



SHAPING THE FUTURE OF WESTERN AUSTRALIA



Western Australian Planning Commission
(Part 17 Significant development)

Agenda

Notice is hereby given the next meeting of the Western Australian Planning Commission (Part 17 Significant Development) will be:

Meeting No. 23

Thursday, 9 February, 2023, 2:00 pm

SDAU Virtual meeting over Zoom

Zoom link: <https://us06web.zoom.us/j/86267082399>

1. Declaration of opening

2. Apologies

Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation

Mayor Emma Cole - Metropolitan Local Government Representative

Anthony Kannis - Director General, Department of Planning, Lands and Heritage

Mike Rowe - Director General, Department of Communities

Peter Woronzow - Director General, Department of Transport

3. Disclosure of interests

4. Declaration of due consideration

5. Deputations and presentations - Item 7.1

5.1 Application to amend a Development Approval (Form 17C) - Hotel Shop and Office Development - 65 South Terrace, Fremantle 8 - 9

Presenters: Peter Adams and David Clow - Yolk Property Group and Declan Creighan - Urbis

6. Presentation of key issues by the Department of Planning, Lands and Heritage - Item 7.1

Presenter: Paola Di Perna - Planning Director, State Development Assessment Unit

7. Item for decision

7.1 Application to amend a Development Approval (Form 17C) - Hotel Shop and Office Development - 65 South Terrace, Fremantle 10 - 36

8. Deputations and presentations - Item 10.1

8.1 Proposed Shopping Centre Expansion (Westfield Booragoon) - 125 (Lot 500) Riseley St, 10 (Lot 52) Almondbury Rd and 173 (Lot 99) Davy St, Booragoon 37 - 56

Presenters: Kris Nolan - Urbis, Chris Lawlor - SLR Consulting and Andre Jones - BUCHAN

Jackson Tomich and James Dann - Urbis, Luke McKean - SLR Consulting, Alessandro Paladin and Peter Hillman - BUCHAN

9. Presentation of key issues by the Department of Planning, Lands and Heritage - Item 10.1

Presenter: Paola Di Perna - Planning Director, State Development Assessment Unit

10. Item for decision

- 10.1 Proposed Shopping Centre Expansion (Westfield Booragoon) - 125 (Lot 500) Riseley St, 10 (Lot 52) Almondbury Rd and 173 (Lot 99) Davy St, Booragoon**
[View this item \(separate PDF 338MB\)](#)

11. State Administrative Tribunal applications

- 11.1 Amendment to Approved Residential Aged Care Development - Lots 10 and 11 Betty St and Lots 18 and 19 Doonan Rd, Nedlands**

Application for review of Condition 1 of the Form 17C determination of 8 December 2022 lodged with SAT and awaiting a Directions Hearing.

12. General business

13. Meeting closure

Information for WAPC members (Part 17 Significant Development) *Quorum: 7 of 14 members*

Representation in accordance with the Planning and Development Act 2005

| | | | |
|---|---|---|--|
|  | Mr David CADDY WAPC Chairman <i>Section 10(1)(a)</i> |  | Mr Anthony KANNIS Director General, Department of Planning, Lands and Heritage <i>Section 10(1)(c)(i)</i> |
|  | Mayor Emma COLE Metropolitan Local Government Representative (nominated by WALGA) <i>Section 10(1)(b)(i)</i> |  | Ms Michelle ANDREWS Director General, Department of Water and Environmental Regulation <i>Section 10(1)(c)(ii) and 10(1)(c)(iv)</i> |
|  | Cr Caroline KNIGHT Non-Metropolitan Local Government Representative (nominated by WALGA) <i>Section 10(1)(b)(ii)</i> |  | Mr Peter WORONZOW Director General, Department of Transport <i>Section 10(1)(c)(iii)</i> |
|  | Ms Helen BROOKES Coastal Planning and Management Representative <i>Section 10(1)(b)(iii)</i> |  | Ms Rebecca BROWN Director General, Department of Jobs, Tourism, Science and Innovation <i>Section 10(1)(c)(v)</i> |
|  | Ms Jane BENNETT Professions Representative <i>Section 10(1)(b)(iv)</i> |  | Mr Mike ROWE Director General, Department of Communities <i>Section 10(1)(c)(vi)</i> |
|  | Ms Anne ARNOLD Professions Representative <i>Section 10(1)(b)(v)</i> |  | Mr Justin McKIRDY Portfolio Agency Representative <i>Section 10(1)(c)(vii)</i> |
|  | Mr Barry McGUIRE Professions Representative <i>Section 10(1)(b)(vi)</i> |  | Ms Lynne CRAIGIE Nominee of the Minister for Regional Development <i>Section 10(1)(c)(viii)</i> |
| | Cr Liam GOBBERT Metropolitan Local Government Representative (Deputy) (nominated by WALGA) <i>Schedule 1 clause 7(1)</i> | | Mr Leigh BALLARD Non-Metropolitan Local Government Representative (Deputy) (nominated by WALGA) <i>Schedule 1 clause 7(1)</i> |

Current Vacancies:

- Deputy Chairperson, *Schedule 1, Clause 6(3)*

Role of the Western Australian Planning Commission (WAPC) (Part 17 Significant Development)

In accordance with Part 17 of the *Planning and Development Act 2005* (as amended by the *Planning and Development Amendment Act 2020*), the Western Australian Planning Commission is granted temporary decision-making powers to determine development applications over \$20 million in metropolitan Perth, and over \$5 million in regional areas.

Membership (extract from PD Act)

The composition of the Board is in accordance with Section 10(1) of the *Planning and Development Act 2005*:

10. Membership of board

(1) The board is to consist of the following members —

- (a) a chairperson appointed by the Governor on the nomination of the Minister; and
- (b) 6 members appointed by the Governor, of whom —
 - (i) one is to be a person nominated by the Minister from a list of the names of 4 persons representing the interests of local governments within the metropolitan region submitted to the Minister by WALGA; and
 - (ii) one is to be a person nominated by the Minister from a list of the names of 4 persons representing the interests of the local governments outside the metropolitan region submitted to the Minister by WALGA; and
 - (iii) one is to be a person nominated by the Minister as having experience of the field of coastal planning and management; and
 - (iv) one is to be a person nominated by the Minister as having practical knowledge of and experience in one or more of the fields of urban and regional planning, property development, commerce and industry, business management, financial management, engineering, surveying, valuation, transport or urban design; and
 - (v) one is to be a person nominated by the Minister as having practical knowledge of and experience in one or more of the fields of environmental conservation, natural resource management or heritage interests; and
 - (vi) one is to be a person nominated by the Minister as having practical knowledge of and experience in one or more of the fields of planning and provision of community services, community affairs or indigenous interests;

and

- (c) the least number of other members who include —
 - (i) the chief executive officer of the department principally assisting in the administration of this Act; and
 - (ii) the chief executive officer of the Water and Rivers Commission established by the Water and Rivers Commission Act 1995 3; and
 - (iii) the chief executive officer of the department principally assisting in the administration of the Transport Co-ordination Act 1966; and
 - (iv) the chief executive officer of the department principally assisting in the administration of the Environmental Protection Act 1986; and
 - (v) the chief executive officer of the department principally assisting in the administration of the Government Agreements Act 1979; and
 - (vi) the chief executive officer of the department principally assisting in the administration of the Housing Act 1980; and
 - (vii) a person, whether a member under another subparagraph or another person nominated by the Minister, who has experience in the field of urban and regional planning and is

employed in an agency, as defined in the Public Sector Management Act 1994, for which the Minister is responsible; and
(viii) a person nominated by the Regional Minister”.

In accordance with Section 11(2) of the *Planning and Development Act 2005*, “The Governor may, on the nomination of the Minister, appoint an associate member for a region referred to in Schedule 4”.

On 13 December 2011, the Governor appointed an Associate Member for a region referred to in Schedule 4.

Quorum for meetings

In accordance with Clause 8(5) of Schedule 1 of the *Planning and Development Act 2005*, the quorum for board meetings is as follows: *At any meeting of the board a number of members equal to at least one half of the number of members provided for by Section 10 constitute a quorum.*

Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Section 4 of the Western Australian Planning Commission (WAPC), Governance Guide – Standing Orders, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” is one where a member has an interest in a matter where it is reasonable to expect that the matter if dealt with by the Board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the member.

An “**indirect pecuniary interest**” refers to an interest in a matter where a financial relationship exists between a member and another person who requires a WAPC decision in relation to the matter.

A “**proximity interest**” refers to an interest of a member, or close associate of the member, in a matter if the matter concerns –

- (a) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (b) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (c) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

An “**Impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an organisation or an association with any decision-making process relating to a matter for discussion before the Board or a Committee.

Members disclosing any pecuniary or proximity interests for an item cannot participate in discussion or the decision making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

Disclosure of representations

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members.

Request for Deputation / Presentation

Western Australian Planning Commission

Part 17 Significant Development Meeting

Meeting Date: Thursday, 9 February 2023

Presentation Request Guidelines

Persons interested in presenting at a WAPC Part 17 Significant Development Meeting must first consider whether their concern has been adequately addressed in the report recommendation or other submissions. Your request will be determined by the WAPC Chairman based on individual merit and likely contribution to assist the Commission's consideration and determination of the application.

Presentations are not to exceed **3 minutes**. It is important to note that the presentation content will be **published on the WAPC website** as part of the meeting agenda. **Your PowerPoint must be submitted with this request.**

Requests close at 2pm, three (3) working days, prior to the meeting date. Please complete and submit this form, your PowerPoint and any additional written documents to committees@dplh.wa.gov.au no later than this time. **Late requests will not be accepted.**

Handouts or PowerPoints will not be accepted on the day of the meeting.

| | |
|---|--|
| Name of Presenter: | Peter Adams |
| Organisation: | Yolk Property Group |
| Email*: | |
| Mobile Number*: | |
| Additional Attendees: | (You may have up to 3 attendees, including the Presenter) |
| | David Clow – Yolk Property Group |
| | Declan Creighan - Urbis |
| PowerPoint: | No |
| | Your PowerPoint presentation <u>must</u> be accompanied with a written document detailing the content of your presentation for the purpose of the agenda. |
| Special Requirements: | In the interest of accessibility and inclusion for people with disabilities, please identify if you have any special requirements: Choose an item. <i>If yes, please detail below:</i> |
| <i>In submitting this request, you acknowledge that your request form and presentation content will be published to the WAPC website as part of the agenda.</i> | Yes |
| Is the presentation in support or against the <u>report recommendation</u>? (contained within the agenda) | Support |

* Contact details will be redacted prior to this form being published online

| Is the presentation in support or against the <u>proposed development?</u> | Support |
|---|---------|
| <p><u>Brief Outline of Presentation:</u></p> <p>Speaking in favour of Item 7.1. The presentation will briefly address the request and the representatives from Yolk Property Group (proponents) will be available for questions from the panel after.</p> <p>The project town planners (Urbis) are also happy to answer any planning queries but do not require a formal presentation timeslot</p> | |

ITEM NO. 7.1

Lot 12 (65) SOUTH TERRACE, FREMANTLE – APPLICATION TO AMEND A DEVELOPMENT APPROVAL (FORM 17C) – EXTENSION TO SUBSTANTIAL COMMENCEMENT PERIOD

| | |
|-----------------------------------|---|
| Applicant: | Urbis |
| Owner: | 65 South Terrace Pty Ltd |
| Value of Development: | \$27.4 million |
| Local Government Area: | City of Fremantle |
| Referral Pathway: | Applicant opt-in |
| Authorising Officer: | Paola Di Perna, Director State Development Assessment Unit |
| WAPC File No: | SDAU-026-20 |
| Application Received Date: | 28 October 2022 |
| Attachments: | <ol style="list-style-type: none"> 1. Location Plan 2. Applicant's Cover Letter 3. Key Issues Summary from Public Submissions 4. Applicant's Response to Key Issues |

Officer Recommendation:

That the Western Australian Planning Commission resolves to **APPROVE** an application to amend development approval reference SDAU-026-20 for a Hotel, Shop and Office development at Lot 12 (65) South Terrace, Fremantle in accordance with s.279 of the *Planning and Development Act 2005*, with the following amended condition:

Amended Condition:

Condition 1 of the Approval of Form 17B Significant Development Application dated 4 August 2021 (SDAU-26-020) is amended to read:

1. This decision constitutes planning approval only. If the development is not substantially commenced by 4 August 2024, the approval shall lapse and be of no further effect.

Background

On 22 July 2021, the Western Australian Planning Commission (WAPC) granted approval for a Hotel, Shop and Office development at Lot 12 (65) South Terrace, Fremantle (subject site) under Part 17 of the *Planning and Development Act 2005* (PD Act) with the approval subsequently issued on 4 August 2021. A Location Plan of the subject site is included as **Attachment 1**.

Condition 1 of the development approval requires the development to be substantially commenced within 18 months. The substantial commencement period is calculated from the date the approval notice is given to the applicant. In this instance the notice was

issued via email on 4 August 2021 with the effect of requiring substantial commencement by 4 February 2023.

A development application seeking to amend Condition 1 to provide an extension of time for works to substantially commence by 18 months, which is the subject of this report, was lodged on 28 October 2022. No changes to the development plans are proposed. The applicant's documentation consists of the following:

- Covering letter that details the steps completed to date and an explanation for the request, which is included as **Attachment 2**; and
- Proposed revised works program, the detail of which has been provided to the WAPC under separate cover as a confidential document.

Following the Commission's determination in July 2021, the applicant prepared a bill of quantities that itemises materials, parts and labour to provide a clear list of works to assist builders in providing a cost estimate. An Expression of Interest (EOI) and supporting Cost Plan to outline the estimated construction cost was subsequently requested from multiple building companies. The applicant has advised that all Cost Plans received were more than 25% above the original estimates, which compromised the feasibility of the project.

Following ongoing discussions with a builder and more stability within the industry an updated construction cost estimate of \$27.4 million was provided, which led to the signing of an Early Contractor Involvement (ECI) agreement in November 2022. The ECI agreement is a standard process within construction that allows the builder to become involved in the project and commence preliminary work before the detailed design has been completed. This also allows for input to be provided into the design process, which can lead to improved efficiencies once construction commences. Following finalisation of the detailed design the head contract with the builder can be finalised. The updated estimates are based on the development being implemented as originally approved by the WAPC. The bill of quantities and executed ECI agreement have also been provided to the WAPC under separate cover as confidential documents.

In addition, the applicant has been liaising with the City of Fremantle (the City) since late 2021 to obtain their advice and preliminary support in relation to multiple conditions of approval that require the advice of the City as part of the clearance process. This includes street tree relocation, stormwater management and waste management.

Following lodgement of the amendment proposal the applicant has also been in discussions with the Department of Planning, Lands and Heritage (DPLH) regarding clearance of the conditions of approval. It was noted that a contract first needed to be signed with a builder to deliver the project, as they would be responsible for clearing several of the conditions. As there is now a signed ECI agreement in place, the applicant has advised that a clearance package for all conditions that require clearing prior to issuance of a Building Permit will be submitted in the first quarter of 2023. This would be subject to a favourable determination on the requested time extension.

Legislation:

The introduction of Part 17 into the PD Act has temporarily established the WAPC as the decision-making authority for significant development applications to support the State's economic recovery from the COVID-19 pandemic. Part 17 provides the Commission with decision making abilities that support a more strategic assessment approach to significant developments that deliver broad economic, social, and environmental benefits for the State.

In June 2022, the WA Parliament passed legislation to allow the Commission to consider applications to extend the substantial commencement period for proposals approved through the Part 17 pathway. Relevant to this proposal, legislation was introduced to assist in addressing material supply challenges and labour shortages in the residential and commercial construction markets and enable consideration to an extension of time to existing approvals that have been impacted by supply chain challenges.

In accordance with s.279 of the PD Act, an owner or applicant can apply to the Commission to:

- Extend the period specified in the approval;
- amend or remove any of the conditions imposed on the approval;
- amend any part or aspect of the approved development;
- amend the approval in any other way; or
- cancel the approval.

Further, s.279 of the PD Act specifies that only one application can be made and determined by the Commission relating to a request to extend the period specified in the approval.

As a result of the above changes to the planning framework the Chairman, on behalf of the Commission, endorsed the following consultation process for applications that are seeking to only extend the period of substantial commencement:

- *Public consultation* – at a minimum all those who made submissions on the original application, and owners and occupiers of properties abutting and directly adjacent to the site, will be invited to make comment on the amended application. Consultation will be for a period of 14 calendar days.
- *Local Government and stakeholder consultation* – all stakeholders who made a submission on the original application will be invited to make comment on the amended application. Consultation will be for a period of 20 calendar days.
- *Decision-maker* – all applications for amendments to the substantial commencement period will be determined by the Commission.

As this proposal relates only to an amendment to the substantial commencement timeframe by modifying Condition 1 it is not open to the Commission to reconsider any other aspects of the proposal. Rather, any decision is limited to the modifications proposed in the current application.

Consultation:

Minister for Planning

In accordance with s.276(2) of the PD Act the Minister for Planning was consulted on the development application. No submission was received.

State Government Agencies

The application was referred to the Department of Transport (DoT), Tourism WA and the Department of Local Government, Sport and Cultural Industries (DLGSC), as agencies who provided a submission on the original development proposal. DoT and Tourism WA advised that they had no objection to the proposal, whilst no response was received from DLGSC.

Local Government

In accordance with s.276(4) of the PD Act the application was referred to the City for comment. The City, via a recommendation from Council, advised as follows:

1. *That the City of Fremantle advises the Western Australian Planning Commission that it supports the proposed extension to term of substantial commencement for the approved six storey mixed use development at No. 65 (Lot 12) South Terrace, Fremantle; and*
2. *Notwithstanding the support for the extended term of substantial commencement, Council reiterates its initial position that this proposal was, and remains to be, contrary to the planning framework for the site and therefore did not support this proposal when considered by Council in May 2021.*

The City's support for the proposed extension of time to the substantial commencement period is noted. While the City's position in relation to the original application is also acknowledged, it is not open to the Commission to reconsider the original application through the amendment process.

Public Consultation

In accordance with s.276(6) of the PD Act, the application was advertised for public comment for a period of 14 days, commencing on 24 November 2022 and concluding on 8 December 2022. A total of 144 letters were sent to adjoining landowners/occupiers and to those who made a submission on the original proposal. During the consultation period the application documents were made available for viewing via the 'Consultation Hub' on DPLH's website.

At the closure of the advertising period a total of nine submissions were received, which included one submission in support of the proposal, one submission supporting the proposal with changes and seven submissions objecting to the proposal. The key issues raised by submitters were:

- Impacts associated with the original approval, including building height, bulk, negative impacts on surrounding property values, overshadowing, overlooking and traffic;

- Insufficient justification provided about the project delays to support a time extension;
- Concerns related to the current unkempt state of the site;
- A potential claim for adverse possession from the adjoining landowners for a 71m² strip of land on the western boundary of the subject site; and
- The proposal is inconsistent with the planning framework and original approval, which includes an 'advice note' stating that the WAPC cannot extend the substantial commencement timeframe.

A summary of the key issues raised is included as **Attachment 3** and the applicant's response is included as **Attachment 4**.

Whilst the issues raised in the public submissions must be given due consideration by the Commission the amendment application seeks only to extend the substantial commencement timeframe. No changes to the built form, approved land uses or other conditions of approval are proposed. As such, those concerns raised in relation to building height, bulk and traffic, as well as impacts on the neighbouring landowners have been previously considered by the Commission when the original application was determined in July 2021.

The current state of the land is a local government matter and is not related to the proposed application, however, the applicant has advised that the landowner will continue to monitor the site and will remove any illegally dumped materials. The concerns raised in relation to an adverse possession claim by the adjoining landowner is a civil matter between the respective landowners and is unrelated to the proposed amendment. Regarding concerns raised about the planning framework, the applicable legislative considerations were outlined earlier in this report with the WAPC allowed to extend the substantial commencement timeframe on one occasion.

Assessment:

The assessment of the proposed amendment relates only to the applicant's request to modify Condition 1 by extending the substantial commencement timeframe by 18 months, to a total of three years. The term 'substantially commenced' is set out in s.269 of the PD Act and has the same meaning as that outlined in Schedule 2 clause 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), which is as follows:

Substantial commenced: means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed.

Town planning case law, including decisions by the State Administrative Tribunal (SAT), provides guidance on the assessment of applications that are seeking to extend the substantial commencement period through a range of considerations, including:

1. whether modifications, regardless of the nature or extent, have occurred to the planning framework since the development approval was granted;

2. whether the development is capable of approval; and
3. whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

Whilst these principles are not exhaustive, they provide useful guidance on the assessment of an application to extend the term of substantial commencement. Consideration of the proposal against these principles is outlined in further detail below.

Whether modifications, regardless of the nature or extent, have occurred to the planning framework since the development approval was granted

Since the development approval was issued, there have been no Metropolitan Region Scheme or Local Planning Scheme amendments that relate to the development site. Development requirements, including local planning policies, also remain unchanged. This has been confirmed through the City's response. Further, there have been no changes to any state planning policies or other policies of the Commission that would have a bearing on the proposed development since its original approval in July 2021.

Whether the development is capable of approval

As there have been no changes to the planning framework and the application proposes only to extend the substantial commencement timeframe the proposal remains consistent with the original determination. Therefore, the development remains capable of approval.

Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval

Since obtaining development approval the proponent has undertaken the following steps with respect to implementing the development:

- Preparation of a bill of quantities to assist with obtaining cost estimates for the project;
- Request for an EOI with supporting Cost Plan from multiple builders to implement the approved development;
- Ongoing consultation with a builder to negotiate a feasible construction cost estimate for the project;
- Engagement with the City since late 2021 regarding clearance of planning conditions. This includes street tree relocation, stormwater management and waste management. Street tree relocation has required ongoing discussions to resolve interface issues related to the retention of a street tree and the proposed fire booster cabinet located on South Terrace, which is subject to access requirements from the Department of Fire and Emergency Services;
- Preparation of a revised Sustainability Report in accordance with the approval;
- Renegotiating the Hotel lease to reflect construction delays, ensuring commitment to a long-term agreement with a hotel operator;
- Execution of an ECI agreement with the builder in November 2022; and
- Preliminary engagement with DPLH officers on conditions clearance processes and timing.

As discussed earlier in this report, the supply chain and labour market shortages currently being experienced within the construction market have impacted the commercial feasibility of the project. However, as outlined above the applicant has demonstrated that an active effort has been made to address project feasibility and to facilitate the implementation of the development as originally approved. In addition, there has been ongoing engagement with the City and DPLH officers regarding the clearance of conditions of approval related to the Forward Works.

On balance, the work undertaken by the applicant demonstrates they have actively sought to implement the development approval in a challenging construction market. With the recent signing of an ECI agreement with the builder there is also confidence around the implementation timeframes and feasibility of the project, notwithstanding the potential for further unforeseen delays within the construction industry.

Substantial Commencement Period

The applicant is seeking to extend the substantial commencement timeframe by 18 months, to a total of three years. The applicant has set out the following key milestones that demonstrate the project has the ability to substantially commence within this timeframe, which is reflected in the works program that has been provided to the WAPC under separate cover:

- Clearance package for Building Permit related conditions submitted in the first quarter of 2023;
- Design drawings finalised April 2023;
- Final building contract awarded May 2023;
- Submission of Building Permit July 2023;
- On-site construction to commence November 2023; and
- Basement, ground floor and first floor construction to commence in the first quarter of 2024.

As outlined above, the applicant's works program anticipates reaching substantial commencement during the first quarter of 2024. The requested timeframe extension of 18 months until 4 August 2024 will provide some flexibility on achieving substantial commencement should further unforeseen construction delays occur, whilst ensuring the proposal is implemented in a timely manner. This is considered reasonable in the current market given Part 17 only allows for one amendment to the substantial commencement timeframe in accordance with s.279 of the PD Act. This also reflects recent Part 17 decisions of the Commission where substantial commencement timeframes of up to three years have been applied.

Conclusion

The amendment application for the approved Hotel, Shop and Office development at Lot 12 (65) South Terrace, Fremantle has been assessed against the applicable planning framework and the relevant matters set out under Part 17 of the PD Act.

Whilst the proposal is required to deliver several key milestones before substantial commencement is achieved the applicant has satisfactorily demonstrated a proactive effort to implement the development and a commitment to delivering the proposal as originally approved by the WAPC. Constraints within the construction industry have led to supply chain shortages and unforeseen price increases that impacted the feasibility of the project and subsequently led to the applicant's request to modify Condition 1.

While noting the City has reiterated that it did not support the original development application, it has supported the proposed amendment to the substantial commencement period.

The applicant's updated works program indicates that the development will be substantially commenced during the first quarter of 2024, and within the requested 18-month extension. However, given the ongoing supply chain issues within the construction industry and ability to extend the substantial commencement timeframe only once in accordance with s.279 of the PD Act, an 18-month timeframe extension is considered reasonable.

Therefore, for the reasons outlined in this report it is recommended that the modification to Condition 1 be approved, and the substantial commencement timeframe be extended until 4 August 2024.

Attachment 1

Legend

☐ Cadastre (View 1)



Location Plan - Lot 12 (65) South Terrace, Fremantle

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



0 0.10 0.19 Kilometres

1:4,514 at A4

Projection: WGS_1984_Web_Mercator_Auxiliary_Sphere
Graticules (if visible): GDA 1994 Latitude/Longitude

Notes:

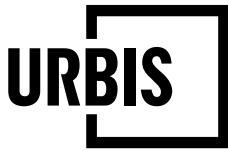
* The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

* This map is not intended for measurement purposes.

Map was produced using DPLH's InQuery.

Date produced: 11-Jan-2023

WAPC Agenda Page 18



LEVEL 14
1 WILLIAM STREET
PERTH WA 6000

URBIS.COM.AU
 Urbis Pty Ltd
 ABN 50 105 256 228

17 October 2022

Chairperson
 Western Australian Planning Commission
 140 William Street
 Perth 6000

| DEPARTMENT OF PLANNING, LANDS AND HERITAGE | |
|---|-----------------|
| DATE | FILE |
| 31-Oct-2022 | SDAU-026-20-C.1 |

Cc - Paola Di Perna – State Development Assessment Unit -
Paola.DiPerna@dplh.wa.gov.au

Dear Chairperson,

FORM 17C - REQUEST TO EXTEND SPECIFIED PERIOD FOR SUBSTANTIAL COMMENCEMENT

Urbis on behalf of our client Yolk Property Group (proponent) are pleased to submit this Form17C request to extend the specified period for substantial commencement.

Specifically, this request relates to SDAU-026-20 which the Western Australian Planning Commission (WAPC) granted approval for on 22 July 2021. The approval relates to the Hotel, Office and Shop significant development located at 65 South Terrace, Fremantle (**subject site**).

To assist the WAPC in their consideration of this Form17C request, please find enclosed the following:

- Form 17C application form signed by the landowner.
- SDAU-026-20 development approval – **Appendix A**.

BACKGROUND

The abovementioned approval at the subject site was for a 100-bed hotel, 2x office tenancies and 2x ground floor tenancies. The approval was initially granted a substantial commencement period of 18 months, requiring substantial commencement to be achieved by 22 January 2023. Following approval, the construction industry has experienced continued impediments through heightened costs and added difficulties in sourcing adequate materials and labour.

The implications of these impediments to the construction industry have directly impacted the feasibility of commencing work on SDAU-026-20. Subsequently, undertaking works and meeting the substantial commencement timeframes have not been possible within the specified timeframe.

For the reasons outlined above, the proponent wishes to submit a Form17C request to extend the specified period for substantial commencement. No land use, built form or design modifications are proposed as part of this 17C application.

Additional justification and the requested timeframe for extension are provided for below.

SITE DETAILS

The below table identifies the legal lot details for the subject site.

Table 1 – Lot Details

| Address | Lot/Plan | Vol/Folio | Proprietor | Area |
|--------------------------------|-------------------------|-----------|--------------------------|------------|
| 65 South Terrace, Fremantle | Lot 12 on Diagram 29122 | 1744/378 | 65 South Terrace Pty Ltd | 1,169 sq.m |

REQUEST TO EXTEND PERIOD OF SUBSTANTIAL COMMENCEMENT

The proponents wish to request an extension of **18 months** in which SDAU-026-20 is to be substantially commenced. This would require substantial commencement to be achieved by 22 July 2024.

JUSTIFICATION FOR EXTENSION REQUEST

A volatile construction market has disrupted the construction program of the approved development. Rising construction costs and added pressures within the construction industry have meant achieving substantial commencement by 22 January 2023 has not been possible. Price escalation and labour shortages have significantly impacted the feasibility of the approved development. Given the volatility of the construction market, significantly increasing costs and the challenges associated with the relevant head builders and contractors, the proponent requires a time extension to implement SDAU-026-20.

The original estimated construction cost of the approved development was \$24 million. Following approval, updated construction estimates have come back to the proponent with increases in excess of 25%. Price escalation has impacted every aspect of the construction process. This includes the availability and cost of materials, the availability of skilled labour to undertake the works and a large 'bottle neck' of other projects all competing for the same limited materials and skilled labour.

Despite the proponent's best efforts, achieving development feasibility (based on price escalation, availability and cost of labour) and therefore substantial commencement has been significantly delayed.

Given the more recent easing of construction industry pressures, the proponent is now in a position to proceed with construction. However, given the time impediments brought about by the construction industry volatility, an additional 18-months to achieve substantial commencement is now required.

PLANNING FRAMEWORK CONSIDERATIONS

There have been no substantial changes to the planning framework applicable to the subject site since the time of approval. The development therefore remains capable of approval under the current planning framework.

Refer to the below table in which the planning framework in relation to the proposed development is further discussed.

Table 2 – Planning Framework Considerations

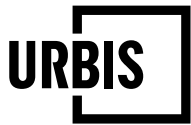
| Item/ Policy | Note |
|------------------------------------|---|
| Metropolitan Regions Scheme (MRS) | The underlying MRS zoning for the site has not changed and remains 'Central City Area'. |
| Local Planning Scheme No. 4 (LPS4) | Zoning and Land Use Permissibility The underlying local zoning for the site has not changed and remains 'mixed use' under LPS4. Similarly, the land use permissibility for the site has not changed since approval. The approved uses remain capable of obtaining approval under the scheme. |
| | Local Planning Are 4 – South Fremantle (LPA 4). The provisions for LPA4 have not changed since approval. |
| | D.G.F29 Suffolk to South Street Local Area Guidelines. (D.G.F29) The provisions for LPA4 have not changed since approval. |
| | Local Planning Policies There have been no substantial changes to the local planning policy framework since approval that would have material impact on the approved development. |
| | |
| Freo 2029 – Transformational Moves | There have been no changes to Freo 2029 – Transformational Moves since approval. |

DEMONSTRATION OF IMPLEMENTATION OF THE DEVELOPMENT APPROVAL.

The proponent has demonstrated they are actively pursuing the implementation of the development approval. Whilst clearing of the majority of the conditions requires the appointment of the head contractor (anticipated to be confirmed shortly), the proponent has commenced condition clearing. The following key implementation steps have occurred:

- Early Contractor Involvement (ECI) documentation has been prepared and issued to the proponent. This confirms the anticipated process and key milestone dates that the head contractor will be able to meet. This documents confirms that an extension of approximately 18-months to the period in which substantial commencement has occurred is required to achieve this milestone.
- Engagement with head contractor and near completion of sign off to formally engage.
- Engagement of technical consultant team (architect, waste management, landscape, planning, sustainability) to assist in clearing of condition matrix as part of ECI execution.
- Progression of design documentation to inform ECI process and achieve additional design considerations required as part of the approval (minor design modifications required as part of condition 7 of approval).
- Confirmation of Bill of Quantities documentation to inform and guide construction process.
- Submission of landscape documentation and meetings with City of Fremantle in April of 2022. Importantly this documentation and these discussions is looking to finalise the tree location and incorporation of emergency fire services within the development.
- Progression and near finalisation of sustainability report. This will be finalised and submitted to the City of Fremantle following final design considerations and completion of ECI.
- The waste management plan has been finalised and submitted to the City of Fremantle. This has subsequently been approved by the City and will be submitted to the WAPC during the ECI process.
- Hotel tenant lease agreement has been amended and extended to reflect delay in construction. The hotelier remains committed and locked into tenanting the building.

Whilst the majority of conditions are cleared in collaboration with the head contractor, the proponent has demonstrated that they are capable of and committed to implementing the development approval.



CONCLUSION

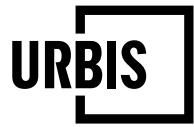
This application is seeking an extension of 18 months in which SDAU-026-20 is to be substantially commenced. For the reasons outlined above, this request is considered appropriate. The proponent has demonstrated that they have actively pursued the implementation of the development approval and that they remain committed to doing so.

We respectfully request that the WAPC move to approve this request to extend the timeframe in which substantial commencement is required.

Kind regards,

A handwritten signature in black ink, appearing to read "Megan Gammon". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Megan Gammon
Associate Director
+61 8 9346 0517
mgammon@urbis.com.au



APPENDIX A

SDAU-026-20 DEVELOPMENT APPROVAL

WAPC Ref: SDAU-026-20
Enquiries: Ciara Clarke (Ph. 6551 9375)

Ms Megan Gammon
Yolk Property c/o Urbis
Level 14, 1 William Street
Perth WA 6000

Dear Ms Gammon

APPROVAL OF FORM 17B SIGNIFICANT DEVELOPMENT APPLICATION

| | |
|----------------------|--------------------------------------|
| WAPC Ref: | SDAU-026-20 |
| Property Location: | Lot 12 (65) South Terrace, Fremantle |
| Application Details: | Hotel, Office and Shop Development |

Thank you for your Form 17B Application for Development Approval and plans submitted to the Department of Planning, Lands and Heritage on 3 March 2021 for the above-mentioned development.

This application was considered by the Western Australian Planning Commission at its meeting held on **22 July 2021**, where in accordance with Section 274(2) of the *Planning and Development Act 2005*, it was resolved to **approve** the application as per the attached notice of determination.

Should the applicant not be satisfied by this decision, an application may be made to amend or cancel this development approval in accordance with Section 279 of the *Planning and Development Act 2005*. Please also be advised that there is a right of review by the State Administrative Tribunal in accordance with Section 283 of the *Planning and Development Act 2005*. Such an application must be made within 28 days of the determination, in accordance with the *State Administrative Tribunal Act 2004*.

The Western Australian Planning Commission is responsible for the clearance of any conditions of approval. The Commission's clearance will be required prior to an application being made to a permit authority for a building permit. Should you have any queries with respect to the conditions of approval, or the process for the clearance of conditions, please contact Ciara Clarke, on 6551 9375 or via email at Ciara.Clarke@dplh.wa.gov.au

Yours sincerely



Ms Sam Fagan
Secretary
Western Australian Planning Commission
4 August 2021

Encl. WAPC Determination Notice
Approved Plans

Planning and Development Act 2005

Section 274(2)

APPROVAL of Form 17B Significant Development Application

WAPC Ref: SDAU-026-20
Property Location: Lot 12 (65) South Terrace, Fremantle
Application Details: Hotel, Office and Shop Development

In accordance with Section 274(2) of the *Planning and Development Act 2005*, the above application for development approval was **APPROVED** by the Western Australian Planning Commission at its meeting held on **22 July 2021**, subject to the following conditions:

Conditions

Approval Timeframe

1. This decision constitutes planning approval only and is valid for a period of 18 months from the date of approval. If the development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

Conformity with Plans

2. The development is to be undertaken in accordance with the approved plans and documents (date stamped 3 March 2021 and 5 July 2021) attached to this approval, final details of which are to be submitted at working drawings stage, to the satisfaction of the Western Australian Planning Commission.

Clearance of Conditions of Approval

3. A copy of the final working drawings (prepared for submission of a building permit application) and all associated plans, reports and information that address the conditions of approval are to be submitted to, and cleared by, the Western Australian Planning Commission.

Construction

4. Prior to commencement of site works, a Dilapidation Report is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the City of Fremantle, detailing the current condition of adjacent buildings, structures, public realm infrastructure and paving, including properties at 63 South Terrace, 25, 28, 30 and 32 Suffolk Street and 34 Arundel Street.
5. Prior to commencement of site works, a Street Tree Relocation and Protection Plan is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the City of Fremantle, detailing measures for the

6. proposed relocation of one street tree and protection of all other street trees during construction.
7. Prior to commencement of site works, a Construction Management Plan is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the City of Fremantle, addressing but not limited to the following:
 - salvage of the limestone walls for on-site reuse and/or off-site recycling
 - management of construction vibration, dust and erosion
 - management of construction noise and other site generated noise
 - management of any site dewatering or stormwater discharge
 - temporary fencing, hoardings, gantries and signage
 - site access and egress, contractor parking, and traffic management
 - deliveries and storage of construction materials and machinery
 - protection of public realm infrastructure
 - public communication and complaint handling procedures

Design and Materials

7. The plans are to be revised to incorporate the following design improvements:
 - a maximum height of 0.75m for the boundary wall and planter within 1.5m of the Suffolk Street vehicle exit;
 - a 1.5m by 1.5m truncation of the façade wall adjacent to the South Terrace vehicle exit; and
 - a privacy screen to be provided to the southern boundary of the Level 1 roof garden.

with the revised plans being submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to submission of the relevant building permit application.

8. The development is to be constructed with high quality and durable external materials and finishes, consistent with the approved Development Plans, with final details provided prior to submission of the relevant building permit application, to the satisfaction of the Western Australian Planning Commission.
9. All ground floor windows are to be provided with transparent glazing, with final details provided prior to submission of the relevant building permit application, to the satisfaction of the Western Australian Planning Commission.
10. Any external signage is to be integrated with the design of the building facades, with final details of the location and design of the signs provided prior to installation, to the satisfaction of the Western Australian Planning Commission, on advice from the City of Fremantle.
11. All external facing service infrastructure, service area doors, electrical transformers, air-conditioning condensers and building plant are to be integrated into the design of the building or screened to minimise any visual or noise impacts on neighbouring properties and the public realm, with final details

provided prior to submission of the relevant building permit application, to the satisfaction of the Western Australian Planning Commission.

Landscape

12. Final Landscape Plans, including hard and soft landscape specifications and reticulation details, are to be submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to submission of the relevant building permit application.
13. All landscape areas are to be completed in accordance with the final approved Landscape Plans prior to occupation and thereafter maintained by the owners or operators of the development, to the satisfaction of the Western Australia Planning Commission.
14. Final Lighting Plans detailing external illumination of the development to enhance amenity and safety are to be submitted to and approved by the Western Australian Planning Commission, prior to submission of the relevant building permit application, and thereafter implemented by the owners or operators of the development.

Sustainability and Water

15. A revised Sustainability Report detailing the initiatives included in the final plans to achieve a minimum of Five Star Green Star certification, or demonstrated equivalent, is to be submitted to and approved by the Western Australian Planning Commission, prior to submission of the relevant building permit application.
16. Prior to occupation of the development, a sustainability certification report from a suitably qualified professional is to be provided detailing the sustainability initiatives implemented in the development in accordance with condition 15, to the satisfaction of the Western Australia Planning Commission.
17. A Stormwater Management Plan demonstrating how all stormwater will be managed on-site is to be submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to submission of the relevant building permit application and thereafter implemented by the owners and operators of the development.

Acoustics, Parking and Operations

18. A final Acoustic Report and plans endorsed by a qualified acoustic consultant, detailing effective management of noise ingress and egress, are to be submitted to and approved by the Western Australian Planning Commission, prior to submission of the relevant building permit application.
19. Venue Management Plan/s for the hotel, café/bar and office roof terrace, detailing hours of operation, security, delivery of goods, music, entertainment

and noise management, are to be submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to occupation of the development, and thereafter implemented by the operators of the development.

20. A final Waste Management Plan is to be submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to submission of the relevant building permit application, and thereafter implemented by the operators of the development.
21. A Travel and Parking Management Plan, detailing allocation and management of staff, tenant and guest car and bicycle parking facilities, as well as communication of the carpark booking system and alternative transport options for hotel guests, is to be submitted to and approved by the Western Australian Planning Commission, on advice from the City of Fremantle, prior to submission of the relevant building permit application, and thereafter implemented by the operators of the development.
22. All car parking spaces, access aisles and bicycle parking spaces are to be constructed in accordance with Australian Standards AS2890.1 and 3 and thereafter maintained by the owners and operators of the development, to the satisfaction of the Western Australian Planning Commission.

Advice Notes

- a. With regard to condition 1, and in accordance with s.279(4) of the *Planning and Development Act 2005*, the Western Australian Planning Commission cannot do anything that would have the effect of extending the period within which the development must be substantially commenced.
- b. This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and licence or permit requirements that may relate to the development. Please contact the City of Fremantle for further advice on building, health, engineering and road reserve requirements including the relocation or replacement of any street trees.
- c. With regard to condition 3, the final working drawings are to comply with all of the relevant conditions of development approval, as confirmed by the Western Australian Planning Commission, and any variations from the approved plans are required to be clearly identified. Once the Commission is satisfied that the working drawings and information are consistent with the approved development plans and conditions of approval, the Commission will provide a clearance letter and copies of the working drawings to the City of Fremantle to assist with the issuing of a building permit.

Where works and/or building permits are proposed to be staged, the Commission may agree to a staged clearance of working drawings and associated conditions

of approval. In such cases a Conditions Staging Matrix will need to be completed and submitted for the Commission's approval.

Interim documentation may be acceptable for the clearance of some conditions for the initial stages of the development, in accordance with an approved Conditions Staging Matrix. In the instance where interim documents or plans are accepted by the Commission, the documentation is required to identify the time or stage for the delivery of the final documents and/or plans.

- d. With regard to condition 4, the Dilapidation Report should include at a minimum, all immediately adjacent public realm infrastructure and all buildings and properties immediately surrounding the site. In addition, the Building Act 2011 sets out the circumstances in which a person who is proposing to do building work that is reasonably likely to affect adjoining land must notify and/or obtain the consent of the landowner before commencing the proposed work.

The applicant is specifically advised to consult Fremantle Hospital and the strata managers of the 'Arundel Court' apartments to discuss appropriate dilapidation reporting and construction management processes.

- e. With regard to conditions 5 and 12, the proposed street tree relocation and any other proposed landscaping, alfresco areas, bicycle parking, or other works outside of the development lot boundaries will require consent from the City of Fremantle as the road reserve owner / manager, prior to implementation.
- f. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 17 of the *Planning and Development Act 2005*.

Summary of Key Issues from Public Submissions

Insufficient justification for time extension

- Building conditions were known at the time the approval was granted. Therefore, the developer should resubmit and properly update the application to reflect current conditions.
- Lack of information provided by the developer about the delay to the project.

Unkempt Land

- Yolk Property Group have failed to keep the site clean of rubbish for the entire 18-month period.
- Several residents have contacted the City of Fremantle to get the site clean of rubbish, especially the scrap metal sheeting which is dangerous to passers-by.
- The site is currently an eyesore and until recently had tall grass that presented a fire hazard.
- The developer needs to give a guarantee to fence the site and/or keep it free of rubbish.

Over height

- This proposal is over height and should not have been supported.

Property boundary dispute

- There is currently a land tenure dispute over the location of the boundary between the development site and adjoining lot, which would impact the proposal in its current form.
- The strata company has corresponded via its legal representatives to the owners of the site regarding a 71m² strip of land that the strata company has occupied for decades. Legal advice is that the strata company has a strong claim for adverse possession of the land.

Property values

- This proposal will decrease the value of surrounding properties due to the loss of views.

Deficient Application

- The application was approved under covid legislation, which no longer applies.
- To follow due process this proposal should be sent back to the City of Fremantle to consider, with community input.
- It was understood that if this proposal did not commence they would need to seek re-approval.
- In approving the original proposal the SDAU did not give proper regard to the planning framework.
- This proposal does not address concerns raised with the original proposal, such as traffic and parking on Suffolk Street.

Inconsistent with Conditions of Approval

- The approval includes a condition that the application is only valid for 18 months, and an advice note states that the WAPC cannot do anything that would extend the substantial commencement period.

Impact on neighbouring property

- The proposal will overshadow the drying courtyard of the adjoining property.
- The proposal will result in overlooking of any future redevelopment of the adjoining property.
- The proposal will impede views from the adjoining property with views of Fremantle City and surrounding areas now obscured.
- The Council of the strata company for 34 Arundel Court did not support the original proposal as the development impinges on the boundary of Arundel Court.
- The current height and bulk of the proposal covers almost the entire site and is three times what is permitted under the planning scheme and has an impact on the adjoining landowners.
- There are practical construction issues with retaining walls on the boundary.
- 34 Arundel Court would not support any crane passing over their site.
- The residents of 34 Arundel Court would support redevelopment of the site but not what is being proposed as it affects the integrated redevelopment potential of the two sites. Instead, a more integrated development outcome that encompasses both sites should be contemplated.

Other - suggestions

- Not convinced there is demand for a boutique hotel in this location. Suggest the site is used as free parking in consultation with the City of Fremantle.
- City of Fremantle should be strongly requested to undertake outcome-focussed detailed urban design for this site and other strategic sites in the area and amend the scheme accordingly.
- The strata company of 34 Arundel Court commissioned Mackay Urban Design to undertake a preliminary redevelopment study, which included options for undertaking an integrated redevelopment of both sites. This option should be investigated.

Applicant Response to Key Issues

| Comment | Proponent Response |
|---|---|
| <p>As part of the arrangement to get an approval, in the interim the developer should be required to improve the current site.</p> <p>Yolk Property Group have failed to keep the site clean of rubbish for the entire 18-month period</p> <p>Several residents have contacted the City of Fremantle to get the site clean of rubbish, especially the scrap metal sheeting which is dangerous to passers-by.</p> <p>The developer needs to give a guarantee to fence the site and/or keep it free of rubbish.</p> | <p>The subject site has been enclosed with hoarding for the majority of the period since the development received approval. The site has largely been screened from view and protected from illegal dumping.</p> <p>In recent months, the hoarding has been removed to allow for contractor site access. The hoarding was placed in a skip bin and has since been removed. Whilst the site has some overgrown vegetation (weeds) with site works anticipated to commence imminently, Yolk Property Group will ensure that the site remains safe and free from litter and illegal dumping. At the appropriate point in time, new hoarding/ fencing will be placed on the site to ensure safety.</p> <p>YPG will continue to monitor and are committed to removing rubbish between now and site mobilisation.</p> |
| <p>Submitters noted they do not support the extension of time for this project.</p> | <p>Noted.</p> |
| <p>Building conditions were known at the time the approval was granted. Therefore, the developer should resubmit and properly update the application to reflect current conditions.</p> <p>Lack of information provided by the developer about the delay to the project.</p> | <p>Whilst the proponent understood the market conditions at the time of the initial application, the proponent could not reasonably foresee the extent to which the construction industry would face increased and continued hardship and the impacts this would have in implementing the approval.</p> <p>This 17C application details the reasons for delays in achieving substantial commencement. These are primarily focused around price escalation (in excess of 25% increase) and labour shortages. These impacts are outside of the developer's control and have rendered it impossible to achieve the substantial commencement within the timeframes.</p> |
| <p>This proposal is over height and should not have been supported.</p> | <p>Noted. This comment is unrelated to the 17C extension of time request.</p> |

| Comment | Proponent Response |
|---|--|
| <p>There is currently a land tenure dispute over the location of the boundary between the development site and adjoining lot, which would impact the proposal in its current form.</p> <p>The strata company has corresponded via its legal representatives to the owners of the site regarding a 71m2 strip of land that the strata company has occupied for decades. Legal advice is that the strata company has a strong claim for adverse possession of the land.</p> | <p>It is understood that there has been no formal legal case lodged for the tenure of the land. On this basis, Yolk wish to proceed within their rights to seek an extension of time and then implement their valid and lawful development approval.</p> |
| <p>The application was approved under covid legislation, which no longer applies.</p> <p>To follow due process this proposal should be sent back to the City of Fremantle to consider, with community input.</p> <p>It was understood that if this proposal did not commence they would need to seek re-approval.</p> <p>In approving the original proposal the SDAU did not give proper regard to the planning framework.</p> <p>This proposal does not address concerns raised with the original proposal, such as traffic and parking on Suffolk Street.</p> | <p>Legislative changes in 2022 allow a Form 17C applications to amend the condition to extend specified period for substantial commencement. Whilst this process was not available to proponents at the time of the initial approval, the process is now available. This means that under the current SDAU legislation, the proponent is entitled to request an extension of time to their approval.</p> <p>This Form 17C request has undergone all the necessary process requirements and gives appropriate consideration in addressing the matters relevant to the extension of time request. The request is therefore entirely valid and worthy of consideration of an extension of time request.</p> |

| Comment | Proponent Response |
|---|--|
| <p>The approval includes a condition that the application is only valid for 18 months, and an advice note states that the WAPC cannot do anything that would extend the substantial commencement period.</p> | |
| <p>The proposal will overshadow the drying courtyard of the adjoining property.</p> <p>The proposal will result in overlooking of any future redevelopment of the adjoining property.</p> <p>The proposal will impede views from the adjoining property with views of Fremantle City and surrounding areas now obscured.</p> <p>The Council of the strata company for 34 Arundel Court did not support the original proposal as the development impinges on the boundary of Arundel Court.</p> <p>The current height and bulk of the proposal covers almost the entire site and is three times what is permitted under the planning scheme and has an impact on the adjoining landowners.</p> <p>There are practical construction issues with retaining walls on the boundary.</p> <p>34 Arundel Court would not support any crane passing over their site.</p> | <p>Noted. These comments are unrelated to the 17C extension of time request.</p> |

| Comment | Proponent Response |
|---|--|
| <p>The residents of 34 Arundel Court would support redevelopment of the site but not what is being proposed as it affects the integrated redevelopment potential of the two sites. Instead, a more integrated development outcome that encompasses both sites should be contemplated.</p> | |
| <p>Not convinced there is demand for a boutique hotel in this location. Suggest the site is used as free parking in consultation with the City of Fremantle.</p> <p>City of Fremantle should be strongly requested to undertake outcome-focussed detailed urban design for this site and other strategic sites in the area and amend the scheme accordingly.</p> <p>The strata company of 34 Arundel Court commissioned Mackay Urban Design to undertake a preliminary redevelopment study, which included options for undertaking an integrated redevelopment of both sites. This option should be investigated.</p> | <p>Noted. These comments are unrelated to the 17C extension of time request.</p> |

Request for Deputation / Presentation

Western Australian Planning Commission

Part 17 Significant Development Meeting

Meeting Date: Thursday, 9 February 2023

Presentation Request Guidelines

Persons interested in presenting at a WAPC Part 17 Significant Development Meeting must first consider whether their concern has been adequately addressed in the report recommendation or other submissions. Your request will be determined by the WAPC Chairman based on individual merit and likely contribution to assist the Commission's consideration and determination of the application.

Presentations are not to exceed **3 minutes**. It is important to note that the presentation content will be **published on the WAPC website** as part of the meeting agenda. **Your PowerPoint must be submitted with this request.**

Requests close at 2pm, three (3) working days, prior to the meeting date. Please complete and submit this form, your PowerPoint and any additional written documents to committees@dph.wa.gov.au no later than this time. **Late requests will not be accepted.**

Handouts or PowerPoints will not be accepted on the day of the meeting.

| | |
|---|---|
| Name of Presenter: | Kris Nolan |
| Organisation: | Urbis |
| Email*: | |
| Mobile Number*: | |
| Additional Attendees: | (You may have up to 3 attendees, including the Presenter) |
| | Jackson Tomich |
| | James Dann |
| PowerPoint: | Yes |
| | Your PowerPoint presentation <u>must</u> be accompanied with a written document detailing the content of your presentation for the purpose of the agenda. |
| Special Requirements: | In the interest of accessibility and inclusion for people with disabilities, please identify if you have any special requirements: No <i>If yes, please detail below:</i> |
| <i>In submitting this request, you acknowledge that your request form and presentation content will be published to the WAPC website as part of the agenda.</i> | Yes |
| Is the presentation in support or against the <u>report recommendation</u>? (contained within the agenda) | Support |

* Contact details will be redacted prior to this form being published online

| Is the presentation in support or against the <u>proposed development?</u> | Support |
|---|---------|
| <p><u>Brief Outline of Presentation:</u></p> <p>Presentation on behalf of the applicant and requesting to combine the presentation with the following submitters:</p> <ul style="list-style-type: none"> - Chris Lawlor; SLR - Andre Jones; BUCHAN <p>Relation to the Proposal – Planning Consultant and Primary Applicant</p> <p>This portion of the presentation will discuss the planning component of the proposal and overall support for the development and the Officer's recommendation.</p> <p>This portion of the presentation will discuss the wide-received community support, previous approval concerning the site, and the resulting ELP Precinct</p> <p>A presentation is submitted with this request.</p> <p>ATTENDING VIA ZOOM</p> | |

Request for Deputation / Presentation

Western Australian Planning Commission

Part 17 Significant Development Meeting

Meeting Date: Thursday, 9 February 2023

Presentation Request Guidelines

Persons interested in presenting at a WAPC Part 17 Significant Development Meeting must first consider whether their concern has been adequately addressed in the report recommendation or other submissions. Your request will be determined by the WAPC Chairman based on individual merit and likely contribution to assist the Commission's consideration and determination of the application.

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Handouts or PowerPoints will not be accepted on the day of the meeting.

| | | |
|---|---|---------|
| Name of Presenter: | Chris Lawlor | |
| Organisation: | SLR Consulting | |
| Email*: | | |
| Mobile Number*: | | |
| Additional Attendees: | (You may have up to 3 attendees, including the Presenter) | |
| | Luke McKean | |
| | | |
| PowerPoint: | Yes | |
| | Your PowerPoint presentation <u>must</u> be accompanied with a written document detailing the content of your presentation for the purpose of the agenda. | |
| Special Requirements: | In the interest of accessibility and inclusion for people with disabilities, please identify if you have any special requirements: No <i>If yes, please detail below:</i> | |
| <i>In submitting this request, you acknowledge that your request form and presentation content will be published to the WAPC website as part of the agenda.</i> | | Yes |
| Is the presentation in support or against the <u>report recommendation</u>? (contained within the agenda) | | Support |

* Contact details will be redacted prior to this form being published online

| Is the presentation in support or against the <u>proposed development?</u> | Support |
|---|---------|
| <p><u>Brief Outline of Presentation:</u></p> <p>Presentation on behalf of the applicant and requesting to combine the presentation with the following submitters:</p> <ul style="list-style-type: none"> - Kris Nolan; Urbis - Andre Jones; BUCHAN <p>Relation to the Proposal – Traffic and Transport Consultant</p> <p>This portion of the presentation will discuss the traffic component of the proposal, focusing on the existing vs future scenarios post development, the Almondbury Road and Riseley Street intersection, and the proposal in the context of the previously approved expansion plans.</p> <p>This presentation will utilise the PowerPoint submitted under Kris Nolan's deputation request.</p> <p>ATTENDING VIA ZOOM</p> | |

Request for Deputation / Presentation

Western Australian Planning Commission

Part 17 Significant Development Meeting

Meeting Date: Thursday, 9 February 2023

Presentation Request Guidelines

Persons interested in presenting at a WAPC Part 17 Significant Development Meeting must first consider whether their concern has been adequately addressed in the report recommendation or other submissions. Your request will be determined by the WAPC Chairman based on individual merit and likely contribution to assist the Commission's consideration and determination of the application.

Presentations are not to exceed **3 minutes**. It is important to note that the presentation content will be **published on the WAPC website** as part of the meeting agenda. **Your PowerPoint must be submitted with this request.**

Requests close at 2pm, three (3) working days, prior to the meeting date. Please complete and submit this form, your PowerPoint and any additional written documents to committees@dplh.wa.gov.au no later than this time. **Late requests will not be accepted.**

Handouts or PowerPoints will not be accepted on the day of the meeting.

| | |
|---|---|
| Name of Presenter: | Andre Jones |
| Organisation: | BUCHAN |
| Email*: | |
| Mobile Number*: | |
| Additional Attendees: | (You may have up to 3 attendees, including the Presenter) |
| | Alessandro Paladin |
| | Peter Hillman |
| PowerPoint: | Yes |
| | Your PowerPoint presentation <u>must</u> be accompanied with a written document detailing the content of your presentation for the purpose of the agenda. |
| Special Requirements: | In the interest of accessibility and inclusion for people with disabilities, please identify if you have any special requirements: No <i>If yes, please detail below:</i> |
| <i>In submitting this request, you acknowledge that your request form and presentation content will be published to the WAPC website as part of the agenda.</i> | Yes |
| Is the presentation in support or against the <u>report recommendation</u>? (contained within the agenda) | Support |

* Contact details will be redacted prior to this form being published online

| Is the presentation in support or against the <u>proposed development?</u> | Support |
|---|---------|
| <p><u>Brief Outline of Presentation:</u></p> <p>Presentation on behalf of the applicant and requesting to combine the presentation with the following submitters:</p> <ul style="list-style-type: none"> - Chris Lawlor; SLR - Kris Nolan; Urbis <p>Relation to the Proposal – Primary Architect</p> <p>This portion of the presentation will discuss the Architectural component of the proposal and the design responses to the site and assessment.</p> <p>This portion will particularly discuss the High Street design interface, the Almondbury Road and Marmion Street, and Civic Square levels.</p> <p>This will include a flyover video.</p> <p>This presentation will utilise the PowerPoint submitted under Kris Nolan’s deputation request.</p> <p>ATTENDING VIA ZOOM</p> | |

A photograph of a family walking through a modern shopping mall. In the foreground, a young boy with dark, wavy hair and a blue button-down shirt is looking up and smiling. Behind him, a man in a blue button-down shirt and white trousers, and a woman in a light pink shirt and dark trousers, are walking and smiling. They are carrying shopping bags. The mall has a high ceiling with large windows and modern architecture.

WESTFIELD BOORAGOON

SDAU Development Application.
Deputation

9 February 2023

URBIS

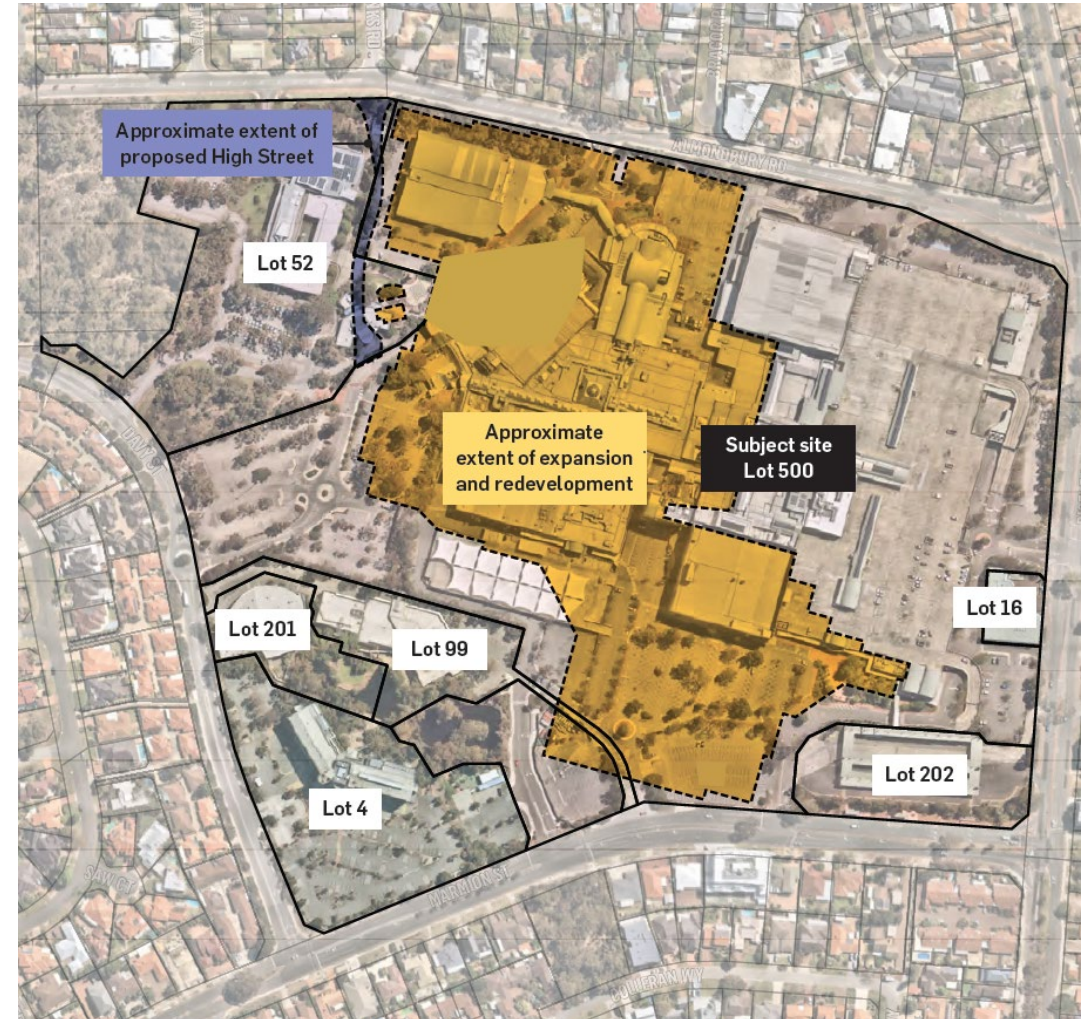
SLR

SCENTRE GROUP

BUCHAN

WHAT'S PROPOSED??

- Net increase in floorspace of 42,081m2 NLA to 114,620sqm.
- A new high street with improved interface to City of Melville administration and future civic uses.
- Facilitation of a new Entertainment and Lifestyle Precinct.
- Vastly improved frontage to Almondbury Road.
- Improved pedestrian environment to Bus Port.
- Civic Square.
- A new fashion precinct.
- Ambience upgrade to balance of the centre.
- Almondbury/Riseley intersection works.
- Almondbury Road works.
- Cycle and EoT facilities.

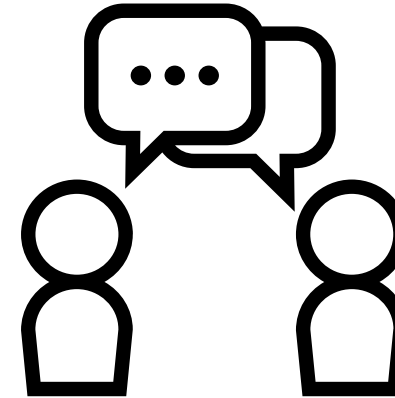


MCCSP ALIGNMENT



COMMUNITY SUPPORT

- 132 submissions received with only 4 non-support.
- 400-person customer survey again almost 100% supportive of the development.
- Desires included dining, family friendly, refresh, improved parking locations, community uses/activities.
- Overall, a strong desire for the redevelopment to commence rapidly.
- Council supportive.





CHRIS LAWLOR SLR CONSULTING TRANSPORT COMMENT



DEVELOPMENT SUMMARY AND SITE ACCESS ARRANGEMENTS

Table 12 Development Summary

| Land Use | Existing Yield | Proposed Yield | Incremental Change |
|-----------------|---|---|--------------------|
| Shopping centre | 72,539sq.m NLA | 114,620sq.m NLA | +42,081sq.m NLA |
| Car Parking | 4,250 spaces (5.86 spaces/100sq.m NLA) | 4,501 spaces (3.93 spaces/100sq.m NLA) | +251 spaces |

Figure 21 Proposed Site Access Arrangements



ACTIVE TRANSPORT PROVISIONS

Figure 24 Proposed Pedestrian Arrangements

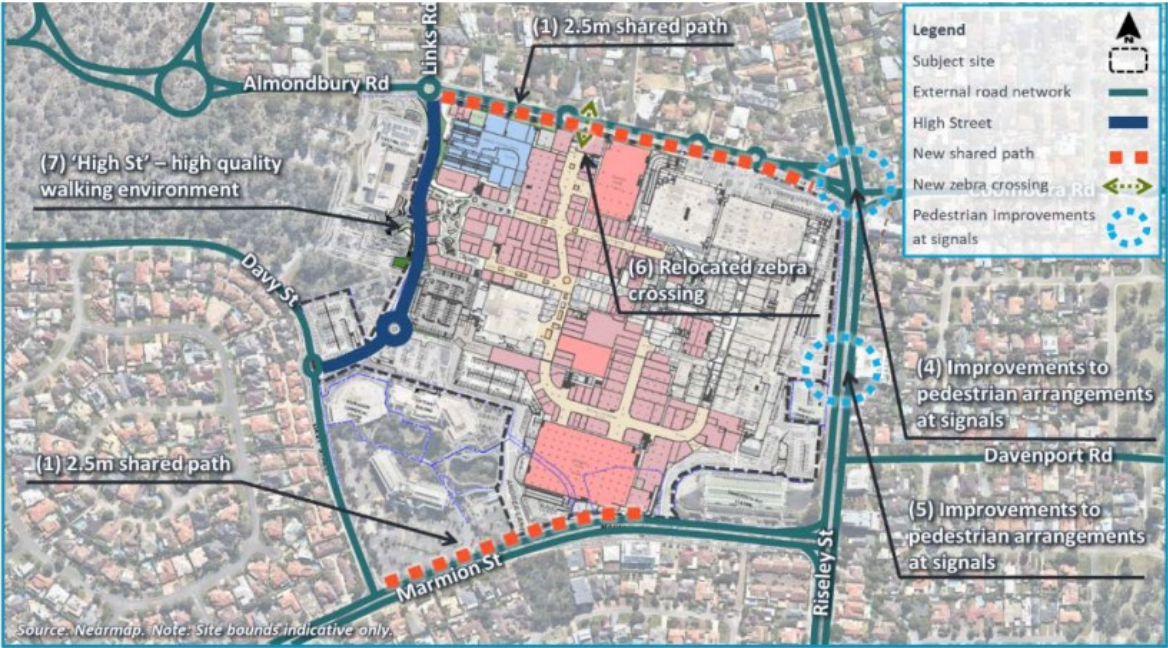
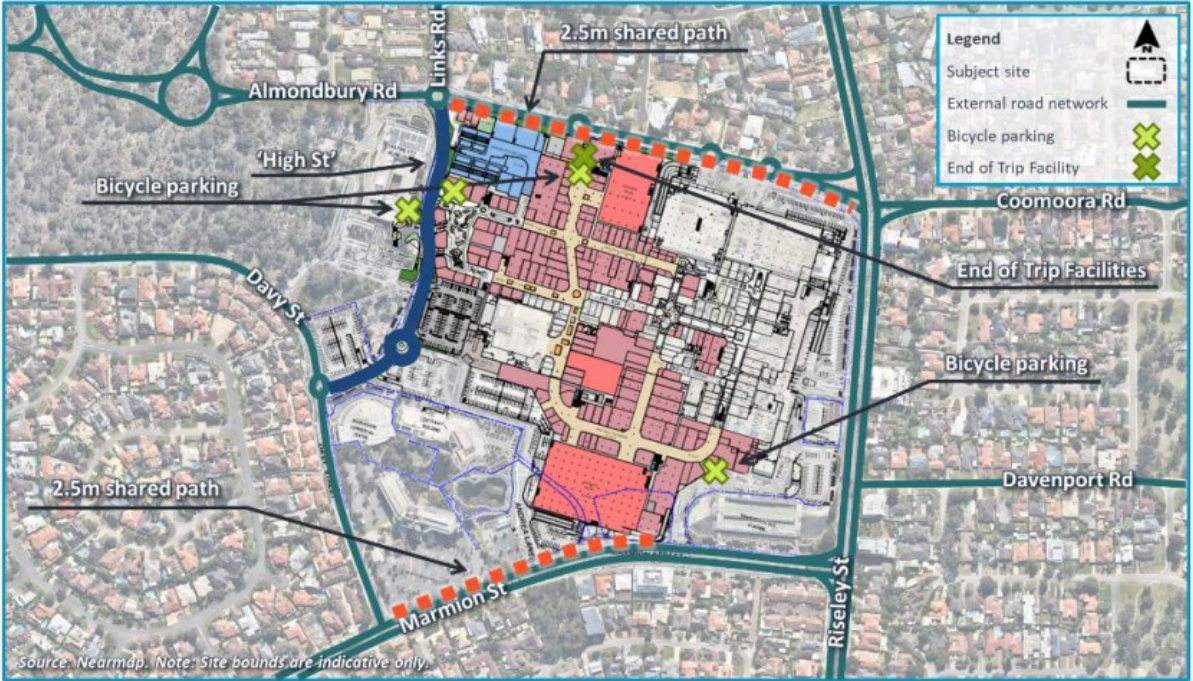


Table 14 Proposed Bicycle Parking and EoT Facilities

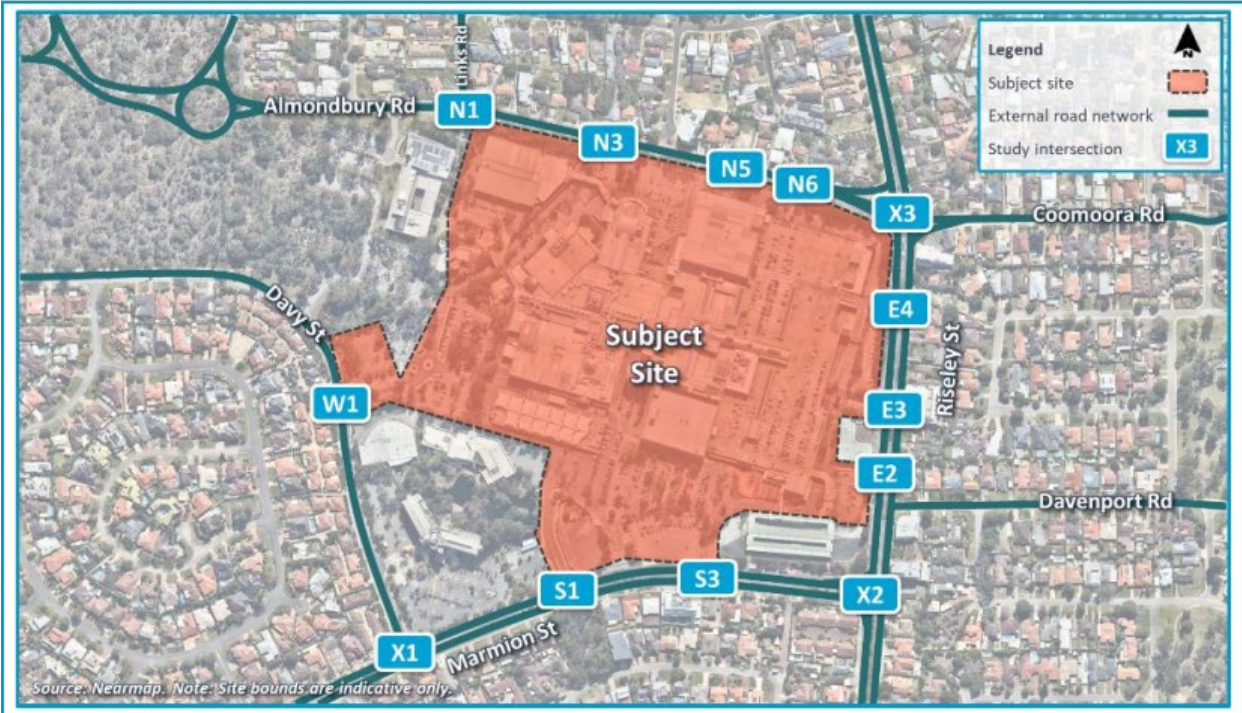
| Bicycle Parking | EoT Facilities |
|---|--|
| <ul style="list-style-type: none">- 40 publicly accessible spaces for visitors;- 100 secure spaces for employees;- 140 spaces total- <i>Potential expansion of bicycle parking if high utilisation observed (provision made for ~70 additional spaces).</i> | <ul style="list-style-type: none">- One locker per secure space (100 total);- 5 male and 5 female showers/change rooms;- 1 unisex accessible toilet. |

Figure 25 Proposed Bicycle Parking and EoT Facilities

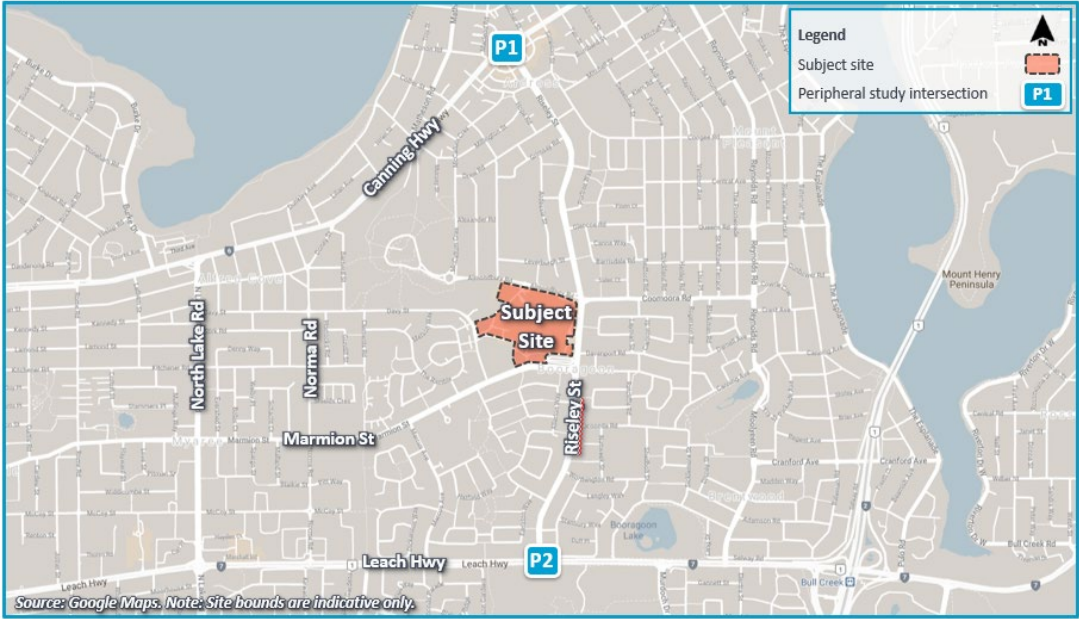


INTERSECTION ASSESSMENT

Table 20 Study Intersections

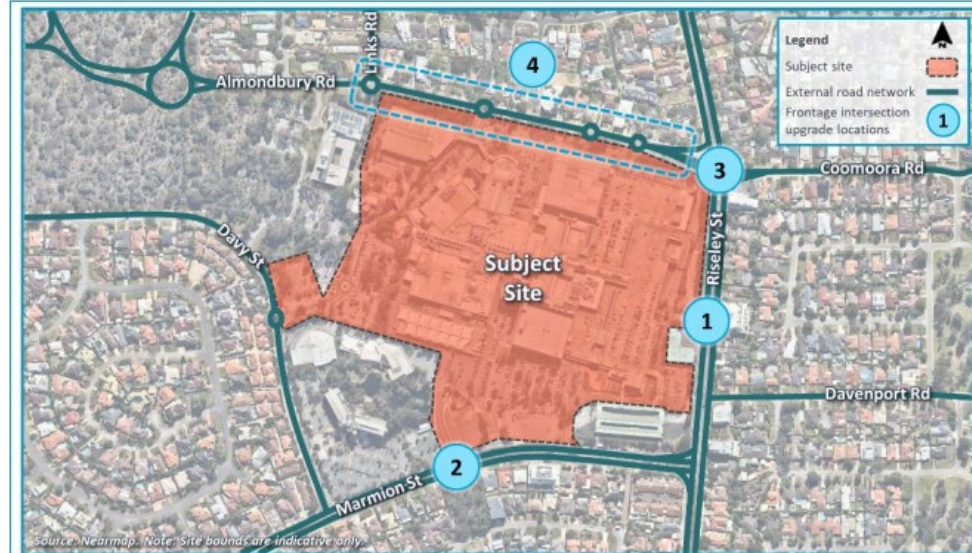


Peripheral intersections



INTERSECTION UPGRADES

Table 21 Assessed Intersection Upgrades



| ID | Location | Description of Upgrade |
|----|---|--|
| 1 | Riseley Street/Signalised Site Access intersection | <ul style="list-style-type: none"> Extension of the right turn lane on the northern approach; Modification of internal site arrangements on western approach. |
| 2 | Marmion Street/Andrea Lane intersection (upgrade constructed) | <ul style="list-style-type: none"> Relocation of intersection 70m to the west; Signalisation of intersection; Two stand up lanes on northern approach; Extension of the right turn lane on the eastern approach; Extension of the left turn lane on the western approach. |
| 3 | Riseley Street/Almondbury Road/ Coomoorra Road intersection | <ul style="list-style-type: none"> Extension of the right turn lane on the northern approach; Linemarking changes on the eastern approach – definition of lane disciplines and provision of right turn lane; Changes to western exit lane arrangement. |
| 4 | Almondbury Road site access intersections | <ul style="list-style-type: none"> Introduction of three new roundabouts along Almondbury Road to facilitate site access. |

Figure 3 Completed Intersection Upgrading Works – Marmion Street/Andrea Lane Intersection



Source: Nearmap

Figure 4 Completed Intersection Upgrading Works – Leach Highway/Riseley Street Intersection



Source: Nearmap

Figure 5 Completed Intersection Upgrading Works – Canning Highway/Riseley Street Intersection



Source: Nearmap

MARMION STREET/RISELEY STREET INTERSECTION



ALMONDBURY STREET/RISELEY STREET INTERSECTION





ANDRE JONES BUCHAN

DEVELOPMENT FLYTHROUGH

[Flythrough Video](#)



THANK YOU

The project team are happy to answer any questions. Those in attendance are:

- **Urbis (Planning)**
 - Kris Nolan
 - Jackson Tomich
- **BUCHAN (Architecture)**
 - Andre Jones
 - Alessandro Paladin
- **Scentre Group (Developer and Centre Operator)**
 - James Dann
 - Luke McKean
- **SLR Consulting (Transport)**
 - Chris Lawlor
- **Urbis (Landscape Architecture)**
 - Peter Hillman