



Agenda

Planning Committee

Wednesday, 1 July 2020, 6.00pm

CITY OF FREMANTLE
NOTICE OF A PLANNING COMMITTEE MEETING

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on 1 July 2020 in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read 'Paul Garbett', with a long horizontal stroke extending to the right.

Paul Garbett
Director Strategic Planning and Projects

26 June 2020

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CITY OF FREMANTLE

Planning Committee

Agenda

1. Official opening, welcome and acknowledgement

We would like to acknowledge this land that we meet on today is the traditional lands of the Whadjuk people and that we respect their spiritual relationship with their country. We also acknowledge the Whadjuk people as the Traditional Owners of the greater Walyalup area and that their cultural and heritage beliefs are still important to the living Whadjuk people today.

2. Attendance, apologies and leaves of absence

There are no previously received apologies or approved leave of absence.

3. Disclosures of interests

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

4. Responses to previous questions taken on notice

There are no responses to public questions taken on notice at a previous meeting.

5. Public question time

Members of the public have the opportunity to ask a question or make a statement at council and committee meetings during public question time.

Further guidance on public question time can be viewed [here](#), or upon entering the meeting.

6. Petitions

Petitions to be presented to the committee.

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

7. Deputations

7.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

There are no special deputation requests.

7.2 Presentations

Elected members and members of the public may make presentations to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

8. Confirmation of minutes

That the minutes of the Planning Committee meeting dated 4 March 2020 were confirmed at the Ordinary Meeting of Council held on 15 April 2020

9. Elected member communication

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

10. Reports and recommendations

10.1 Deferred items

PC2007 - 1 LOCAL HERITAGE SURVEY AND HERITAGE LIST - ANNUAL UPDATE 2020

Meeting Date:	1 July 2020
Responsible Officer:	Manager Strategic Planning
Decision Making Authority:	Committee
Agenda Attachments:	Subdivided Properties Recommended to be Removed
Additional Information:	Summary Assessments – Officer Nominated Corrections & Updates

SUMMARY

The purpose of this report is to consider minor changes to the Local Heritage Survey (formerly the Municipal Heritage Inventory or MHI) and Heritage List as part of the periodic update required of the Local Heritage Survey (LHS) under the *Heritage Act 2018* and Council's Local Planning Policy 2.6.

This matter was first considered by Council on 10 June 2020 as part of item C2006-7. At this meeting Council resolved to refer this component of the report to the Planning Committee meeting of 1 July 2020 to allow more time to consider the recommendation, and the opportunity for committee debate. Council also extended delegation to the Committee to determine the matter.

The report recommends a number of changes to Heritage Survey and List, subject to and following owner consultation on these.

BACKGROUND

Statutory background relating to periodic update

The *Heritage Act 2018* requires that local governments prepare and maintain a Local Heritage Survey (formerly called a Municipal Heritage Inventory under previous heritage legislation) of places that in its opinion are, or may become, of cultural heritage significance. That survey is required to be periodically updated and reviewed. Places on the LHS are recognised but do not automatically enjoy statutory protection.

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') Schedule 2 'Deemed Provisions for local planning schemes' part 3 make provision for the establishment and maintenance of a Heritage List and Heritage Areas which have been identified as of significance and worthy of built heritage conservation. Places on the Heritage List and in Heritage Areas have statutory protection under the planning scheme.

Council adopted its initial Municipal Heritage Inventory (now Local Heritage Survey or 'LHS') in September 2000 and subsequently adopted a Heritage List based on the Inventory through the provisions of Local Planning Scheme No. 4 (gazetted in 2007). Both have been amended since.

The City's *Local Planning Policy 2.6* outlines the process for modification to the LHS and Heritage List, including provisions for dealing with requests from property owners for inclusion, removal or amendment. This includes consideration of requests for modifications annually.

The process to add or remove a place from the Heritage List is set out in the Regulations and includes three steps:

1. Notify each owner and occupier of the place and provide them with a description of the place and the reason for its proposed entry or removal.
2. Invite the owner and occupier of the place to make a submission for a period of not less than 21 days.
3. Following consultation the City is to consider the submissions made on each proposal and resolve if a place is to be added or removed.

The periodic (annual) update of the LHS and Heritage List forms part of the routine maintenance of these documents and complements but doesn't replace broader, more general reviews. These are undertaken every few years, as the need arises and budgets are available.

Places identified for review as part of 2020 Periodic Update

During the past year, the City has:

1. Received 3 requests for removal from the Heritage List and/ or the LHS for the following properties:
 - 96 Marine Terrace, Fremantle (owner)
 - 3 Butterworth Street, Beaconsfield (owner)
 - Jaylu Flats, 34 Queen Street, Fremantle (owner)
2. Received 4 requests for properties to be added to the Heritage List by owners and/or other members of the community
 - 11 Chalmers Street (owner request)
 - 36 Samson Street (owner request)
 - 22 Shepherd Street (descendent of previous long term tenant)
 - 16 Howard Street, Fremantle (community member)
3. Received 1 suggestion that the Classification of a place on the LHS to be modified:
 - 193 South Terrace, South Fremantle
4. Identified the following properties as requiring review during its routine administrative processes:
 - 196 South Street, White Gum Valley
 - 38 Samson Street, White Gum Valley (House)
 - 258 South Terrace, South Fremantle (Shop & House)
 - 10 Douglas Street, Fremantle (House)
 - 162 High Street, Fremantle (Commercial Building)
 - 33 & 35 Attfield Street, Fremantle (House)

- Commercial Building, 2 & 2B Nelson Street
- 5. Identified 62 places requiring removal during its routine administrative processes because they formed part of a subdivided heritage listed property but retain no features of heritage significance.

This report considers these requests in accordance with LPP 2.6.

This matter was first considered by Council on 10 June 2020 as part of item C2006-7. At this meeting Council resolved to refer this component of the report to the Planning Committee meeting of 1 July 2020 to allow more time to consider the recommendation, and the opportunity for committee debate. Council also extended delegation to the Committee to determine the matter. The balance of the report (dealing with consideration of post war and late twentieth century heritage) was separately resolved by Council on 10 June and so is omitted from this report.

Strategic Alignment

The Strategic Community Plan indicates that Fremantle wishes to “*sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history*”. Maintenance of the City’s LHS and Heritage List contribute to this objective.

OFFICER COMMENT

Each place nominated for review has been assessed by the City’s heritage staff, with a summary, including the recommendation on its future listing, prepared for each. Whilst the vast majority are uncontentious and represent administrative updates more than anything else, those involving retention of the property on the Heritage List against the wishes of the currently landowner, or involving the addition of a new property nominated by someone other than the landowner, may raise objection. Those stemming from community nomination and those involving addition to the list (rather than removal) are consequently outlined below. The remaining (involving minor correction or removal) are outlined in Additional Information attachment 1.

Consultation with the affected landowners will be necessary prior to a final decision.

1.1 96 Marine Terrace, Fremantle



2019 aerial photograph of site, CoF Intramaps.



2018 Street View of site, Google Maps.

Why was the property identified for review in 2020?

A town planner contacted the City of Fremantle on behalf of the owner of 96 Marine Terrace regarding the heritage status of the building since being significantly altered.

Current listings

Heritage Place Name	<i>HOUSE AND LIMESTONE FEATURES, 96 MARINE TERRACE</i>
Heritage listed CoF	<i>Yes, 8 March 2007</i>
Management Category	<i>Level 3</i>
Local Heritage Survey listed	<i>Yes, Adopted 18 September 2000</i>

Comment

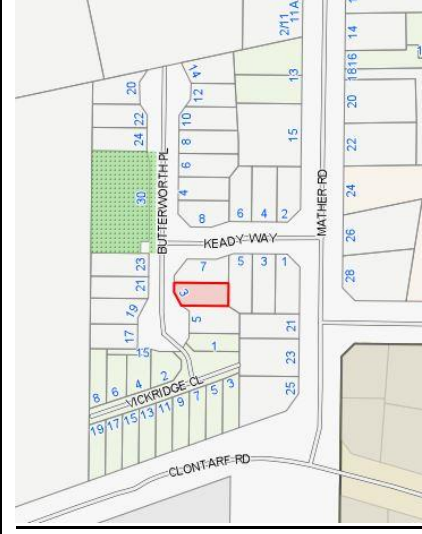
The LHS listing contains an extensive history of this property including its long Inter-War and Post War connections with the Silich family and the Yugoslavian community in Fremantle. The physical description does not adequately explain the layers of history evident in the building fabric and the alterations undertaken by the Silich family. The form of the original c. 1900 house is still clearly expressed and the Post-War alterations are typical of the era and record the contribution to the built environment made by immigrants from Southern Europe. The statement of significance for the place is generic and does not recognise all aspects of its significance.

This place is an example of an already listed place whose statement of significance should be amended to give greater recognition to its connection to Southern European migration.

Recommendation

- Retain place on the Heritage List
- Retain place on the Local Heritage Survey as Level 3.
- Revise the information in the LHS listing including the physical description and statement of significance.

1.2 3 Butterworth Place, Beaconsfield

	
2019 aerial photograph of site, CoF Intramaps.	2015 Street View of site, Google Maps.

Why was the property identified for review in 2020?

The owner of the property contacted the City of Fremantle asking to remove the property from the HL and the LHS because the house dates from 2010s. The owner also questioned the listings of surrounding properties also redeveloped at that time when the Market Garden was sub-divided for housing.

Current listings

Heritage Place Name	<i>SITE OF MARKET GARDENS (FMR)</i>
Heritage listed CoF	<i>Yes, 8 March 2007</i>
Local Heritage Survey	<i>Yes, Adopted 18 September 2000</i>
Management Category	<i>Historic / Archaeological Site</i>

Comment

The original 4 hectare market garden run by the Sardelic family from the 1930s until 2006 was subdivided and redeveloped for housing c. 2010s. The only remaining structures from the market garden era are 13 and 15 Mather Road, two c. 1980s brick and tile houses in the style described in Identifying Australian Architecture as "Immigrant Nostalgia". Neither property is included on the Heritage List or the LHS.

Given the extent of change that has occurred on the former market garden site and the nature of modern demolition and building construction it is highly unlikely that this site has the potential to yield any undisturbed archaeological deposits.

This site was also nominated by staff for review during a search of sites whose heritage status need re-classification following sub-division of a larger listed site.

Recommendation

- Remove the place from the Heritage List
- Change the LHS category from Historic/ Archaeological site to Historic Interest
- Revise the information in the LHS listing including the statement of significance.
- This recommendation also applies to all places in the Sardelic Park subdivision:
 - 3,4,5,6,8,10,12,14,17,19,20,21,22,23,24 Butterworth Place
 - 1-8 Keady Way
 - 1-19 Vickridge Close

1.3 Jaylu Flats, 34 Queen Street, Fremantle

	
2019 aerial photograph of site, CoF Intramaps.	2018 Street View of site, Google Maps.

Why was the property identified for review in 2020?

The owner of the property contacted the City of Fremantle asking to remove the property from the LHS, as it had been significantly altered and has no heritage significance. The following comment was made in their submission *"The building was originally 4 villas, these were converted to 8 flats in 1963, and there have been 2 further refurbishments since. Almost none of the original fabric remains.... The original roof, Dutch gables and chimneys were removed and a new roof built. The new roof sits higher than the original roof, and dividing fire walls of the original villas can no longer be seen. The original wooden verandahs have been removed... the original windows and door frames are larger and more numerous than in the original build"*

Current listings

Heritage Place Name	JAYLU FLATS, 34 QUEEN STREET
Heritage listed CoF	No
Management Category	Level 2
Local Heritage Survey listed	Yes, Adopted 28 September 2011

Comment

The conversion of this 1890s block of four terrace houses into eight flats in the Post-War era involved such extensive internal and external alterations to the building that the original form is no longer clearly recognisable. This building is below threshold for both Level 2 and Level 3 of the LHS and should be reduced to Historic Record Only to record the history of the site.

The LHS has no statutory weight or controls over the future development of the property; it is a recognition list that records information only. The category Historic Record Only indicates that place has a known history but no physical material worthy of heritage protection. This listing will not affect the future development potential of the site.

Recommendation

- Change the Local Heritage Survey category from Level 2 to Historic Record Only.
- Revise the information in the LHS listing to better reflect the physical condition of the building, to record the extent of change to the original fabric and to amend the statement of significance accordingly.

1.4 11 Chalmers Street, Fremantle

	
2019 aerial photograph of site, CoF Intramaps.	2009 Street View of site, Google Maps.

Why was the property identified for review in 2020?

The property owner requested that 11 Chalmers Street be added to the Heritage List and LHS as they thought it was already listed under Management Category Level 3, and would like it to be protected.

Current listings

Heritage Place Name	<i>HOUSE, 11 CHALMERS STREET</i>
Heritage listed CoF	-
Local Heritage Survey	-
Management Category	-

Comment

Historic information and a physical description for the place are included on Inherit under the listing *HOUSE, 11 CHALMERS STREET* because this place was recommended for adoption in 2009 as part of a review that did not proceed. The statement of significance is as follows: *“Aesthetic significance as a good example of a brick residence designed in the Federation Queen Anne style of architecture although built during 1919/20. Historical*

significance as a residence as an example of the early Post World War 1 development of Fremantle."

Recommendation

- Add the place to the Heritage List
- Add the place to the LHS as category Level 3

1.5 36 Samson Street, White Gum Valley

	
2019 aerial photograph of site, CoF Intramaps.	2015 Street View of site, Google Maps.

Why was the property identified for review in 2020?

The owner has requested that her house be added to LHS and Heritage List because of its age and contribution to the streetscape: *"It was built in 1938. Made from moulded concrete bricks, it has art deco features, moulded ceilings and jarrah floors throughout. It is a charming example of a character home typical of Fremantle. Affording character and a pleasing vista to the street scape along with other character homes in the vicinity."*

Current listings

Heritage Place Name	-
Heritage listed CoF	-
Local Heritage Survey	-
Management Category	-

Comment

36 Samson Street is a good but late example of Inter-War Era house that shows some of the influence of the Californian Bungalow style with its asymmetrical design, half-timbered gables and gambrel and masonry piers supporting timber verandah posts. The use of pre-cast concrete blocks was more common during the Second World War as traditional building materials were scarce.

36 Samson Street is surrounded by nine heritage listed properties (excluding 38 Samson Street) mostly constructed during the Inter-War era. These properties combine to form a strong and coherent streetscape which contributes to the character and heritage values of Samson Street and White Gum Valley.

Recommendation

- Add the place to the Heritage List
- Add the place to the LHS as category Level 3.

1.6 22 Shepherd Street, Beaconsfield



2019 aerial photograph of site, CoF Intramaps.



Corner of Montgomery and Shepherd Streets, Google Maps.



Shepherd Street elevation, Google Maps 2015

Why was the property identified for review in 2020?

A descendant of an original and long term tenant of one of these units contacted the City of Fremantle requesting to have the place added to the Heritage List and LHS because of its social and historic significance as a rare example of Post-War housing constructed by the McNess Housing Trust. The applicant provided considerable historical information and social history connected with this building.

Current listings

Heritage Place Name	-
Heritage listed CoF	-
Local Heritage Survey	-
Management Category	-

Comment

The McNess Housing Trust was established in 1930 to provide low cost housing for people who could not afford to pay a reasonable rental for a home such as the elderly, sick, widows, deserted wives or incapacitated people. Funded largely by donations from prominent WA businessman Sir Charles McNess, it constructed 447 houses for WA's neediest families until it was amalgamated into the State Housing Commission in 1968.

Prior to WW2 the trust constructed approximately 200, four roomed timber cottages but after the war it constructed only duplexes and small blocks of single storey flats in brick and tile. 22 Shepherd Street, a block of four, single storey flats was constructed between 1953 and 1965. The two houses in the rear yard were constructed between 1985 and 1989.

22 Shepherd Street is a good example of Post-War housing design. It has red brick walls built up on limestone foundations, horizontal format casement sash windows and a gabled tile roof with boxed eaves. Substantial brick chimneys and semi-enclosed brick entry porches are used to define the private entrances to each flat and break up the strongly horizontal lines of the design.

Recommendation

- Add the place to the Heritage List
- Add the place to the LHS as category Level 3.

1.7 16 Howard Street, Fremantle



2019 aerial photograph of site, CoF Intramaps.



2018 Street View of site, Google Maps.

Why was the property identified for review in 2020?

A potential buyer of the property contacted the City of Fremantle with history notes on the property which stated that the house was 'built and finished September 1936' and asking why it was not listed. The property has since been sold to another party.

Current listings

Heritage Place Name	-
Heritage listed CoF	-
Local Heritage Survey	-
Management Category	-
Heritage Area	<i>Howard Street Heritage Area</i>

Comment

Historic information and a physical description for the place are included on Inherit under the listing *HOUSE, 16 HOWARD STREET* because this place was recommended for adoption in 2009 as part of a review that did not proceed.

The history in Inherit records that "*House 16 Howard St was built between 1934 and 1939 by Stephen Cicerello who owned and occupied it.*"

The statement of significance in Inherit is as follows: "*House, 16 Howard Street, is a single storey brick and tile house dating from 1934. The place has aesthetic value for its contribution to the streetscape and the surrounding area. It is representative of the typical building stock located within the residential areas of Fremantle. It is historically significant as a representation of typical workers' houses in the Fremantle area. The place is an example of the Inter-War California Bungalow style of architecture.*" The statement of significance for the place does not recognise all aspects of its significance as it does not record the contribution to the built environment made by Immigrants from Southern Europe in the Inter-War and Post War eras.

This place is an example of a place whose statement of significance should be amended to give greater recognition to its connection to Southern European migration.

The architect of the recent purchaser of the property has recently been in discussions with the City over redevelopment opportunities. They have been advised that the property is not currently on the Heritage List but is already part of the Howard Street Heritage Area.

Recommendation

- Add the place to the Heritage List
- Add the place to the LHS as category Level 3.

1.8 193 South Terrace

	
2019 aerial photograph of site, CoF Intramaps.	Corner of South Terrace and Louisa Street, Google Maps 2017.

Why was the property identified for review in 2020?

The owner of a neighbouring property contacted the City of Fremantle requesting that the listing of 193 South Terrace be reviewed because its features did not fit its description as a typical workers cottage.

Current listings

Heritage Place Name	<i>HOUSE, 193 SOUTH TERRACE</i>
Heritage listed CoF	<i>Yes, 8 March 2007</i>
Local Heritage Survey	<i>Yes,</i>
Management Category	<i>Level 3, 18 September 2000</i>
Heritage Area	<i>South Fremantle Heritage Area</i>

Comment

The Statement of Significance for the place in Inherit refers to this large single storey corner house as a ‘*typical rendered masonry and tile single storey house*’ that is ‘*representative of the typical workers houses in the area*’. A typical workers cottage is a modest house with a simple plan and in the 1890s they were generally designed in the Victorian Georgian style – either with a symmetrical façade and plan with a central door and four main rooms or with a narrow asymmetrical plan with a door to one side and three main rooms. Decorative elements were limited to the façade with simple treatments on side and rear walls even when it was on a corner site.

193 South Terrace has a complex asymmetrical plan and is designed in the more sophisticated Federation Bungalow style. Both street facades are both treated in the same manner with a projecting bay with a gable roof and decorative fretwork bookending a verandah that wraps around the corner.

As a more substantial and ornate house than much of the surrounding houses, 193 South Street makes a considerable contribution to the streetscape of both South Terrace and Louisa Streets. It is a minor landmark on South Terrace and contributes to the quality and presence of the local commercial area opposite.

Recommendation

- Modify the LHS category from Level 3 to Level 2.

1.9 196 South Street, Fremantle

	
2019 aerial photograph of site, CoF Intramaps.	196 South Street, 2020.

Why was the property identified for review in 2020?

A City Officer identified this limestone cottage as a traditionally constructed limestone cottage which was probably constructed prior to the First World War.

Current listings

Heritage Place Name	-
Heritage listed CoF	-
Local Heritage Survey	-
Management Category	-
Heritage Area	-

Comment

Historic aerial photographs on Intramaps show the house in 1947 surrounded by vacant land prior to its subdivision and residential development. The rear of the site was redeveloped with two houses in the early 1990s.

The house is single storey random rubble limestone house with brick quoins and a hipped roof clad in corrugated metal sheeting. A separate verandah with a concrete floor runs across the front of the façade. The central door with fanlight is flanked by doubled hung sash windows. The place is a good example of a Victorian Georgian style house that was constructed before the surrounding Post-War era development and helps to illustrate the development of the Beaconsfield area.

This place was recommended for adoption in 2009 as part of a draft review of the MHI that did not proceed.

Recommendation

- Add the place to the Heritage List
- Add the place to the LHS as category Level 3.

Various other properties identified for review in the update as part of routine administrative (maintenance) processes are outlined in Additional Information 1. Most relate to new lots created through the subdivision of originally listed sites which have 'inherited' the parent property's listing. All are recommended for minor correction or removal, with a street numbering correction (to ensure that the originally listed building remains protected) also included for a couple.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The *Heritage Act 2018* requires periodic update and review of the LHS. The requirement is met by this report.

CONSULTATION

The *Heritage Act 2018* and the *Planning and Development (Local Planning Schemes) 2015 Regulations* specify consultation requirements with the landowners of all affected properties prior to modification to the Local Heritage List and Heritage List, respectively.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council invite comment from affected landowners on the following proposed modifications to the Local Heritage Survey (LHS) and Heritage List:

Place	Local Heritage Survey	Heritage List	Reason
11 Chalmers Street, Fremantle	Add as Category Level 3	Add	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values.

22 Shepherd Street, Fremantle	Add as Category Level 3	Add	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values. Of particular significance as a rare example of Post-War units constructed as social housing by the McNess Housing Trust.
36 Samson Street, White Gum Valley	Add as Category Level 3	Add	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values.
16 Howard Street, Fremantle	Add as Category Level 3	Add	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values.
196 South Street, Fremantle	Add as Category Level 3	Add	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values.
3, 4, 5, 6, 8, 10, 12, 14, 17, 19, 20, 21, 22, 23 & 24 Butterworth Place	Change Category from Level 3 to Historic Record Only	Remove	This property is part of a former market garden that was subdivided and redeveloped c. 2010s. No evidence of the earlier significant use remains.
1, 2, 3, 4, 5, 6, 7 & 8 Keady Way	Change Category from Level 3 to Historic Record Only	Remove	This property is part of a former market garden that was subdivided and redeveloped c. 2010s. No evidence of the earlier significant use remains.

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 & 19 Vickridge Close	Change Category from Level 3 to Historic Record Only	Remove	This property is part of a former market garden that was subdivided and redeveloped c. 2010s. No evidence of the earlier significant use remains.
38 Samson Street, White Gum Valley	Change Category from Level 3 to Historic Record Only	Remove	The timber cottage described in the heritage listing was burnt down in 2012 and a new house constructed in 2018.
10 Douglas Street, Fremantle	Change Category from Level 3 to Historic Record Only	Remove	The house described in the heritage listing was demolished c. 2010 and a new house constructed
162 High Street, Fremantle	Change Category from Level 3 to Historic Record Only	Remove	The place is below the threshold for inclusion on the Heritage List.
Jaylu Flats, 34 Queen Street, Fremantle	Change Category from Level 2 to Historic Record Only	-	The place is below the threshold for inclusion on in Category 2 or 3 of the LHS.
193 South Terrace, South Fremantle	Change Category from Level 3 to Level 2	Retain on list	The place is of considerable cultural heritage significance in its own right within the context of Fremantle.
258 South Street, South Fremantle	Change Category from Archaeological to Level 3	Retain on list	The shop and house have some significance for their contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values. There is
33 Attwell Street, Fremantle	Add to LHS as category Level 3	Add	35 Attwell Street was subdivided and the new empty block was numbered 35 and retained the heritage listing while the house became 33 Attwell. The listing needs to change to reflect this.

35 Attwell Street, Fremantle	Change Category from Level 3 to Historic Record Only	Remove	35 Attwell Street was subdivided and the new empty block was numbered 35 and retained the heritage listing while the house became 33 Attwell.
2 Nelson Street, South Fremantle		Change name of property on Heritage List.	2 Nelson Street has been incorrectly named a commercial building when it is a house.
2A Nelson Street, South Fremantle	Change Category from Level 3 to Historic Record Only	Remove	2 Nelson Street was subdivided and a new house built on 2A.
House and Limestone Features,96 Marine Terrace, Fremantle	Retain	Retain	The place has some significance for its contribution to the heritage of Fremantle by its individual and collective aesthetic, historic and social values.
Various other properties listed in Attachment 1	Change Category to Historic Record Only	Remove	These places originally formed part of heritage listed parent lots but have since been subdivided from them. They retain no features of heritage significance themselves.

In the event of landowners making no objection to modifications recommended to the Local Heritage Survey and Heritage List, that these changes be finalised, documented and communicated to the Heritage Council of Western Australia and the City's records updated accordingly. Where objection is received, the recommendation will be referred back to Council.

10.2 Committee delegation

PC2007 - 2 **SOUTH TERRACE, UNITS 1 AND 2, NO. 240 (STRATA LOTS 9 AND 10), SOUTH FREMANTLE - CHANGE OF USE TO HOME STORE (TG 0140/20)**

Meeting Date: 1 July 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1: Development Plans
Additional information: 1: Site Photos
2: Indicative Illustrations

SUMMARY

Approval is sought for a change of use for two existing shop tenancies at Unit 1 and 2, 240 South Street, South Fremantle. These tenancies have been constructed in accordance with an approved development for the site comprising a mixed-use development.

The proposal is referred to the Planning Committee (PC) due to the unusual nature of the proposal and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Local Planning Policies and Volume 2 of the Residential Design Codes. These discretionary assessments include the following:

- Land use (Home store).
- Residential Density
- Residential Design Codes Volume 2 Matters

The adaptive use of the existing shop tenancies for two additional dwellings on a long term basis is not considered to provide a sufficient standard of internal amenity for future occupants of the dwellings, particularly in regard to access to sun, light and ventilation. Therefore the application is recommended for refusal.

PROPOSAL

Detail

Approval is sought to change the use of two existing Shop tenancies on the ground floor of the existing mixed use development at 240 South Terrace. It is proposed to change the use of each of the tenancies to a Home store, which is a land use in its own right under LPS4.

A home store is defined in LPS4 as *“any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling”*

In accordance with this definition of a Home store, the shop component (being the Home store) must be attached to a dwelling. Therefore, this application also considers the appropriateness of two additional Multiple dwellings on the ground floor of the mixed use development.

In support of the Home store proposal, the applicant has submitted indicative shop uses and associated floor plans which illustrate the following:

Unit 1 (Strata Lot 9) Home store (Retail Shop)

- Small retail shop area adjacent to South Terrace
- Monday to Saturday 9am -6pm
- Minimal deliveries will be mostly through Australia post to cover such small floor space, or indeed picking up stock, car bays at the front expect to be utilised.
- Signage will be up to the operator to confirm.
- No special equipment

Unit 2 (Strata Lot 10) Home store (Hairdresser or Beauty Salon)

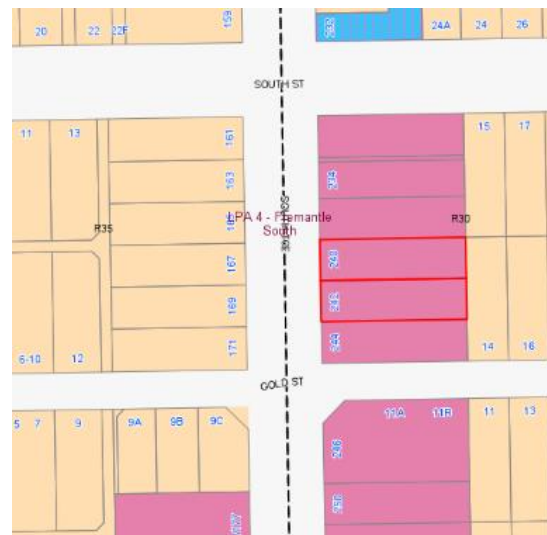
- Small hairdresser or beauty salon area adjacent to South Terrace
- Monday to Saturday by appointment
- No deliveries, small service provider only.
- Signage will be up to the operator to confirm.
- Sink and chair to be installed, cleaning regime to be COVID Safe compliant.

Both tenancies are indicatively fitted out as dwellings to the rear of the tenancy including an area for a winter garden, lounge area, kitchen/dining area, bedroom, bathroom, and laundry.

Development plans and fitouts are included as attachment 1. Attachment 2 includes some perspective images provided by the applicant to illustrate examples of how these spaces could look as proposed Home stores. It is noted that these are just indicative images as they are in some cases inconsistent with the Development Plans.

Site/application information

Date received:	24 May 2020
Owner name:	Lemeg Ventures Pty Ltd
Submitted by:	Megara
Scheme:	Mixed Use
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Shop and Multiple dwellings
Use class:	Home Store
Use permissibility:	A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed land use was required to be advertised in accordance with LPS4. The advertising period concluded on 25 May 2020, and three (3) submissions were received. The following issues were raised (summarised):

- Concern that the existing light well to a bedroom to the southern side of the development could be used as a vent for the kitchen of a proposed home store.
- Concerns in relation to the finalisation of construction on site.
- Concerns that the use of the two ground floor tenancies would result in the development not complying with the definition of 'mixed use'.
- Concern that if approved, the development will significantly exceed the R60 requirements and result in residential density greater than that allowable under LPS4 and the site will not comply with minimum and average site area requirements.

In response to the above, the applicant submitted the following response (summarised):

- The neighbouring bedroom is provided with a skylight.
- Vents would be provided in accordance with NCC requirements.
- Issues with the finalisation of construction on site are to be resolved between the builder and neighbour.

In response to the above, the following comments are provided by officers:

- It was a requirement of the original development approval for the development that the building be set back to provide light and ventilation to the neighbouring habitable room.
- Concerns in relation to the finalisation of the development and compliance with development approval conditions may be referred to the City's compliance team for investigation and action if required.
- As discussed below, the land use 'Home Store' is listed under the commercial uses in the LPS4 use class table.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. Where a proposal does not meet the relevant Scheme or policy assessment criteria, an assessment is made against the relevant discretionary criteria. In this particular application the areas outlined below do not meet the Scheme or policy requirements and require a discretionary assessment:

- Residential Density
- Land use (Home store).
- R-Codes Volume 2 Matters

The above matters are discussed below.

Background

The subject site is located on the eastern side of South Terrace, close to the intersection with South Street. The site has a land area of approximately 876m² and is currently occupied by a recently constructed two storey mixed use development. The site is zoned Mixed Use and has a density coding of R30. The site is not individually heritage listed however is located within the South Fremantle Heritage Area.

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

- DA0238/17 – Two storey mixed use development (cancelled).
- DAP004/17 – Two storey mixed use development (approved).
- DAPV003/19 – Change of use to Restaurant and Small Bar (Refused by the JDAP on the basis that the proposal could not be considered as a variation to the original approval and should be lodged as a separate Development Application).
- DA0349/19 – Change of use to Restaurant and Small Bar (cancelled).

The development on site today was approved by the Metro South West Joint Development Assessment Panel in 2017, with the approved residential density supported under clause 4.2.5 of LPS4. The determination of this application predated the adoption of Local Planning Policy 2.21 which relates to the assessment of proposals under cl 4.2.5. While construction of the development was underway, the applicant sought to change the use of the approved Shop tenancies to Restaurant and Small Bar use under DA0349/19.

DA0349/19 was considered at the Ordinary Council Meeting on 27 November 2019 after previous consideration at the Planning Committee Meeting on 6 November 2019, with the Council making the following decision:

REFER the application for the Change of Use to Restaurant and Small Bar at No. 240 and 242 (Lots 30 and 31) South Terrace, South Fremantle to the next appropriate Planning Committee Meeting to allow the applicant to give further consideration to amending the proposal to address the Council's concerns relating to the provision of car parking for the proposed uses.

Following this decision by the Planning Committee, the applicant chose to withdraw the application and pursue the subject application for Home Store, citing the following reasons for the new proposal:

This change of use is proposed to amend the commercial tenancies at the ground floor from "Shop" to "Home Store". This is to meet the market where there has been limited, if any, interest in retail tenancies, and this was before COVID-19 impacts. Now there is limited, if any interest in standard office, shop or entertainment uses. This accords with macro-economic forces and the contemporary nature of retailing; where it is going through a paradigm shift as we move into a post COVID-19 future and online retail continues to take over bricks and mortar.

It is noted that the new application significantly reduces the previously proposed on site car parking shortfall considered for the change of use to Restaurant and Small Bar. The provision of onsite car parking for the proposed change of use is discussed further in the officer comment section below.

Land Use

A Home Store is an 'A' use in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice (advertising) in accordance with clause 64 of the Regulations. In considering an 'A' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

A Home store is an unusual use under LPS4. It sits within the Commercial Use Classes of the land use table of LPS4 and not the Residential Use Class. It is a use that is not typically proposed for new development, and is more typically associated with the historic 'corner store' within a residential area. Nonetheless, it is a use under LPS4 that can be considered within the Mixed use zone in accordance with the above provisions.

It is considered that the proposed Home store use, as a land use per se, could be consistent with the objectives of the Mixed Use zone for the following reasons:

- A Home store use could make a positive contribution to the mixed use area, complementing existing uses, adding vitality to the area and retail and services for the locality and residents on the subject site, accessible to the local and broader community.
- A Home store use could contribute to an active public domain.
- As discussed below, the development is considered to provide sufficient parking for the proposed use.
- A Home store would not be significantly detrimental to the amenity of adjacent residential properties nor those on site. The use will cater for a limited number of patrons at any one time given the limited shop floorspace integral to the land use definition of a Home store, and if they operated as per the applicant's submission. In light of the modest size of both tenancies and the stated nature of the proposed businesses (although noting these are only indicative and the applicant does not have confirmed prospective tenants), it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.

Accordingly, a Home store use, in isolation, is considered capable of approval for the reasons above. However, as detailed further in this report, the design of the Multiple dwelling component of the Home store in this particular application is not considered to provide suitable internal amenity for future occupants to occupy on a permanent basis. As such, the application is recommended for refusal.

Residential Density

The existing mixed use development was approved by the Metro South West Joint Development Assessment Panel in 2017, with eight dwellings – equating to a residential density of R90 if calculated purely on the basis of dividing the site area by number of dwellings. This is above the LPS4 base density of R30. The increase in density was supported in accordance with clause 4.2.5 of LPS4. The proposed change of use will add a further two Multiple dwellings taking the total number of dwellings in the development to 10 which equates to a residential density of R115.

Density is a planning tool, commonly used to control land subdivision and built form. In this instance the building envelope of the approved development and the total number of strata lots is not proposed to change, therefore the built form of the development remains acceptable in accordance with the original approval for the mixed use development. In such instances, the increase in density is considered in light of the potential consequences of the additional dwellings and the impact these might have on external and internal amenity and the provision and use of available amenities (e.g. car parking and communal open space if applicable).

Officers have used the Residential Design Codes Volume 2 and Council's Local Planning Policy 2.21 – R60 Development under Clause 4.2.5 of LPS4 to guide the assessment of the potential consequences of the two additional dwellings.

The following sections of this report outline officers' assessment against these requirements, concluding that the adaptive reuse of the existing shop tenancies for the Multiple dwelling component of the Home store use provides for unacceptable internal amenity and is therefore not suitable for occupation on a permanent basis. The poor internal amenity of the dwellings results from the constraints of the proposed adaptive reuse of two purposefully designed commercial (Shop) tenancies.

As such, it is considered that the proposed change of use contributes to an unacceptable increase in the residential density of the site and this overdevelopment results in a poor design outcome with respect to the liveability of the ground floor units. Accordingly, the application is recommended for refusal.

LPP 2.21 – R60 Development under Clause 4.2.5 of LPS4

The existing mixed use development was approved prior to Council's Local Planning Policy 2.21 – R60 Development under Clause 4.2.5 of LPS4. The purpose of this policy is to provide guidance on the criteria against which impact on amenity will be assessed under Clause 4.2.5 of LPS4 in order to provide greater certainty and consistency of decision-making, and promote better built form and community outcomes. A key element of an assessment against this Policy is how the increase in density impacts the general quality of the built environment being created.

As the majority of the development is approved and constructed, the matters listed below, being the criteria associated with the quality of the built environment under clause 3.6 of LPP 2.21, are discussed below in relation to the additional two dwellings.

Clause	Officer Comment
3.6.1 - Open space areas should be usable and accessible to all residents of the development, and incorporate landscaping to create amenable spaces.	The development does not include an area of communal open space for use of the residents. The proposal does not include the provision of any open space areas for the two additional dwellings. The 'winter gardens' are enclosed, and although they provide a buffer from the street to the living areas of the dwelling they do not provide the equivalent of open space.
3.6.2 - A Deep Planting Zone is to be incorporated into the development at a minimum size of 12% of the development site area.	The provision of landscaping and planting areas for the overall development was addressed through the original development application. The incorporation of further deep planting zones is not able to be achieved for the development as proposed due to the location of the existing building.

3.6.3 - Outdoor living areas cannot be reduced by more than half the deemed-to-comply requirement for the base code.	The additional dwellings are not provided with a balcony or an equivalent outdoor living area. The proposed winter gardens are enclosed, and although they provide a buffer from the street to the living areas of the dwelling they do not provide the equivalent amenity of an outdoor living area. The winter garden is discussed further in relation to R-Codes Volume 2 matters.
3.6.4 - Achievement of privacy requirements through the full screening of balconies will not be supported: a minimum of 25% of the perimeter of each balcony must remain unscreened.	As mentioned above, the additional dwellings do not incorporate balconies or courtyard areas. No changes are proposed to the existing shopfront. Whilst the shopfront is visually permeable and operable (sliding windows), privacy for future occupants of the additional dwellings is inadequately addressed.
3.6.5 - Fully internalised habitable rooms will not be supported. Every habitable room is to have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight is not to be borrowed from other rooms.	Although the additional dwellings are proposed as open plan studio apartments, the living areas and bedroom of each dwelling is set back approximately 4m and 10.5m respectively from the front elevation of the building which contains the only window and door to the dwelling. Access to natural light and ventilation is discussed further in relation to R-Codes Volume 2 matters.

Having regard for the above, the Multiple dwelling component of the Home store is not considered to adequately address the requirements of LPP 2.21 with respect to the overall quality of the built environment of the two additional dwellings. The poor quality of the internal amenity of each dwelling is not considered to be a positive outcome for the long term habitation of these dwellings.

State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments

The existing mixed use development was approved prior to the introduction of State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartment. These requirements provide criteria for the assessment of Multiple dwellings and/or the dwelling component of a mixed use development. As the building is already in existence, officers have not reviewed the approved Multiple dwellings (eight dwellings) against the Element Objectives of R-Codes, however where applicable, officers have assessed the Multiple dwelling component of the proposed Home store tenancies against these provisions.

Element 4.13 provides Element Objectives for the adaptive reuse of existing structures. This element guides the assessment of the configuration of new apartments within existing buildings with an aim to achieve liveable and unique apartments. The element acknowledges that the acceptable reuse of an existing building for Multiple dwellings requires a balanced assessment between the benefits of adaptive reuse and residential amenity. This is key to assessment of the current proposal.

In regard to residential amenity, officers have reviewed the overall amenity and performance of the Multiple dwelling component of the proposed use against the primary requirements for acceptable internal amenity including access to sun and light, natural and cross ventilation, private open space and/or outdoor living areas and visual and acoustic privacy. Each of these is discussed in turn below.

Solar and daylight access

Objective(s)

- The development is sited and designed to optimise the number of dwellings receiving winter sunlight to private open space and via windows onto habitable rooms.
- Windows are designed and positioned to optimise daylight for habitable rooms.

Officer comment

The Multiple dwelling component of each Home store tenancy includes an existing west facing shopfront window protected by an awning. This window does not provide a northern aspect nor is it considered to facilitate sunlight access to the living areas and bedroom of each dwelling which are located towards to rear of each tenancy.

The Home store including the dwelling component comprises one large area, with the shop/salon, living area and bedroom divided by curtains rather than walls. While access to daylight may be achievable when all the curtains are in an open position the depth of each dwelling significantly exceeds the maximum depth (9m) that is considered acceptable and access to light (and ventilation) from the bedroom is considered to be severely compromised.

Natural Ventilation

Objective(s)

- Individual dwellings are designed to optimise the natural ventilation of habitable rooms.
- Single aspect apartments are designed to maximise and benefit from natural ventilation.

Officer comment

The dwellings are proposed to be provided with mechanical ventilation and with ventilation from operable windows to the front façade. There is no opportunity for natural cross ventilation of the single aspect units and the operable front windows are not considered sufficient to provide ventilation to the whole dwelling, considering that due to the proximity to the street and footpath, these windows would be likely to be kept closed for security reasons.

Private open space and balconies

Objective(s)

- Dwellings have good access to appropriately sized private open space that enhances residential amenity.
- Private open space is sited, oriented, and designed to enhance liveability for residents.

Officer comment

Generally for a studio apartment a minimum private open space area of 8m² should be provided. The applicant proposes that a portion of the tenancy be used as an enclosed 'winter garden' in lieu of a private open space area. It is considered that the internalised location of this area and its position does not readily satisfy the need to provide private open space for residents, being enclosed and readily visible from the public realm.

Storage

Objective(s)

- Well designed, functional and conveniently located storage is provided for each dwelling.

Officer comment

No dedicated store area is provided for each dwelling.

For the reasons discussed above, the development is not considered to provide an acceptable level of internal amenity for future occupants' specifically in regard to access to solar and daylight, natural and cross ventilation and private open space. It is considered that the original design of these tenancies, for Commercial use, creates significant constraints to support the adaptive reuse of these spaces for residential habitation on a permanent basis. As such the Multiple dwelling component of the Home store use is not considered to satisfy the Element objective of the R-Codes relating to the adaptive reuse of an existing building and is not supported.

Car parking

The existing development was approved with five commercial car parking bays with two bays being allocated to each Shop tenancy and one commercial bay remaining in common property. At the time of the original assessment, a shortfall of six commercial bays was supported on the basis that sufficient on street parking was available in the immediate area, the site was accessible via public transport and the potential for the reciprocal use of the residential visitor bays.

A Home store land use does not have a specific car parking requirement in accordance with LPS4. The proposed provision of two car parking bays per Home store is considered acceptable for the following reasons:

- The Shop component of the Home store use is significantly less than the area of the approved Shop tenancies.
- The parking allocation exceeds the minimum requirement for parking for a Multiple dwelling (ie. 0.75 bays per dwelling).
- The parking allocation exceeds the provision of the parking for the existing two-bedroom Multiple dwellings (ie. One bay per dwelling).

- The Home store must be operated by the occupier of the dwelling, therefore additional parking for staff is unlikely to be required.

Given the above, the existing parking provision is considered acceptable for the proposed Home store use.

As discussed above, the proposed development is not considered to be suitable for permanent approval for use as a dwelling.

CONCLUSION

In accordance with the above considerations, although a Home store land use, in isolation, could be considered an acceptable land use within an existing mixed use development on the subject site, the design of the Multiple dwelling component of the Home store as proposed in the current application is not considered to be appropriate for permanent habitation as the dwellings have substandard access to sunlight and daylight, natural ventilation and private outdoor living areas.

Officers acknowledge the applicant's submission that the Home store land use is proposed as an alternative to a Shop, Office or Entertainment land use, being uses that are of very limited interest to the market due to the unprecedented impacts of COVID-19 on commercial activities. It is also understood that the effects of COVID-19 on the Retail and Hospitality economy will be experienced for an unknown period of time post the current epidemic. Although the use of the existing Shop tenancies for permanent residential occupation is not supported for the reasons outlined in this report, the Council may consider a strictly time limited approval (maximum of three years) as an acceptable interim use whilst the economy is recovering from the effects of COVID-19. Alternatively, the use of the tenancies for short stay (tourist accommodation) occupation, where a lower level of internal amenity is more acceptable due to the short stay nature of the use, may be a more appropriate and viable use for the tenancies and the Council may wish to advise the applicant accordingly.

Having regard for the permanent proposed change of use, the application is recommended for refusal, for the reasons outlined in the officer's recommendation.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

Refuse, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the change of use to Home store, including the provision of two additional multiple dwellings at Units 1 and 2, No. 240 (Strata Lots 9 and 10) South Terrace, South Fremantle, as detailed on plans dated 24 April 2020 for the following reasons:

- 1. The dwelling component of the Home Store use does not satisfy Element objective 4.13 Adaptive Reuse of the Residential Design Codes Volume 2 as the dwellings do not provide an acceptable level of internal amenity specifically in respect to access to solar and daylight, natural ventilation, private open space, and storage.**

**PC2007 - 3 STIRLING HIGHWAY, NO. 1/87 (LOT 1 SSP 40897), NORTH
FREMANTLE - ADDITIONS AND ALTERATIONS INCLUDING ROOF
AND PERGOLA TO UPPER FLOOR DECK OF EXISTING SINGLE
HOUSE – (NB DA0095/20)**

Meeting Date: 1 July 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for additions and alterations, including a roof to the rooftop deck of No. 1/87 Stirling Highway.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks a discretionary assessment against the Local Planning Scheme No. 4 (LPS4) in regards to:

- Wall height

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for additions and alterations to an existing two storey house with rooftop deck. The proposed works include:

- Additional ground floor toilet
- Three new skylights to heritage house
- Addition of louvre panels to enclose first floor balcony
- Minor change to rooftop balustrade design
- New roof and pergola to approved rooftop deck.

The applicant submitted amended plans on 27 May 2020 including the following:

- Converting a portion of the solid rooftop above the deck to an open pergola.

Development plans are included as attachment 1.

Site/application information

Date received: 16 March 2020
 Owner name: JK Ford Superannuation Pty Ltd
 Submitted by: JK Ford Superannuation Pty Ltd
 Scheme: Mixed Use R35/R40
 Heritage listing: Individually Listed Category 3 and North Fremantle Heritage Area
 Existing land use: Single house, Home business
 Use class: Single house. Home business
 Use permissibility: A, A



CONSULTATION

External referrals

Main Roads Western Australia (MRWA)

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. MRWA have advised that they have no objection to the proposal.

Heritage Comment

The site is listed in the City's Heritage List and the Local Heritage Survey (formally the Municipal Heritage Inventory) as a level 3 Management Category. It is also located in the North Fremantle Heritage Area. This means that the City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the streetscape and to the local area. Its contribution to the streetscape and urban context should be conserved.

The 2018 proposal to construct the rear additions at the subject site, currently under construction, was considered acceptable on heritage grounds because the section visible from the street was simple in form and relatively modest in scale. The proposed addition of a roof structure to the rear of the roof terrace of these additions would slightly increase the scale of the additions but would have limited affect upon the heritage values of the historic cottage or the quality of the heritage streetscape.

Although the proposed changes to the balustrade to the roof terrace reduce the simplicity of the rear addition they would not greatly change the overall impact that the rear additions would have upon the heritage values of the historic cottage or the quality of the heritage streetscape.

The Velux roof vents to be installed in the roof of the historic cottage will not be located in the front face of the hipped roof which faces the street but on the side faces. These roof vents will have minimal impact upon the presentation of house from Stirling Highway.

Given the above, the proposal is supported on heritage grounds.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion against the maximum height requirements of the scheme were sought. The advertising period concluded on 21 April 2020, and three submissions were received. Two submissions stated they had no objection to the proposal and, the other submission raised the following issues (summarised):

- Concerned the north - west shuttered opening allows visual and noise intrusion. The submitted request that these be a solid non-operable barrier.
- Concerns about building bulk and sunlight to open space of the house to the west.

In response to the above, the applicant submitted revised plans to address the following:

- Amended a portion of the solid roof closest to the adjoining outdoor living area to an unroofed pergola, thereby reducing perceived building bulk.

In regards to the comments about noise from the use of the deck, planning legislation does not account for noise associated with normal domestic activity. Any excessive noise would likely be governed by health legislation. It is also noted that the roof deck was previously approved as part of the original approval and is currently under construction on the subject site.

The privacy screen will prevent all overlooking in accordance with the R-Codes. The additional louvers above are just another measure to restrict views.

The remaining comment is addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. In this particular application the areas outlined below seek discretionary assessment under LPS4:

- Wall height

The above matters are discussed below.

Background

The subject site is located on the western side of Stirling Highway just south of Congdon Street in North Fremantle. The site has a land area of approximately 365m² and is currently a two storey with roof deck single house and Home business. The site is zoned Mixed Use and has a density coding of R35/R40. The site is individually heritage listed level 3 and located within the North Fremantle Heritage Area.

The ground level slopes up approximately 3 metres from Stirling Highway towards the rear of the block.

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

- DA0189/18 – Change of use to Single house and Home business, and two storey with roof deck additions and alterations to existing building
- VA0034/18 – Variations to DA0189/18 – Minor alterations to the approved plans

The two storey additions are currently under construction with the works nearing completion.

Wall height

Element	Requirement	Proposed	Extent of Variation
Wall height (maximum)	7.5m	8m	0.5m

Clause 4.8.1.2 of LPS4 states:

Where there is a variation in ground level over a development footprint of greater than one metre, Council may increase the specific height requirements of Schedule 7 subject to—

- a) no portion of external wall of the building exceeding the maximum external wall height requirement of Schedule 7 by greater than 0.5 metres, and*
- b) no portion of external wall of the building that exceeds the maximum external height requirement of Schedule 7 being situated on the higher side of the development footprint as measured from natural ground level.*

The ground beneath the development footprint has a slope greater than one metre, which allows consideration of an additional 0.5m of wall height. There is a slight dip in natural ground level towards the rear of the site where some excavation for landscaping has occurred. The additional wall height is over this lower portion of ground level. The variation therefore complies with the above.

The scheme does not provide the additional wall height as of right, but states that Council *may* grant the additional height. As the scheme offers no discretionary assessment for wall height, City Officers have relied on the Design principles of clause 5.1.6: Building Height of the R-Codes to assess whether the additional wall height is appropriate, which state:

Building height that creates no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves; and where appropriate maintains:

- *adequate access to direct sun into buildings and appurtenant open spaces;*
- *adequate daylight to major openings into habitable rooms; and*
- *access to views of significance.*

The discretionary wall height is supported for the following reasons:

- The bulk of the building has been approved and constructed, with privacy screens of a minimum 1.6m above finished floor level required on the north and west sides of the rooftop deck. The wall height variation in question pertains only to the proposed roof and louvers of the rooftop deck. The pergola is excluded from the definition of a “building” within the R-Codes, and therefore the wall height provisions do not apply, so long as the pergola remains unroofed or covered in a water permeable material. Covering it in a water impermeable material (e.g. colorbond roof) would require a separate application.
- The pergola section is located towards the north-west portion of the rooftop deck, which is closest to the open space and outdoor living area of the house to the west. The structure will protrude slightly over the required 1.6m high privacy screens but result in minimal loss of views, given that the bulk of the building has been approved and constructed.
- The solid roof portion is located in front of the high blank gable wall of the adjoining western dwelling and will therefore have minimal impact on direct access to sunlight or views of significance.
- Neither the pergola nor the solid roof adjoins the open space of the western lot. Both are located towards the gable wall of the western house, as shown in Figure 1 below:

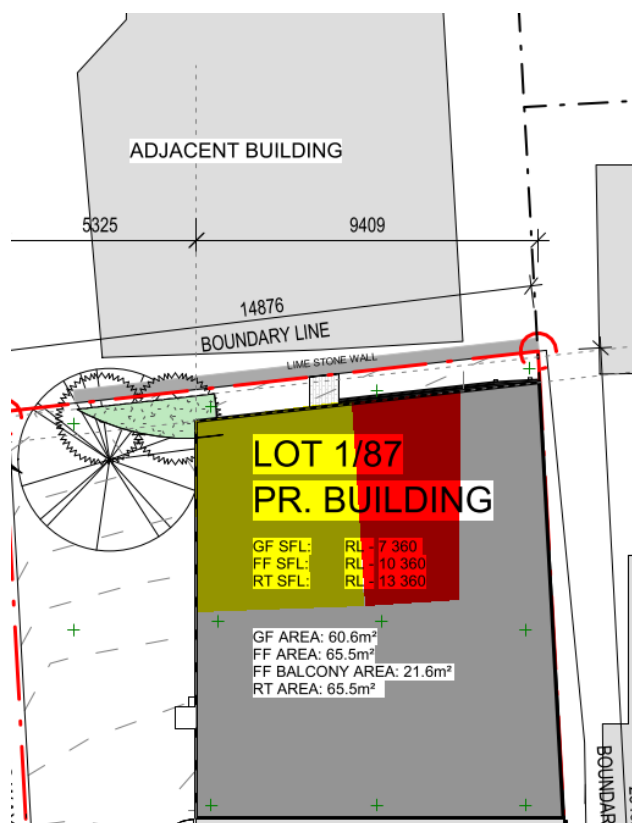


Figure 1: Approximate location of the deck roof (yellow) and pergola (red)

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Additions and alterations including roof and pergola to upper floor deck of existing Single house at No. 1/87 Stirling Highway, North Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 27 May 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.

2. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the rooftop deck (along the north and west elevations) is to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:
 - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or
 - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level,

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

Advice note:

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.

**PC2007 - 4 JOHANNAH STREET, NO. 6 (LOT 102), NORTH FREMANTLE -
DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION
OF A TWO STOREY SINGLE HOUSE – (JCL DA0107/20)**

Meeting Date: 1 July 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended development plans
Additional information: 1. Site photos
2. Heritage comment

SUMMARY

Approval is sought for the demolition of existing Single house and construction of a two storey Single house at No. 6 Johannah Street, North Fremantle.

The proposal is referred to the Planning Committee (PC) as the proposal includes the demolition of a Single house in a Heritage Area. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) and the RCodes. The discretionary assessments include the following:

- Building height
- Solar access

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for demolition of an existing Single house and the construction of a two storey Single house at No. 6 Johannah Street, North Fremantle. The proposed works include:

- Demolition of existing dwelling;
- Construction of a two storey Single house, detached addition at rear of site comprising an 'Art Studio', and associated hardstand; and,
- Retention of existing crossover.

The applicant submitted amended plans on 4 May 2020 including the following:

- Amending the driveway to be setback 0.5m from south-east boundary;
- Confirmation that the detached addition at the rear of the site is to be an 'Art Studio';
- Provision of two tandem car bays on proposed hardstand;
- Minor fill (less than 0.5m) to south-east and north-western portions of site; and,
- Reduction in the length of the south-western wall of the detached addition.

The amended development plans are included as attachment 1.

Site/application information

Date received:	23 March 2020
Owner name:	Alex Gillam and Margaret Hugall
Submitted by:	Arklen Developments Pty Ltd
Scheme:	Residential R25
Heritage listing:	Not listed, North Fremantle Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion were sought against LPS4 and the R-Codes. The advertising period concluded on 8 June 2020, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or Scheme provisions, and need to be assessed under the Design principles of the R-Codes and clause 4.8.1.1 of LPS4:

- Building height
- Solar access

The above matters are discussed below.

Background

The subject site is located on the south-western side of Johannah Street opposite Gilbert Fraser Reserve, between John Street and the Swan River. The site is approximately 487m², and comprises a Single house. The site is zoned 'Residential' and has a density coding of R25. The site is not individually heritage listed however it is located within the North Fremantle Heritage Area.

The site is predominantly level, with a slight slope from the rear to the front of site. A search of the digital property file has yielded no relevant planning history for the site. A survey of aerial imagery indicates the site was subdivided and a dwelling constructed to the rear of the subject site as 6a Johannah Street in the late 1980's or early 1990's.

Demolition

Clause 4.14.1 of LPS4 states:

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

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

The existing dwelling is considered to have been constructed between 1953 and 1965. The house is single storey and is composed of masonry with a low pitched gable corrugated metal sheeting roof. It has been substantially altered since construction, largely comprised of nostalgic 'heritage features' including finials and ashlar lined render, mimicking limestone brickwork.

It is considered that the dwelling doesn't have individual cultural heritage significance, nor does it make a significant contribution to the broader cultural heritage significance and character of North Fremantle. Further, it is located in a street with little historic streetscape value, as one property on Johannah Street is heritage listed, with the remaining housing stock constructed in the post-war era. As such, its demolition is supported.

Solar access

Element	Requirement	Proposed	Extent of Variation
Overshadowing	13% (122m ²) proportionate share of 25% total overshadowing permitted	15.75% (148m ²)	2.75% (26m ²)

The proposal is considered to meet the design principles of the R-Codes in the following ways:

- The proposal does not result in a loss of light to major openings or primary outdoor living areas on the adjoining site, with the overshadowing falling over the southern neighbours battle-axe access leg and a portion of hardstand area (see Figure 1 below);

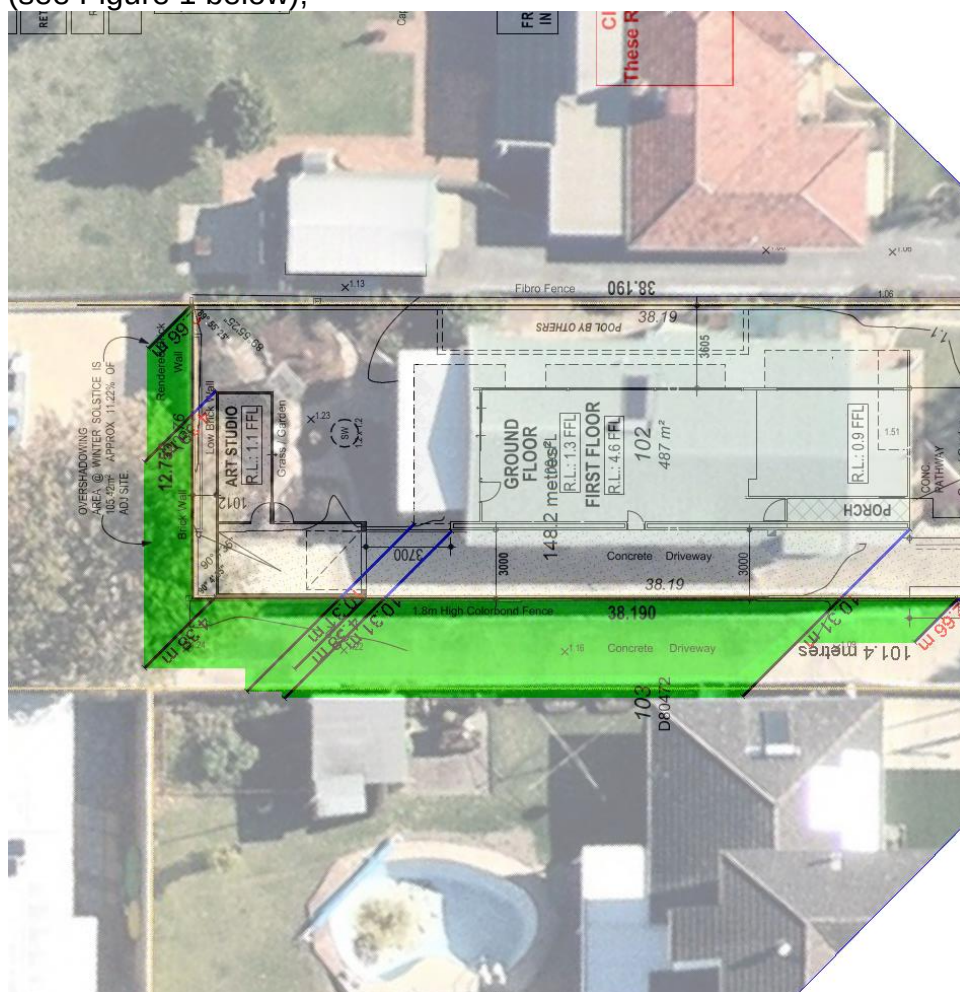


Figure 1: Overshadowing impact on southern neighbour (No. 6a Johannah Street).

- The lesser solar access available to the adjoining site is considered to represent a relatively modest departure from the deemed-to-comply requirements and be largely indistinguishable from a compliant proposal;
- The proposal does not result in any loss of light to solar collectors on adjoining sites.

Building Height

Element	Requirement	Proposed	Extent of Variation
Building height (external wall)	5.5m	7m	1.5m

The proposal does not meet the maximum height requirement specified in Schedule 7 of LPS4. The exercise of discretion pursuant to clause 4.8.1.1 of LPS4 is sought in respect to building height.

Several properties adjacent to the site and located in the general locality exceed the Scheme height of 5.5m. These properties include:

- No. 1/4 Johannah Street (external wall height of 7.7m at gable end facing Johannah Street);
- No. 5 Johannah Street (external wall height of 6.4m to Johannah Street); and,
- No. 10 Johannah Street (external wall height of 7.9m at gable end facing Johannah Street).

The building height variation is supported on the basis of an assessment against Clause 4.8.1.1 of LPS4 for the following reasons:

- The height variation is considered to have an acceptable amenity impact to the locality, as it complies with lot boundary setbacks and visual privacy, and the overshadowing variation discussed above is supportable;
- The proposed height is considered to effectively graduate the scale of other dwellings in the street in street particularly No. 4 and 10 Johannah Street.
- The streetscape is not considered to have significant cultural heritage value. The only listed place is located 46m to the south-east, and is not considered to be adversely impacted by the proposed development; and,
- There are no applicable provisions relating to building height for the site contained in LPP D.G.N2 – *Stirling Highway, John and Johannah Streets Local Area*.

CONCLUSION

It is considered that the proposal is supportable on the basis of the above assessment against the provisions of the RCodes, City's Policies, and LPS4 relating to building height and overshadowing. On this basis, it is recommended that the proposal be supported, subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of existing Single house and construction of a two storey Single house at No. 6 (Lot 102) Johannah Street, North Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 4 May 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the upper floor bedroom windows located on the north-western elevation, is to be screened in accordance with Clause 5.4.1/6.4.1 C1.1 of the Residential Design Codes by fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level. Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**
- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

ADVICE NOTES:

- i. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
- ii. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- iii. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**

- iv. **The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**

PC2007 - 5 INFORMATION REPORT – JULY 2020

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

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

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

Responsible Officer: Manager Development Approvals
Agenda attachments: Nil

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

1. Application Reference
DAP001/20
Site Address and Proposal
254C Hampton Road and 2 Culver Street, Beaconsfield – Mixed Use Commercial Development (Petrol Filling Station, Lunch Bar, Restaurant)
Planning Committee Consideration/Decision
At its meeting held on 15 April 2020, the Council resolved to support the officer's recommendation to refuse the application.
Current Status
- At its meeting held on 7 May 2020, the Metro Inner-South Joint Development Assessment Panel refused the application in accordance with the officer recommendation including with the inclusion of additional reasons relating to the built form of the proposed development. - In June 2020, the applicant lodged an application for review to the State Administrative Tribunal. A Directions Hearing has been scheduled for 26 June 2020.

OFFICER'S RECOMMENDATION

Council receive the following information reports for July 2020:

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

10.3 Council decision

Nil

11. Motions of which previous notice has been given

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

12. Urgent business

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

13. Late items

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

14. Confidential business

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

15. Closure