall portions that do not meet the minimum setbacks.

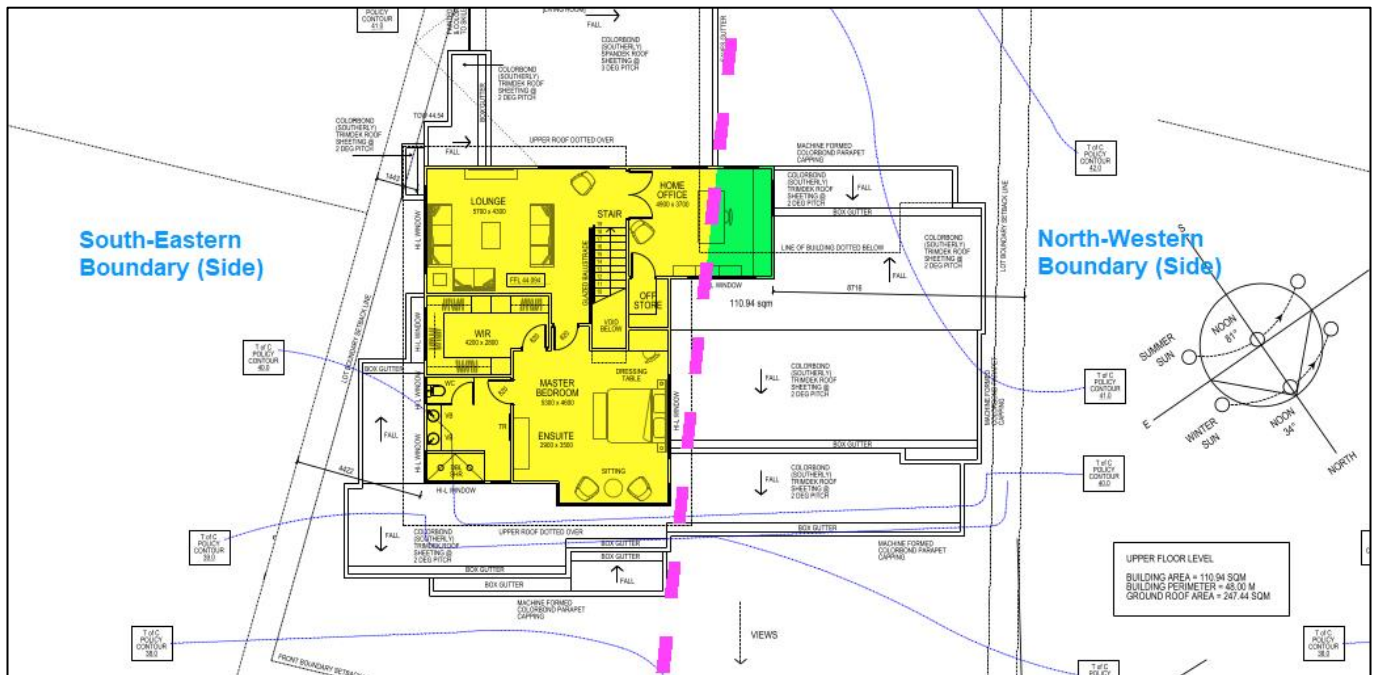
The plans include a south-eastern elevation showing that some of the building will not be visible to the adjoining southern-eastern properties above the existing dividing fencing. Notwithstanding this, the plans show a significant amount of the building will be visible to the adjoining properties above the fencing.

The subject site has a relatively large area of 931m<sup>2</sup> and an average lot width of 24m. The design of the dwelling concentrates the bulk of the ground floor nearest to the south-eastern boundary. This design choice has been made so that the existing below ground pool, which is situated nearer to the north-western boundary, can be retained. The below marked-up ground floor plan shows the bulk of the ground floor is situated nearer to the south-eastern boundary (refer Figure 10).



**Figure 10: Marked-up ground floor plan showing the bulk of the ground floor is on the left side of the site (highlighted yellow) nearer to the south-eastern boundary, which means the existing below ground pool (highlighted blue) can be retained.**

While siting of the first floor could have been more centrally located over the ground floor, the design has situated the first floor nearer to the south-eastern boundary, as shown in the below marked-up first floor plan (refer Figure 11).



**Figure 11: Marked-up first floor plan showing the first floor almost entirely situated near to the south-eastern boundary, whereas it could have been more centrally located.**

Based on the above, the Applicant’s design choices have resulted in the bulk of the development being nearer to the south-eastern boundary.

There is ample space on the site for the development to be set back further from the south-eastern lot boundary while maintaining a similar floor area, which would reduce the impact of building bulk on the adjoining properties and largely maintain the overall design.

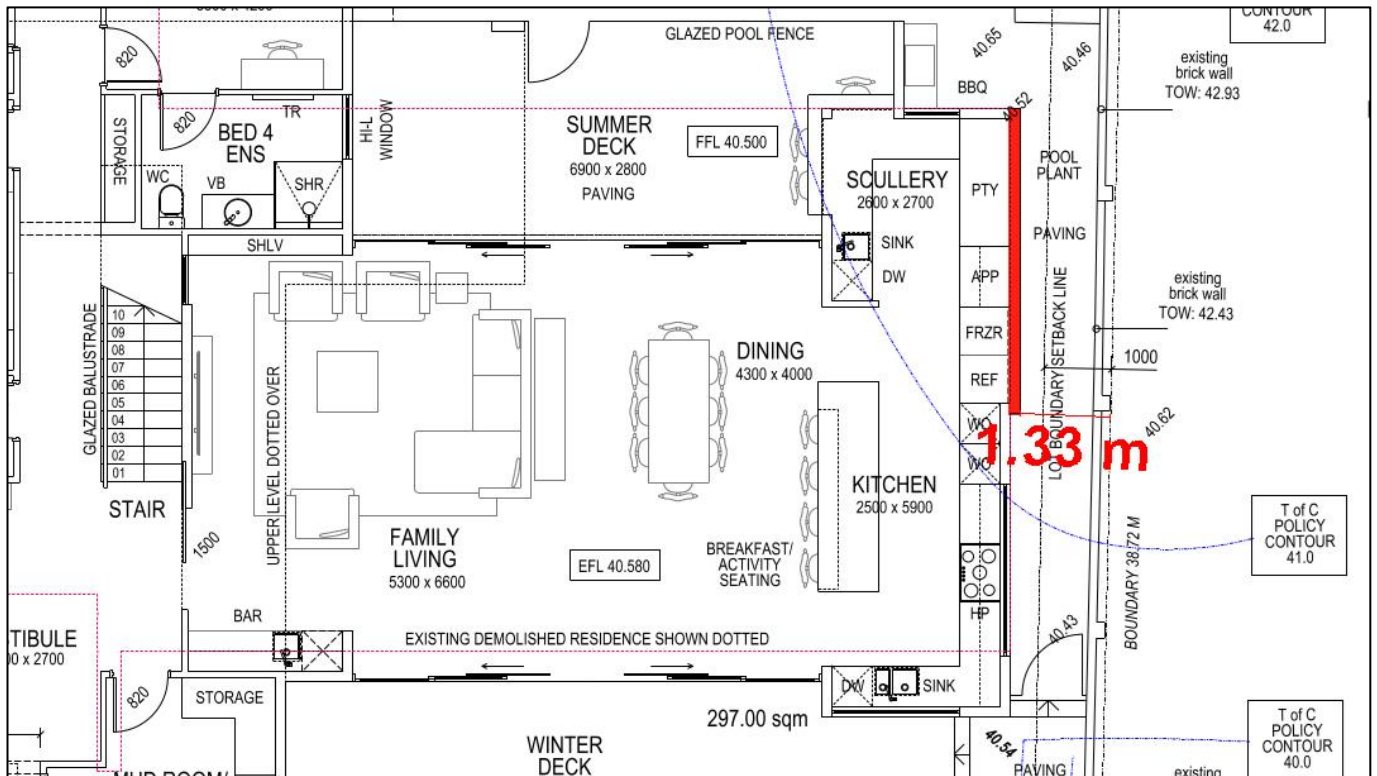
While the extent of the proposed reduced setbacks may be appropriate in a higher-density coded locality, where lots are generally narrow than lots in a lower-density area, it is considered that the reduced setbacks to all wall portions along the entire south-eastern elevation is not consistent with the low-density and open character of the City Beach precinct.

For the above reasons, it is considered that the proposed reduced setbacks to the south-eastern boundary will have an adverse impact on the amenity of the adjoining south-eastern properties. In addition, it is considered that the development will not be compatible with its setting, including the relation of the development to development on the adjoining land. As such, it is considered that the proposal is not consistent with the considerations under paragraphs (m) and (n) of Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The proposed reduced setbacks to the south-eastern boundary are therefore not supported.

#### *North-Western Boundary (Side)*

The application proposes a minimum setback of 1.33m from the ground floor ‘Kitchen to Scullery’ wall to the north-western boundary in lieu of 1.5m, as shown in the below marked-up ground floor plan (refer Figure 12).



**Figure 12: Marked-up ground floor plan showing the 'Kitchen to Scullery' wall will be set back a minimum of 1.33m in lieu of 1.5m.**

It is considered that the reduced setback from the ground floor 'Kitchen to Scullery' wall to the north-western boundary (1.33m in lieu of 1.5m) is a relatively minor variation that will not have an adverse impact on the adjoining north-western property.

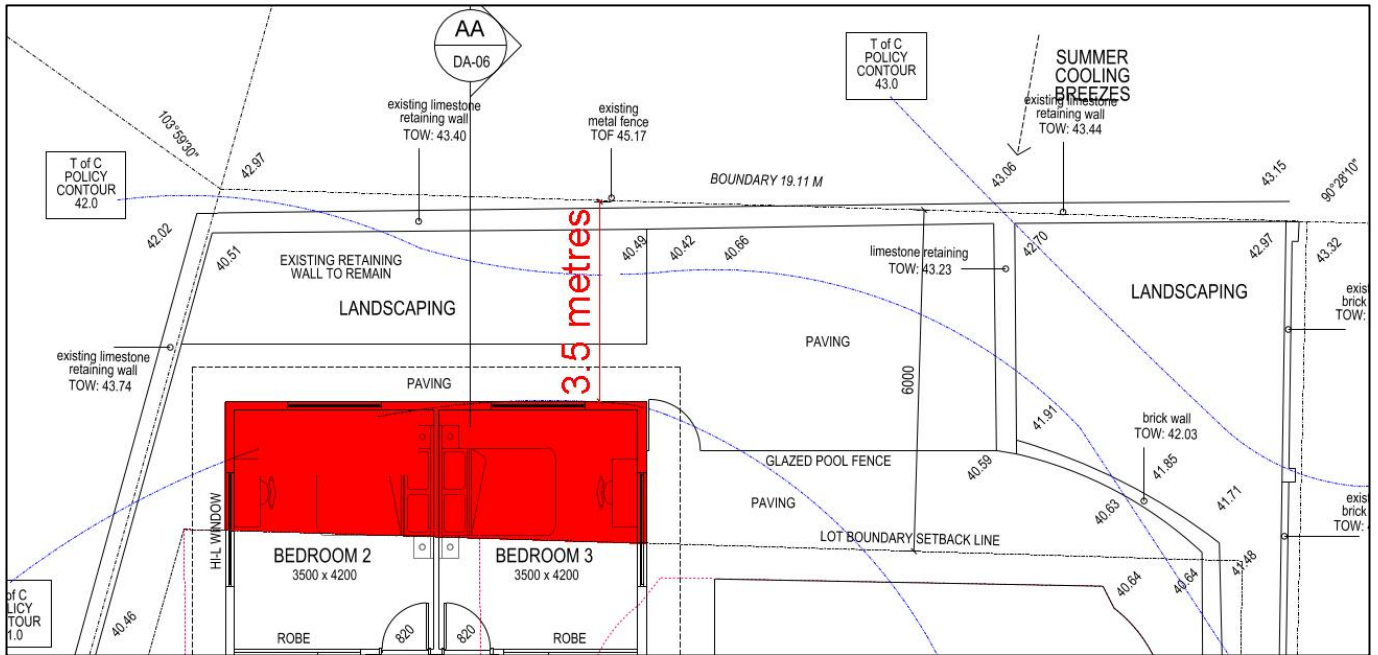
As the 'Kitchen to Scullery' wall portion is single storey and only 4.5m long, and the rest of the building on the north-western elevation is well articulated with recessed wall portions, it is considered that the development provides adequate building bulk relief to the adjoining north-western property.

In addition, due to the orientation of the lot, the reduced setback will not impact the north-western adjoining property's access to direct sun. The proposed setback will also provide adequate space for natural ventilation between the subject and adjoining property and the reduced setback does not result in any visual privacy overlooking.

For the above reasons, it is considered that the proposed reduced setback to the north-western boundary meets the design principles.

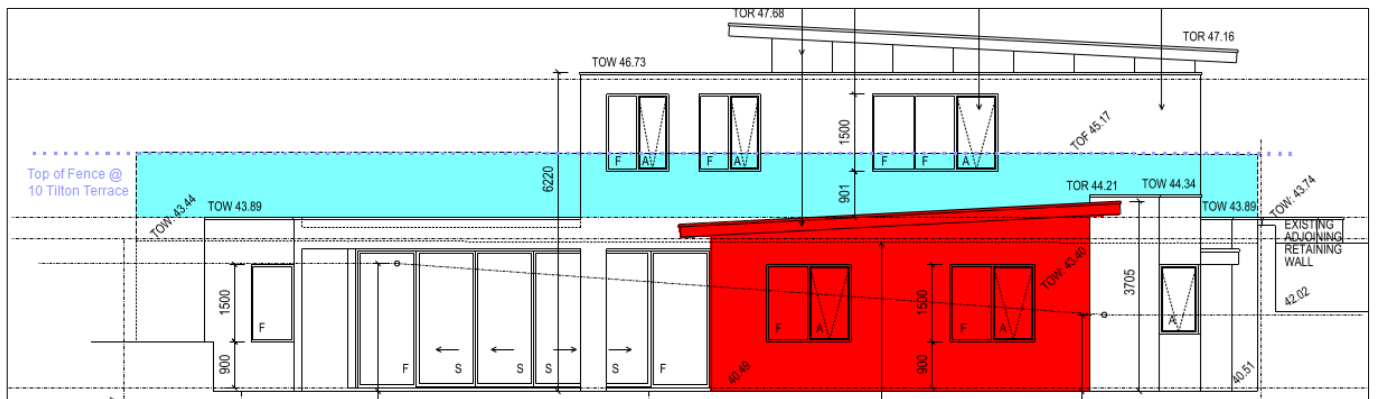
**South-Western Boundary (Rear)**

The application proposes 3.5m rear setback to the ground floor 'bed 2 to bed 3' wall in lieu of 6m, as shown in the below marked-up ground floor plan (refer Figure 13).



**Figure 13: Marked-up ground floor plan showing the ground floor 'bed 2 to bed 3' wall will be set back a minimum 3.5m in lieu of 6m.**

It is considered that the reduced rear setback will not have an adverse impact on the adjoining rear property at 10 Tilton Terrace, as that portion of the dwelling is single storey and will not be visible above the existing dividing fence on the adjoining property. The below marked-up rear elevation shows the existing dividing fence (highlighted blue) is higher than the rear portion of the dwelling (highlighted red) (refer Figure 14).



**Figure 14: Marked-up south-western elevation showing the proposed development within the rear setback area (highlighted red) will be lower than the existing rear fence (highlighted blue) at 10 Tilton Terrace.**

As such, the reduced rear setback will not impact the adjoining property with regards to building bulk, access to direct light and natural ventilation, and visual privacy.

Based on all the above, the Administration supports the proposed reduced setbacks to the north-western (side) and south-western (rear) boundaries, however the reduced setbacks to the south-eastern boundary are not supported.

Local Planning Policy 3.3 - Building Height R-Codes Clause 5.1.6 – Building Height		
	Deemed-to-comply Requirement	Proposed
Maximum skillion /concealed roof height	7.5m	8.3m
Design Principles (of R-Codes):		

"Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:

- adequate access to direct sun into buildings and appurtenant open spaces;
- adequate daylight to major openings into habitable rooms; and
- access to views of significance".

**Local Planning Policy 3.3: Building Heights**

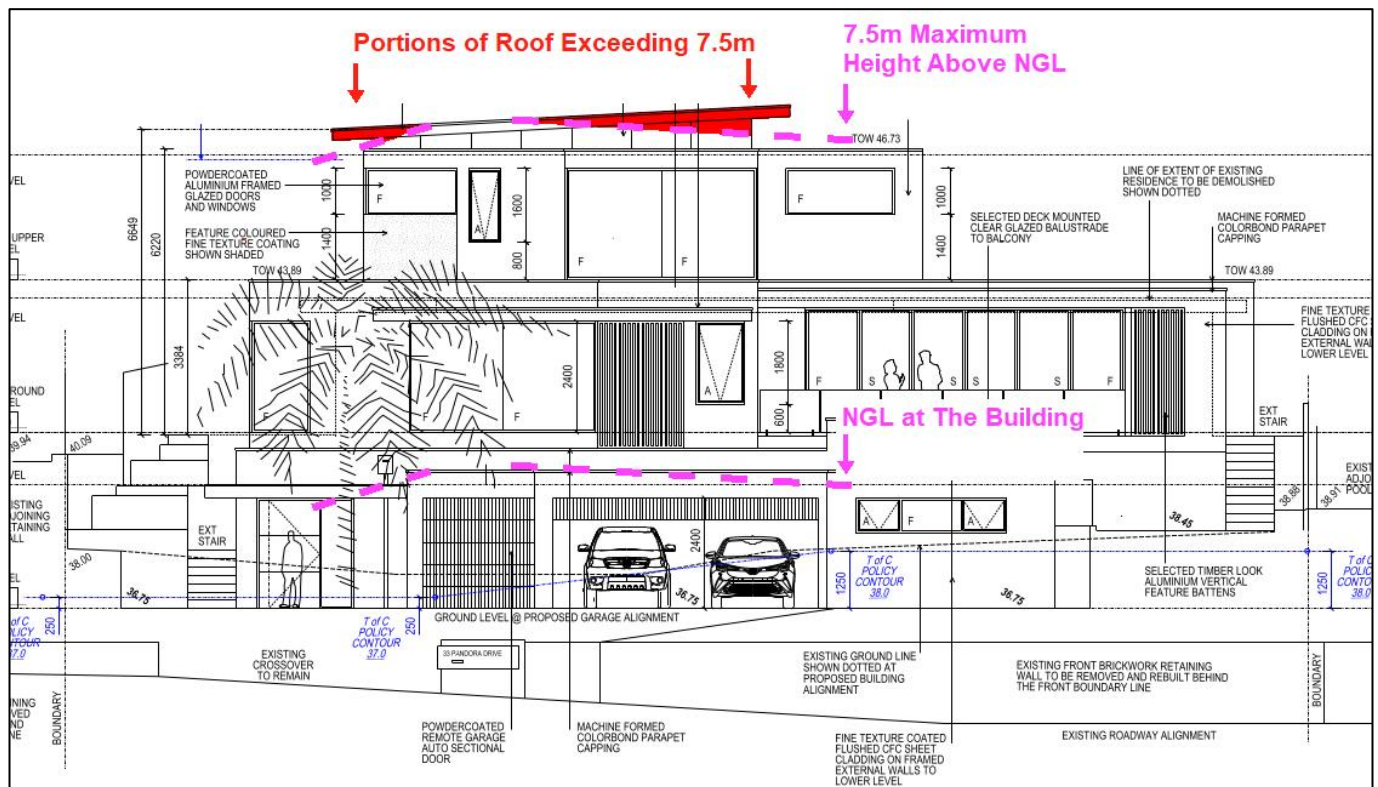
"To provide for consistency with the established built form of residential development in the Town, the following supplementary Local Housing Objectives are to be considered when determining applications for single houses and grouped dwellings which do not satisfy the deemed-to-comply requirements of this Policy.

1. To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.
2. To ensure that the height of buildings does not adversely impact on the streetscape or locality.
3. To ensure that residential buildings present to the street and abutting properties as one or two storey dwellings and minimise the impact of basement garages on the overall building height by locating third storey garages entirely below the ground level of the street.
4. The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.
5. To promote high quality, creative architectural design."

**Design Principles Assessment:**

The application proposes a maximum overall building height of 8.3m to the top of front of the projecting skillion roof in lieu of 7.5m.

The below marked-up elevations show the portions of the skillion roof (highlighted red) that exceed the deemed-to-comply maximum building height (refer Figures 15, 16, and 17).



**Figure 15: Marked-up street elevation showing the portions of the skillion roof that exceed the deemed-to-comply maximum height.**

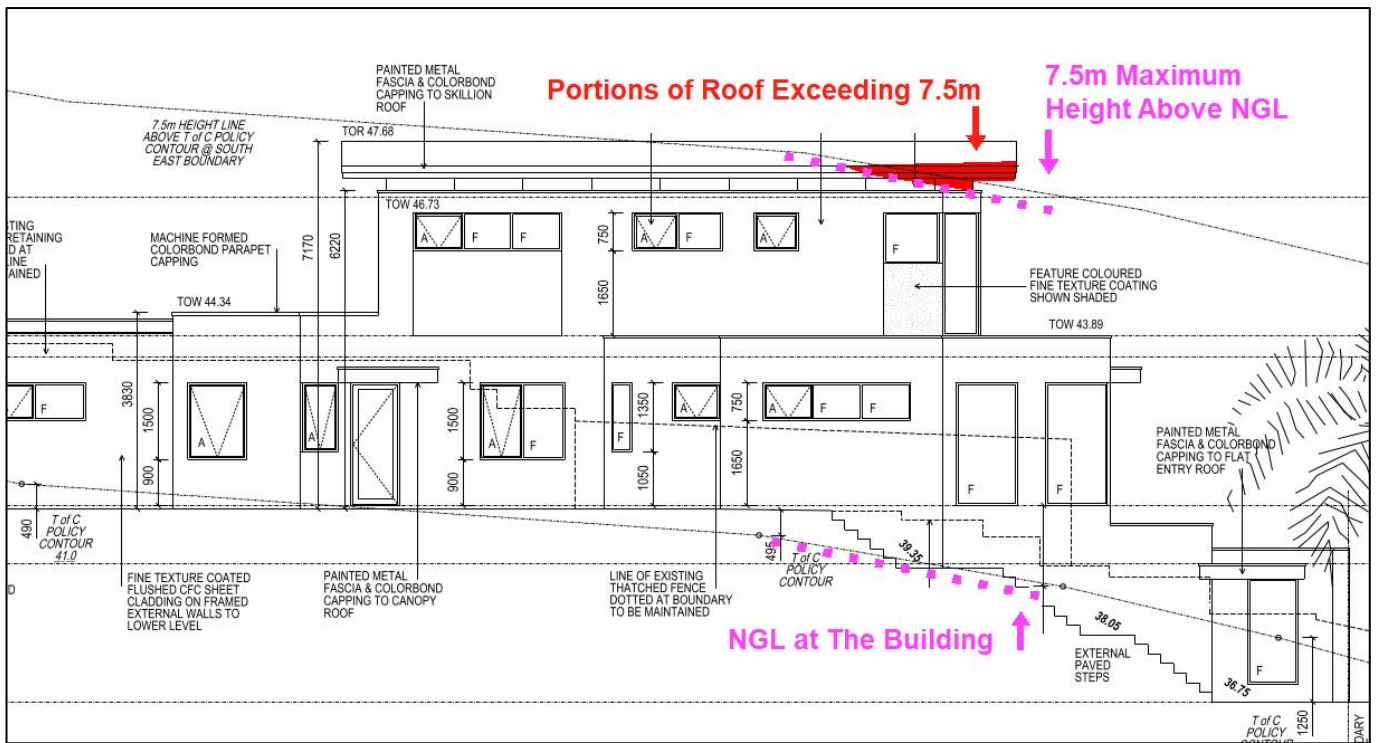


Figure 16: Marked-up south-eastern (side) elevation showing the portion of the skillion roof that exceeds the deemed-to-comply maximum height.

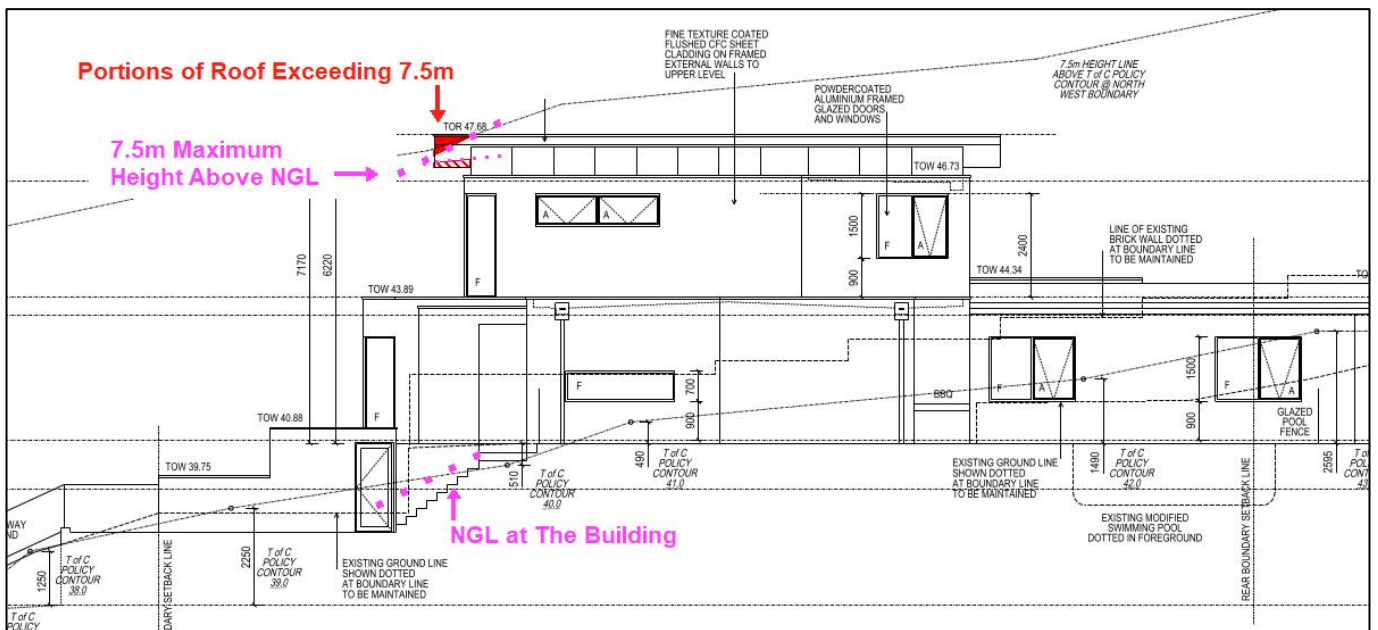


Figure 17: Marked-up north-western (side) elevation showing the portion of the skillion roof that exceeds the deemed-to-comply maximum height.

It is noted that from the street, the proposed dwelling will appear as three storeys, as it will appear as though there are two levels above the ground floor. The below marked-up street elevation shows what appears to be three floors as viewed from the street (refer Figure 18).

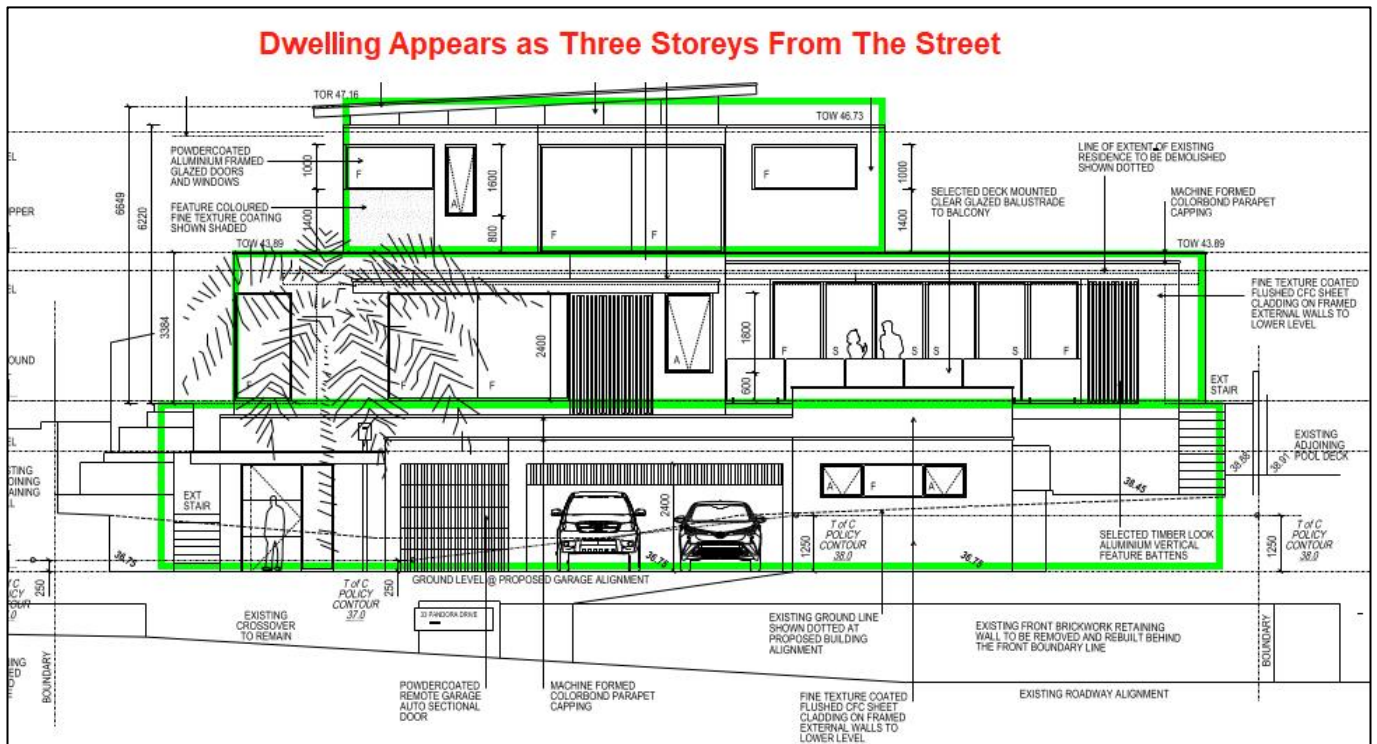


Figure 18: Marked-up street elevation showing that the dwelling appears to be three storeys as viewed from the street.

However, Clause 37 of the Town’s Local Planning Scheme No. 1 includes a definition of ‘storey’ as follows:

*“storey means that portion of a building which is situated between the top of any floor and the top of the floor next above it and if there is no floor above it, that portion between the top of the floor and the ceiling above it but does not include any portion of a building used solely for car parking and having 50% or more of its volume below natural ground level.”*

In this case, the development is technically only two-storeys, as the positioning of each part of the building results in there only ever being one floor above another. This is because the building steps back away from the street as the natural topography of the site slopes up towards the rear boundary.

As the proposed maximum building height exceeds the deemed-to-comply requirements of the R-Codes, it is required to be considered under the following design principles:

*“Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:*

- *access to direct sun into buildings and appurtenant open spaces;*
- *adequate daylight to major openings into habitable rooms; and*
- *access to views of significance”.*

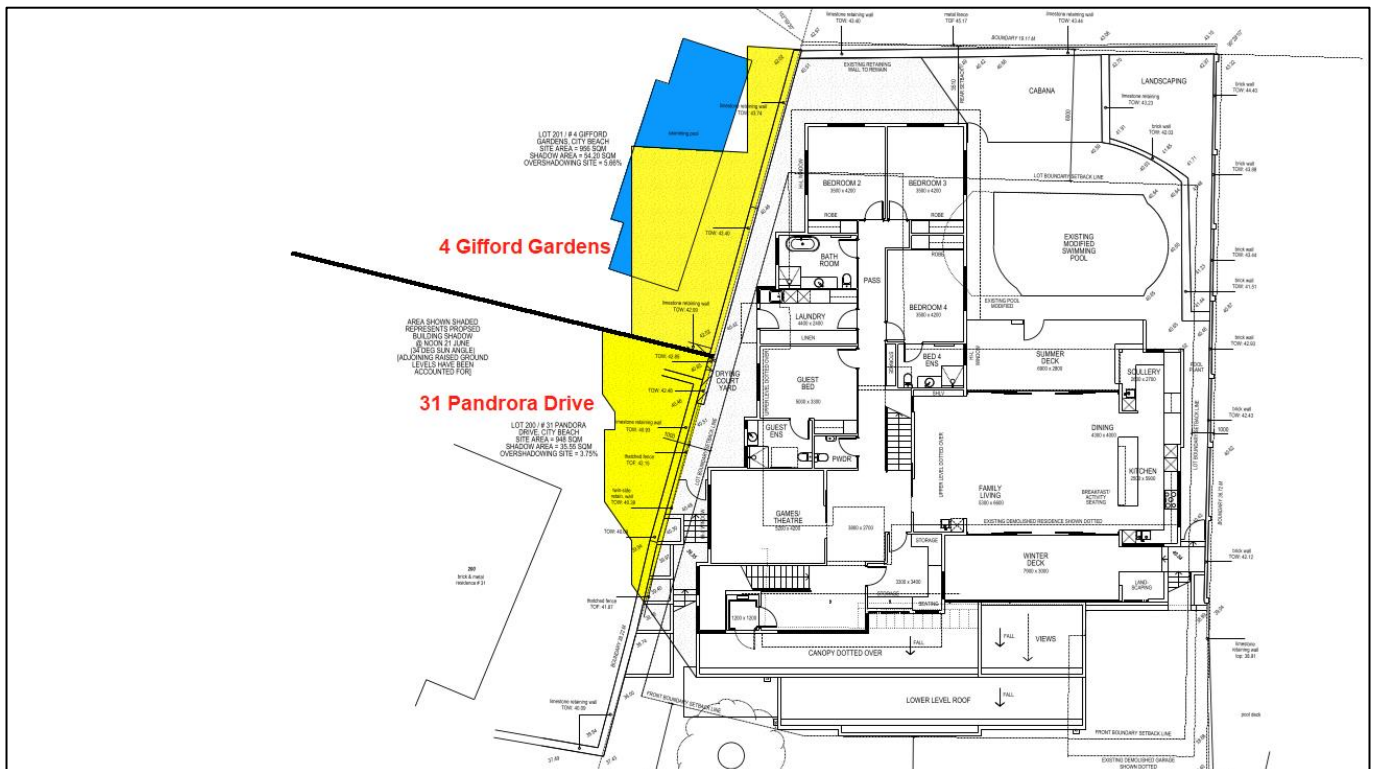
The Administration addresses each of the above design principles in the comments that follow.

*“Adequate access to direct sun into buildings and appurtenant open spaces”*

*“Adequate daylight to major openings into habitable rooms”*

The positioning of the building on the site, as discussed in the ‘Lot Boundary Setback’ assessment section above, results in the bulk of the dwelling being nearest to the south-eastern lot boundary adjacent to the adjoining south-eastern properties at 31 Pandora Drive and 4 Gifford Gardens.

Due to the orientation of the lot, most of the shadow cast from the building at midday on 21<sup>st</sup> June will partially fall on the pool area of 4 Gifford Gardens and the rear corner of 31 Pandora Drive, as shown in the marked-up overshadowing diagram below (refer Figure 19).



**Figure 19: Marked-up overshadowing diagram showing the extent of overshadowing (highlighted yellow) at midday on 21<sup>st</sup> June that falls onto the pool area of 4 Gifford Gardens and the rear corner of 31 Pandora Drive.**

Overall, the proposed extent of overshadowing meets the deemed-to-comply maximum of 25% of an adjoining lot's total site area in accordance with Clause 5.4.2 of the R-Codes, as the development will only overshadow 5.66% of 4 Gifford Gardens and 3.75% of 31 Pandora Drive.

However, the design principles under Clause 5.1.6 of the R-Codes regarding building height are in relation to whether the proposed increased maximum building height results in an adverse impact on the adjoining property's access to adequate direct sun to the building and appurtenant open spaces (i.e. the open spaces directly surrounding the building) and major openings to habitable rooms.

As the area of shadow does not fall onto the buildings or the open spaces appurtenant to the dwellings on the adjoining properties, the proposal meets these design principles.

*“Access to views of significance”*

The Administration's assessment is required to consider if the increased maximum building height portions of the development will impact the neighbouring properties' access to views of significance.

The term 'views of significance' is not defined in the R-Codes.

While the SAT decision *Warden and Town of Mosman Park [2019] WASAT 88*, did not attempt to define the term 'views of significance, it referred to views of significance that are views that are highly valued in a locality.

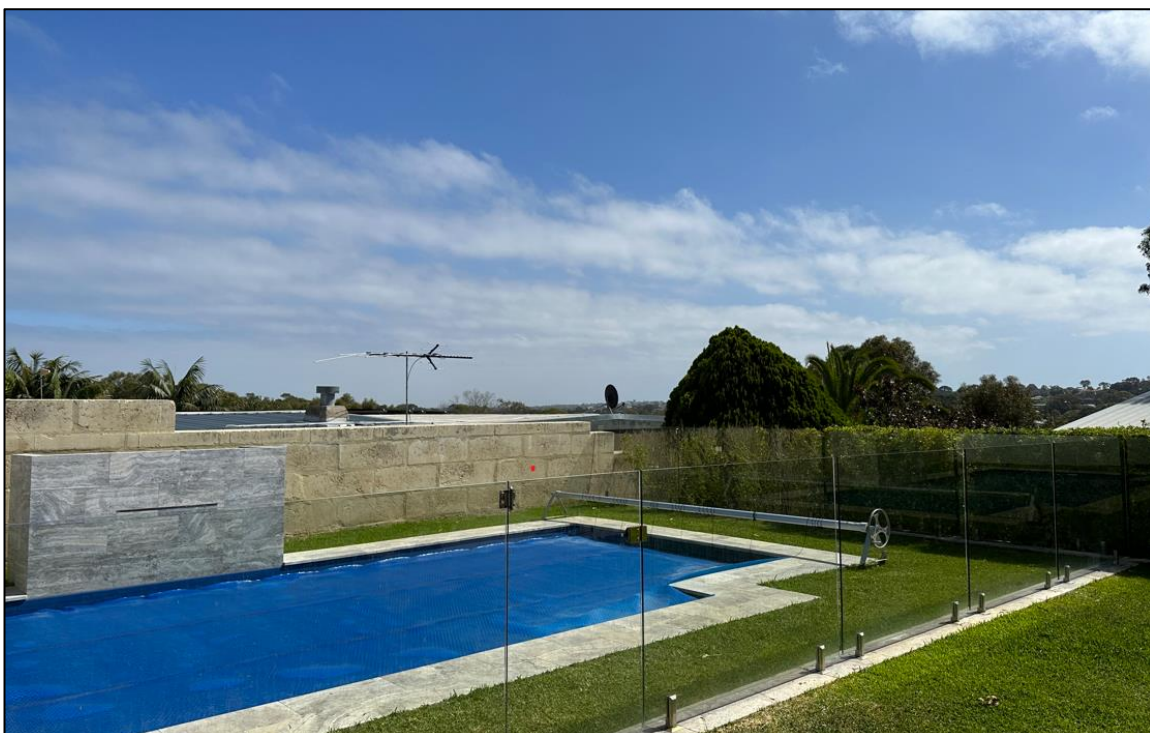
Therefore, the Administration considers that the term 'views of significance' generally refers to views of the ocean, lakes, city skyline, mountain ranges, and other land forms. To the Administration's knowledge, there is no case law that deals with if views of open sky is considered be a view of significance.

The adjoining south-eastern and south-western properties at 4 Gifford Gardens and 8 and 10 Tilton Terrace, which have higher levels than the subject site, currently enjoy views over the top of the existing dwelling to the Wembley Golf Course, bushland, and the skyline.

The below photos, which were provided by the owners of 4 Gifford Gardens and 10 Tilton Terrace, show the current views of part of the Wembley Golf Course and the open sky afforded from the rear of those properties (refer Figures 20 and 21).



**Figure 20: Photo taken from the rear of 10 Tilton Terrace showing the view of part of the Wembley Golf Course over the top of the subject site.**



**Figure 21: Photo taken from the rear of 4 Gifford Garden showing the view of the open sky over the top of the subject site.**

The view of part of the Wembley Golf Course from 10 Tilton Terrace is considered to be a view of significance, as view of the golf course is highly valued in the locality.

However, the view from 4 Gifford Gardens, which includes a small slither of tree tops but is mostly open sky, is not considered to fall under the umbrella of 'view of significance'. Nevertheless, the Administration has included an assessment below on how the proposal impacts the existing views of the sky from 4 Gifford Gardens to assist the Council and the adjoining property owners in understanding how the development will sit next to their property.

To assist the Administration's evaluation of the proposal's potential impact on neighbouring properties' access to views, extensive 3D modelling was conducted for both the proposed development and its surroundings.

It is important to note that, although the Town has made diligent efforts to accurately represent the proposal in the 3D modelling images, these visualisations should be utilised as a reference only, and the Town bears no responsibility for the accuracy of the modelling.

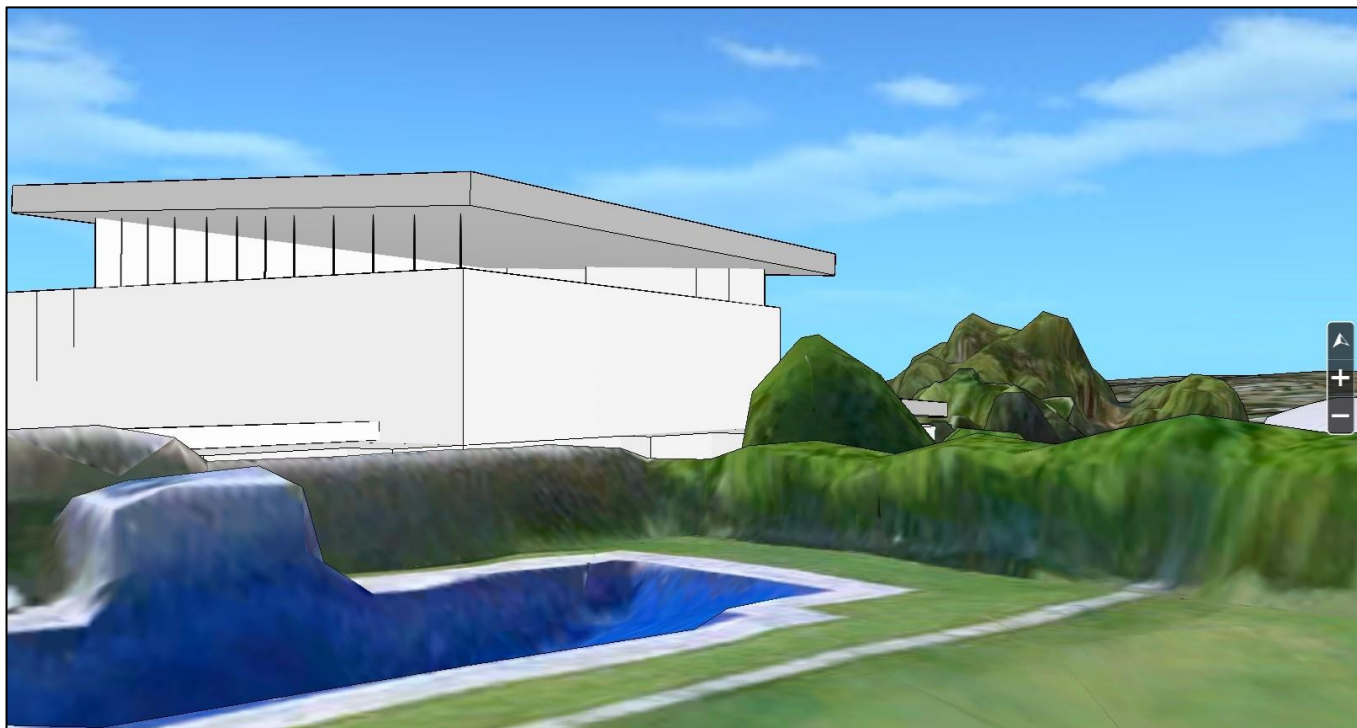
The below 3D model images show the proposed development from the approximate same view point shown in the photos in Figures 20 and 21 above.

The 3D model image in Figure 22 shows the view of the proposed development from 10 Tilton Terrace from the same view point shown in the photo in Figure 20.

The 3D model image in Figure 23 shows the view of the proposed development from 4 Gifford Gardens from the same view point in Figure 21.



**Figure 22: 3D model image prepared the Town showing the proposed dwelling from the same viewpoint from 10 Tilton Terrace as shown in the photo in Figure 20.**



**Figure 23: 3D model image prepared the Town showing the proposed dwelling from the same viewpoint from 4 Gifford Gardens as shown in the photo in Figure 21.**

Based on the 3D model images above, it is noted that if the development met the deemed-to-comply maximum building height, the existing views from the neighbouring properties would still be interrupted.

This is because the area of the skillion roof that is over height is located at the front of the building and even if that portion of the roof was lowered or the first floor was shift further back on the site to meet the deemed-to-comply maximum height, the remainder of the building, including the rear portion of the roof, could remain in place. This would result in the development still obstructing the current views from the adjoining sites.

It is noted that any multi-storey development on the site would likely impact the amenity of the adjoining properties, by simple virtue of there being a large new building on the site that is currently occupied by a dwelling that sits below the fence height of the adjoining properties.

When considering the proposed maximum building height on its merits, given that a deemed-to-comply building height development would still obstruct views from the adjoining sites, and that lowering the front portion of the proposed skillion roof would not result in those views being maintained, it is considered that the proposed increased maximum building height will not adversely impact the neighbouring properties' access to views of significance.

For the above reasons, it is considered that the proposal meets this design principle.

In addition to all the above, the Town's *Local Planning Policy 3.3 – Building Height* includes the following supplementary Local Housing Objectives, which the Administration has considered the proposal against in the comments further below:

1. *To ensure that the scale and appearance of dwellings is in keeping with, and responds accordingly, to the established and desired scale of the surrounding area.*
2. *To ensure that the height of buildings does not adversely impact on the streetscape or locality.*
3. *To ensure that residential buildings present to the street and abutting properties as one or two storey dwellings and minimise the impact of basement garages on the overall building height by locating third storey garages entirely below the ground level of the street.*

4. *The building height considers and responds to the natural topography of the site and is generally stepped in accordance with the existing topography of the land on sloping sites.*
5. *To promote high quality, creative architectural design.*

The proposal is not considered to meet the Local Housing Objectives for the following reasons:

1. The proposed scale and appearance of the dwelling is not in keeping with and does not respond accordingly to the established and desired scale of the surrounding area. This is because the proposed dwelling, while it is technically only two-storeys in accordance with the definition of ‘storey’ in the Scheme, it will present as three-storeys to the street, whereas the predominant character of the locality consists of dwellings that present as two-storeys to the street. It is therefore considered that the proposal does not satisfy Local Housing Objective 1.
2. As the character of the streetscape consists of dwellings that present as two-storeys to the street, the proposed dwelling presents as three storeys to the street, and the increased maximum height portion of the building is at the front of the dwelling, it is considered that the increased height of the building will have an adverse bulk impact on the streetscape. Because of this, it is considered that the proposal does not satisfy Local Housing Objective 2.
3. Due to the significant slope of the site from the front boundary up to the rear boundary, it is not expected that the garage of the development should be below the street level. However, it is considered that the dwelling could be redesigned to minimise the appearance of the building present as three-storeys to the street. As such, it is considered that Local Housing Objective 3 is not satisfied.
4. While it is acknowledged that the development is stepped away from street boundary as the site slopes up towards the rear boundary, it is considered that the upper level could be stepped back further to reduce the visual prominence of that level on the streetscape. For this reason, the Administration considers that Local Housing Objective 4 is not satisfied.
5. The external appearance of the proposed development will be of a high quality design, however, as the development has not appropriately responded the character of the locality, it is considered that Local Housing Objective 5 is not satisfied.

The Administration considers that the proposal meets the design principles of the R-Codes, however, does not meet the Local Housing Objectives of LPP 3.3. The proposed increased building height and the dwelling presenting as three storeys to the street is therefore not supported.

5.2.5 - Sightlines		
	Deemed-to-comply Requirement	Proposed
	Max solid wall height 0.75m within 1.5m sightlines truncation	The proposed letterbox has a maximum height of 1.2m
<b>Design Principles (of R-Codes):</b> <i>“P5 Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, street, right-of-ways, communal streets, crossovers, and footpaths.”</i>		

### Design Principles Assessment

The sightline on the western side of the vehicle access point has been impacted due to a 1.2m high letterbox in lieu of 0.75m being the maximum deemed-to-comply wall height within the truncation zone of a driveway. Whilst this increased letterbox height represents a 0.45m variation, it is considered minor in nature as the sightlines at the vehicle access point meet the requirements of Design Principle P5, for the following reasons:

- Due to the size and design of the driveway, vehicles will exit the subject site in a forward gear which provides drivers greater visibility when exiting the lot compared with drivers reversing out of a lot.

- Vehicles exiting the lot are elevated higher than that of the street level, as such, visibility of the entire street is still maintained whilst exiting the driveway.
- The footpath is situated approximately 5.1m away from the letterbox so there is significant distance between pedestrians and exiting vehicles.

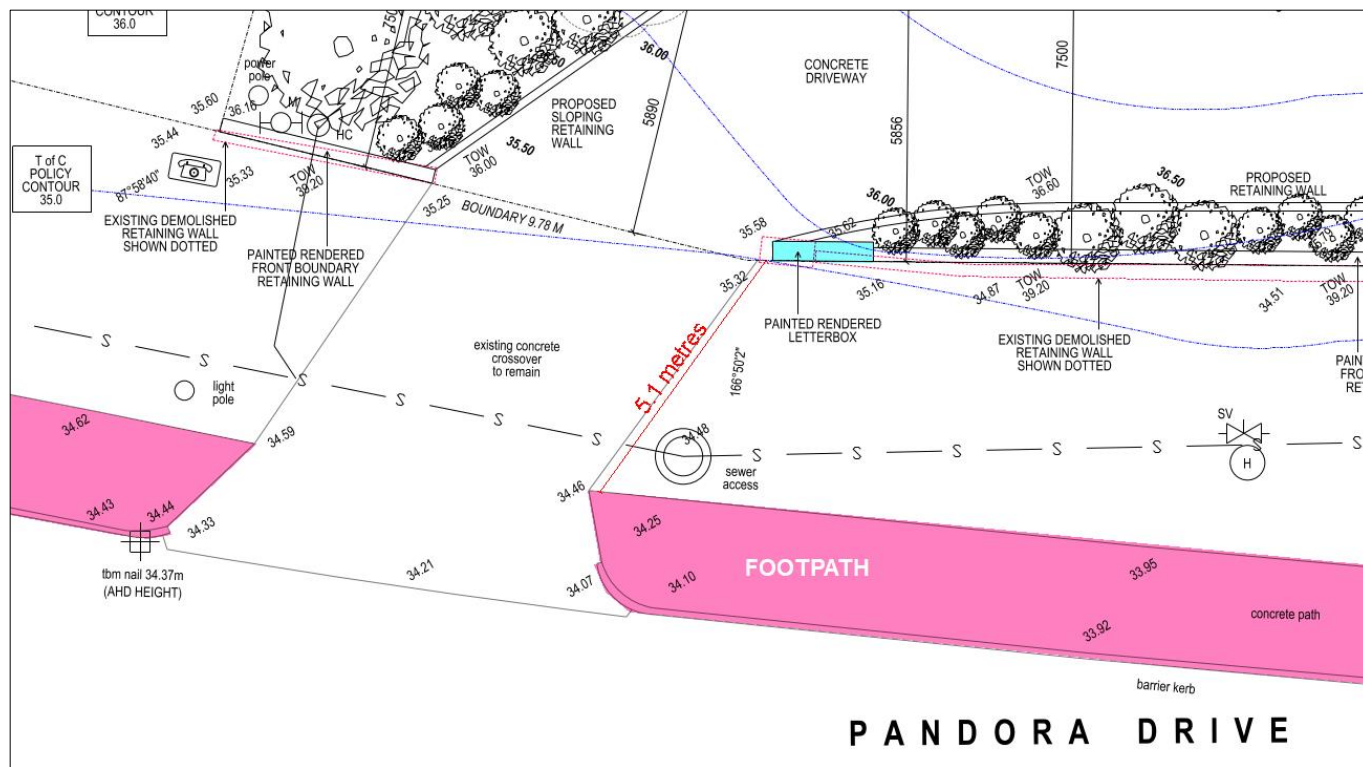


Figure 24: Marked-up plan showing setback from the footpath to the letterbox (blue)

On balance, the variation is deemed to be minor and does not prohibit the ability for adequate visibility at the vehicle access point.

5.3.7 – Site works		
	Deemed-to-comply Requirement	Proposed
Retaining walls (south-eastern boundary)	Maximum height: Between 1.1m and 1.5m Minimum setback: 1.5m	Maximum height: Up to 1.5m Minimum setback: Nil
Design Principles (of R-Codes):		
"P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.		
P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.		
P7.3 Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clause 5.3.7 and 5.4.1."		

**Design Principles Assessment**

The application proposes tiered retaining walls along the south-eastern boundary. The retaining walls will be directly adjacent to the paved stairs providing pedestrian access along south-eastern side of the property.

The proposed retaining will have a maximum top of wall height of 1.2m above the historical natural ground levels and a 1m setback from the south-eastern boundary in lieu of 1.5m.

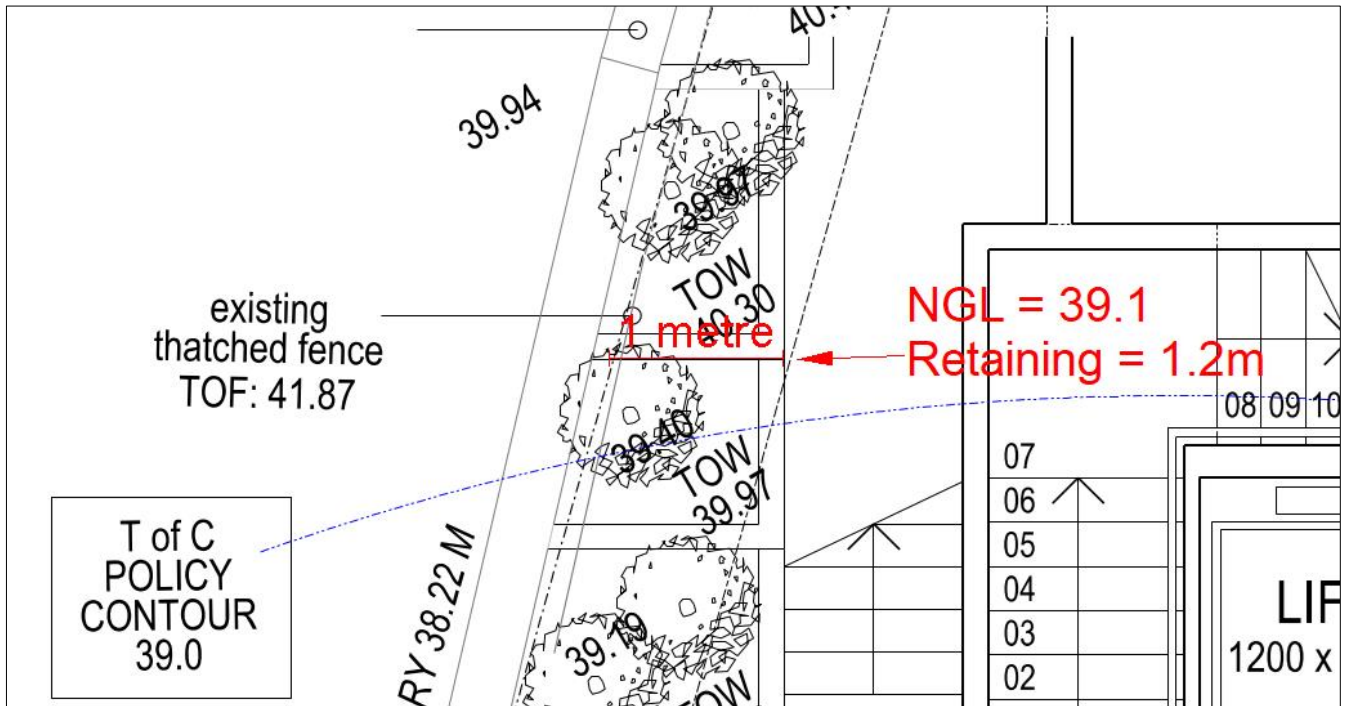


Figure 25: Marked-up floor plan showing the proposed retaining along the south-eastern boundary.

Although the retaining seeks a setback variation of 0.5m, it is determined that stepping each terrace responds to the natural topography of the site as well as being beneficial for the provision of landscaping. Additionally, there is only a minor portion of the retaining wall which is over height and therefore it is unlikely to have detrimental impact on the neighbouring property.

For the reasons noted above, this aspect of the proposal is considered minor in nature and to meet the relevant design principles.

LPP3.1 - Clause 3 - Setback of Garages and Carports		
	Deemed-to-comply Requirement	Proposed
Minimum setback of the garage	Garages shall be set back from the primary street to be in line with, or behind, the front main wall of the dwelling.	The garage projects 4.4m in front of the dwelling.
<p><u>Design Principles (of R-Codes):</u></p> <p><i>"The setting back of carports and garages to maintain clear sight lines along the street and not to detract from the streetscape or appearance of dwellings; or obstruct views of dwellings from the street and vice versa."</i></p> <p>In addition, Council shall also have regard to the following matters in considering the design principles:</p> <p><i>"i. The Objectives of this Policy; and</i>  <i>ii. The Desired Future Character of the area as outlined in the Character Descriptions section of this Policy."</i></p>		

Design Principles Assessment

The application seeks approval for the garage to project 4.4m in front of the dwelling in lieu of being set back in line with or behind the dwelling.

Although this application seeks to vary the deemed-to-comply requirements of the above-mentioned policy, it is determined that as the garage is set behind the primary street setback line, clear sight lines to and from the street are still maintained.

Furthermore, as the street setbacks are maintained, the variation is considered to have no impact on the desired future character of the area which is as follows:

*“Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original and desired open nature of the precinct’s design’.*

For the reasons noted above, this aspect of the proposal is considered minor in nature and to meet the relevant design principles.

<i>Local Planning Policy 3.1, Clause 5 – Street Walls and Fences</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
Fencing along primary street (Pandora Drive)	Maximum letterbox wall width: 1m	Maximum letterbox wall width: 1.8m
	Maximum solid wall height: 0.75m	Maximum solid wall height: 1.8m
<u>Design Principles (of R-Codes):</u>		
P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:		
<ul style="list-style-type: none"> <li>• For attenuation of traffic impacts where the street is designed as a primary or district distributor or integrator arterial; and</li> <li>• For necessary privacy or noise screening for outdoor living areas where the street is designated as primary or district distributor or integrator arterial.</li> </ul>		
In addition, Council shall also have regard to the following matters in considering the design principles:		
<i>“i. The Objectives of this Policy; and</i> <i>ii. The Desired Future Character of the area as outlined in the Character Descriptions section of this Policy.”</i>		

Design Principles Assessment:

As detailed in the above ‘Site Context’ section of this report, the existing dwelling includes retaining along the front boundary that is located outside the cadastral lot boundary. The current front fence and retaining of the natural ground level is shown in Figure 26 below.



**Figure 26: Google Streetview image of the existing retaining wall along the front boundary of the subject site.**

Figure 27 below shows the original and current location of the retaining wall (red) as well as the primary street boundary which is indicated by the blue dotted line. It can be seen where the existing boundary fence has portions which are outside the lot boundary.

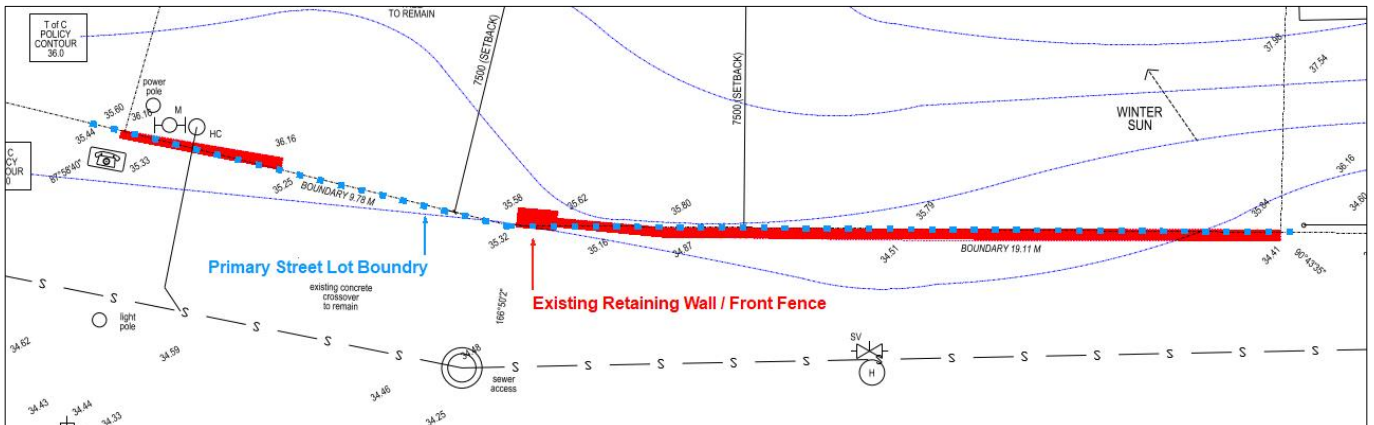


Figure 27: Diagram displaying the of the existing retaining wall and front fence outside the lot boundary.

As detailed in Figure 28 below, the top of wall height starts at 1.2m at the driveway and reaches a maximum of 1.8m which is situated towards the corner of the front, and western boundary. Within the wall, the proposed letterbox has a maximum width of 1.8m in lieu of the maximum deemed-to-comply width of 1m.

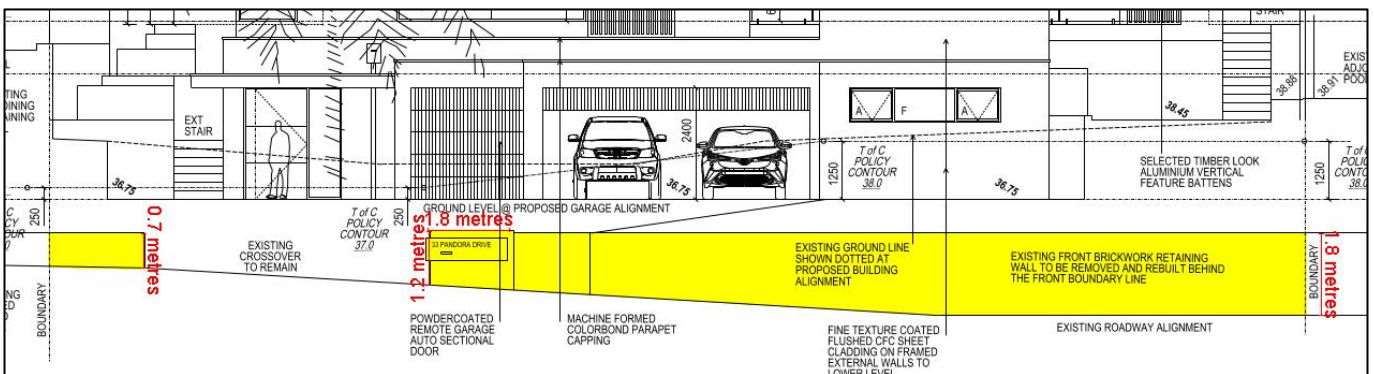


Figure 28: Diagram showing the proposed letterbox, front fence and retaining.

It is understood that, although the proposed solid fence is replacing the existing fence, in this instance it is not possible to achieve the ‘Open style’ requirements over 0.75m as mentioned in LPP 3.1 as the fence is providing support to the sloping topography.

The solid fence is therefore considered necessary to retain the natural topography of the site, which is consistent with the desired future character as detailed in LPP 3.1 which states the following:

*‘New development shall respect natural site levels to maintain the precinct’s hilly topography and vistas.’*

With regard to the increased width of the letterbox, as it is located within the wall that is retaining the nature topography of the site it is determined that the letterbox width will have no adverse bulk impact on the streetscape.

For the above reasons, it is considered that the proposal meets the design principles and Policy Objectives of LPP 3.1.

Local Law 43 Requirement	Material Proposed
<i>All other dwelling-houses [ie. Non-single-storey dwellings] shall be constructed of brick, stone, concrete or similar material.</i>	‘CFC sheet’ cladding and ‘timber look’ aluminium cladding to the external walls of the building in lieu of masonry building materials.

Clause 2B (Local Law 43)

*"In a residential district the Council may permit land to be developed subject to such conditions as the Council deems fit:–*

- a) for use for a purpose which is not permitted in that district;*
- b) notwithstanding that the developments will not comply with the standard or requirement prescribed by this by-law in that district.*

*if the Council is satisfied by an absolute majority that:–*

- i) the development would be consistent with the orderly and proper planning of the locality and the preservation of its amenities; and*
- ii) the use to be made of the land and the non-compliance with the prescribed standard or requirement will not have any adverse effect upon the occupiers or users of the development or the property in or the inhabitants of the locality or the likely future development of the locality".*

Design Principles (of LPP 3.21)

*"Materials of a high quality finish may be used, which result in buildings of a high architectural and structural standard."*

Assessment

The proposal proposes 'CFC sheet' cladding and 'timber look' aluminium cladding to the external walls of the building in lieu of masonry materials.

As the dwelling is primarily constructed of traditional masonry brickwork, the minor portions of non-masonry cladding materials are considered to add visual interest to the dwelling and will not have a negative impact on the streetscape.

It is considered that the combination of proposed construction materials will provide a mix of high quality and lightweight contrasting materials that will add architectural interest to the building. In addition, 'timber look' and 'CFC' cladding are commonly used building materials within the City Beach precinct.

For the above reasons, it is considered that the proposed cladding materials meet the associated design principles.

**CONCLUSION**

The application proposes a reduced street setback, reduced lot boundary setbacks, increased maximum building height, reduced sightlines, increased retaining heights, reduced garage setback, increased letterbox width and front fencing solid wall height, and cladding materials to the external walls in lieu of masonry materials.

The Administration supports the proposed variations to the street setback, sightlines, retaining wall, garage setback, letterbox width, front fencing solid wall height, and building materials requirements.

However, the Administration recommends that the application be refused, as the proposed reduced setbacks to the south-eastern lot boundary will have an adverse bulk impact on the adjoining properties.

The Administration also recommends that the application be refused due to the development presenting as three-storeys to the street, not appropriately stepping with the natural topography of the site, the increased height portion of the building being located at the front of the dwelling, which will have an adverse bulk impact on the streetscape, and overall, the development not being consistent with the character of the locality. For these reasons, it is considered that the proposal does not satisfy the local housing objectives of Local Planning Policy 3.3 – Building Height.

Accordingly, it is recommended that the application be refused.

**POLICY / STATUTORY IMPLICATIONS:**

Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 1  
State Planning Policy 7.3 - Residential Design Codes Volume 1  
Local Planning Policies  
Local Law 43

**FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the Landowner requests a review of the determination from the State Administrative Tribunal (SAT).

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland, and accessible open spaces.

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Community Engagement Policy. The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

**Impartiality Interest Declaration - Mayor Mack**

Prior to consideration of the item, Mayor Mack disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.13, I declare that I have been contacted by the Town Planning Consultant and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**Impartiality Interest Declaration - Cr Carr**

Prior to consideration of the item, Cr Carr disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.13, I declare that I have been contacted by one of the Town Planners with regard to the application and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

**Impartiality Interest Declaration - Cr Cutler**

Prior to consideration of the item, Cr Cutler disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.13, I declare that I have spoken to a representative of the applicant and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **Impartiality Interest Declaration - Cr Randklev**

Prior to consideration of the item, Cr Randklev disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.13, I declare that I have received an email from the owner and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the Metropolitan Region Scheme, and the provisions of *Local Law 43 – Buildings on Endowment Lands & Limekilns Estate*, Council REFUSES BY ABSOLUTE MAJORITY the application for two-storey single house at Lot 199 (No. 33) Pandora Drive, City Beach, as shown on the attached plans stamped received 22 November 2023, for the following reasons:**

- 1. The proposal does not satisfy Clause 67(m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the height, scale, and bulk of the two-storey dwelling will result in an adverse bulk impact on the streetscape and as the building presents as three-storeys to the street, the development will detract from the character of the locality, which predominantly consists of dwellings that present as two-storeys to the street. In addition, the reduced setbacks to the south-eastern lot boundary will not maintain the low-density open character of the City Beach Precinct;**
- 2. The proposal does not meet the Design Principles of Clause 5.1.3 - Lot Boundary Setbacks of the Residential Design Codes Volume 1, as the reduced setbacks to the south-eastern lot boundary will have an adverse bulk impact on the adjoining properties;**
- 3. The proposal does not meet the Local Housing Objectives of *Local Planning Policy 3.3: Building Height*, as the dwelling presents as three-storeys to the street, does not appropriately step with the natural topography of the site, will have an adverse bulk impact on the streetscape due to the increased height portion of the building being located at the front of the dwelling, and overall will not be consistent with the character of the locality; and**
- 4. If the proposal is approved it may set a perceived precedent for similar developments on nearby properties, which would have an adverse impact on the existing and desired future character of the locality.**

**Motion put and CARRIED BY AN ABSOLUTE MAJORITY (8/1)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Cr Carr

### 12.3.14 Lot 275 (No. 33) Orrel Avenue, Floreat - Proposed Alterations and Additions to Existing Single House

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Kane Smith (Senior Statutory Planning Officer), Steven Laming (Acting Manager Statutory Planning)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>FILE REFERENCE:</b>	DA23/0191
<b>AUTHORITY / DISCRETION:</b>	Quasi-Judicial
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Development Plans [12.3.14.1 - 10 pages]

#### PURPOSE OF REPORT:

The purpose of this report is for the Council to consider a development application for proposed alterations and additions to an existing single house.

#### EXECUTIVE SUMMARY:

The application proposes to retain the existing single house, which was constructed circa 1950. The existing dwelling includes an undercroft single garage located behind the 9m primary street setback area and a detached studio and a below ground pool that are partially located within the 6m rear setback area.

The application also proposes a new double carport within the 9m primary street setback area and a patio addition to the rear of the existing studio, which will be within 6m rear setback area.

After consideration under the relevant planning provisions, it is recommended that the application be approved, for the following reasons:

- The existing single house, which was constructed circa 1950, is being retained and as such it is considered to form part of the historical character of the area. Because of this, the proposal satisfies criterion (c) of Clause 1 of LPP 3.1.
- The proposal satisfies criterion (c)(i) of LPP 3.1, as the existing dwelling presents as single storey with an undercroft garage to the street.
- The existing undercroft single garage, which is 2.7m wide and is located behind the street setback area, does not meet the Australian Standards for internal dimensions of a single garage to be a minimum of 3m wide. As such, the proposal satisfies criterion (c)(ii) of Clause 1 of LPP 3.1.
- It is not possible for covered car parking to be located behind the street setback area, as there is no space at the sides of the existing dwelling and there is no secondary street or laneway access to provide access to the rear of the site. As such, the proposal satisfies criterion (c)(iv) of Clause 1 of LPP 3.1.
- The proposed carport will be fully open, will not occupy a significant amount of the street setback area, and will present as aesthetically consistent with the dwelling, with a pitched roof, and timber fascia to match the existing character style dwelling.
- While the proposed patio addition to the existing studio will be within the 6m rear setback area, the application will maintain adequate open space relief to the adjoining properties. Because of this, it is considered that the proposal will maintain the large rear setback pattern of the Floreat Precinct.

**BACKGROUND:**

<b>Applicant:</b>	Paul Meschiati & Associates Pty Ltd
<b>Owner:</b>	Holly Smith
<b>Zoning:</b>	R12.5
<b>Precinct:</b>	P3 Floreat
<b>Development Description:</b>	Alterations and Additions to Existing Single House
<b>Development Value:</b>	\$120,000.00
<b>Existing Land Use:</b>	Single House
<b>Proposed Land Use:</b>	N/A – Works associated with existing land use
<b>Land Area:</b>	827m <sup>2</sup>
<b>Heritage Listing:</b>	No
<b>Application Date:</b>	11 September 2023
<b>Application Process Days:</b>	85 days

**DELEGATION:**

In accordance with Clause 12.1.2 of the Town’s Delegation Register, the Council is required to determine a development application where a variation is sought under Clause 34 (2) of *Local Planning Scheme No. 1*.

In accordance with cl12.1.2 of the Town’s Delegation Register, the application must meet the following voting requirements for a determination to be made:

**Council - Simple Majority**

At least fifty per cent of the Members present at the Council meeting must cast the same vote for a determination to be made.

**DETAILS:**

The application proposes alterations and additions to the existing single house, which will be retained, and includes the following non-complying elements:

- A proposed double carport that will be set back a minimum of 3.5m from the primary street boundary in lieu of 9m.
- A patio addition to the rear of the existing studio, which will be set back a minimum of 1.3m from the rear boundary in lieu of 6m.

Site Context

The site is located in the Floreat Precinct (P3) and is currently occupied by a single-storey single house, which was constructed circa 1950. The existing dwelling includes an undercroft single garage located behind the street setback area and a detached studio and below ground pool that are located within the 6m street setback area.

The below Google Streetview image shows the existing dwelling including the undercroft single garage (refer Figure 1).



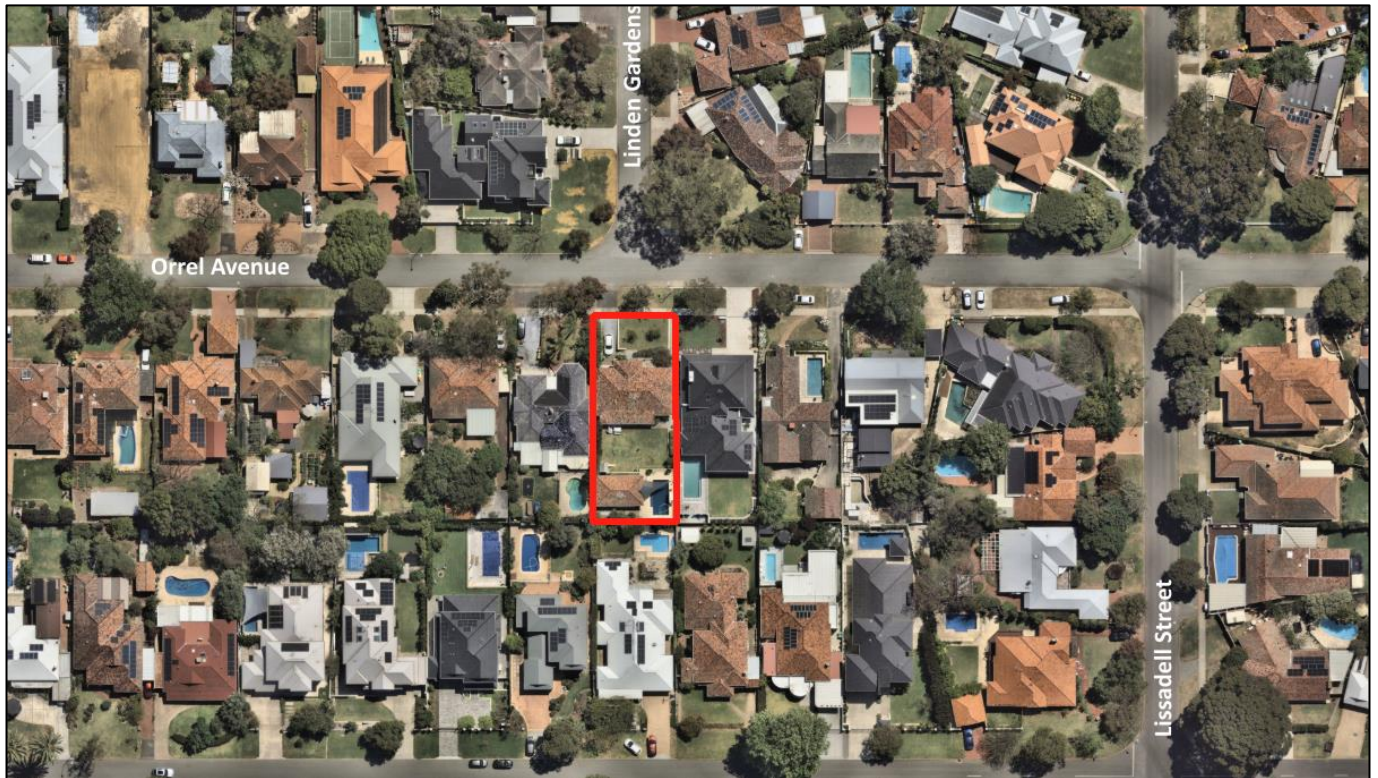
**Figure 36: Google Streetview image of the existing dwelling including the undercroft single garage.**  
The below aerial image shows the location of the existing studio and pool at the rear of the site (refer Figure 2).



**Figure 2: Aerial image showing the location of existing studio and pool within the 6m rear .**

The surrounding locality consists of single-storey and two-storey dwellings, many of which are character style dwellings constructed prior to 1970.

The below aerial image shows the location of the subject site (red outline) and the immediate surrounding locality (refer Figure 3).



**Figure 3: Aerial image showing the location of the subject site (red outline) and the immediate surrounding locality.**

**CONSULTATION:**

The application was advertised for a period of 14 days in accordance with the Town's *Local Planning Policy 1.2 - Public Notification of Planning Proposals*.

No submissions were received during the consultation period.

**STATUTORY ASSESSMENT:**

<i>Clause 26(1)(b) Modification of R-Codes</i>		
	<b>Required</b>	<b>Proposed</b>
Minimum Primary Street Setback (Carport)	9m	3.5m
<i>Clause 34 - Variations to Site and Development Requirements</i>		
"1) a) an application for planning approval which does not comply with a standard or requirement of this Scheme, where the standard or requirement does not provide for any permitted variation, is called a "non-complying application"; ...		
2) Subject to sub clause (3), the Council may refuse or approve a non-complying application with or without conditions".		
(a) Consult with the party or parties who, in the opinion of Council, may be affected by the approval of the development; and		
(b) have regard to any submissions before making its decision to grant the variation.		
8) The Local government may only approve an application for development approval under this clause if the local government is satisfied that—		

- a) *Approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions”.*

Local Planning Policy 3.1 – Streetscape

*“1. Consideration of a non-complying application for street setbacks as prescribed in the Scheme*

*...Council may have due regard to the criteria below when considering a non-complying application under Clause 34 of the Scheme.*

- a. *The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;*
- b. *Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;*
- c. *In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:*
  - i. *The existing dwelling presents to the street as single storey or the original dwelling is two-storey.*
  - ii. *The existing garaging is sub-standard in terms of its internal dimensions and cannot provide cover for two vehicles.*
  - iii. *A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.*
  - iv. *If the existing dwelling is remaining, whether adequate space is available to be provide covered car space(s) behind the street setback area.”*

*Desired Future Character of the Area:*

- *Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for;*
- *The visual bulk of new development should be minimised through articulation of larger wall lengths, and the stepping back of upper storey walls, to enhance the streetscape vision for detached, low-scale villas set in landscape;*

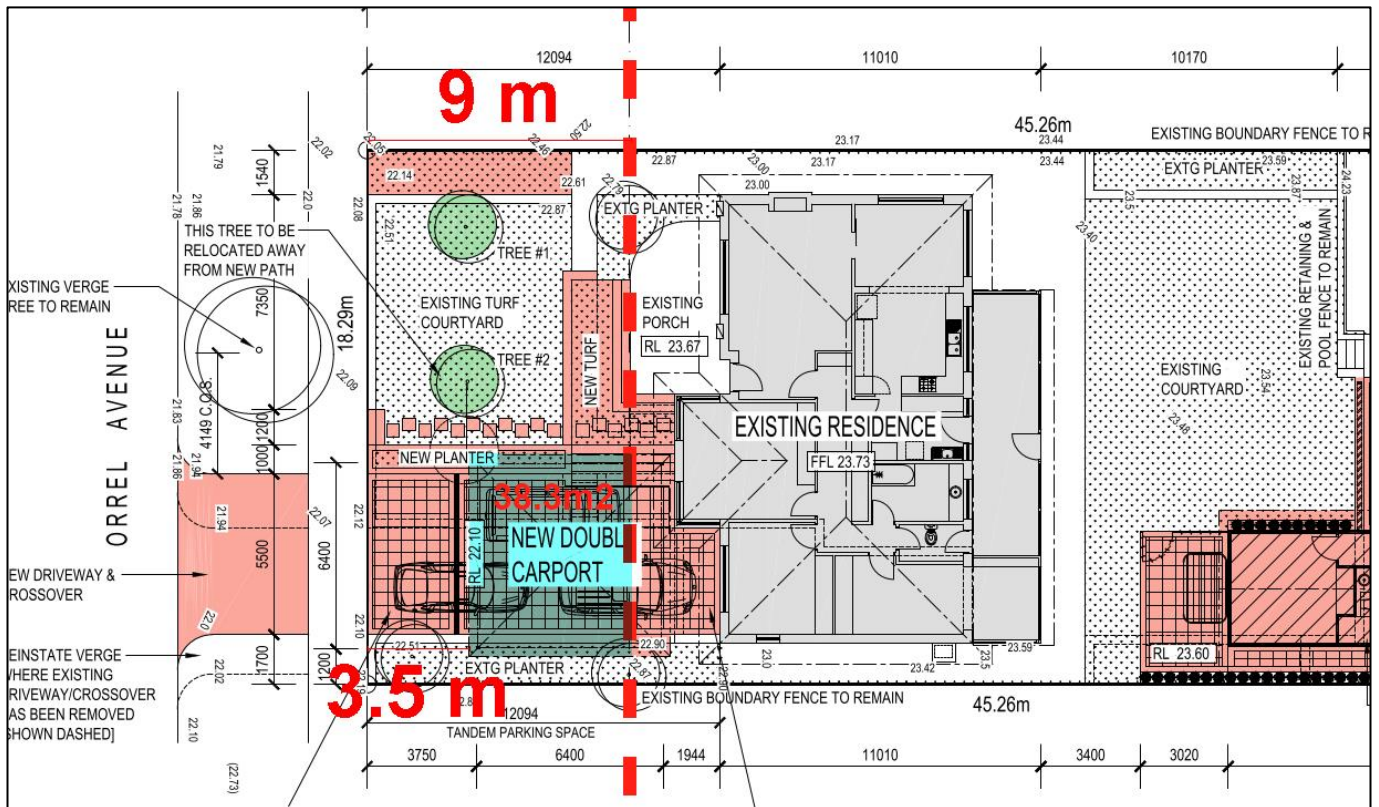
Assessment

The existing dwelling, which was constructed circa 1950 and still has the appearance of an older character style dwelling, includes an undercroft single garage that is located behind the 9m street setback area.

The application proposes to retain the existing dwelling and construct a new double carport in front of the existing dwelling and undercroft garage, which will be set back a minimum of 3.5m to the roof eaves in lieu of 9m.

A 38.3m<sup>2</sup> portion of the proposed carport will be within the street setback area, which is 23.26% of the total front setback area of 164.61m<sup>2</sup>.

The below marked-up proposed site plan shows the minimum primary street setback of 3.5m to the carport roof eaves and that 38.3m<sup>2</sup> of the carport (highlighted blue) will be within the 9m street setback area (refer Figure 4).



**Figure 4: Marked-up proposed site plan showing the minimum primary setback to the carport is 3.5m and 38.3m<sup>2</sup> of the carport (highlighted blue) will be within the 9m street setback area.**

Clause 1 of Local Planning Policy 3.1 – Streetscape (LPP 3.1) includes criteria that Council may have due regard to when considering a development application that varies Clause 26 of the Scheme. The criteria under Clause 1 of LPP 3.1 relevant to the proposal are as follows:

- a. The proposed development within the prescribed scheme setback area shall meet the Desired Future Character of the area;
- b. Any building or part of the building (including a carport) in the prescribed scheme setback area shall be set back from side boundaries to preserve a streetscape of distinctly separate single residences separated by open space, and to preserve the amenity of neighbouring properties;
- c. In relation to carports in the street setback area, where the dwelling is being retained and the dwelling was constructed prior to 1970 and as such is considered to form part of the historical character of the area:
  - i. The existing dwelling presents to the street as single storey or the original dwelling is two-storey.
  - ii. The existing garaging is sub-standard in terms of its internal dimensions, and cannot provide cover for two vehicles.
  - iii. A single carport is being replaced by a double carport that is open on all sides and in accordance with Clause 3.1 C1.5 of this policy.
  - iv. If the existing dwelling is remaining, whether adequate space is available to be provide covered car space(s) behind the street setback area.”

The Desired Future Character referred to in criterion (a) of Clause 1 of LPP 3.1 is outlined in the Character Descriptions section of LPP 3.1. The Desired Future Character for the Floreat Precinct includes several desired future character elements. In this case, the desired future character element relevant to the proposed reduced street setback is as follows:

*“Development shall be constructed to maintain the traditional street setbacks and clear separation between buildings and lot boundaries, to preserve the original open nature and desired gardenesque quality that the precinct was designed for.”*

The following assessment comments are in relation to criteria (b) and (c) of Clause 1 of LPP 3.1 and the above desired future character element.

The existing single house, which was constructed circa 1950, is being retained and as such it is considered to form part of the historical character of the area. Because of this, the proposal satisfies criterion (c) of Clause 1 of LPP 3.1. The proposal satisfies criterion (c)(i) of LPP 3.1, as the existing dwelling presents as single storey with an undercroft garage to the street.

The existing undercroft single garage, which is 2.7m wide and is located behind the street setback area, does not meet the Australian Standards for internal dimensions of a single garage to be a minimum of 3m wide. As such, the proposal satisfies criterion (c)(ii) of Clause 1 of LPP 3.1.

It is not possible for covered car parking to be located behind the street setback area, as there is no space at the sides of the existing dwelling and there is no secondary street or laneway access to provide access to the rear of the site. As such, the proposal satisfies criterion (c)(iv) of Clause 1 of LPP 3.1.

The proposed carport will be fully open, will not occupy a significant amount of the street setback area, and will present as aesthetically consistent with the dwelling, with a pitched roof, and timber fascia to match the existing character style dwelling.

The proposal meets the criteria of Clause 1 of LPP 3.1 for a carport to be located within the street setback area and in this instance, as the proposed carport will be set back as much as possible from the primary street and will blend in with the architecture of the existing dwelling, it will not have an adverse impact on the streetscape.

For the above reasons, the proposed reduced street setback to the carport is supported.

<i>5.1.3 Lot Boundary Setback</i>		
	<b>Deemed-to-comply Requirement</b>	<b>Proposed</b>
<i>Rear (Southern) Lot Boundary (Patio addition to existing Studio)</i>	6m	1.3m
<p><u>Design Principles (of R-Codes):</u>  <i>"P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:</i></p> <ul style="list-style-type: none"> <li>• <i>reduce impacts of building bulk on adjoining properties;</i></li> <li>• <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i></li> <li>• <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties".</i></li> </ul> <p><u>Local Planning Policy 2.3: Precinct P3: Floreat:</u></p> <p><i>"1.1 Statement of Intent</i></p>		

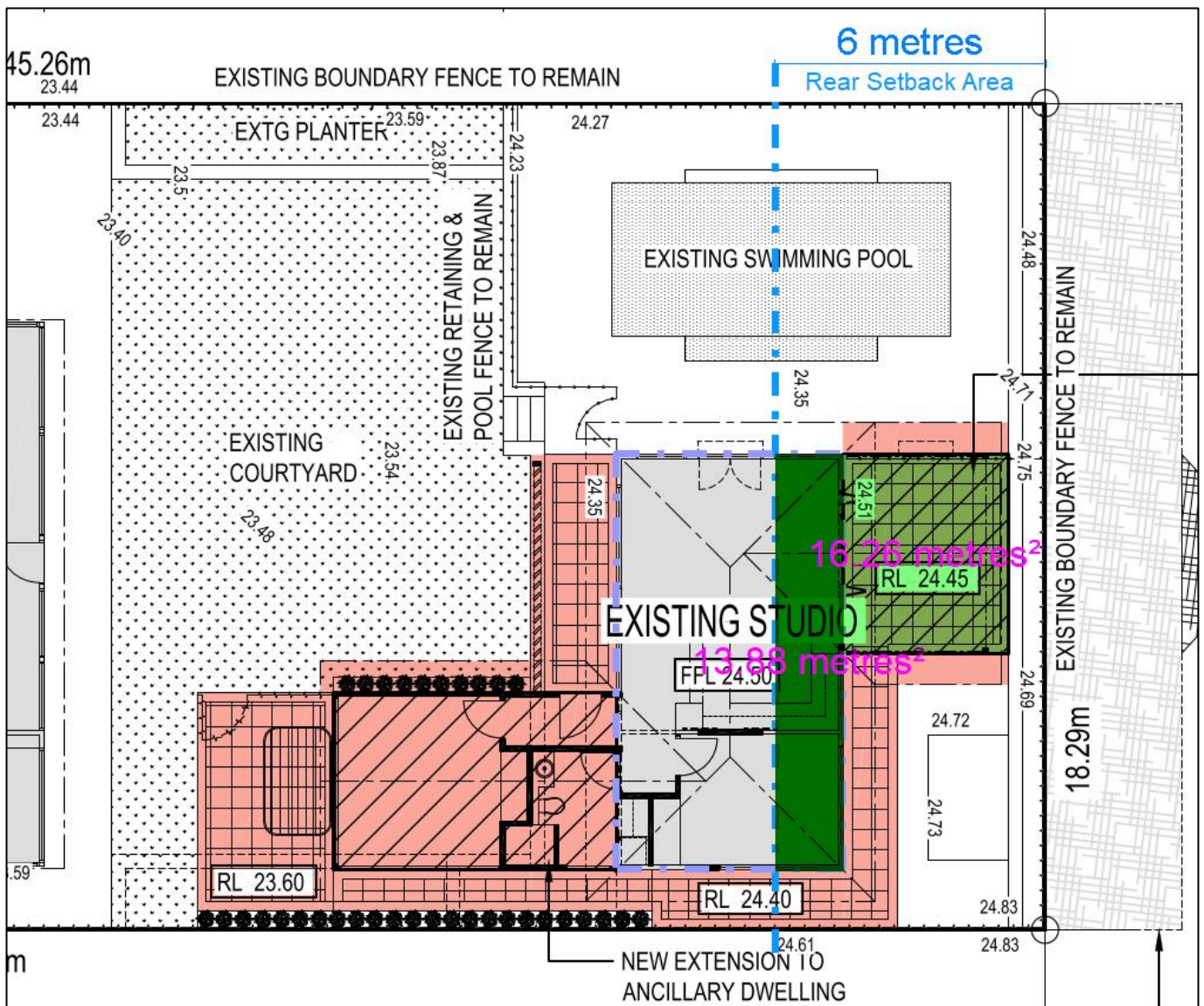
- *Development maintaining significant open space relief at the rear of sites, by maintaining sufficient separation between dwellings/other buildings and the rear boundary to preserve the existing character of low density (R15 and lower) neighbourhoods, which traditionally maintains large rear setback patterns with adjoining residential lots.*

The existing studio, which was constructed circa 1955, is partially within the 6m rear setback area with a minimum setback of 4.46m from the rear boundary. The existing studio occupies 13.88m<sup>2</sup> of the rear setback.

The application proposes a patio addition to the rear of the existing studio, which will be fully within the 6m rear setback area with a minimum setback of 1.3m from the rear boundary. The proposed patio addition will occupy 16.26m<sup>2</sup> of the rear setback.

The proposal will result in the existing studio and proposed patio occupying a total of 30.14m<sup>2</sup> of the 6m rear setback, which is 27.44% of the total rear setback area of 109.8m<sup>2</sup>.

The below marked-up floor plan shows the existing studio and proposed patio (highlighted green) within the rear setback area (refer Figure 5).



**Figure 5: Marked-up floor plan showing the area of the existing studio and proposed patio within the 6m rear setback area.**

Table 1 in the R-Codes includes a requirement for minimum 6m rear setback on lots with a relatively low-density code of between R5 and R15, which applies to the subject site as it has a density code of R12.5 in the Town's *Local Planning Scheme No. 1* (LPS1).

Clause 1.1 of the Town's *Local Planning Policy 2.3: Precinct P3: Floreat* (LPP 2.3) sets out the statement of intent for the land zoned Residential in the Floreat Precinct in LPS1, which includes the following:

*"Development maintaining significant open space relief at the rear of sites, by maintaining sufficient separation between dwellings/other buildings and the rear boundary to preserve the existing character of low density (R15 and lower) neighbourhoods, which traditionally maintains large rear setback patterns with adjoining residential lots."*

It is considered that the proposal is consistent with the statement of intent of the land zoned Residential in the Floreat Precinct, as set out in LPP 2.3, as the existing studio and proposed patio will occupy only 27.44% of the total rear setback area and will maintain most of the rear setback as open space relief to the adjoining properties.

In addition, the existing studio and proposed patio addition are single storey, which means only relatively minor portions of the structures will be visible to the adjoining properties above the existing dividing fence. Because of this, the existing and proposed buildings within the rear setback area will not have an adverse bulk impact on the adjoining properties.

For the above reasons, it is considered that the proposal will largely maintain the traditional large rear setback pattern of the Floreat Precinct and therefore the proposed reduced rear setback is supported.

#### **FINANCIAL IMPLICATIONS:**

Costs may be incurred by the Town if the landowner requests a review of the determination from the State Administrative Tribunal (SAT).

#### **LEGISLATIVE CONSIDERATIONS:**

*Metropolitan Region Scheme  
Planning and Development (Local Planning Schemes) Regulations 2015  
Local Planning Scheme No. 1  
State Planning Policy 7.3 - Residential Design Codes Volume 1  
Local Planning Policies*

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2023-2033:-

**Our Environment:** An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces

**Built environment** - Maintain quality suburbs and neighbourhoods full of treelined streets and green open spaces.

#### **COMMUNITY ENGAGEMENT:**

The requirements for consultation have been satisfied under the provisions of *Local Planning Scheme No. 1* and *Local Planning Policy 1.2 Public Notification of Planning Proposals*.

### **Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.14, I declare that the owner is known to me and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That, in accordance with the provisions of *Local Planning Scheme No. 1* and the authority delegated to the Town under the provisions of the *Metropolitan Region Scheme*, Council APPROVES the application for alterations and additions to the existing single house at Lot 275 (No. 33) Orrel Avenue, Floreat, as shown on the attached plans stamped received 26 October 2023, subject to the following conditions:**

- 1. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any conditions of this approval;**
- 2. All structures (and associated footings) shall be contained within the lot boundaries of the subject site;**
- 3. The landscaping areas within the 9m primary street setback area, as shown on the approved plans, shall be installed and reticulated within six months of practical completion of the development and shall include the retention of the two existing mature trees within the primary street setback area, as shown on the approved plans) and thereafter maintained by the landowner for the life of the development to the satisfaction of the Town;**
- 4. All stormwater shall be contained and disposed of on-site for the life of the development to the satisfaction of the Town;**
- 5. The carport shall remain unenclosed on all sides (except if it abuts the dwelling); and shall be without a door unless the door meets all deemed-to-comply provisions of c13.1, C1.5(iii) of the Town's Local Planning Policy 3.1 – Streetscape; and**
- 6. No verge trees shall be removed, pruned, or disturbed in any way without further approval of the Town.**

**Standard Advice Notes to be included by the Administration.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.3.15 Lot 97 (No. 1) Oban Road, City Beach - Final consideration of Scheme Amendment

<b>DIRECTORATE:</b>	Planning and Community Services
<b>AUTHOR:</b>	Brendan Jeans (Senior Strategic Planning Officer)
<b>AUTHORISER:</b>	Fraser Henderson, Acting Director Planning and Community Services
<b>AUTHORITY / DISCRETION:</b>	Legislative
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Attachment 1 - Proposed Scheme Amendment No 42 [ <b>12.3.15.1</b> - 15 pages] 2. Attachment 2 - Schedule of Submissions [ <b>12.3.15.2</b> - 7 pages]

#### **PURPOSE OF REPORT:**

This report is for the Council to consider the outcomes of advertising an amendment to the Town of Cambridge's Local Planning Scheme No. 1 (the Scheme) for an additional use for 'Consulting Rooms (group)' over Lot 97 (No. 1) Oban Road, City Beach.

#### **EXECUTIVE SUMMARY:**

The subject site is Lot 97 (No. 1) Oban Road, City Beach. It is located on the corner of The Boulevard and positioned east of the Gayton Road Neighbourhood Centre. The site has operated as 'Consulting Rooms (group)' for several decades as a non-conforming use, consisting of 6 consulting rooms and a treatment room.

In summary, the proposed 'Consulting Rooms (group)' land use is not permitted in the Residential zone. However, it is recognised as a non-conforming use on the property that has operated for over 50 years. During this time, there have been several minor changes and additions to develop and establish the use of the site, which the Town has previously supported. The proposed scheme amendment aims to secure and formalise this as an 'additional use' on the property.

This report details the outcomes of the advertising carried out for the proposed scheme amendment. Submissions were received, with objections raised, noting concerns with additional traffic and noise if the use was approved. An assessment and response to these submissions are covered in this report.

On balance of the consideration of the submissions, it is recommended for the Council to recommend to the Western Australian Planning Commission (WAPC) its support for the scheme amendment subject to modification.

#### **BACKGROUND:**

On 30 November 2022, the Town received a scheme amendment request from the Applicant (Allerding and Associates) on behalf of the owner (J & J Latto). The request intended to formalise the non-conforming use, with no changes proposed to activity that exists on the property.

On 23 May 2023, the Council considered the scheme amendment request at its Ordinary Council Meeting (Ref DV23.23). The Council resolved to proceed with advertising, subject to modifications, following the process required by the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). This previous report (Ref DV23.23) provides a more detailed background on the site's history and applicable local planning framework.

In response to the Council's resolution, the Town forwarded the scheme amendment to the WAPC for consent to advertise and referred the scheme amendment to the Environmental Protection Agency (EPA) for consideration of assessment. On 31 July 2023, the EPA advised the scheme amendment did not require assessment, and on 1 August 2023, the WAPC provided the Town with consent to advertise.

The Town proceeded with public advertising of the scheme amendment for 61 days providing the opportunity to comment using public notice (in various forms), letters notifying nearby and likely affected landowners and email referral to relevant public authorities.

**DETAILS:**

<b>Applicant:</b>	Allerding and Associates
<b>Owner:</b>	J & J Latto
<b>Zoning:</b>	Residential R12.5
<b>Precinct:</b>	P1 – City Beach
<b>Development Description:</b>	Complex Scheme Amendment – Additional Use
<b>Existing Land Use:</b>	Consulting Rooms (group)
<b>Proposed Land Use:</b>	Consulting Rooms (group)
<b>Land Area:</b>	1019sqm

**Scheme Amendment overview**

The applicant lodged a scheme amendment to formalise the existing non-conforming use on the property. The scheme amendment proposes to:

1. Amend the Scheme Text by inserting an entry in Schedule B entitled ‘Additional Uses’ by including an additional use right over Lot 97 (No. 1) Oban Road, City Beach for the purposes of ‘Consulting Rooms (group)’; and
2. Amend the Scheme Map accordingly.

A scheme amendment seeking an ‘Additional Use’ on the property is the appropriate approach because the land use ‘Consulting Rooms (group)’ is not a permitted land use in the Residential Zone in the Town’s Local Planning Scheme and cannot be approved by the Town through a Development Application. It is worth noting that non-conforming use rights apply to the property, which means the consulting rooms may continue to operate. However, if the scheme amendment is approved, it would be more appropriately addressed as an additional use.

Following lodgement, the Town conducted an initial assessment to confirm the scheme amendment could be accepted and proceed to the Council for consideration. Following additional information provided by the applicant, a report to the Council detailing the proposal and relevant framework was presented at the 23 May 2023 Ordinary Council Meeting.

A requirement of the Council’s consideration at the 23 May 2023 Ordinary Council Meeting was to determine what type of scheme amendment the proposal was defined as, i.e. basic, standard or complex. The proposed scheme amendment was considered to meet the definition of a ‘complex amendment’, and the scheme amendment process has followed the ‘complex amendment’ requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The advertising period required for a ‘complex amendment’ is 60 days.

**Consultation**

Following the Council’s resolution at its 23 May 2023 Ordinary Council Meeting and the Town receiving the consent from the WAPC to advertise, the Town commenced public advertising of the scheme amendment.

The Town advertised the scheme amendment for 61 days per Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which included the following:

- Public notice on Town website;
- Public notice at Town Administration;
- Public notice with sign on subject property;
- Letters to nearby landowners; and

- Email referral to relevant public authorities.

### **Submissions**

In total 3 public submissions and 5 public authority submissions were received during the submission period. These have been listed in the Schedule of Submissions (Attachment 2), which includes responses to each of the submissions from the applicant and the Town. More detailed responses are addressed below.

#### Submissions - Public Authorities

The Town received responses from the following public authorities (as per Attachment 2)

- Department of Education
- Department of Planning, Lands and Heritage (Heritage team)
- Department of Water and Environmental Regulation
- Main Roads WA
- Water Corporation

All public authorities raised no objections to the scheme amendment.

#### Submissions - Public

One of the three public submissions received was from the applicant. The applicant informed the Town of an error in the operating hours they previously provided, following the Council's decision to proceed on 23 May 2023. The Town advised the applicant that they could either:

- A) seek a reconsideration to the scheme amendment with the revised information; or
- B) allow the scheme amendment to proceed and provide a submission to seek support to modify the operating hours with the consideration of it being a minor (not significant) modification that would not require re-advertising.

The applicant agreed to proceed with option B. The modification has been addressed separately in the 'Modification' section of the report below.

The other 2 submissions received objected to the scheme amendment. These objections raised concerns with the following matters:

- Creation of additional traffic and associated traffic safety implications;
- Creation of additional noise; and
- Street signage.

Below is an assessment and response to the objection matters raised, which expands on the Town's responses in the Schedule of Submissions (Attachment 2):

- *Creation of additional traffic and associated traffic safety implications; and*
- *Creation of additional noise;*

The concerns are noted; however, as this proposal is to formalise a non-conforming use existing on the property for several decades, the traffic and noise associated with the use already exists and is not being introduced, altered or increased by the proposed scheme amendment.

A previous Development Approval for room additions resulted in additional parking bays being constructed to address parking and vehicle access to the satisfaction of the Town. The existing layout of the building (consulting rooms) and parking bays minimise the impact on nearby residential properties. The predominant activity of visitor and car movements is occurring at the front, facing the street towards the Gayton Road Neighbourhood Centre.

- *Undesirable additional street signage.*

An objection was raised regarding the potential installation of additional advertising signage on nearby verges. The development standards (conditions) proposed in the scheme amendment provide controls and restrict several aspects of the operation on the property. Development Standard No. 6 requires that any future signage comply with the Town's Local Planning Policy 3.15 Advertising Signs.

Regulation 41 of the *Planning and Development (Local Planning Schemes) Regulations 2015* states the local government must consider submissions. This report has considered the submission received in reaching a recommendation. It is recommended that the Council pass a resolution acknowledging that the submissions have been duly considered.

**COMMENT:**

**Modification**

Proposed modification

As noted earlier in the report, the applicant seeks a modification to the scheme amendment with respect to the operating hours which is listed as a development standard (condition) to the additional use. The Regulations prescribe that the local government may resolve to support a scheme amendment with modifications to address submissions.

The initial proposed and advertised operating hours were:

Monday to Friday 8am-12:30pm  
Monday, Tuesday and Thursday 2:30pm-6:30pm  
Saturday 8am-11am  
Closed on Sunday and Public Holidays.

The operating hours with the proposed modification would be:

Monday to Friday 8am-6:30pm  
Saturday 8am-5pm  
Closed on Sunday and Public Holidays.

Recommended modification

The applicant provided a submission requesting the operating hours be modified to reflect the existing operating hours accurately. It is evident the operating hours initially provided by the applicant only reflect the GP's operating hours and do not holistically capture the operating hours of the other health practitioners who operate from the site. The scheme amendment intended to formalise what exists on the site; therefore, the operating hours proposed in the applicant's submission are considered an acceptable modification.

The local government may make modifications to a scheme amendment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and may, if considered to be significant, decide to advertise the modifications prior to final consideration. For the reasons above, it is considered the modification requested is not significant and does not require advertising.

**Conclusion**

Summary

As discussed above, the matters raised in the objections are noted. However, this proposal deals with an existing use with non-conforming use rights that has been established on the property for several decades. Therefore, the objections to additional traffic and noise are inapplicable to the proposed scheme amendment.

The scheme amendment proposes to formalise this use and establish clear controls in the Local Planning Scheme with several development standards applicable to the additional use of the property. The development standards in the proposed scheme amendment include several controls guided by Local Planning Policy 3.9, such as the number of rooms, plot ratio, parking and signage restriction. These controls limit further expansion for the property as a non-conforming use and as an outcome of the scheme amendment.

#### Final Recommendation

It is recommended that the Council advises the WAPC of its support to the scheme amendment subject to the modification to update the operating hours to reflect the existing operating hours of the non-conforming use.

Following the Council's resolution, the scheme amendment is forwarded to the WAPC, which will make a recommendation to the Minister for Planning. Should the scheme amendment be approved, public notice of this will be required, and the scheme amendment will be gazetted.

#### **POLICY / STATUTORY IMPLICATIONS:**

Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the processes for amending a Local Planning Scheme. Division 2 of Part 5 provides regulations relevant to complex amendments.

#### **RISK MANAGEMENT IMPLICATIONS:**

**Low:** This is an applicant requested scheme amendment to formalise an existing 'non-conforming' use. The process is legislated and final determination rests with the WAPC. For these reasons the risk to the Town is considered low.

#### **FINANCIAL IMPLICATIONS:**

There are no financial implications related to this report. The fees and costs associated with the scheme amendment are borne by the applicant in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

#### **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

**Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**

**Local business** - Encourage a resilient local economy by supporting local businesses to thrive.

#### **COMMUNITY ENGAGEMENT:**

This matter has been assessed under Council Policy No: 019 Community Engagement Policy as:-

#### **CONSULT**

To obtain public feedback on analysis, alternatives and/or decisions.

Public consultation was undertaken in accordance with Regulation 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Policy 1.2 'Public notification of Planning Proposals'.

### **Impartiality Interest Declaration - Cr Mayes**

Prior to consideration of the item, Cr Mayes disclosed an interest affecting impartiality and declared as follows: "with regard to Item 12.3.15, I declare that I have received correspondence from the neighbour and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. NOTES the submissions received;**
- 2. SUPPORTS, pursuant to Section 75 of the *Planning and Development Act 2005* and Part 5, Division 3, Regulation 41(3)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed Amendment No. 42 to the Town of Cambridge Local Planning Scheme No. 1, as set out in Attachment 1, subject to the following modification;**
  - a. Development Standard No. 3 (the operating hours) of Schedule B be modified to the following:**
    - Monday to Friday 8:00am-6:30pm
    - Saturdays 8:00am-5:00pm
    - Closed on Sunday and Public Holidays;
- 3. AUTHORISES the Mayor and Chief Executive Officer to execute the relevant amendment documentation for submission to the Western Australian Planning Commission; and**
- 4. NOTIFIES all of those who made a submission of Council's decision.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

## **12.4 Infrastructure and Works**

### **12.4.1 Micro-Mobility Shared Services Proposal - Coastal Zone**

**Item was withdrawn by the Administration prior to the Council meeting.**

### 12.4.2 Wembley Oval Upgrade

<b>DIRECTORATE:</b>	Infrastructure and Works
<b>AUTHOR:</b>	Andrew Head (Manager Parks and Natural Environment), Michael Burn (Coordinator Parks), Reece Hawkins (Senior Administration Officer)
<b>AUTHORISER:</b>	Kelton Hincks, Director Infrastructure and Works
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	Nil

#### **PURPOSE OF REPORT:**

The purpose of this report is to provide Council with an overview of the current condition of the Wembley Oval turf surface and recommend major works be undertaken to address the poor performance of the sports surface due to an outbreak of a sap sucking parasite called Sting Nematode.

#### **EXECUTIVE SUMMARY:**

The Wembley Oval playing surface is currently in decline because of a Nematode infestation that is compounded by a number of other factors including, drainage and compaction issues, poor soil structure, inefficient irrigation design, and scant turf coverage. This has resulted in a playing surface that deteriorates severely throughout the winter, with minimal turf recovery throughout the warmer months.

This is creating safety concerns for sporting clubs due to a lack of cushioning for players. The dry and sandy soil profile also creates a perfect environment for Sting Nematode activity, further reducing health, vigour, regrowth and even coverage of turf.

This report seeks Council's consideration of a project to undertake major turf, irrigation and playing surface reconstruction, reconfiguration, and necessary infrastructure upgrades at Wembley Oval. These upgrades are for the provision of a safe, functional, and maintainable turf playing surface, where the community, clubs and schools are increasingly participating in sporting activities.

#### **BACKGROUND:**

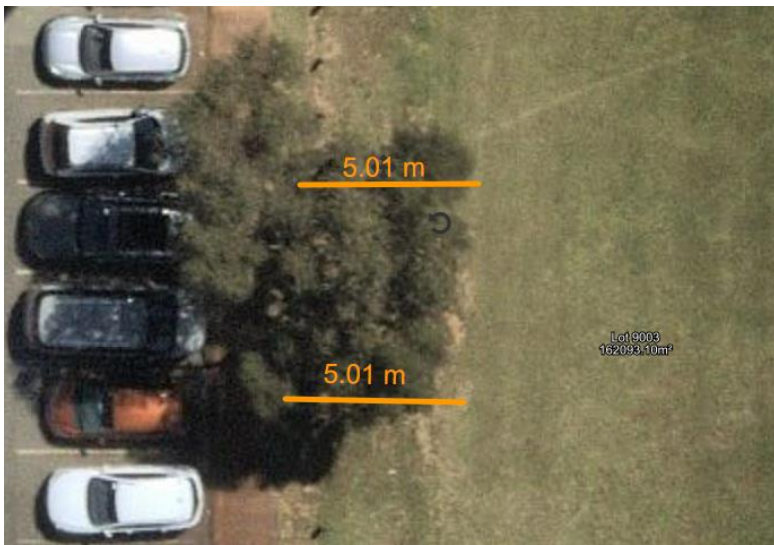
Initially developed between 2012 and 2014, Wembley Sports Park is one of the Town of Cambridge's premier sporting facilities. Home to Wembley Athletics Club, Subiaco-Floreat Cricket Club, Matthews State Netball Centre, Wembley 'Magpies' Football Club, Wembley Junior Football Club and Wembley Vets Football.

The site contains three ovals, Pat Goodridge Oval No 1 (southeast corner of the site), Pat Goodridge Oval No 2 (southwest Cricket Oval) and Wembley Oval which is situated to the north of the clubrooms. All ovals are well utilised by the clubs in summer and winter.

During construction of the facility the main central carpark was decommissioned and realigned north south to facilitate the creation of Wembley Oval as shown in the images overleaf. When the carpark was constructed the carpark drainage was designed to take overflow water during rain events and dissipate that water onto the south corner of the oval in line with best practice stormwater management.

Competition standard ovals are required to have adequate run off space beyond the boundary line of at least five meters. Currently the oval has less than five metres clearance on the eastern side from the footpath and there is a line of River Red Gums which are only quite small now but over time will develop into large canopy trees. However, this species physiology means that large buttressing surface roots develop. Already some of these roots have had

to be ground away after extending onto the oval surface and becoming a tripping hazard to visitors of the site as can be seen below.



Since 2021 the condition of the turf has been in decline and so specialists in turf agronomy were requested to undertake an investigation into soil chemistry and physical properties, water chemistry and potential pathogens. The results of that first round of testing found there was a large population of Sting Nematodes.

Sting Nematodes are a type of parasitic worm that feed on the sugars produced by turf grasses which then greatly stunts growth of the plant both above and below the ground. Several trials and studies have been done by the turf industry across the world including in Perth on possible options to minimise impacts of this parasite. Currently there are no practical solutions for eradication of this worm and so focus is on minimising the effects.



Prior to development works - June 2012



Carpark construction - January 2014



During construction - June 2013



Completion of oval - June 2014

**DETAILS:**

Each year the Town undertakes renovations to the sports surfaces across its eight active ovals to address the wear and tear of the turf that occurs during the seasonal sports use. Some sites such as Wembley Sports Park have sport played in both in summer and winter which leaves a very small window of around three to four weeks between codes for undertaking renovations.

Over the last four years, renovation work required at the ground has increased while ground usage has slightly reduced. Works have included decompaction, replacement of turf in problematic areas, spreading and insertion of compost, yet the condition of turf was not improving. This triggered the need to investigate why this turf decline is occurring.

In 2021 the Town commissioned an investigation into what may be causing the problems with turf performance and found that there was an outbreak of Sting Nematode. Sting Nematode are a parasitic worm that feed on the plant roots which significantly impacts the turfs' ability to recover from normal wear and tear. Affected turf across this oval has stunted root development of as little as 70mm. This poor root development results in no drought resilience and a lack of knitting of the replacement turf when laid as shown below.



The report in 2021 provided a recommendation to increase organic matter within the rootzone of turf as studies had shown that Nematode movement and breeding is slowed significantly when compost is inserted vertically into the sand profile or spread across the surface. The Town was also advised to increase water application as this can also offset root loss and aid recovery of turf.

In the 2021 summer season of baseball, it also became apparent that the current irrigation system was not functioning as well as it should with irrigation efficiency well below acceptable standards. Irrigation levels were increased further to try and aid recovery of the turf. As can be seen in the image below taken in January 2021, the irrigation coverage is lacking right across the oval. This is in part due to the layout of the stations and spacing of the gear drive sprinklers.



After each season up until 2021 the Town replaced the turf on the baseball mounds and repair damage through the centre corridor and in other worn areas such as the centre and goal squares. In 2022 Wembley Baseball moved to UWA playing fields which resulted in availability for junior cricket to be played during the summer months.

In the winter of 2023, Wembley Magpies won the A grade women's premiership and as a result are finding numbers joining the club are steadily increasing. This win has also resulted in a desire for the oval to present to a higher standard in line with the Australian Standards for AFL grounds from next year.

Members of the Wembley Athletics Club and Wembley Football Club met with Officers of the Town to discuss the condition of the turf following the end of the football season as they were concerned by a few issues that had become apparent during the winter. The Towns Officers advised that this is a complex issue with several factors resulting in the observed problems.

### Turf knitting

Many areas of the oval that had been re-laid in the past were not knitting this includes the turf laid following the last baseball season in 2021 which is still yet to establish roots beyond 70mm after two years. This has resulted in turf slipping out from underfoot during matches and uneven areas where turf is not recovering. Much of the turf is underperforming to an extent that thatch is unable to develop which means that some renovation activities including Verti-mowing and decompaction are not possible.

### Turf Type

The current oval is covered in kikuyu turf which is highly susceptible to nematode attack. The turf has developed a 70-75mm deep root system across the oval which is completely inadequate to deal with our long hot summers. Recent trials undertaken at other sites have indicated that 'Wintergreen' Couch Grass is showing very good signs of being far more resilient to nematode attack.

### Soil Profile

The current soil profile is such that the surface is rich in organic matter however at 80mm deep it moves into deep yellow sand. The sand is good for allowing water percolation however it is also a good medium for nematodes to breed and move about in. The organic matter in the surface profile is good for water retention and inhibiting nematode spread however it does compact over time which reduces infiltration rates. Ideally the soil needs ameliorating to blend the soils while also adding additional organic matter to inhibit the parasites.

### Soil Compaction

Due to the soil profile and redirected run off from the carpark areas to the southern half of the oval the compaction of the soil has increased steadily over time resulting in a harder surface that does not achieve the acceptable range for penetrometer (compaction) testing. As the impacts of head trauma are being better understood it is important that ground conditions such as air-filled porosity and turf thatch are acceptable so that they limit the effects of concussion.

### Soil drainage

A layer of organic matter on the surface of the oval has reduced infiltration rates to the extent that during heavy rain events the southwest pocket of the oval ends up underwater and on one occasion resulted in flooding of the bottom floor of the clubrooms.

### Irrigation System

The current system is not laid out in a way to allow selective watering of high wear areas. The mainline depth is over one metre and so repairs require significant work to get access to valves and wiring. The spacing of gear drives is 17 metres and current pump performance is not facilitating head-to-head coverage to ensure maximum uniformity and cover.

### Oval configuration

Currently the oval has a single set of goal posts at either end of the ground. During the season, the centre corridor is chewed up and worn out by normal use. Wembley Oval is wearing out much faster than other grounds due to the lack of thatching and root development of the turf. To address this focussed wear many of Perth's premier sportsgrounds have multiple goal post sleeves to allow the relocation of posts and thus centre corridor activity during the season to spread winter wear and tear.

This summer the Town has had to request the sporting clubs to not use Wembley Oval this summer season to allow the Town to undertake more extensive renovation work to try and rehabilitate the surface, however it is clear that current budget will not adequately address this ongoing decline of the turf and that greater intervention is required.

Recently the Town undertook further spreading of compost, increasing of watering to daily and is planning to decompact the oval surface to help nurse it through until we can undertake more considerable works. This is affecting the Towns ability to address other pressing renovation needs at other sportsgrounds.

## **COMMENTS:**

Every winter, the playing surface on Wembley Oval deteriorates through an ever-increasing schedule of football matches and nightly training, along with wet weather conditions, poor drainage, and resultant flooding. Areas where turf has minimal coverage quickly become uneven, muddy patches earlier each season. The poor condition of the playing surface has led to issues related to ground functionality, player safety and ongoing maintenance as the carrying capacity of the turf ever diminishes.

Many areas of turf deteriorate to a point of requiring continual replanting each spring. The presence of Sting Nematode, along with a soil profile containing minimal organic matter limit any vigorous regrowth of existing turf, also prohibiting new turf from establishing and knitting into the existing turf. New turf plantings also are unable to penetrate the hard, compact surface creating shallow root growth, which struggles through the heat of summer and are then easily dislodged during football games in the winter.

The introduction of compost to the oval will assist in controlling nematodes however, further issues related to drainage can occur through a layer of organic matter being introduced to the soil profile. This can be rectified by undertaking Verti-draining or similar decompaction techniques however, this practice is best undertaken on vigorous, dense, healthy turf. The current turf type and its condition may not withstand continual decompaction.

The irrigation system installed at Wembley Oval has often struggled to deliver a uniform dispersal of water over the playing surface. There have been alterations to wiring, pumps, valves, sprinklers, and watering times to improve coverage, however it is apparent that the overall spacing between sprinkler heads is such that there is poor head-to-head (sprinkler to sprinkler) water delivery, resulting in dry patches and areas of turf that suffer from water stress. This is further apparent when high winds cross the oval. A reconfiguration of the system, to ensure adequate head-to-head coverage is essential in providing adequate water requirements of the turf and will also assist in reducing water wastage and nematode root damage impacts through water stress.

Reconfiguration of the playing surface itself would assist in reducing activity centred upon one area of turf. The installation of removable goalposts and sleeves would enable the goal square to be relocated in either, an easterly or westerly direction by 6.4 metres, at various times throughout the season. This would enable turf to recover from previous games, or severe weather events, where the turf is beginning to show signs of stress or deterioration.

To reduce impacts to the current sporting fixtures and ensuring optimal time to re-establish the new surface it is best to do all this work immediately following the 2024 AFL season in October to maximise growing conditions to aid knitting and settling in of the new turf.

## **POLICY / STATUTORY IMPLICATIONS:**

WAFL Rules and Regulations 2024; Schedule 14 Playing Surface Assessment  
WAFC 2023 Policy 13; Match Operations Policy - Matchday Checklist Ground Condition.

## **RISK MANAGEMENT IMPLICATIONS:**

**High:** The loss of adequate turf cover and a suitable playing surface at Wembley Oval is a significant reputational risk and affects the Town's ability to provide a safe and functional environment for public sporting events, a risk of personal harm or injury to playing groups, costs associated with ongoing maintenance and high water use, and the spreading of pest infestation to nearby parks and reserves.

**FINANCIAL IMPLICATIONS:**

Current estimated costs are \$662,100, with an approximate breakdown of each element below;

Item	Detail	Cost
Turf Removal	Removal of 18,000 m2 of turf, to a depth of 30mm, including disposal	\$17,500
Soil Improvement	Supply 2,340 cubic metres Vitagro Compost 70/30 Blend	\$158,500
Rotary Hoe	Rotary hoe remaining organic matter into the soil, to a depth of 200mm	\$2,500
Soil Consolidation	Level and consolidate the sand root zone	\$1,500
Irrigation Upgrade	Reconfigure and raise existing mainline and laterals, test, and commission	\$100,000
Turf Replacement	Supply and install 18,000 m2 Jumbo rolls of Wintergreen couch	\$360,000
Goal Post, Sleeve and Footing replacement	Removal existing goalposts and installation of sixteen (16) structurally engineered goal post concrete footings and sleeves for 9M goalposts	\$19,600
Playing field reconfiguration	Redesign of Oval layout and reconfiguration to accommodate additional goalposts and redirected playing area	\$2,500
<b>Total Costs</b>		<b>\$662,100</b>

**STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town’s Strategic Community Plan 2018-2028:

**Our People: A community that supports wellbeing, connection and inclusion**

**Connectedness and capacity building** – encourage social connection by providing opportunities for the community to meet, socialise and collaborate

**Health and wellbeing** – Promote a healthy community with access to opportunities for recreation, and support for wellbeing.

**Places for People** - Together with our community, plan, create and activate neighbourhoods that are distinctive, welcoming, and accessible.

**Our Economy: An attractive destination to visit, full of opportunities and thriving businesses**

**Partnerships and connections** - Develop strategic connections and relationships to ensure the community is well serviced.

**Our Environment: An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces**

**Sustainability and climate change** - Improve the Town’s environmental sustainability and adapt to climate change.

**COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as: -

**INVOLVE**

To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.

**COUNCIL DECISION:**  
**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council SUPPORTS the inclusion of Wembley Oval reconstruction works in the draft budget 2024/2025 for consideration and assessment of prioritisation against other capital projects.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

### 12.4.3 Edible Pocket Gardens

<b>DIRECTORATE:</b>	Infrastructure and Works
<b>AUTHOR:</b>	Andrew Head (Manager Parks and Natural Environment)
<b>AUTHORISER:</b>	Kelton Hincks, Director Infrastructure and Works
<b>AUTHORITY / DISCRETION:</b>	Executive
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>AUTHOR INTEREST:</b>	Nil
<b>ATTACHMENT(S):</b>	1. Draft Policy xxx Edible Pocket Gardens [ <b>12.4.3.1</b> - 2 pages] 2. Draft Guideline.xxx Edible Pocket Gardens [ <b>12.4.3.2</b> - 2 pages]

#### **PURPOSE OF REPORT:**

The purpose of this report is to address a Notice of Motion on Edible Pocket Gardens that was supported by Council at the November 2023 Ordinary Council Meeting.

#### **EXECUTIVE SUMMARY:**

A Notice of Motion was received last month, and Council resolved to develop a Policy and Procedure and to bring these back in a report to Council this month.

Research into other similar schemes at Bayswater and Sunshine Coast indicates high reputational risk associated with these programs and in the case of Bayswater, a low uptake of the initiative.

The Town has existing opportunities available for the community to participate in public food production including the three community gardens and so it is suggested that promoting these other alternatives may address any community demand for this.

#### **BACKGROUND:**

At the Ordinary Council Meeting held 28 November 2023, a Notice of Motion was received from Cr Cutler to develop an Edible Pocket Gardens Policy and Guidelines. The reasons provided by Cr Cutler were:

*“Building on the success of the three community gardens located in the Town of Cambridge, residents have identified an opportunity to further promote greening and sustainability initiatives through the town by growing appropriate fruit trees or edible plants in an edible pocket garden within parks and reserves in the Town of Cambridge. These “edible pocket gardens” would be on Town owned or managed land, managed by resident or the local community, produce commutable plants for use by the community, and would not be a formal community garden.*

*The motion proposed to use the City of Bayswater’s Edible Pocket Gardens Policy (including the associated guidelines and application) as a model to minimise the Towns expenditure and use of staff time.”*

At its Ordinary Council Meeting held on 28 November 2023, it was decided:

*“That Council REQUESTS the Chief Executive Officer develop an Edible Pocket Gardens Policy and associated guidelines using the City of Bayswater’s Edible Pocket Gardens Policy as a model, which is to be brought back to the December 2023 Ordinary Council Meeting.”*

#### **DETAILS:**

The Town has investigated the history that led to the development of the City of Bayswater’s Policy on Edible Pocket Gardens. Nearly 20 years ago a resident, Greg Smith started guerilla gardening in a small pocket park on Rose

Avenue in Bayswater. It started with a couple of Lemon Scented Gums and soon after, Guava, fig, lemon, avocado, pomegranates and a number of herbs were added.

Since the inception of the program in Bayswater there has only been one site set up as a formal Edible Pocket Garden. That site is the one mentioned above in Rose Avenue and that was a retrospective approval following the controversial removal of a bay tree by the City. Several stories on this topic have been published by media outlets such as ABC News and Garden Gurus reaching a national audience. No other applications have been received by the City of Bayswater since then.

More recently this pocket garden had to be demolished and trees removed to make way for road realignments and other works as part of the new Metronet upgrades for Bayswater Station.

In another example, in 2017 in Buderim located within the Sunshine Coast Council (SCC), 18 fruit trees were cut down within the Urban Food Street Precinct. The precinct gained popularity and increased between 2010 and 2017 to span 11 streets in the suburb, where produce grown on the verges was consumed by more than 200 people.

The SCC received a complaint about the fruit trees which caused public debate over a six-month period which resulted in an order to relocate the trees, or the residents had to obtain \$20M public liability insurance along with a permit to keep the trees in place. While many complied with this requirement to relocate or remove the trees, there were some residents did not comply. These residents were interviewed by ABC News and again this article was circulated nationally. The article was further promoted by Gardening Australia's Costa Georgiadis suggesting this concept was internationally significant.

#### **COMMENT:**

As can be seen from the two examples above, careful consideration needs to be given to a few factors when adopting any new policy or initiative such as this. These include Officer time and resources as well as insurance and risk management.

#### Approval Process

While the creation of a draft Policy and Guideline has been completed, this is only the first step in the process. It is anticipated there will be time spent assessing applications, liaising with applicants and setting up formal permissions. Things such as discussions around soil improvement, watering constraints, harvesting of fruit safely and pest control, all take Officer time to negotiate a good outcome.

#### Locations

Careful consideration needs to be given to planting locations to ensure it doesn't affect current uses of the open space. Often this can't be confirmed without first consulting with the community to ensure they agree with the placement of edible pockets. Failure to consult properly may result in complaints from nearby residents who don't support the planting of fruit trees. These complaints can take up considerable time and these can escalate if not dealt with well as can be seen from the example from Buderim on the Sunshine Coast.

#### Insurance

In the Bayswater model, it is suggested that this is not considered volunteering thus negating the need for volunteer insurances or the requirement to have safe systems of work.

However, we also need to understand that we can't absolve the Town of public liability risks associated with the planting of fruit and vegetable gardens which is why these facilities are often set up as formal community gardens, of which there are currently three located across the Town to service the community.

#### Long Term Management

As these gardens mature, they will require increasing amounts of maintenance to manage things such as tree structural pruning and subsequent litter disposal. These costs increase dramatically over time and at some point,

all these plants will reach the end of life and require removal. In most cases it will be the Town who ends up bearing the costs and dealing with the potential public fallout from this work.

When the approved applicant leaves the district there will need to be consultation to determine if someone from the community will take over and look after the garden. If no adoptee can be found, then it is likely the garden will fall into disrepair and require major works or removal to keep other members of the public satisfied.

#### Alternative Options

The Town has a couple of existing programs and services that could address any demand for public food gardens within the community.

The Town has three community gardens (including a food forest) which work as a way of connecting like-minded people together to meet, discuss and share knowledge on productive gardening. The advantage is the collective group manages the plantings and when members leave there are others to pick up the work required to keep the space productive. These areas are open to anyone in the community to join and be part of. A wide range of bush foods, herbs, vegetables, and fruit trees are established across the three sites in City Beach, West Leederville and Lake Monger.

In some of the Town's Parks there are already fruit producing trees. Examples include the Olive Trees at City Beach Oval which are harvested by members of the community and have been done for several years. There is a Lime tree within Holyrood Park that fruits heavily each year and is harvested and put into in a basket by the gate when there is an abundance.

The Town allows residents to submit landscape plans for residential verges if they comply with the verge landscaping guidelines. The abutting owner is responsible for the verge maintenance. If there is room for a fruit bearing tree and they are proposed to be in the right location, the Town will allow some species to be planted. In relation to vegetable and herb crops, if they are maintained at a height below 70 centimeters tall, they are also permitted.

The Town has an 'Adopt A Park' program which allows the community to adopt a space and look after it. Currently the program isn't set up to allow planting activities, however established garden areas can be weeded, litter collected, plants pruned (if they seek approval) and they can also assist with mulching. If they register to Adopt A Park and they submit a proposal to the Town, it can be assessed for suitability of the species selection and the proposed location.

For the reasons presented in the report, it is not recommended that an Edible Pocket Garden Policy be adopted and residents are encouraged to join one of the existing groups highlighted above.

#### **POLICY / STATUTORY IMPLICATIONS:**

*Local Government Act 1995*

*Town of Cambridge Local Government and Public Property Local Law 2017*

#### **RISK MANAGEMENT IMPLICATIONS:**

**Medium:** The risk management implications of the Policy include resourcing the proposed projects adequately to ensure these risks can be mitigated or managed. There is also a medium risk of reputational damage to the Town if an approved pocket garden needs intervention as seen in the examples in this report.

## **FINANCIAL IMPLICATIONS:**

There are no direct financial implications with this decision, however, as with any service or program the Town provides, there is an administrative and operational demand on the Towns Officers to assess applications, deal with complaints and inspect sites which takes them away from other duties.

This may not be that considerable if we only receive a couple of applications, however if it expands as it did on the Sunshine Coast, there is a risk of unbudgeted costs to the Town if these require removal.

## **STRATEGIC DIRECTION:**

This report recommendation embraces the following strategies of the Town's Strategic Community Plan 2018-2028:-

### **Our People: A community that supports wellbeing, connection and inclusion**

**Connectedness and capacity building** – encourage social connection by providing opportunities for the community to meet, socialise and collaborate

**Health and wellbeing** – Promote a healthy community with access to opportunities for recreation, and support for wellbeing.

**Places for People** - Together with our community, plan, create and activate neighbourhoods that are distinctive, welcoming and accessible.

### **Our Environment: An urban forest that is protected and enhanced with tree-lined streetscapes, sweeping coastlines, natural bushland and accessible open spaces**

**Natural environment** - A natural environment that is respected and enhanced for future generations.

**Sustainability and climate change** - Improve the Town's environmental sustainability and adapt to climate change.

## **COMMUNITY ENGAGEMENT:**

This matter has been assessed under the Council Policy No: 019 Community Engagement Policy as:-

### **INFORM**

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

## **ADMINISTRATION RECOMMENDATION:**

**Moved by Cr Barlow, seconded by Cr Mayes**

**That Council:**

- 1. NOTES the draft Edible Pocket Gardens Policy (Attachment 1) and Procedure for Edible Pocket Gardens (Attachment 2); and**
- 2. REQUESTS the Chief Executive Officer to promote the existing services such as the 'Adopt A Park', verge landscaping and community gardens through the available media channels.**

**Motion put and CARRIED (8/1)**

For: Mayor Mack, Cr Barlow, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Cr Cutler

**Motion to Recommit**

**Moved by Cr Barlow, seconded by Cr Cutler**

**That the item be recommitted.**

**Motion put and CARRIED (7/2)**

For: Cr Barlow, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Mayor Mack and Cr Cutler

The item was recommitted at 9.13 pm.

Mayor Mack advised that, in accordance with Clause 9.8 of the Town of Cambridge Meeting Procedures Local Law 2019, the motion be divided into separate motions.

**That Council:**

**1. NOTES the draft Edible Pocket Gardens Policy (Attachment 1) and Procedure for Edible Pocket Gardens (Attachment 2);**

**AMENDMENT:**

**Moved by Cr Cutler, seconded by Cr Randklev**

**That clause 1 of the motion be amended to read as follows:**

**1. NOTES and ADOPTS the draft Edible Pocket Gardens Policy (Attachment 1) and Procedure for Edible Pocket Gardens (Attachment 2).**

**Amendment put and LOST (4/5)**

For: Cr Carr, Cr Cutler, Cr Mayes and Cr Randklev

Against: Mayor Mack, Cr Barlow, Cr Foley, Cr Kennerly and Cr Le Page

**Clause 1 of the motion put and LOST (1/8)**

For: Mayor Mack

Against: Cr Barlow, Cr Carr, Cr Cutler, Cr Foley, Cr Kennerly, Cr Le Page, Cr Mayes and Cr Randklev

**2. REQUESTS the Chief Executive Officer to promote the existing services such as the 'Adopt A Park', verge landscaping and community gardens through the available media channels.**

**Motion put and CARRIED (8/1)**

For: Mayor Mack, Cr Barlow, Cr Carr, Cr Cutler, Cr Le Page, Cr Kennerly, Cr Foley and Cr Mayes

Against: Cr Randklev

**COUNCIL DECISION:**

**That Council REQUESTS the Chief Executive Officer to promote the existing services such as the 'Adopt A Park', verge landscaping and community gardens through the available media channels.**

## 13 MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

### 13.1 Deputy Mayor, Cr Mayes - Celebrating 30 Years of the Town of Cambridge

#### MOTION SUBMITTED BY DEPUTY MAYOR, CR MAYES:

##### That Council:

1. REQUESTS the CEO to investigate the feasibility of holding a Cambridge Street Festival in Spring 2024 to celebrate 30 years of the Town of Cambridge and provide a report to Council in April 2024; and
2. REQUESTS the CEO to develop a communications strategy to promote and celebrate 30 years of the Town of Cambridge during 2024;

#### REASONS PROVIDED BY DEPUTY MAYOR, CR MAYES:

The 30<sup>th</sup> anniversary of the inception of the Town of Cambridge is 1 July 2024. The Town was formed on 1 July 1994 following a Western Australian government restructure of the City of Perth.

Historically, the Town held a Cambridge Street Festival each year between 2015 and 2019. The 2019 event attracted 10,000 people over five hours, with over 60 market, community and food stalls, roaming entertainment and a stage entertainment program. The 2020 event was cancelled due to the COVID-19 pandemic and has not since been scheduled as part of the Town's annual events programme.

Resurrecting the popular Cambridge Street Festival would be great way to celebrate 30 years of the Town of Cambridge.



#### ADMINISTRATION COMMENT:

The Administration has begun planning for the 30<sup>th</sup> anniversary of the establishment of the Town of Cambridge.

Beginning on 1 July 2024, for a 12 month period, the Town will create bespoke events and opportunities to create a specific plan of events and programs.

This will begin with a proposed Elected Members Forum in February 2024 to brainstorm ideas and present current thinking from the Administration. This would include ideas such as pivoting a range of current Community Development, Library, Bold Park Aquatic, programs and events to have an anniversary aspect and theme. As an example, the Local School Art Exhibition would pivot to become an artist's representation of the Town's history by local schools.

One of the events to investigate and cost would be the reintroduction Cambridge Street Festival, which will be an externally contracted event, as per previous years.

This program will be supported by a strategic branding, awareness, and communications campaign.

A report will be prepared, with costed options for the April OCM, as this program of events which will require further resourcing. As an example, the Town currently employs a 0.5 FTE Community Development Officer who develops and facilitates the majority of the Town run events as well as a range of other capacity building programs such as funding programs and the local school program.

**FINANCIAL IMPLICATIONS:**

A report will be presented to Council in April 2024 with recommendations and estimated costs. This will include increased resources.

**ATTACHMENTS:**

Nil

**COUNCIL DECISION:**

**Moved by Cr Mayes, seconded by Cr Foley**

**That Council:**

- 1. REQUESTS the CEO to investigate the feasibility of holding a Cambridge Street Festival in Spring 2024 to celebrate 30 years of the Town of Cambridge and provide a report to Council in April 2024; and**
- 2. REQUESTS the CEO to develop a communications strategy to promote and celebrate 30 years of the Town of Cambridge during 2024;**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

**13.2 Cr Cutler - Implementation of the Key Actions to be Undertaken for Urban Consolidation Precincts identified in the Town of Cambridge Local Planning Strategy 2021**

**MOTION SUBMITTED BY CR CUTLER:**

To facilitate orderly and considered implementation of the Town of Cambridge's Local Planning Strategy, 2021 (LPS, 2021) the Council directs the CEO to:

1. **PREPARE** a Precinct Structure Plan for Floreat Activity Centre based on the outcomes from the previously approved Vision and Design Community Workshops (Community Consultation Plan) and the community's preferred built form.
2. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Brookdale to Selby Street) Planning Framework, a draft "Planning Framework" and a timeframe/plan to finalise.
3. **PREPARE** a review of the Activity Centre Plan for Wembley, (*indicative timeframe identified in the LPS, 2021 – immediate*)
4. **UNDERTAKE** consultation with the Wembley community in May and early June 2024 on the proposed Activity Centre Plan;
5. **PROVIDE** a report to the August 2024 council meeting regarding the community feedback on the proposed review of the Wembley Activity Centre Plan, an updated draft Activity Centre Plan and a timeframe/plan to finalise;
6. **PREPARE** a "Planning Framework" for the Ocean Village Neighbourhood Centre, (*indicative timeframe identified in the LPS, 2021 – Short Term 1-3 years*);
7. **UNDERTAKE** consultation with the community in March 2024 to Inform Council's response on the anticipated Ocean Village development proposal;
8. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Ocean Village Planning Framework;
9. **PREPARE** a "Planning Framework" for the Cambridge Street Urban Corridor from Selby Street to Thomas Street (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
10. **UNDERTAKE** consultation with the community in September and October 2024 on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street) "Planning Framework";
11. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street Planning Framework, an updated draft Planning Framework and a timeframe/plan to finalise;
12. **PREPARE** a "Planning Framework" for the Gayton Road (Empire Village) Neighbourhood Centre (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
13. **UNDERTAKE** consultation with the community in October and November 2024 on the proposed Gayton Road, (Empire Village) Planning Framework;
14. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Gayton Road (Empire Village) Planning Framework;
15. **PROVIDE** a report and Planning Framework on West Leederville Special Uses Zone No 3. to the April 2025 Council Meeting;
16. **PROVIDE** the requirements for additional skilled, qualified and experienced resources to undertake this work, including short-term staff and consultants and include in the 2023/24 midyear budget re-forecast for consideration; and
17. **REQUESTS** the CEO prepare a detailed implementation plan which is to be presented to an Elected Member Forum in February 2024, with quarterly progress updates to be provided to Council via the Elected Member Information Bulletin.

**REASONS PROVIDED BY CR CUTLER:**

The Local Planning Strategy, LPS, 2021 notes that the Town will facilitate the delivery of well-considered, integrated housing growth that meets the needs of changing communities and provides housing choice and a quality lifestyle for all residents of Cambridge.

To accommodate a growing population and meet the needs of future residents, the Perth Metropolitan area needs to grow and intensify.

Inner urban areas like the Town of Cambridge have the potential to accommodate a proportion of this population growth through well-planned urban nodes and corridors which reinforce the viability of centres and protect the suburban character of established areas.

Under the Western Australian Planning Commission's Perth and Peel @ 3.5 Million framework, the Town has a target to plan for the provision of 6,830 additional dwellings by 2050 to support a total Perth metropolitan population of 3.5 million.

The LPS, 2021 identifies a series of urban consolidation and infill precincts intended to accommodate residential development within the Town of Cambridge over the next 20-30 years.

This motion on notice focuses on the remaining large Urban Consolidation Precincts of Wembley Activity Centre, Cambridge Street Urban Corridor, Ocean Village Neighbourhood Centre and Gayton Road (Empire Village) Neighbourhood Centre.

West Leederville Activity Centre Structure Plan is currently being considered by the West Australian Planning Commission, Floreat Activity Centre and the Cambridge Street Urban Corridor Oceanic to Selby Street were the subject of a motion at the November 2023 OCM.

Local Centres should be considered after the work envisaged in this motion is complete.

Given the requirements of the LPS, 2021, the level of community interest in planning matters and the importance of transparency and certainty for the community, it is proposed that all these plans/frameworks be completed within 15 months.

Additional resources (including an independent planning consultant if required) should be incorporated into the 23/24 midyear budget review. They will depend on the work already undertaken by the Town's staff and the available documents.

**ADMINISTRATION COMMENT:**

The projects identified in the Notice of Motion are very important to implementing our Local Planning Strategy and advancing our Town's planning framework and development outcomes.

It is however noted that consideration will be required regarding appropriate resourcing to ensure the proposed timelines can be met and that these key projects are implemented successfully.

At the heart of these projects lies the need for extensive community consultation and significant planning and technical work. The Strategic Planning Business Unit has analysed the requirements and associated challenges as best as possible within the timeframe provided.

The current resources of the administration and the Strategic Planning Business unit are insufficient to undertake this substantial workload.

We have provided our best estimates for the proposed timeframes and costs in our initial comments. Nevertheless, these timing estimates were formulated assuming the necessary resources would be readily available. Coordinating resources and considering existing projects necessitate a more comprehensive evaluation.

Considering these challenges, we will be seeking the Council's understanding and support for a request for additional time and staff resources to ensure the successful implementation of these vital projects. The Strategic Planning Business unit requires some time to thoroughly analyse new additional tasks, assess available resources, and provide confident and accurate timeframes for project completion. The proposed Elected Member forum and quarterly reporting will allow this to happen.

Our primary objective is to deliver successful outcomes for the proposed projects, and we believe that we can achieve this goal with the appropriate time and resources.

Depending on the Council's decision regarding the Notice of Motion, the Strategic Planning Business Unit will update its current program plan with the newly added projects. This update will outline detailed timeframes and the specific resourcing required for the successful execution of all strategic planning projects.

### **Floreat Activity Centre**

As the Council knows, the APIL Group will likely submit a Precinct Structure Plan for Floreat Forum for the Town's consideration early in 2024. The Town will be under obligation under the Planning and Development (Local Planning Schemes) Regulations 2015 (Schedule 2 Deemed provisions for local planning schemes - Part 4 Structure plans) to assess and advertise the Precinct Structure Plan for public comment within a specific timeframe.

After the advertising and assessment process, the Town needs to prepare a report on the proposed Precinct Structure Plan. The report should include all the necessary information and a recommendation from the Town on whether the Commission should approve, modify or reject the proposed Precinct Structure Plan, and the Commission will then make the final decision on the Precinct Structure Plan. The required process under the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) would mean that the APIL Group's Precinct Structure Plan will have to be considered and responded to a significant time before the Town will be in a position to have a draft Precinct Structure Plan in place to start the process of advertising under the Regulations.

Developing a Precinct Structure Plan is prescribed under the Regulations and State Planning Policy 7.2 - Precinct Design (SPP 7.2). SPP 7.2 sets out the requirements for Precinct Structure Plans, which is quite extensive and, as a result, will require significant time and resources from the Town to develop a Precinct Structure Plan. If everything goes well, developing a Precinct Structure Plan can take up to 18 to 24 months before submission to the Commission for consideration. Furthermore, developing the Precinct Structure Plan may cost between **\$60,000 to \$100,000**, depending on the detailed studies required.

In addition, how the Commission will respond to a second Precinct Structure Plan submitted over the same area as the APIL Group's Precinct Structure Plan is uncertain.

Regardless of the decision on a Town-led Precinct Structure Plan, the outcomes from the previously approved Vision and Design Community Workshops (Community Consultation Plan) and the community's preferred built form will be valuable to use in response to the APIL Group's Precinct Structure Plan submission.

Based on the above information, it is not recommended that the Town commence developing a Precinct Structure Plan for the Floreat Activity Centre Plan due to the uncertainty in light of the APIL Group's Precinct Structure Plan submission and potential resource implications to the Town.

### **Cambridge Street Urban Corridor (Brookdale to Selby Street)**

Presenting a report to the Council meeting in May 2024 may be achievable depending on resourcing and appointing a consultant for the community engagement early to mid-February 2024.

### **Wembley Activity Centre**

A Structure Plan is in place for the Wembley Activity Centre. It was adopted in June 2018. The Structure Plan and the associated Special Control Area and Mapping within Local Planning Scheme No.1 have several technical issues that must be fixed. These technical issues are currently being addressed in the Local Planning Scheme No 2 Project. However, the Structure Plan itself has several flaws in it. It relies on local development plans for some key sites, and it would be preferable if development controls for these sites were developed with the community to determine the preferred built form. There are also other issues with the structure plan and associated planning framework that will likely prevent development from occurring within the area.

A full review of the Structure Plan will be required following the Department of Planning's SPP 7.2 requirements. This review would be estimated to require a budget of approximately **\$40,000** and additional staff resources. This estimate assumes that information is available on many technical aspects, such as traffic and services. Staff resources will also be required to direct and manage the project and undertake public consultation.

### **Ocean Village**

The Ocean Village developers are lodging an application with the Department of Planning under Part 17 of the Planning and Development Act 2005. This development approval pathway was established as part of the State government's COVID-19 recovery package and closes on the 31st of January, 2023. Applications lodged before that date will be assessed under the part 17 process and determined by the Western Australian Planning Commission. Therefore, developing a planning framework for Ocean Village at this stage is considered of little value.

However, the Town could undertake community consultation to inform its position and submit a response to the Commission when the opportunity arises. This public consultation could also educate the community on the planning process and how to engage.

While it is unknown when any planning application lodged with the Department of Planning would be advertised, if the Council is of a mind to undertake community consultation, it possible to have it completed by the end of March 2024, resources permitting. Given the current workload, this would need to be entirely outsourced, and it is estimated that the Town would require a budget of around **\$30,000**, plus staff time to project manage the activity and report to the Council. P

### **Cambridge Street Urban Corridor from (Selby to Thomas Street).**

Developing an urban corridor plan and planning framework for the Cambridge Corridor Street between Selby St and Thomas St would cost around **\$30,000 to \$50,000** for consultants in public consultation and technical studies, depending on the technical studies' complexity. Staff resources would also be required to project manage and direct the project and assist with the consultation.

### **Empire Village**

The Town's new Local Planning Scheme (LPS No.2) zones the Empire Village as a "Neighbourhood Centre" with an R100 Density Code with a plot ratio of 1.3 and a maximum height of 4 stories. This zoning would allow for low-rise development that meets the Local Planning Strategy Residential Targets. It has been envisaged that the Town would undertake community consultation through the statutory advertising process for the new LPS No.2.

If the Council requires, the Town can develop a planning framework separately from the statutory process of LPS No.2. This framework can be added as an amendment to LPS No.1 or as supplementary information to the development of LPS No.2.

The development of such a framework and the public consultation is estimated to cost **\$15,000 to \$20,000** in consultancy fees. It will also require staff time for project management, direction and assistance with public consultation.

### **West Leederville**

The West Leadville Special Uses Zone No 3 is the area to the north of Cambridge Street, bounded by the Motorway. There are complex transport issues in this area that need to be resolved. The structure plan identifies this area of future planning. There are complex transport issues that need to be resolved.

However, some individual sites can be developed with approval from JDAP or the Western Australian Planning Commission, even without an agreed planning framework. Therefore, it is recommended that work is undertaken to develop a planning framework for this area to inform decision-makers should a development application emerge.

Due to the complex issues for development in this area, planning work is estimated to cost more than **\$100,000** plus staff time to project manage and direct the work. Staff time will also be needed for the consultation element of the project.

### **Conclusion**

The Notice of Motion proposes that several complex strategic planning projects be undertaken. At the core of these projects is meaningful and requires extensive community consultation. The Administration and its Strategic Planning business unit do not have enough resources to undertake this work. Some other projects currently underway or planned need to be undertaken as a priority. The development of the Town's new Local Planning Scheme No.2, the West Leederville Precinct Structure Plan and Floreat Activity Centre are significant projects that the Town is required to complete. The LPS No.2 will also require a technical review of the 42 Local Planning Policies that currently exist to align them with the new Scheme format. In addition, pending changes to the *Planning and Development Act 2005* will require further policy development to guide decision-making on development applications.

Strategic Planning is also responsible for other policy initiatives such as the review of the Cat Local Law, Review of Local Law 43, Tree Protection, the Open Space Strategy, and Integrated Transport Strategy that the Council has directed the Administration to undertake, or which are necessary for the proper and orderly planning of the Town. Further strategic planning work is required to improve the quality of decision-making and assist the Statutory Planning business unit to undertake efficient and effective assessment of development applications.

Consequently, to undertake the proposed work, an additional highly experienced planner and urban development professional will need to be employed by the Town, probably at least on a 2-year contract. Similarly, a Senior Strategic Planner will also be required. The estimated budget for the two positions is approximately **\$420,00** combined for two years. With the estimated additional project budget of between **\$275,000 and \$340,000** and the added staff resource budget, it is estimated that Strategic Planning will require a supplemental budget allocation of **\$695,000 to \$760,000** over a three to four-year period.

### **FINANCIAL IMPLICATIONS:**

Financial implications are noted in the above Administration comments.

### **ATTACHMENTS:**

Nil

### **Impartiality Interest Declaration - Cr Randklev**

Prior to consideration of the item, Cr Randklev disclosed an interest affecting impartiality and declared as follows: "with regard to Item 13.2, I declare that I have received an email from the owner of the Floreat Forum and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

Moved by Cr Cutler, seconded by Cr Randklev

To facilitate orderly and considered implementation of the Town of Cambridge's Local Planning Strategy, 2021 (LPS, 2021) the Council directs the CEO to:

1. **PREPARE** a Precinct Structure Plan for Floreat Activity Centre based on the outcomes from the previously approved Vision and Design Community Workshops (Community Consultation Plan) and the community's preferred built form.
2. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Brookdale to Selby Street) Planning Framework, a draft "Planning Framework" and a timeframe/plan to finalise.
3. **PREPARE** a review of the Activity Centre Plan for Wembley, (*indicative timeframe identified in the LPS, 2021 – immediate*)
4. **UNDERTAKE** consultation with the Wembley community in May and early June 2024 on the proposed Activity Centre Plan;
5. **PROVIDE** a report to the August 2024 council meeting regarding the community feedback on the proposed review of the Wembley Activity Centre Plan, an updated draft Activity Centre Plan and a timeframe/plan to finalise;
6. **PREPARE** a "Planning Framework" for the Ocean Village Neighbourhood Centre, (*indicative timeframe identified in the LPS, 2021 – Short Term 1-3 years*);
7. **UNDERTAKE** consultation with the community in March 2024 to Inform Council's response on the anticipated Ocean Village development proposal;
8. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Ocean Village Planning Framework;
9. **PREPARE** a "Planning Framework" for the Cambridge Street Urban Corridor from Selby Street to Thomas Street (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
10. **UNDERTAKE** consultation with the community in September and October 2024 on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street) "Planning Framework";
11. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street Planning Framework, an updated draft Planning Framework and a timeframe/plan to finalise;
12. **PREPARE** a "Planning Framework" for the Gayton Road (Empire Village) Neighbourhood Centre (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
13. **UNDERTAKE** consultation with the community in October and November 2024 on the proposed Gayton Road, (Empire Village) Planning Framework;
14. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Gayton Road (Empire Village) Planning Framework;
15. **PROVIDE** a report and Planning Framework on West Leederville Special Uses Zone No 3. to the April 2025 Council Meeting;
16. **PROVIDE** the requirements for additional skilled, qualified and experienced resources to undertake this work, including short-term staff and consultants and include in the 2023/24 midyear budget re-forecast for consideration; and
17. **REQUESTS** the CEO prepare a detailed implementation plan which is to be presented to an Elected Member Forum in February 2024, with quarterly progress updates to be provided to Council via the Elected Member Information Bulletin.

In accordance with Clause 9.11 of the Town of Cambridge Meeting Procedures Local Law 2019, the mover of the motion, with the consent of the seconder, agreed to amend clause 17 of the motion to read as follows:

17. **REQUESTS** the CEO prepare a detailed implementation plan which is to be presented to an Elected Member Forum in March 2024, with quarterly progress updates to be provided to Council via the Elected Member Information Bulletin.

**COUNCIL DECISION:**

To facilitate orderly and considered implementation of the Town of Cambridge's Local Planning Strategy, 2021 (LPS, 2021) the Council directs the CEO to:

1. **PREPARE** a Precinct Structure Plan for Floreat Activity Centre based on the outcomes from the previously approved Vision and Design Community Workshops (Community Consultation Plan) and the community's preferred built form.
2. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Brookdale to Selby Street) Planning Framework, a draft "Planning Framework" and a timeframe/plan to finalise.
3. **PREPARE** a review of the Activity Centre Plan for Wembley, (*indicative timeframe identified in the LPS, 2021 – immediate*)
4. **UNDERTAKE** consultation with the Wembley community in May and early June 2024 on the proposed Activity Centre Plan;
5. **PROVIDE** a report to the August 2024 council meeting regarding the community feedback on the proposed review of the Wembley Activity Centre Plan, an updated draft Activity Centre Plan and a timeframe/plan to finalise;
6. **PREPARE** a "Planning Framework" for the Ocean Village Neighbourhood Centre, (*indicative timeframe identified in the LPS, 2021 – Short Term 1-3 years*);
7. **UNDERTAKE** consultation with the community in March 2024 to Inform Council's response on the anticipated Ocean Village development proposal;
8. **PROVIDE** a report to the May 2024 council meeting regarding the community feedback on the proposed Ocean Village Planning Framework;
9. **PREPARE** a "Planning Framework" for the Cambridge Street Urban Corridor from Selby Street to Thomas Street (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
10. **UNDERTAKE** consultation with the community in September and October 2024 on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street) "Planning Framework";
11. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Cambridge Street Urban Corridor (Selby to Thomas Street Planning Framework, an updated draft Planning Framework and a timeframe/plan to finalise;
12. **PREPARE** a "Planning Framework" for the Gayton Road (Empire Village) Neighbourhood Centre (*indicative timeframe identified in the LPS, 2021 – Medium Term 3-5 years*);
13. **UNDERTAKE** consultation with the community in October and November 2024 on the proposed Gayton Road, (Empire Village) Planning Framework;
14. **PROVIDE** a report to the February 2025 council meeting regarding the community feedback on the proposed Gayton Road (Empire Village) Planning Framework;
15. **PROVIDE** a report and Planning Framework on West Leederville Special Uses Zone No 3. to the April 2025 Council Meeting;
16. **PROVIDE** the requirements for additional skilled, qualified and experienced resources to undertake this work, including short-term staff and consultants and include in the 2023/24 midyear budget re-forecast for consideration; and
17. **REQUESTS** the CEO prepare a detailed implementation plan which is to be presented to an Elected Member Forum in March 2024, with quarterly progress updates to be provided to Council via the Elected Member Information Bulletin.

**Motion, as AMENDED, put and CARRIED (7/2)**

For: Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Mayes and Cr Randklev

Against: Mayor Mack and Cr Foley

### 13.3 Cr Cutler - Review of Local Law 43

#### **MOTION SUBMITTED BY CR CUTLER:**

**That Council REQUESTS the CEO undertake a review of Local Law 43: Building on Endowment Lands & Limekilns Estate in 2024 to bring Local Law 43 into line with sustainable and contemporary building practices in relation to roof and wall colours.**

#### **REASONS PROVIDED BY CR CUTLER:**

Over recent years a significant proportion of items on the Agenda for Development Committee and Council regarding roof and wall colours which has caused significant workload for the Administration and Elected Members and confusion about what is permitted, where and why. There have been a number of appeals to SAT of Council decisions further increasing the cost and work load to the Town.

Following discussion about a policy review in February 2023, an Elected Member Forum on light colour roofs was cancelled on 6 December 2023 to make way for a Lawyer to give advice on developer contact.

Unfortunately, roof and wall colour is not a simple change and requires a review of Local Law 43.

#### **ADMINISTRATION COMMENT:**

The Town commenced an extensive background review of the roof reflectivity requirements of Local Law 43 in 2023, with an initial Elected Member briefing held in June 2023. The second proposed Elected Member Forum was proposed for December but was deferred to early 2024.

This review focused on the roof reflectivity matter but also explored Local Law 43 in its entirety in the context of planning and building controls. If required, this review of Local Law 43 can be presented to the Council for consideration in early 2024.

#### **FINANCIAL IMPLICATIONS:**

Nil.

#### **ATTACHMENTS:**

Nil

**Moved by Cr Cutler, seconded by Cr Mayes**

**That Council REQUESTS the CEO undertake a review of Local Law 43: Building on Endowment Lands & Limekilns Estate in 2024 to bring Local Law 43 into line with sustainable and contemporary building practices in relation to roof and wall colours.**

In accordance with Clause 9.11 of the Town of Cambridge Meeting Procedures Local Law 2019, the mover of the motion, with the consent of the seconder amended the motion as follows:

*That Council REQUESTS the CEO undertake a review of Local Law 43: Building on Endowment Lands & Limekilns Estate in 2024 to bring Local Law 43 into line with sustainable and contemporary building practices in relation to roof and wall colours and it be considered at an Elected Member Forum in February 2024.*

**COUNCIL DECISION:**

**That Council REQUESTS the CEO undertake a review of Local Law 43: Building on Endowment Lands & Limekilns Estate in 2024 to bring Local Law 43 into line with sustainable and contemporary building practices in relation to roof and wall colours and it be considered at an Elected Member Forum in February 2024.**

**Motion, as AMENDED, put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### **13.4 Cr Cutler - 2023/24 Mid-Year Budget Review**

#### **MOTION SUBMITTED BY CR CUTLER:**

**That Council:**

- 1. REQUESTS the CEO to prioritise delivery of the following items by 30 June 2024 and recommend appropriate funding and internal resource allocations in the 2023/2024 Mid-Year Budget Review for their timely completion:**
  - a) Obtain assurance that governance review (DLGSC) recommendations are fully implemented.**
  - b) Review all Council and Administration policies as a priority;**
  - c) Review processes in key areas, including the exercise of delegations;**
  - d) Finalise current outstanding actions from internal audits, OAG ICT audits, financial audits, and Regulation 17 Audit Review & Financial Management Review;**
  - e) Finalise Integrated Planning Framework supporting documents;**
  - f) Ongoing implementation of Business Improvement Plans across the organisation; and**
  - g) Undertake actions to ensure that the Town meets the requirements of the WHS Act and good practice to provide a safe (including a psychologically safe) and healthy workplace.**
- 2. REQUESTS the CEO to continue prioritising delivery of items from limb 1 above that remain outstanding or incomplete on 30 June 2024 and include appropriate funding allocations in the 2024/2025 Budget to complete any outstanding items by 31 December 2024.**
- 3. REQUESTS the CEO defer work on any discretionary (non-statutory) informing strategies/plans that are not currently under contract or scheduled for commencement in the 2023/24 financial year to ensure the Town is meeting its legislative compliance obligations as a priority.**

#### **REASONS PROVIDED BY CR CUTLER:**

The CEO has advised Elected Members that there are many matters where the Town needs to improve to ensure it meets the community's and sector expectations. This will only be achieved by reviewing all strategic documents and policies to ensure they are relevant and fit for purpose. Furthermore, there has been significant turnover in the administration, leading to loss of corporate knowledge, creating greater pressure on the remaining staff and new starters. To make progress towards better practices, this motion is to ensure that resources are focused on legislative compliance and not on discretionary activities.

#### **ADMINISTRATION COMMENT:**

The majority of the items above have been identified by the CEO as priority areas for council's consideration when setting his future KPIs, which is the subject of a separate report on the December OCM Agenda. Support for this motion would assist in ensuring that appropriate consideration is given by Council when undertaking the Mid-year budget review and future budgets to support completion of these items in a timely manner.

#### **ATTACHMENTS:**

Nil.

**Moved by Cr Cutler, seconded by Cr Carr**

**That Council:**

- 1. REQUESTS the CEO to prioritise delivery of the following items by 30 June 2024 and recommend appropriate funding and internal resource allocations in the 2023/2024 Mid-Year Budget Review for their timely completion:**

- a) **Obtain assurance that governance review (DLGSC) recommendations are fully implemented.**
  - b) **Review all Council and Administration policies as a priority;**
  - c) **Review processes in key areas, including the exercise of delegations;**
  - d) **Finalise current outstanding actions from internal audits, OAG ICT audits, financial audits, and Regulation 17 Audit Review & Financial Management Review;**
  - e) **Finalise Integrated Planning Framework supporting documents;**
  - f) **Ongoing implementation of Business Improvement Plans across the organisation; and**
  - g) **Undertake actions to ensure that the Town meets the requirements of the WHS Act and good practice to provide a safe (including a psychologically safe) and healthy workplace;**
2. **REQUESTS the CEO to continue prioritising delivery of items from limb 1 above that remain outstanding or incomplete on 30 June 2024 and include appropriate funding allocations in the 2024/2025 Budget to complete any outstanding items by 31 December 2024; and**
  3. **REQUESTS the CEO defer work on any discretionary (non-statutory) informing strategies/plans that are not currently under contract or scheduled for commencement in the 2023/24 financial year to ensure the Town is meeting its legislative compliance obligations as a priority.**

The Mayor advised that, in accordance with Clause 9.8 of the Town of Cambridge Meeting Procedures Local Law 2019, the motion be divided into separate motions.

**That Council:**

1. **REQUESTS the CEO to prioritise delivery of the following items by 30 June 2024 and recommend appropriate funding and internal resource allocations in the 2023/2024 Mid-Year Budget Review for their timely completion:**
  - a. **Obtain assurance that governance review (DLGSC) recommendations are fully implemented.**
  - b. **Review all Council and Administration policies as a priority;**
  - c. **Review processes in key areas, including the exercise of delegations;**
  - d. **Finalise current outstanding actions from internal audits, OAG ICT audits, financial audits, and Regulation 17 Audit Review & Financial Management Review;**
  - e. **Finalise Integrated Planning Framework supporting documents;**
  - f. **Ongoing implementation of Business Improvement Plans across the organisation; and**
  - g. **Undertake actions to ensure that the Town meets the requirements of the WHS Act and good practice to provide a safe (including a psychologically safe) and healthy workplace;**

Due to a technical issue, Cr Le Page's connection to the meeting was lost at 10.09 pm.

**Motion put and CARRIED (8/0)**

For: Mayor Mack, Cr Barlow, Cr Carr, Cr Cutler, Cr Foley, Cr Kennerly, Cr Mayes and Cr Randklev  
Against: Nil

2. **REQUESTS the CEO to continue prioritising delivery of items from limb 1 above that remain outstanding or incomplete on 30 June 2024 and include appropriate funding allocations in the 2024/2025 Budget to complete any outstanding items by 31 December 2024;**

**Motion put and CARRIED (7/1)**

For: Cr Barlow, Cr Cutler, Cr Carr, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Mayor Mack

- 3. REQUESTS the CEO defer work on any discretionary (non-statutory) informing strategies/plans that are not currently under contract or scheduled for commencement in the 2023/24 financial year to ensure the Town is meeting its legislative compliance obligations as a priority.**

**Motion put and CARRIED (6/2)**

For: Cr Barlow, Cr Cutler, Cr Carr, Cr Kennerly, Cr Mayes and Cr Randklev

Against: Mayor Mack and Cr Foley

**COUNCIL DECISION:**

**That Council:**

- 1. REQUESTS the CEO to prioritise delivery of the following items by 30 June 2024 and recommend appropriate funding and internal resource allocations in the 2023/2024 Mid-Year Budget Review for their timely completion:**
  - a. Obtain assurance that governance review (DLGSC) recommendations are fully implemented.**
  - b. Review all Council and Administration policies as a priority;**
  - c. Review processes in key areas, including the exercise of delegations;**
  - d. Finalise current outstanding actions from internal audits, OAG ICT audits, financial audits, and Regulation 17 Audit Review & Financial Management Review;**
  - e. Finalise Integrated Planning Framework supporting documents;**
  - f. Ongoing implementation of Business Improvement Plans across the organisation; and**
  - g. Undertake actions to ensure that the Town meets the requirements of the WHS Act and good practice to provide a safe (including a psychologically safe) and healthy workplace;**
- 2. REQUESTS the CEO to continue prioritising delivery of items from limb 1 above that remain outstanding or incomplete on 30 June 2024 and include appropriate funding allocations in the 2024/2025 Budget to complete any outstanding items by 31 December 2024; and**
- 3. REQUESTS the CEO defer work on any discretionary (non-statutory) informing strategies/plans that are not currently under contract or scheduled for commencement in the 2023/24 financial year to ensure the Town is meeting its legislative compliance obligations as a priority.**

## **14 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

## **15 URGENT BUSINESS**

Nil

## **16 CONFIDENTIAL REPORTS**

Cr Le Page reconnected to the meeting at 10.14 pm.

Cr Carr left the meeting at 10.14 pm

### **Meeting Behind Closed Doors**

**Moved by Mayor Mack, seconded by Cr Kennerly**

**That the following matters be regarded as confidential in accordance with Section 5.23(2) of the *Local Government Act 1995*.**

**Motion put and CARRIED (6/2)**

For: Mayor Mack, Cr Barlow, Cr Le Page, Cr Kennerly, Cr Foley and Cr Mayes

Against: Cr Cutler and Cr Randklev

At 10.16 pm, the Mayor requested that all persons other than Elected Members and Council Officers to leave the Council Chamber.

### **16.1 Public Art Committee - 4 December 2023**

#### **16.1.1 Establishment of the Art Advisory Panel and Appointment of Members**

##### **REASON FOR CONFIDENTIALITY:**

This Report is **CONFIDENTIAL** in accordance with Section 5.23(2)(a) to (h), of the *Local Government Act 1995* (LG Act) which provides that the Council may close to members of the public a meeting, or part of a meeting, if the meeting (or part meeting) deals with any of the following:

*s.5.23(2)(b) the personal affairs of any person;*

*s.5.23(2)(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*

Elected Members are reminded that, should Council resolve to close to members of the public that part of its meeting at which this Report and related documents is to be considered, then they are to ensure that the information remains **CONFIDENTIAL** and should not disclose the content of this Report or any related document to any other person. To do so may be an improper use of the information under section 5.93 of the LG Act and a minor breach under section 5.105 of the LG Act.

##### **Impartiality Interest Declaration - Cr Kennerly**

Prior to consideration of the item, Cr Kennerly disclosed an interest affecting impartiality and declared as follows: "with regard to Item 16.1.1, I declare that I know two of the applicants and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **Impartiality Interest Declaration - Cr Randklev**

Prior to consideration of the item, Cr Randklev disclosed an interest affecting impartiality and declared as follows: "with regard to Item 16.1.1, I declare that one of the applicants is known to me and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

### **COUNCIL DECISION: (ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Barlow, seconded by Cr Foley**

**That Council APPROVES the Confidential Recommendation, as outlined in the Confidential Report.**

Cr Carr returned to the meeting at 10.16 pm.

### **Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

## **16.2 Chief Executive Officer Annual Performance Review Committee - 12 December 2023**

### **16.2.1 CEO Probation Review**

#### **REASON FOR CONFIDENTIALITY:**

This Report is **CONFIDENTIAL** in accordance with Section 5.23(2)(a) to (h), of the *Local Government Act 1995* (LG Act) which provides that the Council may close to members of the public a meeting, or part of a meeting, if the meeting (or part meeting) deals with any of the following:

*s.5.23(2)(a) a matter affecting an employee or employees;*

Elected Members are reminded that, should Council resolve to close to members of the public that part of its meeting at which this Report and related documents is to be considered, then they are to ensure that the information remains **CONFIDENTIAL** and should not disclose the content of this Report or any related document to any other person. To do so may be an improper use of the information under section 5.93 of the LG Act and a minor breach under section 5.105 of the LG Act.

#### **Financial Interest Declaration – CEO, Mr Gary Tuffin**

Prior to consideration of the item, the CEO, Mr Gary Tuffin, in accordance with Section 5.65 of the Local Government Act 1995, declared a financial interest in this matter and left the room at 10.25 pm.

#### **Impartiality Interest Declaration – Mayor Mack**

Prior to consideration of the item, Mayor Mack disclosed an interest affecting impartiality and declared as follows: "with regard to Item 16.2.1, I declare that the person is known to me and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

#### **Impartiality Interest Declaration - Cr Barlow**

Prior to consideration of the item, Cr Barlow disclosed an interest affecting impartiality and declared as follows: "with regard to Item 16.2.1, I declare that the person in this report is known to me and as a consequence there may be a perception that my impartiality may be affected. I declare that I will consider this matter on its merits and vote accordingly."

#### **PROCEDURAL MOTION:**

**Moved by Cr Cutler, seconded by Cr Kennerly**

**That item 16.2.1 be moved to the end of the Agenda.**

**Motion put and CARRIED (9/0)**

#### **COUNCIL DECISION:**

**(ADMINISTRATION RECOMMENDATION)**

**Moved by Mayor Mack, seconded by Cr Cutler**

**That Council RESOLVES that the CEO has met expectations during the probation period.**

**PROCEDURAL MOTION:**

**Moved by Cr Cutler, seconded by Cr Kennerly**

**That the motion be put.**

**Procedural motion put and CARRIED (9/0)**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

The CEO returned to the meeting at 10.35 pm

## **16.3 Office of the Chief Executive Officer**

### **16.3.1 Appointment of Director Planning and Community Services**

#### **REASON FOR CONFIDENTIALITY:**

This Report is **CONFIDENTIAL** in accordance with Section 5.23(2)(a) to (h), of the *Local Government Act 1995* (LG Act) which provides that the Council may close to members of the public a meeting, or part of a meeting, if the meeting (or part meeting) deals with any of the following:

*s.5.23(2)(a) a matter affecting an employee or employees;*

Elected Members are reminded that, should Council resolve to close to members of the public that part of its meeting at which this Report and related documents is to be considered, then they are to ensure that the information remains **CONFIDENTIAL** and should not disclose the content of this Report or any related document to any other person. To do so may be an improper use of the information under section 5.93 of the LG Act and a minor breach under section 5.105 of the LG Act.

#### **COUNCIL DECISION:**

**(ADMINISTRATION RECOMMENDATION)**

**Moved by Cr Cutler, seconded by Cr Barlow**

**That Council ACCEPTS, in accordance with Section 5.37(2) of the *Local Government Act 1995*, the Chief Executive Officer's recommendation to appoint Candidate B to the position of Director Planning and Community Services, as detailed in the Confidential Selection Report.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev

Against: Nil

### 16.3.2 Staffing Matter

#### REASON FOR CONFIDENTIALITY:

This Report is **CONFIDENTIAL** in accordance with Section 5.23(2)(a) to (h), of the *Local Government Act 1995* (LG Act) which provides that the Council may close to members of the public a meeting, or part of a meeting, if the meeting (or part meeting) deals with any of the following:

*s.5.23(2)(a) a matter affecting an employee or employees;*

Elected Members are reminded that, should Council resolve to close to members of the public that part of its meeting at which this Report and related documents is to be considered, then they are to ensure that the information remains **CONFIDENTIAL** and should not disclose the content of this Report or any related document to any other person. To do so may be an improper use of the information under section 5.93 of the LG Act and a minor breach under section 5.105 of the LG Act.

#### Financial Interest Declaration - Manager Governance

Prior to consideration of the item, the Manager Governance, in accordance with Section 5.65 of the Local Government Act 1995, disclosed a financial interest in the matter and left the meeting at 10.23 pm.

#### COUNCIL DECISION:

(ADMINISTRATION RECOMMENDATION)

Moved by Cr Barlow, seconded by Cr Cutler

That Council **APPOINTS** the following to act as Chief Executive Officer during the CEO's annual leave:

1. **Mr Kelton Hincks, Director Infrastructure and Works for the period 26 December 2023 to 2 January 2024 inclusive; and**
2. **Ms Cassandra Jaeger, Manager Governance for the period 3 January 2024 to 25 January 2024.**

**Motion put and CARRIED (9/0)**

For: Mayor Mack, Cr Barlow, Cr Cutler, Cr Carr, Cr Le Page, Cr Kennerly, Cr Foley, Cr Mayes and Cr Randklev  
Against: Nil

The Manager Governance returned to the meeting at 10.25 pm

All staff, except the Manager Governance, were requested to leave the meeting at 10.25 pm.

**Procedural Motion**

**Moved by Cr Barlow, seconded by Cr Kennerly**

**That the meeting be reopened to the public.**

**Motion put and CARRIED (9/0)**

At 10.35 pm the meeting was reopened to the public.

**17 CLOSURE**

There being no further business, the Presiding Member thanked those present and declared the meeting closed at 10.35 pm