

PS ref: 10006 & 6326
WAPC Ref: SDAU-062-23

1 July 2026

Significant Development Assessment Unit
140 William Street
Perth WA 6000

Attention: Paola de Perna

Dear Paola,

**18 (LOT 250) AND 26 (LOT 114) DALGETY STREET AND 116 (29) FORTESCUE STREET, EAST FREMANTLE
APPLICATION TO AMEND DEVELOPMENT APPROVAL – PART 17
WOODSIDE CARE PRECINCT**

Planning Solutions acts on behalf of Hall & Prior Health and Aged Care Group and Fresh Fields Projects (WA) No. 1 Pty Ltd, the proprietor and proponent of the proposed development on Lot 250 (18) and Lot 114 (26) Dalgety Street, and Lot 116 (29) Fortescue Street, East Fremantle (**site, subject site**). Planning Solutions has prepared the following submission in support of an amendment to the approved development, determined under Part 17 of the *Planning and Development Act 2005 (P&D Act)*.

Development approval was granted by the Western Australian Planning Commission (**WAPC**) on 14 December 2023.

The nature of the proposal remains as approved, being for a Residential Aged Care Facility, Supported Independent Living and Wellness Centre. The proposal includes the adaptive re-use of Dalgety House and the conversion of two existing character dwellings. This application seeks to amend the existing approval regarding the following:

- Updates and refinements to the building because of the detailed and schematic design process.
- Amendment or deletion of Condition 16 – Public Art.
- Extension of time request within which substantial commencement is to be reached.

Regarding the above, please find enclosed the Part 17 Development Application Form and Checklist, signed by the applicant and landowner, along with the following appendices:

- Appendix 01:** Certificate of Titles
Appendix 02: Architectural changes report
Appendix 03: Development plans
Appendix 04: Heritage Impact Statement (addendum)
Appendix 05: Development plans – Dalgety House
Appendix 06: Landscaping plans
Appendix 07: Traffic Impact Statement
Appendix 08: Waste management plan
Appendix 09: Acoustic assessment
Appendix 10: Public Art submission

We respectfully request instructions for payment of the applicable application fee is provided at the earliest opportunity to ensure prompt payment and look forward to the application being accepted for assessment.

The following submission outlines the nature of the proposed amendments, including justification for any areas of discretion.

1 SITE DETAILS

1.1 Legal description

The subject site comprises the land identified as Lot 250 (18) and Lot 114 (26) Dalgety Street, and Lot 116 (29) Fortescue Street, East Fremantle. Refer to **Table 1** below for lot details of the subject site. Refer **Appendix 01** Certificates of Title.

Table 1: Lot details

Lot No.	Plan	Volume	Folio	Area (m ²)
250	DP56055	2660	938	10,016
114	P3286	1572	757	1,012
116	P3286	1825	295	1,012
TOTAL				12,040

2 PROPOSED AMENDMENTS TO PLANS

The proposed amendments comprise of minor changes to the building and landscaping as a result of the design development and schematic design phase of the project. One suite and two beds have been added within the building footprint. A summary of the proposed development amendments level by level is outlined in **Table 02** below.

More generally, the amendments to the approved plans are minor in nature and reflect the typical type of changes that occur between Development Approval plans and Schematic Design. It is our opinion these changes would ordinarily be approved at working drawing stage, however for completeness we have included the changes in this amendment application.

A summary of proposed amendments is documented in the architect's changes pack at **Appendix 02**. A full set of architectural plans are included at **Appendix 03 & 05**.

Table 2: Development Summary

Element/Level	Development Particulars
Car parking	- The number of on-site carparking bays will remain unchanged (115 on-site) as follows: 52 bays in basement. 56 bays lower ground. 3 at ground level. 4 to the freestanding care dwellings.
Bed numbers	The proposed amendments result in one additional companion room comprising two additional beds increasing the overall care facility from 130 rooms/160 beds to 131 rooms/162 beds.
Landscaping	- Due to changes to basement configuration the amount of deep soil has increased from 19.5% (2,350m²) to 31% (3,765m²). - On structure planting has also increased from 2,290m² to 2,440m².
Basement	- Reconfiguration of basement to provide better separation to Dalgety House with provision of additional storage areas. - The number of car parking bays remain unchanged at 52. - Minor changes to services planning.

Element/Level	Development Particulars
Lower Ground Level	- Wellness Centre: - Minor reduction to Dalgety Street setback from 21.4m to 20.9m (under croft glass line). - Floor area reduction of ~215m² including combining studio, strength and condition into one space. - Reduction of consulting rooms from 5 to 4. - General consolidation and replanning of floorspace. - Reconfiguration of staff area and staff courtyard. - Reconfiguration of basement to provide better separation to Dalgety House. Removing through access between Dalgety and Fortescue Street. Dalgety Street will provide access to staff and visitor parking; Fortescue Street will be used for service access only. - The number of car parking bays remain unchanged at 56.
Ground Level	- Transformer site fronting Fortescue Street in the northeastern corner of the site. - Minor internal setback changes between Dalgety House and the proposed new RACF building. - Minor changes to the Chapel building. - Internal change to stair configuration. - Repositioning of the fire booster cabinet to meet DFES requirements, including the formalisation of a fire appliance hardstand area partly on the Dalgety Street verge.
Level 1 (2nd storey)	- Minor internal setback changes between Dalgety House and the proposed new RACF building. - Internal change to stair configuration.
Level 2 (3rd storey)	Internal change to stair configuration.
Level 3 (4th storey)	- Internal change to stair configuration. - Lift overrun shape. - Addition of a pergola shade structure to northeast corner communal roof terrace area, including adjustments to on structure planting area. - Replacement of communal sitting area (surplus to requirements) to southwest of building with an additional companion suite accommodating up to 2 additional beds.
Roof	- Minor height change to the northern mechanical plant room. - Reconfiguration of eastern mechanical plant room, with an increased setback to Fortescue Street, and increased elongation along the north/south axis. - Minor increase in area to the southern mechanical plant room, with additional floor area added to the western side of the room.

2.1 Engagement with State Heritage

Changes to the State Heritage listed Dalgety House are minor. As part of pre-lodgement engagement, a meeting was held with the officers of the Department of Heritage, Lands and Heritage – State Heritage Office on 16 June 2026 to discuss the amendments. The officers were generally supportive of the changes and indicated assessment could occur following lodgement with the Significant Development Assessment Unit (SDAU). An updated Heritage Impact Statement is included at **Appendix 04**.

2.2 Landscape

Landscaping amendments proposed as part of this application respond to the minor changes proposed including basement changes and roof top amenity area reconfigurations. The proposed development maintains a high level of deep soil planting, which has increased to 31% of the site, significantly more than the minimum 7% required (by the R-codes Volume 2 - where trees are to be retained on-site). The updated landscape plans at **Appendix 06** demonstrate the quality and approach remain in alignment with the approved landscape plans.

2.3 Traffic

An updated traffic report is included at **Appendix 07**. The report demonstrates that restricting access to Fortescue Street for service vehicles only does not materially impact the function of the adjacent road network nor cause any detrimental traffic impacts. As per the approved development, the report notes that the intersection between Canning Highway and Dalgety Street is impacted by regional traffic growth regardless of the development.

2.4 Waste and Acoustic

An updated waste management plan has been prepared to address the additional beds **Appendix 08**. An updated acoustic assessment is also included at **Appendix 09**.

2.5 Car parking

In accordance with Schedule 10 of LPS3 a nursing home use is to provide parking at the rate of 1 space per 5 beds, plus 1 space for every staff member present at any one time. The amended proposal results in 2 additional beds, and one less consulting room. This creates a surplus of 13 car bays on site (**Table 03**).

Table 03: Carparking assessment (changes in red)

Land Use (for parking assessment purposes)	Parking standard	Required car bays	Parking Provision
Nursing Home - Residential Care Facility	1 space per 5 beds (162 beds), plus	32	111
	1 space for every staff member (assume 58 staff)	58	
Nursing Home - Consulting Rooms as an incidental land use (Wellness Centre)	2 spaces per consulting room (4 consulting rooms)	8	
	1 space for every staff member	0*	
NURSING HOME SUB-TOTAL		98	111
Single Dwelling (2 x supported independent living - SIL)	2 car bays per dwelling (R-Codes)	4	4
DWELLING / SIL SUB-TOTAL		4	4
TOTAL BAYS REQUIRED / PROVIDED		102	115
(ON SITE) PARKING SHORTFALL (-) / SURPLUS (+)			+13
PROVISION OF EMBAYED ON-STREET PARKING IN FORTESCUE STREET			11
(OVERALL) PARKING SHORTFALL (-) / SURPLUS (+)			+24

3 PUBLIC ART CONDITION MODIFICATION

Condition 16 of the planning approval states the following regarding public art:

Prior to occupation of the development:

- a public art concept for the subject development to the value of 1% of the construction value must be submitted to, and approved by, the Western Australian Planning Commission on advice from the Town of East Fremantle; and
- the approved public art shall be installed by the developer and maintained thereafter by the owners and/or managers of the development, to the satisfaction of the Western Australian Planning Commission.

The estimated development cost on lodgement was \$90M. Due to significant cost escalations the construction cost is likely to be ~\$160M, **attracting a Public Art contribution of ~\$1.6M.**

3.1 Planning Framework

The Town adopted *Local Planning Policy 3.1.9 – Percent for Art Policy (Public Art LPP)* over 8 years ago on 20/02/2018. The policy has not been amended or reviewed since. The policy applies to all non-residential development with a construction value of \$3M or more. The policy defines the construction cost as generally being the cost stated on the Building Permit application.

The policy requires a contribution of 1% for the first \$100M of development cost, which reduces to 0.75% for every dollar above \$100M.

3.1.1 Application and Currency of the Public Art LPP

Whilst a local planning policy is there to guide decision making and must be given due regard, it does not rise to the status of legislation (such as the Town Planning Scheme or *Planning and Development Act 2005*). We note neither legislative instrument references Public Art. However, the application of Public Art policies is an established part of the Western Australian planning framework, and where a Local Government has consistently applied its policy, that policy can carry weight.

Another matter that can affect the weight of a planning instrument is how current it is (ie. how old is the policy and when was it last reviewed). The Town's Public Art LPP was first adopted on 20/02/2018 but has not been reviewed since. This makes the policy over eight years old. Proposed amendments to the *Planning and Development Act (Local Planning Schemes) Regulations 2015* will introduce a requirement for Local Planning Policies to be reviewed every 5 years to ensure they are consistent with the state planning framework. Emerging regulation changes suggest the policy should be 'read down' given it hasn't kept pace with more contemporary planning instruments.

3.1.2 The Town caps its own costs but not that of others

Whilst not a Local Planning Policy the Town's *Operational Policy 4.1.3: Public Infrastructure Policy – Public Art* requires the Town to allocate a minimum of one percent (1%) of any capital building works project budget to integrating public art into each Council project. However, for its own projects the Town caps its contribution to \$100,000. This creates a significant inconsistency in policy application which is an influencing factor on the weight to be given to the Public Art LPP.

3.1.3 Assessment of the development against the policy

The Public Art LPP does not contain any provisions that link the requirement to provide public art with how an individual development creates the need for public art. Instead, the policy is largely concerned with the **process of procuring public art or funds**.

The Public Art LPP does not include an underlying planning purpose for why individual developments trigger a need to contribute. In the absence of a nexus between the development and a need for public art, the policy (as drafted) does not appear to serve a proper planning purpose.

The policy does include a series of objectives however they are framed in terms of the benefits of public art; not in terms of why a particular development should contribute. For example, reasons to contribute might include:

- The development is in an activity centre where many people / pedestrians would benefit from the art.
- The public art is needed to offset some sort of negative impact the proposed development has on the amenity of a locality.

The policy objectives are as follows:

- *to contribute to a sense of place;*
- *to enhance public enjoyment and understanding of places;*
- *to create local landmarks;*
- *to make streets, open spaces, and buildings more distinctive; and*
- *to develop public art that captures the spirit of East Fremantle, is responsive to East Fremantle's distinct domains and considers the foreshore as a natural destination to explore.*

It is our submission that these objectives (with the exception to the last, which is self-serving) are achieved by the development its-self as follows:

Sense of place

The development as a whole contributes to a sense of place through the retention, enhancement and adaptive reuse of Dalgety House, an iconic building of state heritage significance. The State Design Review Panel made the following comment regarding the proposal which emphasises the contribution the development will make to the locality:

The Panel continues to support the sophisticated built form design approach adopted, including contemporary architectural language as an elegant and powerful contrast enhancing the character and prominence of Woodside House.

Enhance public enjoyment and understanding of places

Along the Dalgety Street frontage, the approved development includes several quasi-public spaces that will allow passing pedestrians and visitors to the site to dwell and experience the heritage and modern architecture. As part of the site's heritage interpretation strategy (to be developed with the Heritage Council) the site history will be told adding to the understanding of the place.

Local landmarks

Dalgety House is already a local landmark. The retention and adaptive reuse of this building, combined with the "elegant and powerful" architectural language of the new building will enhance the landmark qualities of the site.

Distinctiveness

As noted by the State Design Review Panel, the "contemporary architectural language as an elegant and powerful contrast enhancing the character and prominence of Woodside House" results in distinctive building and street.

If it is accepted that the proposed development can meet the objectives of the public art LPP, providing a piece (or multiple pieces) of public art on the site would serve no planning purpose.

3.2 Comparison to other metropolitan local government Public Art Policies

The Town's Public Art LPP does not include a contribution cap. We have previously audited all 30 Metropolitan local government (LG) Public Art LPP's to establish whether there is a consistent approach, which there is not. We note that 25 LG's have municipal wide Public Art LPP's (LG's without may have precinct specific policies, but these weren't investigated), some with caps or reduced contribution rates over a certain value. **Table 04** provides a summary of the findings:

Table 04: Metropolitan Local Government Public Art LPP

Public Art Policy type	Number
No Public Art Local Planning Policy	5
Public Art Local Planning Policy with maximum contribution cap (5 capped at \$250K / 5 capped at \$500K)	10
Public Art Local Planning Policies with a reduced percentage contribution above a certain threshold	4
Public Art Local Planning Policies with no cap or reduction	11

Given at least half of the Metropolitan Local Governments either don't have a municipal wide Public Art LPP or cap the contribution rates we consider there are grounds to cap the public art contribution should a contribution be considered applicable. If a cap were to be imposed, a value of \$250K or \$500K, consistent with the capping used in other Policies is an appropriate starting point.

3.3 Given the context, is a \$500,000 Public Art cap reasonable

As outlined above, we are of the view that the Town's policy does not serve a planning purpose, and therefore **no public art contribution should apply**. Certainly, a contribution of \$1.6M is excessive, given the context of the site in a low-density suburban area, with a \$1.6M spend completely disproportionate to any perceived need.

However, to demonstrate what scale and quantum of public art can be provided by a \$500,000 contribution, the public art consultant has provided several case studies of what a contribution of this amount can achieve (**Appendix 09**). As outlined in the appendix, multiple at scale and meaningful pieces of public art can be delivered with a \$500,000 budget.

It is our submission, consistent with at least half of the metropolitan LG's that a cap (\$0, \$250,000 or \$500,000) should be applied.

4 EXTENSION OF TIME

The proposed development is subject to condition 1 which states the following:

This decision constitutes development approval only and is valid for a period of 36 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.

Approval was granted on 14 December 2023 under Part 17 of the P&D Act. Given the proposed development is unlikely to substantially commence before 14 December 2026, approval to extend the period by an additional three years is sought. Beyond the minor amendments proposed as part of this application, the nature of development and associated uses remain unchanged.

4.1 Town Planning considerations

Pursuant to Section 279(2)(aa) of the P&D Act, an application to amend a development approved under the significant development pathway can be made to extend the period specified in the approval and/or period longer than 24 months.

Whilst the P&D Act does not specify the matters by which an extension may be assessed and granted, the Development and Assessment Panels Practice Note 4, read in conjunction with the WAPC's Part 17 *Guide for Application to Amend or Cancel a Decision and for Clearance of Conditions* (March 2024) states that applicants seeking an extension of time should address the following matters; whether:

- (a) modifications, regardless of the nature/extent, have occurred to the planning framework since the development approval was granted;
- (b) the development is capable of approval; and
- (c) the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

It is noted that failure to satisfy any one of the above considerations does not mean the application must be refused (refer Georgiou Property 2 Pty Ltd and Presiding Member of the Metro West Joint Development Assessment Panel [2017] WASAT 138 at [60]). But in any event, the proposal satisfies all three considerations as set out below, and the request therefore warrants approval.

4.1.1 Whether the Planning Framework has Substantially Changed

There have been no changes to the planning framework since approval was granted. The key planning framework documents that apply to the subject site are:

- (a) Metropolitan Region Scheme.
- (b) Any applicable state planning instrument, guideline or position statement.
- (c) Town of East Fremantle Local Planning Scheme No. 3 (**LPS3**).

Metropolitan Region Scheme

The subject site remains zoned Urban under the provisions of the Metropolitan Region Scheme (**MRS**). There have been no amendments to the MRS relevant to the approved development.

WAPC Position Statements

There have been no amendments to any State Planning Policy or Development Control Policy applicable to the approved development, including State Planning Policies 7.0 and 7.3.

At the time of the approval the WAPC's *Position Statement: Residential accommodation for ageing persons* (December 2020) was in place. The position statement has since been updated in March 2024. The updated position statement is materially similar to the 2020 version.

Town of East Fremantle Planning Scheme No. 3

At the time of approval, the operative local planning scheme in place was the Town of East Fremantle Planning Scheme No. 3 (**LPS3**). LPS3 remains in place and since approval was granted only one amendment to LPS3 has been gazetted, relating to short term accommodation uses, permissibility and standards. This amendment is not relevant to the approved use.

The zoning of the subject site remains 'residential' with the corresponding densities of R15 and R12.5.

4.1.2 Whether the development would likely receive approval today

As there have been no changes to the applicable planning framework, it is considered the approved development would likely receive approval today.

Whilst the development received discretion for variations, including building heights, setbacks and land use (Medical Centre), the final design outcome was reached after extensive collaboration with the SDAU, State Design Review Panel (**SDRP**), as well as the community.

For this reason, it is considered that should the development be lodged today, it would likely receive approval again.

4.1.3 Whether the holder of the approval has actively pursued the approval

The proponent has been actively pursuing the implementation of the development since receiving approval. This includes the following activities:

- (a) Progressing the development approval through extensive schematic design development. This has involved engaging a multidisciplinary team to provide technical advice on schematic design plans. The current consultant spend post development approval is approximately \$3.9 million (excl GST).
- (b) Condition 6 of the approval requires the lots to be amalgamated onto one Certificate of Title. In furtherance of complying with this condition conditional approval to amalgamate the lots was granted in late 2025.
- (c) A number of trees are proposed to be relocated within the site. Preparatory works to support tree relocations commenced in late 2025 and were completed in May 2026. These preparatory works ensure tree health is optimised to achieve successful relocations.
- (d) Further on-site heritage investigations have occurred since development approval.
- (e) Utility coordination with Western Power and Water Corporation.

4.2 Other considerations

Current global uncertainty associated with conflict in the Middle East is also impacting the construction sector which in-turn has impacted a number of large development projects in Western Australia. Although the situation is evolving, many builders have experienced unpredictable programme disruptions due to extended material lead times, shipping delays, energy cost volatility, and reduced certainty in labour availability. These factors are external to the control of the project team and affect the reliability of forward programming, despite the development continuing to be actively progressed.

Additional contingencies are needed to manage these risks, particularly given the Part 17 process only provides for one extension of time request.

5 CONCLUSION

The proposed amendments to the plans are minor in the context of the overall development, with the nature of the proposal remaining entirely consistent with the approval. The changes are as a result of detailed schematic design. An additional suite and two bedrooms are proposed on level 3.

The Towns Public Art LPP is out of date, has not been reviewed in over 8 years and lacks currency. The LPP is poorly drafted and lacks a clear planning purpose, with its objectives being able to be met by the development itself. We submit that providing \$1.6M of public art on a site in a low-density suburban area would not serve a proper planning purpose. Our initial position is that condition 16 should be deleted. If the WAPC are minded to retain a public art contribution condition, we submit it should be capped at either \$250,000 or \$500,000.

Finally, the application is deserving of a 3 year time extension as the proponent has actively pursued the approval and the planning framework has not changed.

We therefore respectfully request the application to amend and extend the approval be granted on its merits and favourably determined.

Should you have any queries or require further clarification in regard to the proposal, please do not hesitate to contact the writer.

Yours faithfully,



TAYNE EVERSHED
DIRECTOR

Encl: Form 17c & checklist

Appendix 01

Certificate of Titles

Appendix 02

Architectural Changes report

Appendix 03 Development Plans

Appendix 04

Heritage Impact Statement (addendum)

Appendix 05

Development Plans – Dalgety House

Appendix 06

Landscaping plans

Appendix 07

Traffic Impact Statement

Appendix 08

Waste management plan

Appendix 09

Acoustic assessment

Appendix 10

Public Art submission