



Agenda

Planning Committee

Wednesday, 4 November 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 **Wednesday, 4 November 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

30 October 2020

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CITY OF FREMANTLE

Planning Committee

Agenda

1. Official opening, welcome and acknowledgement

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

2. Attendance, apologies and leaves of absence

Cr Rachel Pemberton - apology

3. Disclosures of interests by members

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

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

OFFICER'S RECOMMENDATION

The Planning Committee confirm the minutes of the Planning Committee meeting dated 7 October 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

PC2011 - 1 WATKINS STREET, NO. 107A (STRATA LOT 1), WHITE GUM VALLEY - TWO STOREY SINGLE HOUSE (TG DA0160/20)

Meeting Date:	4 November 2020
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Development Plans
Additional information:	1. Original Development Plans 2. Site Photos

SUMMARY

Approval is sought for a two storey Single house at 107A Watkins Street, White Gum Valley.

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

- Boundary wall (east)
- Open space
- Building height (external wall)
- Outdoor living area
- Setbacks (west)

The application was considered by PC at its meeting on 5 August 2020 and deferred to allow the applicant to consider making amendments to the proposal to reduce the overshadowing impacts on the neighbouring property's north facing primary outdoor living area.

Amended plans were provided by the applicant on 2 October 2020 and are detailed below.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two storey Single House to an existing vacant block at 107A Watkins Street, White Gum Valley. The proposed works include:

- Ground floor:
 - Double garage.
 - Living/Dining/Kitchen room.
 - Laundry.
 - Scullery.
 - Two bedrooms.
- Upper floor (amended plans submitted 2 October 2020):
 - One master bedroom suite with bathroom and walk in robe.
 - Sitting room.
 - Balcony/Sun terrace.

The applicant submitted amended plans on 23 June 2020 which included amendments to minimise overshadowing of the property to the south and clarified the extent to which this property is overshadowed.

In response to PC concerns in relation to the level of shade cast by the development over the neighbouring property to the south (13A Minilya Avenue), the applicant submitted further amended plans on 2 October 2020 which included the following amendments:

- Reduced the size of the upper floor by 3.6m from the southern boundary to reduce impact of overshadowing
- Reconfigured upper floor, removing the activity, WIL and powder rooms
- Reduce pitch of roof to 25 degrees in lieu of 30 degrees

Additional amendments such as air conditioning ducting and reconfiguration of the upper floor rooms were included in these plans.

Amended Development plans are included as attachment 1.

Site/application information

Date received:	13 May 2020
Owner name:	C Wyled and C Cabera
Submitted by:	Summit Homes Group
Scheme:	Residential R20/25
Heritage listing:	Not listed
Existing land use:	Vacant site
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal seeks variation to several deemed-to-comply criteria of the R-Codes. The advertising period concluded on 8 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

- Concerns in relation to the eastern boundary wall impacting access to natural light for a bedroom and ensuite.
- Concerns in relation to upper floor outdoor living area/sun terrace impacting the privacy of adjoining properties. Submitters were concerned about noise levels from the terrace which adjoins a master bedroom and potential mutual overlooking from the yard of the adjoining property up to the terrace and back.
- Concern about the overshadowing of solar panels and major openings onto habitable rooms by the development.

In response to the above, the applicant submitted revised plans to clarify the extent to which the development casts shade over the neighbouring property and provided additional justification.

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

- The extent of the proposed boundary wall does directly adjoin the window onto the neighbouring ensuite but ends before the neighbouring bedroom window.

- The balcony/sun terrace area is proposed to be screened to protect adjoining visual privacy in accordance with the deemed-to-comply criteria of the R-Codes, however it is noted that the R-Codes do not directly address acoustic privacy.

The remaining comments are addressed in the 'Officer Comment' section below.

In accordance with Council Policy LPP1.3, the amended plans were not required to be re-advertised.

OFFICER COMMENT

Statutory and policy assessment

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

- Boundary wall (east)
- Open space
- Building height (external wall)
- Outdoor living area
- Setbacks (west)

The above matters are discussed below.

Background

The subject site is located on the southern side of Watkins Street, White Gum Valley. The site has a land area of approximately 300m² and is currently vacant. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed nor is it located a heritage area.

The site is generally flat and adjoins 107B Watkins Street, White Gum Valley which is located on the corner of Watkins Street and Minilya Avenue. A search of the property file has revealed that the subject lot was subdivided from the original parent lot 107 Watkins Street into three lots: 107A Watkins Street (subject site – 300m²) 107B Watkins Street (397m²) and 13A Minilya Avenue (400m²). A previous development application for the subject site, for a two storey Single house and ancillary dwelling was approved by the Planning Committee in May 2019.

The original application was referred to the PC at their meeting on 5 August 2020, where they resolved to:

Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the two storey Single House at No. 107A (Strata Lot 1) Watkins Street, White Gum Valley based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to reduce the overshadowing impact on the north facing primary outdoor living area of 13A Minilya Avenue, White Gum Valley.

On the 2 October the applicant submitted amended plans in response to the PC's resolution. These plans are the subject of this updated report.

Energy efficiency

The subject site is subject to a title restriction requiring that the subject site be developed in accordance with the Energy Efficiency and Sustainability schedule of Local Planning Policy 2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule. In accordance with these requirements, the applicant has demonstrated the provision a solar panel array to the roof of the building and a water tank to the rear of the dwelling. The applicant has provided documentation demonstrating that the dwelling will achieve an ‘as built’ performance equivalent of ≥ 7 stars.

To ensure that the requirements of LPP 2.2 are addressed, were the development approved as recommended, conditions requiring compliance with the Energy Efficiency and Sustainability Schedule are recommended to be applied.

Boundary Wall (East)

Element	Requirement	Proposed	Extent of Variation
Ground floor (east)	1m	Nil	1m

The boundary wall is considered to meet the Design principles of the R-Codes and the discretionary criteria of LPP2.4 Boundary Walls in Residential Development in the following ways:

- The use of the proposed boundary wall is considered to comprise an effective use of a side setback area which would be of limited utility.
- The boundary wall abuts a portion of the neighbouring wall which has only a window onto a non-habitable room (ensuite), and otherwise has limited bulk impact.
- The wall is single storey (approximately 3.2m high (max) and 6.7m long) and due to lot orientation, shade cast by the wall at midwinter would fall over the subject site.
- The wall is to a non-habitable room and therefore is not considered to impose a significant privacy impact.
- Garage boundary walls are common to new developments in the immediate locality, including the properties directly over the road (128A and 130 Watkins Street). The wall is well set back from the street in accordance with LPP 2.9 resulting in minimal streetscape impact.

Open Space

Element	Requirement	Proposed	Extent of Variation
Open space	50%	46.2%	3.8% (11.4 ²)

The provision of open space for the subject site is considered to meet the Design principles of the R-Codes in the following ways:

- The open space areas around the dwelling provide for natural sunlight to the primary living areas of the proposed dwelling.
- The dwelling proposes a primary street setback consistent with the requirements of LPP 2.9, being 7m on the ground floor this results in a large open space area to the front of the dwelling providing for landscaping, vegetation, and external fixtures.

- Inhabitants of the dwelling are provided with opportunities to use areas external to the dwelling on the proposed balcony and sun terrace.
- The development includes an uncovered upper floor sun terrace which could be considered to contribute to the area of open space available to the subject dwelling.

Building Height

Element	Requirement	Proposed	Extent of Variation
Wall height	6m	6.4m (max)	0.4m

The height is considered to meet the Design principles of the R-Codes in the following ways:

- Views of significance are not considered to be enjoyed across the subject site.
- The areas of the dwelling which exceed the deemed-to-comply wall height requirements of the R-Codes are located towards the front of the dwelling and are therefore not considered to unduly contribute to the shade cast by the dwelling to the south.
- Generally, the over height portions of the dwelling result from the dwelling not stepping across the site from front to back. The applicant does propose excavation to the rear of the subject site resulting in the southern portion of the dwelling generally complying with the relevant height requirement.
- The reduction in proposed roof pitch to 25 degrees from 30 degrees in the amended plans received 2 October 2020 is considered to contribute in an overall reduction in building bulk.

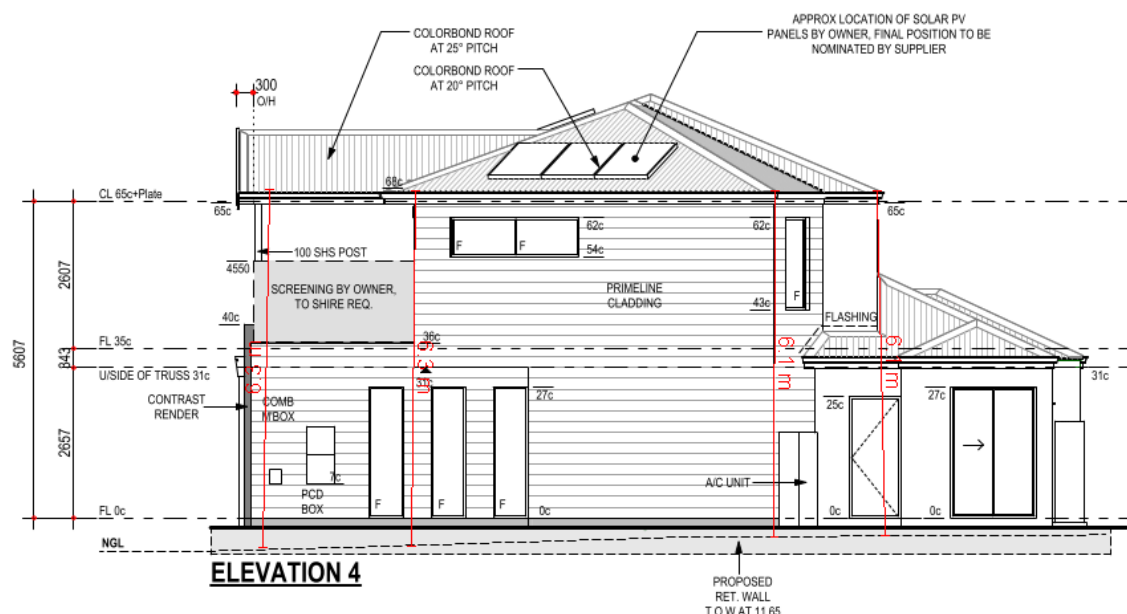


Figure 1: Elevation of proposed dwelling illustrating areas exceeding the building height requirement

Outdoor living area

Element	Requirement	Proposed	Extent of Variation
Minimum dimension	4m.	2.7m (sun terrace).	1.3m
Location	Primary outdoor living area is located outside the street setback area (10m).	The sun terrace is located within the upper floor street setback.	3m

The outdoor living area location and dimensions are considered to meet the Design principles of the R-Codes in the following ways:

- The outdoor living area is capable of use with the sitting room and master suite of the dwelling.
- The sun terrace is directly open to winter sun and direct ventilation.
- The outdoor living area location optimises the use of the northern aspect of the site.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Upper floor setback (west)	1.6m	1m	0.6m

The upper floor setbacks are considered to meet the Design principles of the R-Codes in the following ways:

- On the western side, the upper floor element is onto a stairway void and screened balcony area and does not propose major openings, therefore being of limited privacy impact.
- The western wall adjoins the neighbouring front/side setback area, an area which is not considered to be susceptible to undue building bulk impact.
- The shade cast by the wall is to fall over the subject site at midwinter, when the shade cast by buildings is greatest.

Overshadowing

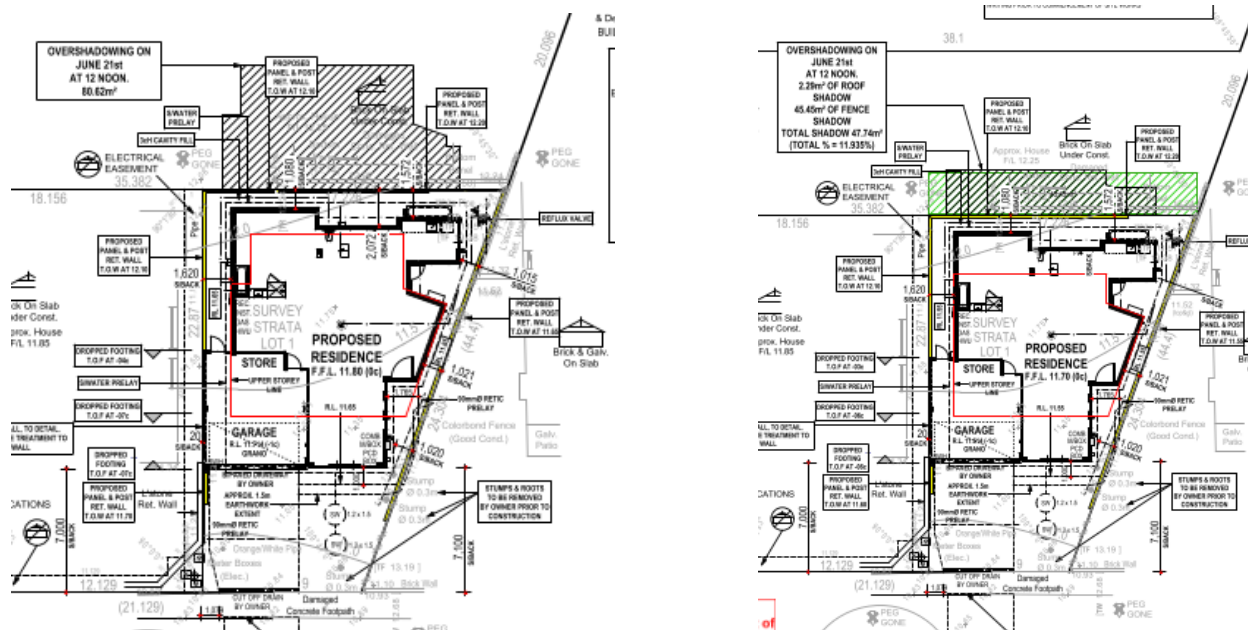


Figure 1: Comparison of overshadowing plans from submission originally considered by PC (left) and the current plans (right) (not to scale). The portion of the new plans shown in green represents the shade cast by a standard dividing fence in accordance with relevant R-Codes practice notes.

On its meeting on 5 August 2020, determination of the application was deferred by the Planning Committee (PC) for the applicant to consider amending to the proposal to reduce the shade cast by the development onto the primary outdoor living area of the neighbour to the south at 13A Minilya Avenue. In response, the applicant submitted amended plans on 2 October 2020, reducing the shade cast by the development by reducing the overall scale of the upper floor by increasing its setback to the southern boundary through the deletion of the sitting room and toilet.

The plans previously considered by PC proposed that 23% of the neighbouring property to the south be overshadowed by the development. In the amended plans, the application proposes that 11.935% of the neighbouring property be overshadowed. In accordance with R-Codes 5.4.2 C2.2 – Solar access for adjoining sites, where a development site shares a southern boundary with a lot and that lot is bounded to the north by another lot, the limit of shading for the development site is reduced proportionate to the percentage of the affected property's northern boundary that the development site abuts. In this instance, the subject site shares 48% of the northern boundary of 13A Minilya Avenue, resulting in the deemed-to-comply maximum requirement of 12%.

The shade cast by the development as shown on the amended plans over the property to the south is considered to satisfy the deemed-to-comply requirements of the R-Codes.

CONCLUSION

In accordance with the above assessment, it is considered that the various elements of the development which vary the relevant deemed-to-comply criteria of the R-Codes are able to address the relevant design principles of the R-Codes and that the development has been modified to address the deemed-to-comply criteria of the R-Codes with respect to the shade cast by the development to the south. Accordingly, the application is recommended for approval, subject to conditions.

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, the two storey Single House at No. 107A (Strata Lot 1) Watkins Street, White Gum Valley, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 2 October 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. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. That the dwelling achieve a NatHERS accredited energy efficiency star rating of seven stars that is certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle.**
- 5. Prior to occupation of the development hereby approved, a minimum 1.5kw photovoltaic solar panel system shall be installed and maintained thereafter to the satisfaction of the City of Fremantle.**

6. Prior to occupation of the development hereby approved, a 3000L rainwater tank plumbed to a toilet and/or laundry, or an approved grey-water reuse system that collects grey water from the laundry and bathroom and re-directs it for garden irrigation/ground water recharge, shall be installed or and maintained thereafter to the satisfaction of the City of Fremantle.
7. Prior to occupation of the development hereby approved, the boundary walls located on the east and west boundaries shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,and be thereafter maintained to the satisfaction of the City of Fremantle.
8. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.
9. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice notes:

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

New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For the City's crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>.
- 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 owner is advised that an obstruction permit may be required from the City for any future obstruction of the Watkins Street road reserve.

An application for obstruction permit can be found via
www.fremantle.wa.gov.au.

v. Levels as per existing footpath and/or ROW

- Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
- Any adjustment in levels is to be achieved within the property boundaries;
- Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

PC2011 - 2 KEEL PLACE, NO. 4 (LOT 51), NORTH FREMANTLE - THREE STOREY SINGLE HOUSE AND ANCILLARY DWELLING (TG DA0166/20)

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended development plans
Additional information: 1. Original development plans
2. Site photos
3. Comparison of development to compliant roof height

SUMMARY

Approval is sought for a three storey Single house with an internal Ancillary dwelling at 4 Keel Place, North Fremantle.

The proposal is referred to the Planning Committee (Committee or PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval.

The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Building height (external wall)
- Visual privacy (north west)
- Lot boundary setbacks (north west, south east)
- Boundary walls (north west, north east)

The application was considered by PC at its meeting on 5 August 2020 and deferred for the applicant to consider making amendments to the proposal to reduce the scale of the development, particularly the height of the building in order to minimise the adverse impacts on the amenity of the adjoining properties and the locality.

Amended plans and additional details were provided by the applicant on 14 September 2020 and are detailed below.

The amended proposal does not satisfy the discretionary criteria for building height and is therefore recommended for refusal.

PROPOSAL

Detail

Approval is sought for a three storey dwelling and ancillary dwelling to an existing vacant site at 4 Keel Place, North Fremantle. The proposed works include:

- Ground floor:
 - Double garage and store.
 - Self contained guest room/ancillary dwelling.

- Kitchen/dining/living room.
- Gazebo and pool.
- Upper floor:
 - Three bedrooms.
 - Family Room.
 - Three bathrooms.
 - Study.
 - Balcony.
- Terrace:
 - Terrace room.
 - Balcony.

The applicant submitted amended plans on 26 June 2020 confirming the location of the proposed pool and gazebo. It is noted that the gazebo was relocated to the northern corner of the site.

The applicant submitted further amended plans on 14 September 2020 in response to the concerns raised by PC including the following amendments:

- Extending the garage parapet wall.
- Increasing the setback of the top floor terrace from the northern property by 0.9m.
- The inclusion of additional glazing to the terrace.
- The inclusion of a window in the front elevation of the terrace.
- Amending the terrace balustrade to be glass.
- Window alterations.

The applicant also submitted plans comparing the height of the proposed development. These diagrams are provided as additional information.

Amended development plans are included as attachment 1.

Site/application information

Date received:	19 May 2020
Owner name:	P Ridley and S Ridley
Submitted by:	Bellagio Homes
Scheme:	Residential R25
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Vacant Site
Use class:	Single house
Use permissibility:	P



Nil required.

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal included elements which varied deemed-to-comply criteria of the R-Codes. The advertising period concluded on 8 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

- The proposed building height, and its contribution to the overall scale of the building is considered to adversely impact the outlook from adjoining residences.
- The height of the building does not address the building height requirements applicable to the site and would set a precedent in the locality for larger buildings to be constructed.
- The reduced setbacks contribute to overall building scale and adversely affect the vistas between buildings and the general amenity of adjoining residences.
- There is overlooking from the operable study window.

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

- The applicant submitted additional plans clarifying the location of the proposed gazebo and pool.
- Were approval of the proposal considered, it would be a recommended condition of approval that the window resulting in the visual privacy discretion be appropriately fixed to limit overlooking towards the adjoining property.

Following the submission of the amended plans relocating the gazebo to the northern corner of the site, further consultation with affected neighbours was undertaken as the amendment had introduced boundary walls to the north west and north east property boundaries. This advertising period concluded on 17 July 2020 and one (1) submission was received which reiterated concerns with regard to building height but did not object to the location of the proposed gazebo.

The matters raised in the submissions are addressed in the officer comment below.

In accordance with Council Policy LPP1.3, the amended plans were not required to be re-advertised.

OFFICER COMMENT

Statutory and policy assessment

The original 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 application the areas outlined below do not meet the Scheme, Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Building height (external wall)
- Visual privacy (north west)
- Lot boundary setbacks (north west, south east)
- Boundary walls (north west, north east)

The above matters are discussed below.

Background

The subject site is located on the Keel Place cul-de-sac head. The site has a land area of approximately 509m² and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

The site is generally flat and is identified as being bushfire prone in accordance with DFES mapping. As the proposal is exempt from compliance with the requirements of State Planning Policy 3.7, which relates to development on bushfire prone land, the development response to potential bushfire risk is to be addressed through the building permit process.

A search of the property file has revealed no relevant history for the site, however it is noted that the site was established in the 1990s as a part of the overall development of the Rocky Bay estate and has been left vacant.

The original application was referred to the PC at their meeting on 5 August 2020, where they resolved to:

Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the construction of two storey Single house at No. 4 (Lot 51) Keel Place, North Fremantle based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to reduce the scale of the development, particularly the height of the building in order to minimise the adverse impacts on the amenity of the adjoining properties and the locality.

On the 14 September the applicant submitted amended plans in response to the PC's resolution. These plans are the subject of this updated report.

Building Height (External Wall)

Element	Requirement	Proposed	Extent of Variation
Wall height – LPS4 sub area 3.3.1	7m	8.6m	1.6m

It is noted that the amended plans do not alter the originally proposed height of the dwelling however they do make a number of amendments in response to concerns raised by PC which are as follows:

- Increasing the setback of the top floor terrace from the northern property by 0.9m.
- The inclusion of additional glazing to the terrace.
- The inclusion of a window in the front elevation of the terrace.
- Amending the terrace balustrade to be glass.

In accordance with clause 4.8.1 of LPS4, the City is able to consider variation to height requirements in cases where a site is adjoining or adjacent to a building which depicts a height greater than the specified heights. In this case, the properties in the immediate area generally comply with the LPS4 height requirement, with the exception of 3 Keel Place, which exhibits a tower element which was approved with the dwelling in 1997 to a wall height of approximately 8.2 metres. Accordingly, the City is able to consider a variation to the maximum height requirement if all of the following criteria are considered to have been satisfied:

LPS4 - 4.8.1.1	Officer Comment
a) The variation would not be detrimental to the amenity of adjoining properties or the locality generally.	The height of the building is considered to be detrimental to the amenity of adjoining properties for the following reasons: • The height of the building may limit views of significance for properties to the north and west of the subject site. • The overall height of the building is considered to contribute to a bulky appearance for the subject dwelling as viewed from adjoining properties. In accordance with the Rocky Bay Estate

	design guidelines (LPP N9), generally two storey development is expected to be developed.
b) degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality.	Based on a review of the properties in the immediate area of the subject site, only one building exceeds the relevant building height requirements, being the tower element to the dwelling at 3 Keel Place. It is considered that the height proposed dwelling will not contribute to the graduation of the scale of the dwelling at 3 Keel Place for the following reasons: • The proposed upper floor terrace is higher than the height of the 3 Keel Place tower element. • The 3 Keel Place tower element is a minor element which is located to the centre of this lot. The proposed terrace forms a much larger element. • The two properties are separated by the Keel Place road reserve. The dwelling to the rear at 33 Foundry Court is noted, however this dwelling has a floor which comprises a loft with dormer windows only.
c) conservation of the cultural heritage values of buildings on-site and adjoining.	No adjoining sites are individually identified on the City's heritage list.
d) any other relevant matter outlined in Council's local planning policies.	Local Planning Policy N9 contains criteria relevant to the assessment of building height. A further assessment against these criteria is carried out below.

In accordance with LPS4 4.8.1 (d), consideration is to be given to clauses of relevant local planning policies relating to building height:

Local Planning Policy Design Guideline N9 Rocky Bay Estate (Former State Engineering Works Site)	Officer Comment
7.3b – "...Council will have consideration to river views and vistas between buildings and the roofscapes that affect those vistas..."	Generally it is considered that this element can be satisfied due to the additional storey being located at the centre of the subject lot, rather than impacting views across the rear setback area of the subject site.
7.3d – The development plan outlines a 7.0m wall height or 10m roof height limit	See discussion above with respect to building height. The topography of the

and therefore a two storey limit will be generally applied to the design of houses. Development of residences more than two storeys is not generally supported unless particular site characteristics or the individual design indicate that this form of development can be constructed in a manner that will have no unacceptable impact upon the amenity of the locality and adjoining properties, and within the indicated height limits.	site is generally flat, with no site characteristics resulting in a need to exceed the height requirements applicable to the site. Generally the proposed additional floor is considered to have an undue impact upon the amenity of the locality for the reasons outlined above.
7.5c/d – In assessing the impact of development the Council will pay particular attention to whether the proposed development is sympathetic to the streetscape and the scale and character of the locality and the amenity of the locality.	Generally it is considered that the character of the immediately adjoining dwellings is two storey, with the exception of the minor tower element to 3 Keel Place.

Based on the above assessment, the discretionary criteria of Local Planning Scheme No. 4 are not considered to be satisfied with respect to the height of the building. Accordingly, the application is recommended for refusal. The amendments made by the applicant to increase the setback of the upper floor from the northern boundary to 2.2m are noted, however the reasons for recommending the refusal of the development above remain relevant. The remaining amendments to include additional glazing to the upper floor terrace and amend the terrace balustrade to be glass are noted, however they do not contribute to the statutory assessment of the proposal with respect to building height in accordance with Local Planning Scheme No. 4.

The additional information submitted by the applicant showing the potential to develop a 10m high compliant pitched roof form is noted, however these plans demonstrate that the proposal sits outside the potential building envelope afforded by a 10m roof.

Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Study	4.5m	1.5m	3m

Note: while the study window is obscured, it is marked as operable, making the window subject assessment against the visual privacy requirements of the R-Codes.

The study window is considered to meet the Design principles of the R-Codes in the following ways:

- The window is generally obscured, and this window is marked as an awning window. Accordingly, views would generally be limited towards the neighbouring ground floor and front yard area.
- This view would also be oblique as any view would generally be available around the window when open. Should the proposal be supported, a condition limiting the

operability of the window would be recommended to ensure that the neighbours' privacy can be appropriately maintained.

Lot boundary setbacks

Element	Requirement	Proposed	Extent of Variation
Upper floor (north west)	2.8m	1.3m	1.5m
Upper floor (south east)	4.7m	4.5m	0.2m

The north west boundary setback to the upper floor is considered to meet the Design principles of the R-Codes in the following ways:

- The reduced setback is due to the inclusion of a major opening to this wall (for the proposed study) – if this element were not included, the development would satisfy the deemed-to-comply criteria of the R-Codes.
- The majority of the wall is set back further than the minimum setback noted above as the boundary angles away from the line of the proposed wall.
- Openings in this wall are generally designed to protect mutual privacy, being obscured, highlight windows or onto non-habitable rooms.

The upper floor setback to the south east side boundary is considered to address the design principles of the R-Codes for the following reasons:

- With respect to visual privacy, the wall of the building is set off the side boundary in accordance with the visual privacy cone of vision setback applicable to bedrooms (4.5m).
- Due to lot orientation, the building and this wall will generally cast shade over the subject site and side setback area.
- The development includes varied setbacks along this side between upper and ground floors. This variation in setbacks and the inclusion of openings is considered to appropriately ameliorate building bulk.

The setback of the terrace element was amended to comply by the applicant in their amended plans dated 14 September 2020. Based on the above assessment, were the terrace element removed from consideration, this element of the proposal would be considered worthy of approval.

Boundary walls

Element	Requirement	Proposed	Extent of Variation
Gazebo (north west)	1m	Nil	1m
Gazebo (north east)	1m	Nil	1m
Garage/Store/Laundry (South East)	1m	Nil	1m

The boundary walls to the rear northern site corner are considered to satisfy the relevant design principles of the R-Codes and Local Planning Policy 2.4 for the following reasons:

- The location of the gazebo more effectively utilises the previously proposed 1m setback space between the originally proposed location.

- The walls are both single storey, limited in dimension along each respective boundary, and do not appear to adjoin the primary outdoor living area for each adjoining sites, thereby effectively reducing the proposed bulk of the walls. Based on site retaining walls, it appears that the adjoining lots are set higher than the subject site, reducing the perceived height of the boundary walls.
- The gazebo is proposed to be constructed at the existing ground level and generally faces towards the subject site, reducing potential privacy impacts.
- With respect to shade impacts, the walls will cast winter shade over the subject site rather than adjoining properties.
- The walls will not be readily visible from the streetscape and boundary walls of this nature can be found in the subject area.

The boundary wall (as amended) to the south east boundary is considered worthy of support for the following reasons:

- The wall adjoins the neighbouring garage boundary wall and is therefore considered to be of little to no impact with respect to privacy, shade cast, and building bulk.
- While the wall is slightly higher than this existing boundary wall element, it is considered that the colocation of boundary walls provides for improved development outcomes with respect to the appearance of development in the locality and streetscape.
- Boundary walls of this nature are common in the immediate locality.

Based on the above assessment, it is considered that were the terrace element removed from the proposal, the boundary walls could be considered for approval.

Driveway

Element	Requirement	Proposed	Extent of Variation
Width	4.5m (max)	5.2m	0.7m
Location	Avoid Street Tree	Removal of Street Tree	Removal of Street Tree

In accordance with LPP2.9 the maximum permitted width of any proposed driveway, where it meets the property boundary is 4.5m. The prevailing characteristic of crossovers to the adjoining properties in the cul-de-sac head is a single width crossover meeting a driveway that widens towards the garages of the properties. Should the proposal be supported, a condition should be imposed to reduce the maximum width of the driveway (where it meets the property boundary) to 4.5m. The driveway is permitted to widen in width as it tapers back towards the garage.

LPP2.9 also requires the location of crossovers to avoid the removal of street trees. The City's Parks and Landscaping officer has advised that the existing Agonis tree is semi mature, however it is not in the healthiest of conditions due to its location on limestone. As such the tree could be removed subject to a replacement tree being provided to the City's requirements and at the cost of the owner/applicant. Should the proposal be supported, a condition should be imposed requiring separate approval for the removal of the street tree.

CONCLUSION

As discussed in the officer comment section above, the proposal as submitted does not satisfy the building height requirements of Local Planning Scheme No. 4 sub area 3.3.1 and it is likewise not considered to address the discretionary criteria of scheme clause 4.8.1. Accordingly, the proposal is recommended for refusal. The amendments to the proposal undertaken by the applicant in response to the concerns raised by PC at their meeting on 5 August 2020 are noted, however the requirements of Local Planning Scheme No. 4 in relation to building height are such that the development is unable to be recommended for approval.

It is noted that the remaining discretionary elements discussed above may be worthy of support if the height of the building were reduced to comply with the height requirements applicable to the site.

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, three storey Single house and Ancillary dwelling at No. 4 (Lot 51) Keel Place, North Fremantle, as detailed on plans dated 14 September 2020, for the following reasons:

- 1. The proposal is inconsistent with the requirements of the City of Fremantle Local Planning Scheme No. 4 in respect to building height requirements of Local Planning Area 3, sub area 3.3.1 and does not satisfy the discretionary criteria of clause 4.8.1.**

**PC2011 - 3 COMMERCIAL STREET NO.6 (LOT 27), SOUTH FREMANTLE -
DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A
SINGLE STOREY SINGLE HOUSE – (JL DA0316/20)**

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Original Development Plans
2. Updated Heritage Assessment and Site photos

SUMMARY

Approval is sought for the demolition of the existing dwelling and the construction of a single storey Single house at 6 Commercial Street, South Fremantle.

The proposal is referred to the Planning Committee (PC) as the application involves the demolition of a dwelling in a heritage area. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Demolition of a building within a heritage area
- Primary Street setback
- Lot boundary setbacks

The proposal was considered by PC at its meeting on 7 October 2020 where it was deferred to allow:

1. Officers to provide further comment in regard to the significance of the dwelling and the extent of any original fabric.
2. Officers to discuss with the applicant the potential to incorporate the existing position, form and depth of the front two rooms of the existing dwelling into an amended design for a new dwelling and reinstate the original form and detail of the front façade and verandah.

Amended plans and additional details were provided by the applicant on 19 October 2020. In addition, the City's Heritage team provided an updated report on the proposal regarding the extent of original fabric removal of the dwelling onsite.

The application as amended is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the following proposed works:

- Demolition of the existing single storey Single house
- Construction of a single storey Single house consisting of:
 - Three bedrooms
 - Two bathrooms
 - Study/Home Office

- Lounge
- Scullery
- Living/Kitchen/Dining Room

In response to PC's deferral, the applicant submitted amended plans on 19 October 2020 which included the following amendments:

- Alterations to the roof pitch,
- Weatherboard cladding to the entire street façade replacing the previously proposed sections of rendered brickwork,
- Inclusion of timber verandah posts and window mouldings.
- Vertically proportioned windows facing Commercial Street and a window hood to the master suite front elevation

The City's heritage team also completed an assessment concerning the extent of original fabric being demolished. The findings of this report are included in Additional Information document 3 and discussed further in the officer comment section below.

Amended development plans are included as attachment 1.

Site/application information

Date received:	17 August 2020
Owner name:	James Robinson and Eun Kiim
Submitted by:	Dale Alcock
Scheme:	Residential R30
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the R-Codes and LPS4. The advertising period concluded on 3 September 2020, and one (1) submission was received which didn't raise any specific objection but rather queries regarding:

- If the house is demolished and it is clad in asbestos all necessary precautions should be taken and I would like to be advised so I can avoid being in my garden on the day of demolition.
- The site plan indicates the structures on our property as a two storey house and an outbuilding. This 'outbuilding' is in fact it is a studio, where someone resides. The submitted wanted to raise this to the City's attention for the purposes of their assessment.

In regard to the above comments about the demolition an advice note has been included in the officers recommendation advising the applicant/owner of their responsibilities regarding the removal of any asbestos from the site. It is also noted that the applicant/owner will need to obtain a Demolition Permit from the City before any demolition work can occur. Any Demolition Permit will also include advice to the owner/contractor that it is considered best practice to notify adjoining neighbours of the date and duration of the proposed demolition work, especially where the removal of asbestos is involved.

In regard to the applicant's site plan, it is noted that the building referred to on the adjoining site is a studio and not an outbuilding. Officers have considered the use of this building in their assessment of the proposal.

In accordance with Council Policy LPP1.3, the amended plans were not required to be re-advertised.

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 application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Demolition of a building within a heritage area
- Primary Street setback
- Lot boundary setback

The above matters are discussed below.

Background

The subject site is located on the northern side of Commercial Street in South Fremantle. The site has a land area of approximately 470m² and is currently occupied by a single storey dwelling. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed however it is located within the South Fremantle Heritage Area.

The original application was referred to the PC at their meeting on 7 October 2020, where they resolved to:

Defer the application to the next appropriate Planning Committee, to allow:

1. *Officers to provide further comment in regard to the significance of the dwelling and the extent of any original fabric.*
2. *Officers to discuss with the applicant the potential to incorporate the existing position, form and depth of the front two rooms of the existing dwelling into an amended design for a new dwelling and reinstate the original form and detail of the front façade and verandah.*

On the 13 October, Officers carried out an additional inspection of the property and updated the comments previously provided in relation to the heritage significance of the proposed. In addition to this, on 19 October the applicant submitted amended plans including a number of alterations the appearance of the proposed dwelling. These plans are the subject of this updated report.

Demolition and Heritage

In determining an application for demolition, Council must be satisfied the criteria of clause 4.14.1 of LPS4 is achieved.

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 proposed demolition of 6 Commercial Road has been carefully considered by officers in relation to both the individual level of heritage significance and its place within the streetscape and the South Fremantle Heritage Area.

The place is not included in the MHI, Heritage List, Inherit database or State Register on an individual basis. Whilst the underlying structure and overall form of the cottage does likely date from c.1905, almost all original or early detailing has been lost both internally and externally with a small remnant section of the original weatherboards (not visible externally), the laundry trough to the rear and the brick outhouse to the rear remaining.

Whilst the place still displays an early overall form, its contribution to the streetscape is compromised and very limited. None of the remaining original elements mentioned above make a contribution to the streetscape.

Therefore, as the dwelling itself is considered to be of limited heritage significance and its broader contribution to the South Fremantle Heritage Area given its significant modifications is minimal, the proposed demolition of the existing dwelling is supported subject to the submission of an archival record.

In addition to an assessment against the demolition clause of the LPS4, the suitability of the proposed infill dwelling in regard to the South Fremantle Heritage Area has been considered. The proposal is considered to be sympathetic to the significance of the heritage area, subject to the proposed windows in the Commercial Street elevation being vertically proportioned. This amendment is not considered to impact on the use or amenity of the front rooms and is recommended as a condition of approval.

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Ground Floor – Master Suite	5m	2.47m - 5m	2.53m (max)

Policy LPP 2.9: Residential Streetscape sets out the following discretionary criteria for setbacks:

1.2 Variations to the requirements of clause 1.1 above may be considered, at Council's discretion subject to the proposed development meeting at least one of the following criteria:

- i. The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- ii. The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- iii. The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- iv. Where there is no prevailing streetscape; or*
- v. Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape.*

The setback is considered to satisfy the discretionary criteria of Local Planning Policy 2.9 for the following reasons:

- The proposed dwelling design is considered to appropriately reflect the existing character of the Commercial Street streetscape, which comprises of generally single storey dwellings with stepped/articulated street elevations. The setback of 2.47m is considered to be consistent with the ground floor setback of the dwellings in the prevailing streetscape which range between 1.5m and 3m as shown in image 1 below.
- Overall, the development is considered to appropriately reflect the streetscape character and will therefore not result in a projecting element into the street.

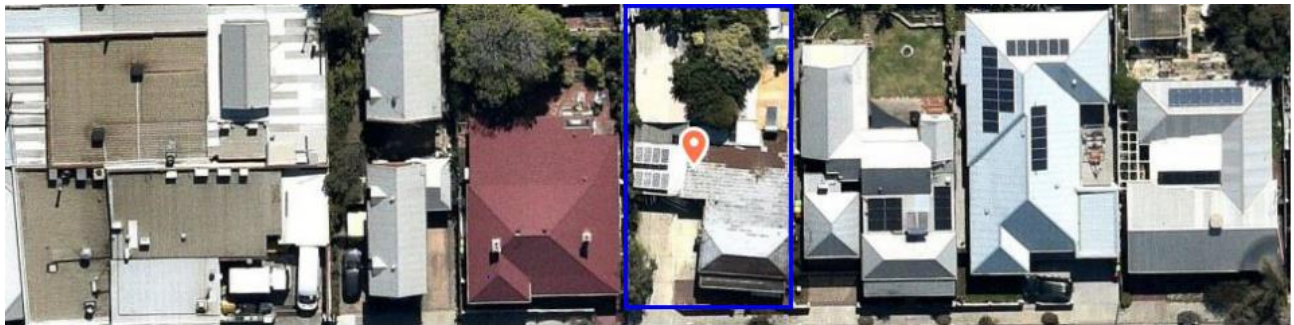


Image 1: Existing prevailing streetscape of Commercial Street (subject site highlighted in blue)



Image 2: Proposed layout of new dwelling within the prevailing streetscape of Commercial Street

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Kitchen and Office (West)	1.5 m	1.2m	300mm

The lot boundary setback is considered to meet the Design principles of the R-Codes in the following ways:

- The lesser setback does not result in a perception of adverse building bulk when viewed from the adjoining western property given the wall is setback 1.2m from the common boundary and is single storey in height (2.7m);
- The lesser setback does not contribute adversely to a loss of direct sun given its eastern location to the neighbouring property, nor will it impact light generally or ventilation to existing major openings and outdoor habitable spaces of this property.

Boundary Wall

It is noted that the proposed western boundary wall of the single width garage is technically compliant with the provisions of LPP2.4 – Boundary Walls policy, as it abuts an existing carport structure which is of similar dimensions and location. Although the adjoining carport is 'open', this structure includes three pillars on the boundary as shown in image 3 below. Notwithstanding the proposed boundary being compliant with the R-Codes and Council Policy, officers consider any the potential impact of the wall on the amenity of the neighbouring property to be minimal as the garage adjoining a tandem

parking area and the only window of the adjoining property, adjacent to the proposed garage is setback 2.2 m from boundary, and therefore not considered to adversely impact on the its access to light and ventilation.



Image 3: Carport including posts located on the boundary of adjoining property at 4 Commercial Street.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

ADDITIONAL OFFICER COMMENTS

Following the October Planning Committee meeting, the City's Heritage and Planning officers have undertaken an internal site inspection and provided additional comments regarding the Committee's reasons for deferral.

The site inspection confirmed that the original two room cottage and verandah are capable of being retained and conserved, however this will require an extensive amount of reconstruction and ultimately may result in essentially a new building in the same form as the original as little original fabric remains intact. The following evidence is visible on site:

- Floor plan – significantly altered (although the front two rooms of the original house are evident)
- Roof form – remains evident
- Original cottage form – altered but is still evident
- Original front façade proportions – significantly altered; central location of front door remains, windows have been replaced with altered size and proportions and part of the verandah has been infilled.
- Original front façade detailing – significantly altered or removed – with the overall form still evident
- Original verandah form – significantly altered with the overall form still evident
- Original verandah detailing – significantly altered or removed
- Front fencing, gardens or setting – significantly altered or removed
- Internal details – significantly altered or removed
- Social or historic significance – no specific social or historic significance has been identified although the skewed alignment of the house is an interesting point which possibly indicates that the place was constructed prior to a formal road being in place.

This evidence could be used as a model to allow for reasonably accurate reconstruction to occur. The retention of the original two room cottage would also allow for a large extension to the rear. This option would allow the potential for the place to still make a positive contribution to the Commercial Street streetscape once reconstructed. This option was discussed with the applicants/ owners however the applicant has opted to lodge amended plans which included alterations to the new build rather than reconstruction of the two front rooms and a rebuild to the rear of site.

Whilst the place does still display an early overall form and does have some contribution to the streetscape, its contribution is considered to have been seriously compromised by the extensive loss of original cladding materials, details, windows and doors over the years.

Ultimately on balance, the Heritage officers' recommendation supports the demolition on heritage grounds on the condition that a full archival record with historic research, photographs and measured drawings of the house and all out buildings is produced to the satisfaction of the City of Fremantle.

CONCLUSION

As discussed above, the demolition is supported on heritage grounds and additional information is provided in the Additional Information document 3.

The amended plans don't raise any new R-Code or policy discretion but ultimately introduce elements to the front elevation (cladding, window form and an awning) and increased roof pitch which are compatible with other heritage significant dwellings in the Commercial Street streetscape.

Overall, the development is considered to be worthy of support, subject to conditions.

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 dwelling and construction of single storey Single house at No. 6 (Lot 27) Commercial Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 19 October 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 unless otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. Prior to the issue of a building permit, amended plans altering the form of the two windows to the Commercial Street elevation to be a pair of vertically proportioned windows is to be submitted and approved, to the satisfaction of the City of Fremantle.**
- 5. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western elevation shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 6. Prior to the issue of a demolition permit or building permit for the development hereby approved, the existing building to be demolished shall be fully documented in the form of a professionally prepared study of the physical, documentary and other evidence associated with the site before any physical or material disturbance. This documentation shall consist of the following:**
 - a) A professionally prepared architectural report including the address, names, use and description of the building and accurate measured drawings at a scale not less than 1:100 comprising the following:**
 - i. Site plan.**
 - ii. Floor plan(s)**
 - iii. External elevations.**

- iv. Background.
- v. Statement of significance.
- vi. Location plan.
- vii. Heritage assessment documentation or brief written history.
- viii. Other significant details.
- b) A photographic report which includes the following:
 - i. A site plan showing the position, direction and number of each photograph.
 - ii. Photos of the place and its setting, all external elevations, significant/representative external and internal spaces and other noteworthy items.
 - iii. The history of the original building and subsequent stages of development.
 - iv. Old photographs relating to this site and building.
 - v. Any other relevant historical information.

One set of such including photographs shall be submitted to the City of Fremantle for approval in electronic format prior to the commencement of development.

- 7. Prior to the occupation of the development hereby approved, modified vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
- 8. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

ADVICE NOTE:

- i) A 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) Any removal of asbestos is to comply with the following –

Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2001*. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All

asbestos removal is to be carried out in accordance with the *Occupational Safety and Health Act 1984* and accompanying regulations and the requirements of the *Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]*;

Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>.

- iv) 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.
- v) Levels as per existing footpath and/or ROW
 - a. Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - b. Any adjustment in levels is to be achieved within the property boundaries;
 - c. Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

10.2 Committee delegation

PC2011 - 4 SEAVIEW STREET, NO. 7A (STRATA LOT 2), BEACONSFIELD – THREE STOREY SINGLE HOUSE – (NB DA0297/20)

Meeting Date: 4 November 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 a three storey Single house at No. 7A Seaview Street, Beaconsfield.

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

- **Lot boundary setback**
- **Maximum wall height**
- **Visual privacy**

The proposed three storey dwelling is not considered to be consistent with the height of buildings within the locality, therefore the application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for a three storey Single house on a vacant battleaxe lot. The proposed works include:

- **Ground floor: garage, living areas and deck**
- **First floor: 2 bedrooms, study, enclosed balcony**
- **Second floor: bedroom, ensuite, deck**

The applicant submitted amended plans on 30 September 2020 including the following:

- **Setting back the first floor from the southern boundary, thereby reducing the two storey boundary wall to a single storey**
- **Increased the top floor setback from 1.4m to 2.3m**
- **Landscaping plan**
- **Privacy screening and line of sight diagram addressing privacy concerns**
- **Reduced overall height from 9.7m to 9.4m above natural ground level**
- **Increased southern setback of the top floor.**

Amended development plans are included as attachment 1.

Site/application information

Date received: 3 August 2020
 Owner name: Aleisha Banner and Adam Delmage
 Submitted by: Shaun Banner
 Scheme: Residential R25
 Heritage listing: Individually Listed Category 3 and South Fremantle Heritage Area
 Existing land use: Vacant
 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 was sought against the R-Codes. The advertising period concluded on 24 August 2020, and nine (9) submissions were received. The following issues were raised (summarised):

- The building is excessive in height and will cause too much overshadowing and block light to the adjoining properties.
- The visual privacy variations will allow the occupants to look directly into backyards.
- The two storey nil boundary setback combined with the height results in unacceptable impact to the southern lot.

- We like the design of the house except for the height as it relates to overshadowing and overlooking.
- The top floor could easily be rearranged so as to be included within the lower floor, thereby not presenting any height discretion.
- Approving a three storey house will allow others to build up to three storeys and change the nature of the locality.
- The reduced setback means the building encroaches on the backyard view of the sky.
- A boundary wall and a setback discretion should not be approved on the same boundary.

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

- Increased the first floor southern setback from nil to 1.373m
- Increased the second floor southern setback from 1.4m to 2.3m
- Reduced overall height from 9.7m to 9.4m above natural ground level
- Included a landscaping plan
- Included line of sight diagram and indicative roof plan comparing the proposal to a two storey house with pitched roof
- Screening to prevent direct overlooking from the roof deck, and a visual privacy diagram showing the line of sight from the roof deck to the rear houses.

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

- The R-Codes allow the City to consider additional height where the development complies with the Design principles. The full assessment is discussed below.
- Any approval should be conditional on all openings presenting a direct line of sight visual privacy variation to adjoining properties be screened. This is also discussed below.

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

- Lot boundary setback
- Maximum wall height
- Visual privacy

The above matters are discussed below.

Background

The subject site is located on the western side of Seaview Street between South Street and Martha Street. The site has a land area of approximately 527m² and is currently a vacant rear battleaxe lot. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed management category Level 3 and located within the South Fremantle Heritage Area. The heritage listing is for the front house. The heritage listing has not yet been removed for this lot following subdivision.

The lot slopes downwards approximately 1 metre from south to north.

Building height

Element	Requirement	Proposed	Extent of Variation
Wall height	6 m	9.44 m	3.44 m

The wall height is not considered to meet the Design principles of the R-Codes for the following reasons:

- The applicant has provided a diagram showing a two storey house with a pitched roof as a basis for comparison, though it is noted that the indicative roof ridge line exceeds the maximum ridge height when measured from the natural ground level directly below. The diagram also shows that the top floor is not positioned in a way so as to be contained within the hypothetical roof ridge. The floor in question is located closer to the eastern elevation of the building and exceeds the 9m roof ridge line. Officers consider that the subject proposal will present a larger negative impact to adjoining properties than a compliant two storey house with gable roof.
- The building height presents an excessive scale as compared to the buildings within the immediate locality and is not consistent with the bulk and height of the houses on the adjoining lots.
- The additional height presents a high degree of overshadowing to the adjoining lot, though it is noted that the lot is large and the overshadowing calculation complies with the R-Codes. Should the adjoining lot be subdivided as the subject site is, the overshadowing from the subject development will be problematic.

The applicant has stated that their intention in constructing a second floor rather than arranging the house to fit within the height requirements was to maximise open space and vegetation around the lot. To this end, the applicant has provided a landscaping plan showing eight trees proposed within the rear of the lot that have the capacity to grow to a height of 6 – 8 metres, along with a number of trees lining the driveway. The intention of the large amount of vegetation is to reduce the apparent bulk of the new development and provide a “green wall” so that the additional height will be largely unnoticeable.

Policy LPP 2.10: Landscaping Of Development And Existing Vegetation On Development Sites allows Council to consider landscaping plans where they are submitted to address the Design Principle requirements. Given that the vegetation is intended to reduce the impact to adjoining properties as per the Design Principles of clause 5.1.6 P6, should council approve the development the following condition is recommended:

Prior to occupation of the development, all landscaping as shown on the approved plan shall be installed and thereafter maintained to the satisfaction of the City of Fremantle.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Garage (south)	1 m	Nil	1m
First floor (south)	1.8 m	1.373 m	0.427 m

The lot boundary setbacks combined with the overall additional height result in an unacceptable impact to the adjoining properties, and are not considered to meet the Design principles of the R-Codes for the following reasons:

- Though the nil boundary setback and eastern half of the first floor are set back against an existing large outbuilding, the western half of the first floor will present an additional unacceptable bulk and scale to the adjoining outdoor living area.
- The reduced setback of the two floors reduces the amount of natural daylight and ventilation to the outdoor living areas of the adjoining lot.

In isolation, the setbacks are considered to meet the Design Principles of the R-Codes as they are predominantly located adjoining an existing large outbuilding of the adjoining lot. However, the additional height exacerbates the impact of the reduced setbacks and is not supported.

Visual privacy

Element	Requirement	Proposed	Extent of Variation
Ground floor alfresco (north)	7.5 m	4.5 m	3 m
Bed 1 (south)	4.5 m	2.2 m	2.3 m
Roof deck (south)	7.5 m	3.7 m	3.8 m
Roof deck (west)	7.5 m	6.5 m	1.0 m

The applicant has provided a standalone screen to prevent direct overlooking from the ground floor alfresco, with the option to provide the screening on the fence line should they be able to reach an agreement with the neighbour.

The roof deck is provided with screening to prevent direct overlooking to the south and is set back from the northern boundary in accordance with the R-Codes.

Should Council approve the application, it is recommended that a condition be imposed screening the studio window on the south elevation and the alfresco deck to the north elevation in accordance with the R-Codes to ensure the screening is provided.

In regards to the overlooking shown in the above table, the variations are considered to meet the Design principles of the R-Codes in the following ways:

- Direct overlooking is obscured (except from the west elevation of the roof deck – see below), with all remaining overlooking being oblique.
- Views from the bedroom are generally directed towards the battleaxe leg of the subject site, with oblique overlooking towards the vehicle access way of the adjoining southern site. No major openings or outdoor living areas are impacted
- Views to the south from the roof deck are oblique and directed towards the rear of the site, with overlooking occurring on a small portion of the adjoining southern site that will not pose a significant detrimental privacy impact.

- The proposed landscaping plan will also assist in reducing any visual privacy variations by screening views to the outdoor living area to the north.
- The applicant has provided a sectional (Section A-A) showing that overlooking to the backyard of the rear house will be blocked by the proposed roof. All overlooking will be directed to the roofline of the house on the rear lot. Should Committee impose a screening requirement to this elevation, it is possible that the screening could be located on the edge of the roof away from the balcony so as to prevent the feeling of the balcony being enclosed.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

Green Plan 2020

Encourage the retention of vegetation on private land.

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, three storey Single house at No. 7A (Lot Strata Lot 2) Seaview Street, Beaconsfield, as detailed on plans dated 30 September 2020 for the following reasons:

- 1. The development is inconsistent with clauses 5.1.3 and 5.1.6 of the R-Codes and presents unacceptable building height, bulk and scale to adjoining lots, and is not consistent with the height of buildings within the locality.**

**PC2011 - 5 LEFROY ROAD, NO. 148 (LOT 21), BEACONSFIELD – THREE, TWO
STOREY GROUPED DWELLINGS – (NB DA0334/20)**

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for three, two storey, Grouped dwellings to the rear of an existing house.

The proposal is referred to the Planning Committee (PC) as the development seeks approval under the provisions of Special Control Area 5.7 ('Freo Alternative') and has received some comments during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Rear setback
- Open space

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the following:

- Retention of the existing house facing Lefroy Road
- Three, two storey Grouped dwellings in a townhouse configuration located towards the centre of the lot. All three units have a downstairs living area with bedrooms located upstairs. The middle unit is a two bedroom unit, and the units on either end include a Study, which could also be a third bedroom.
- Pedestrian access from Cadd Street and vehicle access to the new dwellings from the ROW at the rear.

Development plans are included as attachment 1.

Site/application information

Date received: 24 August 2020
Owner name: Mr Robert Tomren and Mrs Charlene Tomren
Submitted by: Mikasa Designs Pty Ltd
Scheme: Residential R20
Heritage listing: Not Listed
Existing land use: Single house
Use class: Grouped dwellings
Use permissibility: D



CONSULTATION

External referrals

Nil required.

Design Advisory Committee

In accordance with clause 78B(6)(b) of LPS4, the Council shall not determine a development application that proposes development under clause 5.7 Special control area provisions for small infill development, without having regard to the advice of the City's Design Advisory Committee. In addition to the requirements of LPS4, LPP3.20 includes a Built Form consideration to ensure good design quality outcomes including design that is responsive to local character and context. In order to satisfy the visual appearance requirement of the Policy guidance will be taken from the DAC's comments in relation to the visual appearance of the place.

The application was referred to the DAC for comment on 14 September 2020. The minutes of the DAC meeting are reproduced below:

WHAT ARE THE STRENGTHS

The proposal was considered to demonstrate the following strengths, which should continue to carry through in any future amendments of the design:

- *The proposed townhouse typology is considered suitable for this well located and connected location.*

- *The design and layout of the dwellings, including the open carports support passive surveillance of the adjoining street and laneway.*
- *The use of the rear laneway for vehicular access to the reduced number of parking bays as per the requirements of the City's Scheme.*
- *The town house layout is well considered, featuring north facing kitchen/dining and outdoor spaces, high levels of cross ventilation and privacy to bathrooms.*
- *Sustainability aspirations, including 7 to 7.5 Star NatHERS rating, PV's and Rainwater tanks.*
- *Potential for high quality landscaping including veggie gardens.*
- *Architectural expression of the development including the boundary wall variation, materiality, transparency and articulation.*

CABE DESIGN PRINCIPLES

CHARACTER (A place with its own identity)

- *The proposed development is well considered and has evolved from functional and positive site planning.*
- *The proposed development is an example of a positive response to the City's 'Freo Alternative' initiative particularly having regard for the features of this site including its corner location and access to a ROW.*
- *The space around the development is well considered, including the potential for some high quality landscaped areas.*
- *There is an opportunity to increase the landscaping around the retained dwelling and along the southern side of the pedestrian path from Cadd Street (so both sides of the pathway are landscaped).*
- *There is an opportunity to create a communal open space area adjacent to Cadd Street entry where the letter boxes are located.*

CONTINUITY AND ENCLOSURE (A place where public and private spaces are clearly distinguished)

- *The siting of the proposed development particularly with its use of the ROW is well considered.*
- *Further consideration could be given to potential privacy issues between the upper floor windows of 'Bed 2' and the retained dwelling.*
- *Details of future fencing along the proposed boundary between the retained and proposed dwellings should be illustrated as part of this proposal.*
- *The 'green' space between the carport structures should be incorporated into the courtyard of Unit 2 to ensure its on going maintenance.*
- *Servicing areas need to be identified and adequately screened, including areas for storage, bin location, clothes lines, air conditioning condensers etc.*

QUALITY OF PUBLIC REALM (A place with well-designed, high quality public spaces)

- *There is an opportunity to create a small area of communal open space, which if located and design appropriately can contribute to the sense of community for future occupants.*
- *Further details of the proposed materials, colours and finishes should be provided to ensure they are appropriate to the location and durable.*

EASE OF MOVEMENT (A place that is easy to get to and move through)

LEGIBILITY, ADAPTABILITY, DIVERSITY (A place that is easy to navigate, a place that can change, a place with variety and choice, is easy to navigate)

- *The location of the entry doors of Units 1 and 2 should be reconsidered to provide more private entry to the individual dwellings.*

OVERALL DESIGN QUALITY AND FUNCTIONALITY

- *The proposal is a well considered development and a good example of a positive response to the City's 'Freo Alternative' initiative.*
- *The proposal includes a number of design strengths as detailed above.*

HOW CAN THE PROPOSAL BE IMPROVED

- *Opportunities to improve natural and cross ventilation to individual bedrooms, bathrooms and laundries through additional openings and/or operable roof lights.*
- *Opportunity to improve the pedestrian experience along the entry from Cadd Street, including additional landscaping and greater separation of individual entries.*
- *Servicing areas need to be identified and details should be submitted illustrating how these areas will be adequately screened.*

RECOMMENDATION

The Design Advisory Committee, having considered the proposal for the three, two storey grouped dwelling development at 148 Lefroy Road, Beaconsfield, supports the proposal subject to amendments to address the areas for improvement as identified above.

In response to DAC comments, amended plans were submitted on 7 October 2020 showing the following changes:

- providing a communal open space area and modifying the entrance layout
- relocating the entrance of unit 3
- modifying the deep planting zones to be fully compliant in regards to minimum dimension.

The above changes have satisfied concerns raised by the DAC.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought under LPS4. The advertising period concluded on 30 September 2020, and two (2) submissions were received. The following issues were raised (summarised):

- Townhouses 1 and 3 exceed the 120 square metre maximum floor area.
- The proposal seems to be subdividing the backyard and placing three houses on this subdivided area, which is approximately 548m². The development should be limited to only two additional houses, which would allow more land area per dwelling.
- The plans show potential spaces for 6 car bays, though some of the spaces are labelled 'bike bays' or 'landscaping'. There is no guarantee they won't be used for parking.
- How will the City ensure that the Deep Planting Zones are maintained?

In response to the above, City Officers provide the following comments:

- The floor areas shown in the table on the plans do total more than 120 m², however, the totals include the alfresco, verandah and balconies, which are specifically excluded from the plot ratio area as defined by the R-Codes. The actual plot ratio area of each unit does not exceed 120 m².
- Clause 5.7.1: Special Control Area of the scheme only sets out the number of units allowed based on the overall site area of the parent lot and does not set an individual minimum lot size.
- Amended plans have been submitted clearly showing 3 car bays and a fence across rear portions of the lot facing the ROW.
- The Deep Planting Zones shown will be included as a condition of approval to be maintained for the life of the development.

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

- Rear setback
- Open space

The above matters are discussed below.

Background

The subject site is located on the northwest corner of the Cadd Street and Lefroy Road intersection in Beaconsfield. The site has a land area of approximately 994m² and is currently a single storey Single house. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed nor located within a Heritage Area.

The site abuts a right of way to the north, which is privately owned, with the owner unable to be found. There are a number of these “orphaned” laneways around the City. The right of way is listed as a ROW on the deposited plan and, therefore, the subject site has implied rights of accessway from this ROW.

Land Use

A Grouped dwelling is a 'D' use in the Residential Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. In considering a 'D' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

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

- In accordance with the 'Freo Alternative' provisions of LPS4 and LPP3.20, where a site is included in the special control area the site is considered to be in an acceptable location for infill development in the form of Grouped dwellings or Multiple dwellings, therefore the proposed Grouped dwellings are supported as the number and plot ratio of dwellings are considered compatible with the residential zoning and consistent with clause.
- The development is consistent with the design and use of established residential lots in the immediate locality.
- The development is largely consistent with the Special Control Area Provisions and the Residential Design Codes so as to have minimal impact on adjoining properties.
- The development does not detrimentally impact the character of the locality.

LPP 3.20: Special Control Area Policy and Scheme Requirements

The purpose of LPP3.20 is to complement the planning controls set out in Local Planning Scheme No. 4 (LPS4) Clause 5.7 - Special control area provisions for small infill development. These controls allow for an alternative development type, in select areas, that provides for smaller dwelling options at a higher density than what would normally be available under the conventional zoning and density (R-Code).

The following compliance table is provided to illustrate the development's compliance against all these requirements. Where the development does not comply with a specific requirement an assessment has been made against the Design Principles of LPP3.20 and/or the R-Codes where applicable.

Element	Requirement	Proposed	Extent of Variation
Housing Choice	Maximum floor area of any dwelling to be 120 m ²	All dwellings have a maximum plot ratio area (as defined by the R-Codes) of 120m ²	Complies
	Maximum 3 dwellings. On lots over 750m ² an additional dwelling for every additional 150m ² = 4 dwellings for this site	Total of 4 dwellings	Complies
Visual Appearance	DAC review	DAC review	DAC provided conditional support
Rear Setback	5m rear setback	12.1m to dwellings - Nil setback to carports	- Complies 5m – see below
Private Outdoor Living	30 m ² , with 20 m ² uncovered	Min. 46m ² , with approx.. 30m ² uncovered	Complies
	Min. 4m dimension	Min. 4m dimension	Complies
	North, east or west facing	North facing	Complies
Sustainable Design	1 star in excess of current energy efficiency	Min. 7 stars	Complies
	2 items from the list per dwelling	1.5 kw solar panels 1000 L rainwater tank	Complies
Open Space	70%	64%	6% - see below
Canopy Cover	Specified tree to be shown	WA Peppermint	Complies
Deep Planting Zone	Minimum 25% with 50% located at the rear	25.9% (257.773 m ²)	Complies
Communal Space	Min. dimension of 3m	Provided along path	Complies
Development Fronting the Street	Direct street access, and street surveillance	Complies	
Vehicle Access and Movement	Driveways to be water permeable	Noted on plans	Complies
Vehicle Parking	Maximum 1 vehicle bay for new dwellings, 2 for existing	Complies	

Rear Setback

Policy LPP 3.20: Special Control Area Provisions for Small Infill Development permits rear setback variations to be considered when the rear of the lot abuts a right of way. The proposed development abuts a right of way, and the portion of development set back closer than 5m consists only of the three carport elements. The bulk of the new units is set back 12.5 m from the right of way.

The carports are single storey open structures and consistent with the type of development likely to be found abutting a right of way. They will have minimal impact on the adjoining lots and the variations is supported.

Open Space

Policy LPP 3.20 permits the City to consider a reduction in open space down to 60% of the lot where an existing dwelling is being retained and not enlarged. The proposal only seeks a reduction to 64% of the lot while retaining the existing dwelling. The small reduction in open space will be largely unnoticeable and the design of the dwelling will enable it to fit comfortably into the residential streetscape without overwhelming the low scale surrounding development.

CONCLUSION

The proposal is considered to provide an alternative development type in the 'Freo Alternative' special control area. The proposed design satisfies the requirements of LPS4 and LPP3.20 with the exception of the Rear Setback and Open Space provisions, both of which provide for discretionary variations which the proposal satisfies. Where the proposal does not satisfy LPP or the remaining R-Code requirements, the proposal can be supported under the specific Design Principles. The proposal is recommended for approval, subject to the conditions included in the officer recommendation below.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

Green Plan 2020

Encourage the retention of vegetation on private land.

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, three, two storey Grouped dwellings at No. 148 (Lot 21) Lefroy Road, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 7 October 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 unless otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.**
- 4. Prior to the occupation of the development hereby approved, vehicle crossovers to the right of way shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 6. The approved deep planting zones are to be retained as deep planting zones in accordance with the definition within policy LPP 3.20 for the life of the development to the satisfaction of the City of Fremantle.**
- 7. Prior to the issue of a Building Permit for the development hereby approved, evidence is to be submitted demonstrating that each new dwelling will achieve a NatHERS accredited energy efficiency star rating of seven (7) stars that is certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle. The development is to be maintained at the approved standard to the satisfaction of the City of Fremantle.**
- 8. Prior to occupation of each development hereby approved, a minimum 1.5kw photovoltaic solar panel system per dwelling shall be installed and maintained thereafter to the satisfaction of the City of Fremantle.**

- 9. Prior to occupation of each development hereby approved, a 1000L rainwater tank plumbed to a toilet and/or laundry, or an approved grey-water reuse system that collects grey water from the laundry and bathroom and re-directs it for garden irrigation/ground water recharge, shall be installed for each dwelling and maintained thereafter to the satisfaction of the City of Fremantle.**
- 10. 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. The applicant and future owners/occupiers are advised that the right of way is not owned by the City, and the City is not responsible for the maintenance or upkeep.**
- ii. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New crossovers shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**

**PC2011 - 6 ALMA STREET, NO. 15 (STRATA LOT 1) FREMANTLE - ADDITIONS
AND ALTERATIONS TO EXISTING GROUPED DWELLING (JK
DA0289/20)**

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Applicants Justification
2. Site Photos
3. Heritage Assessment

SUMMARY

Approval is sought for additions and alterations to the existing Grouped dwelling, to enclose the existing verandah at No. 15 Alma Street, Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of the work proposed to this Heritage Listed property. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Heritage Aims and Objectives of LPS4
- Boundary wall (west)
- Primary Street Setback
- Open space

The proposed works are considered to have an adverse impact on the aesthetic heritage value of the property and its contribution to the streetscape and surrounding area and therefore the application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for external alterations to the existing Grouped dwelling at No. 15 Alma Street, Fremantle. The proposed works include:

- Enclosure of a portion of existing front verandah with a dado wall (north and east), aluminium framed windows (north and east), weatherboard side wall (west) and new doorway (east);
- Addition of lightweight trellis extending from the existing verandah edge to the existing Alma Street fence.

The applicant has advised that the works are proposed to reduce noise from Alma Street, which is busy from both pedestrian and vehicle activity and provide a more sheltered space on the verandah to enjoy the winter sunshine whilst being protected from the wind.

In regard to the design the applicant has advised that the clear glass and lightweight frames are intended to allow clear view from the street to the house in keeping with conservation principles.

The applicant has submitted a series of amended plans in response to Officers comments, including setting back the windows to be in line with the edge of the existing verandah, a reduction in the height of the dado wall and changes to the window proportions. The latest set of amended plans, submitted on 16 September are the subject of this report.

The amended development plans are included as attachment 1.

Site/application information

Date received:	28 July 2020
Owner name:	Sergio Sebastiano Del Borrello
Submitted by:	Jocelyn Broderick
Scheme:	Residential, R30
Heritage listing:	Individually Listed Category 3
Existing land use:	Grouped dwelling
Use class:	Grouped dwelling
Use permissibility:	D



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 following variations were identified:

- Boundary wall (west)
- Primary Street setback
- Open space

The advertising period concluded on 29 October 2020, and five (5) submissions were received. All five submissions stated that they supported the proposed works, raising no concerns in regard to any potential impacts on the adjoining properties. Support for the proposal was offered in the following comments:

- It will make the home even more useable, is in keeping with the spirit of the varying facades and doesn't demolish any of the older parts of the building.
- The proposal to install sliding glass screens set on a low dado appears to overcome the problems of weather, noise and dust intrusion.
- Given the works are to the front of the property there will be no impact on the adjoining property.
- The works will add a dynamic element to Alma St while retaining the overall heritage aspect of the area.
- We do not believe the streetscape will be adversely affected.
- The changes will likely cause the front of 15 Alma St to be better used and this will have neighbourhood benefits.

The proposed changes will go a small way towards restoring Alma Street as a lively, community street that feels used and owned by its residents.

Additionally, in support of the application, the applicant has submitted the following comments from a local architect.

"We support the principle of adapting residential heritage buildings and places to suit current occupancy requirements. Your cottage (like most others) are now set in an environment and social conditions that did not exist at time of their construction. Where these conditions impact the quality of use, there is definite case for adaptation. Space requirements being one aspect of the issue, and then noise pollution, dust control etc to mention some examples.

The typical blight that occurs with residential cottages caught up in the urban development starts with neglect and neglect is related to the degree of loss of use etc. We do not support the retention of buildings for 'postcard' presentation before usefulness. Use-fullness and 'use' and social interaction are the best options for the life of the street to be retained.

There are successful and not so successful resolutions of adding built forms. In some cases, where additional works do not permanently impact the existing (eg they removable), there is case for acceptance. Where LA [Council] policy intends to present the existing in a prescribed manner, there are potentially options.

- *The additional works built technology is clear as to whether it is contemporary or of the time.*
- *The clarity of the existing remains.*

Perhaps the glassed in wall is floor to beam, includes a bank of louvres and is all appropriate timber joinery. Show use for chairs and a table that indicate that you will be able to sit in the sun, read and interact. The trellis and pergola are great ways of soften the streetscape and letting others know that the place is actively occupied.

The comments made during the consultation period have been considered by Officers in regard to the assessment detailed 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. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Heritage Aims and Objectives of LPS4
- Boundary wall (west)
- Front setback
- Open space

The above matters are discussed below.

Background

The subject site is located on the southern side of Alma Street opposite Fremantle Hospital and is currently part of a duplex pair of dwellings with 17 Alma Street. The parent lot has a land area of approximately 288m². The site is zoned Residential and has a density coding of R30.

The site is individually listed on the City's Heritage List and included in the Local Heritage Survey (former MHI) as a Category 3.

In 2003, the City issued planning approval for the demolition of a rear lean-to structure and the construction of a rear addition.

Heritage

In support of the application and as justification that the proposed works do not have detrimental impact on the cultural heritage significance of the property, the applicant has submitted the following comments:

- A level 3 Listed property should allow for more flexibility with minor additions than a level 1 or 2 property, especially when the listing does not cite any 'individual or collective aesthetic, historic, social or scientific significance.

- The façade will remain clearly visible as illustrated in the image below (provided by the applicant).
- There are other examples nearby including 38 Wray Avenue (Level 2) and 79-85 South Terrace (Level 1B) that have constructed similar enclosures which are not intrusive to these places.

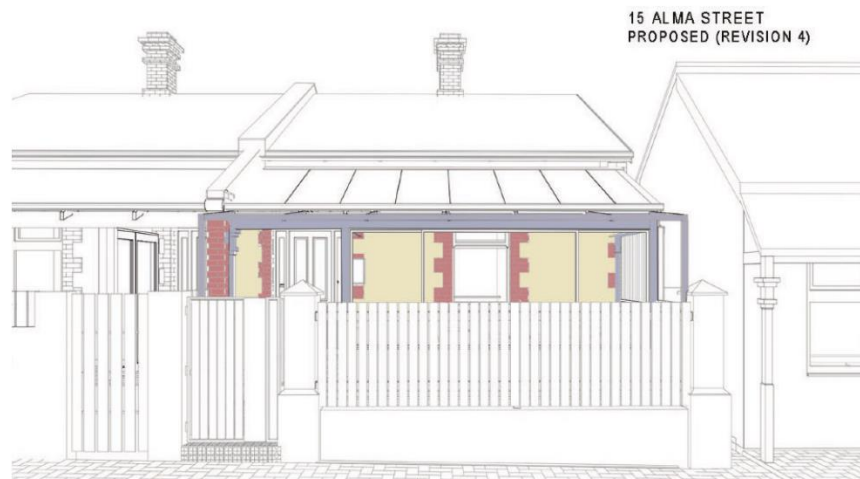


Image 1: Streetscape impression of proposed work (submitted by the applicant)

The site is individually listed on the City's Heritage List and included in the Local Heritage Survey (former MHI) as a Category 3. This means that the City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and /or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced.

The subject site is part of a duplex pair 15-17 Alma Street, which were formally numbers 39-41 Alma Street prior to the 1930's. The duplex was constructed in 1902/3 as a single storey pair with a symmetrical façade design as a late example of Victorian Georgian style of architecture. Each dwelling has a front door with sidelined and fanlight, a double hung sash window and separate verandahs on timber posts.

As per the City's LHS and Heritage list, the subject dwelling is recognised for its aesthetic value and the contribution this makes to the streetscape. To support an assessment of the potential impacts of proposed works on the significance of the dwelling, the City's Heritage Team has provided a Heritage Assessment and the proposal is also considered against the Matters to be Considered in the deemed provisions of the Planning and Development Regulations (clauses 67(k) and (l)) including the relevant aims of LPS4 and the objectives of the Residential Zone. These matters specifically include:

- (f) *protect and conserve Fremantle's unique cultural heritage,*
- (v) *conserve and enhance places of heritage significance the subject of the or affected by the development*

The proposed works to enclose the verandah are considered to have a negative impact on the presentation of the historic façade of the individual dwelling and its presentation to the streetscape of Alma Street, especially given its contribution as one of three pairs of late 1980's and early 1900's masonry duplexes at the western end of the street.

It is acknowledged that the applicant contends that the lightweight and permeable nature of the enclosure will permit views through to the façade of the dwelling, however in the opinion of officers the alterations substantially modify the form and appearance of the dwelling (one half of a symmetrical pair) and detrimentally conceal the front façade, when considered in isolation and as part of the streetscape.

In regard to the examples in Wray Avenue and South Terrace, the City does not have any current record of the approvals for either example. The South Terrace example is understood to have been in place for a number of years, however the Wray Avenue example appears to have been constructed in the last 18 months. Neither example is considered an exemplar for good conservation outcomes. Further investigation into these two properties is a matter for the City to consider independently of the merits of the current application.

Having regard for the above, the proposed works are considered to adversely impact on the aesthetic significance of the property and the streetscape and are therefore not supported.

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Primary street setback	7m	1.4m	5.6m

In accordance with Council Policy 2.9, a verandah may project into the prescribed front setback area. The proposed works resulting in the enclosure of the front verandah have the effect of altering the existing front setback of the dwelling, bring the 'front of the dwelling' to within 1.4m of the Alma Street boundary.

Although the duplex pair at 11 and 13 Alma Street and the pair at 19 and 21 Alma Street are constructed closer to the Alma Street boundary than the façade of the existing dwelling, the proposed setback (windows and dado wall) is considered to result in a projecting element that adversely impacts its duplex pair at 17 Alma Street and the cultural heritage significance of the streetscape for the reasons outline in the Officers comments above. For these reasons the proposed setback is also not supported.

Boundary wall

Element	Requirement	Proposed	Extent of Variation
Boundary wall (west)	1m	0.1m	0.9m

In isolation, the enclosure of the existing western boundary may be considered to meet the Design principles of the R-Codes as the wall does not result in a loss of access to daylight or direct sunlight owing to its location of the western boundary and given it abuts a section of the western neighbours boundary wall containing no openings.

Open space

Element	Requirement	Proposed	Extent of Variation
Open space	45% (63.45m ²)	24% (35m ²)	21% (28.45m ²)

The proposed works resulting in the enclosure of the front verandah have the effect of reducing the available open space on site, as in accordance with the R-Codes an open verandah can be included in the calculation of open space. In isolation, the open space variation could be considered to meet the Design principles of the R-Codes as the reduction in open space is minor and the site contains a private outdoor living area, central to the site, which can provide opportunities for residents to use space external to the dwelling.

CONCLUSION

The proposed works are considered to adversely impact on the aesthetic significance of the property and the streetscape and are therefore not supported.

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 additions and alterations to the existing Grouped dwelling at No. 15 (Strata Lot 1) Alma Street, Fremantle, as detailed on plans dated 16 September 2020, for the following reasons:

1. The proposal is inconsistent with clauses 1.6.1(f) and 3.2(a)(v) being the aims and objectives of the Local Planning Scheme No. 4 as the alteration of the existing verandah adversely impacts on the aesthetic significance of the property and the streetscape.
2. The proposal is inconsistent with clauses 67(k) and (l) of the *Deemed provisions* as it is detrimental to the cultural heritage significance of the place and the area.

**PC2011 - 7 SHEPHERD STREET, NO. 67B (STRATA LOT 1), BEACONSFIELD –
TWO STOREY SINGLE HOUSE (TG DA0207/20)**

Meeting Date: 4 November 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 two storey Single house at 67B Shepherd Street, Beaconsfield.

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

- Lot boundary setback (north and south)
- Boundary walls (south)
- Driveway width

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for two storey Single house to an existing vacant lot at 67B Shepherd Street, Beaconsfield. The proposed works include:

- Ground floor
 - Porch, garage, activity room, kitchen, dining, living and laundry.
- Upper floor
 - Four bedrooms, two bathrooms.

The applicant submitted amended plans on 4 September 2020 increasing the primary street setback of the dwelling.

Amended development plans are included as attachment 1.

Site/application information

Date received: 18 June 2020
Owner name: ML and J Lucas
Submitted by: Dale Alcock Homes Pty Ltd
Scheme: Residential R20/25
Heritage listing: Not Listed
Existing land use: Vacant site

Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal sought discretionary assessment of several matters listed in the Residential Design Codes and Council policy. The advertising period concluded on 14 July 2020, and two submissions were received. The following issues were raised (summarised):

- The existing concrete retaining fence to the northern site boundary is standard panel and post construction and it was the understanding of the submitter that this wall would require reinforcement before it is able to sustain the load of a house being built or that the dwelling would need to be engineered so as to avoid the wall being load bearing.
- The proposed two storey building is excessive and increases the level of overshadowing to the adjoining property. The building will eliminate the neighbours northerly aspect and leave the property in shade. The height of the building is likewise excessive.
- The setback of the garage will obscure the outlook towards surrounding parkland and cast shade over the neighbouring front garden.
- The reduced setback to the southern property boundary may limit ventilation and water drainage.

- The two patio areas close to the southern boundary may cause issues with damp and water runoff.
- The proposed boundary wall is contradictory to the style and aesthetic of the neighbouring property. The boundary wall begins in the middle of the neighbouring front yard. The submitter objected to the wall on the basis of its height, location and material and requested that any boundary walls not exceed 1.8m in height.
- The proposed development may reduce surrounding property values.

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

- The applicant confirmed that the design will be appropriately engineered to ensure no impact to the existing retaining wall.
- The applicant increased the dwelling street setbacks to satisfy the requirements of the City's residential streetscapes policy.
- The applicant considers that the amended upper floor setback provides for greater articulation and setbacks to the lot boundary to reduce the impact to the neighbour and by increasing the ground floor setback, greater outlook to surrounding parkland is available.
- The applicant reduced the height of the boundary wall to reduce the shade cast by the boundary wall.

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

- It is a standard recommended condition of approval that all stormwater be contained to the subject site.
- With respect to the impact of the development upon surrounding property values, this matter is not readily able to be considered as a part of the development assessment process due to the scope of issues which contribute to property values.

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

- Lot boundary setback (north and south)
- Boundary walls (south)
- Driveway width

The above matters are discussed below.

Background

The subject site is located on the western side of Shepherd Street in Beaconsfield. The site has a land area of approximately 381m² and is currently vacant. The site is zoned

Residential and has a density coding of R20/25. The site is not individually heritage listed nor located within a Heritage Area.

The subject site is generally flat, having been cleared through the subdivision process.

A search of the property file has revealed that the subject site was approved for subdivision by the Western Australian Planning Commission in 2017 (WAPC1299-17 refers). As the site was subdivided in accordance with the lower R20 coding, conditions of subdivision were not applied under Local Planning Policy 2.2.

Primary Street Setback

The original proposal submitted by the applicant proposed reduced setbacks to the primary street for the ground floor and upper floor. On the basis of the prevailing streetscape, this element was not able to be supported. The applicant amended the plans to increase the street setbacks to comply with the requirements of LPP 2.9, providing a 7m setback to the garage and a 10m setback to the upper floor.

The porch, set back 5.87m from the street alignment is noted, however this is not included in the prevailing streetscape assessment by LPP 2.9.

Lot Boundary Setback

Element	Requirement	Proposed	Extent of Variation
Ground floor (N) – Living-Kitchen wall	1.5m	1.1m	0.4m
Upper floor (N) – Bathroom-Linen	1.5m	1.1m	0.4m
Upper floor (N) – Master suite-hallway	1.5m	1.2m	0.3m
Upper floor (S) – Bed 3, WIR & Ensuite	2.4m	2m	0.4m

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

- With respect to the reduced setbacks to the northern property boundary, these are in part due to the angled property boundary. It is noted that the balance of these walls are set back in accordance with the relevant deemed-to-comply setback requirement.
- The building includes highlight windows to the upper floor to the northern and southern sides of the building to ensure that privacy is appropriately maintained.
- The development complies with the relevant deemed-to-comply criteria of the R-Codes with respect to the shade cast by the building. The walls to the northern boundary will not unduly shade the adjoining property as shade will fall to the south at midwinter.
- The upper floor walls provide appropriate articulation in order to reduce building bulk impacts, the three portions of wall set at 1.5m from the boundary (Master suite, bed 4 and bed 2) comply with the relevant deemed-to-comply criteria, with

the remainder of the wall set closer to the boundary than deemed-to-comply by 0.4m.

- The northern wall is stepped so as to avoid a bulky appearance facing the northern boundary.

Boundary Wall (South)

Element	Requirement	Proposed	Extent of Variation
Boundary wall (south)			
Height - Maximum - Minimum	3.5m 3m	3.7m (front façade) <3m	0.2m Complies
Setback	1m	Nil	1m

In accordance with the City's Local Planning Policy 2.4 – Boundary Walls in Residential Development, for R20/25 coded properties with a frontage of less than 10 metres, a boundary wall not higher than 3.5m with an average of 3.0m, up to a maximum length of the greater of 9m or one third the length of the balance of the lot boundary behind the front setback, to one side boundary only are permitted. In response to concerns raised in response to consultation, the applicant elected to reduce the height of the boundary wall, which has resulted in the boundary walls not meeting the Deemed to Comply requirement, due to the proposed 0.2m height variation of the wall closest to the front boundary. As such, both the height of the wall and their location on the boundary have been considered against the discretionary criteria of the Policy and the design principles of the R-Codes.

The maximum height of the proposed garage boundary wall and the setback of the boundary walls is considered to satisfy the relevant discretionary criteria of LPP 2.4 and design principles of the R-Codes for the following reasons:

- The wall element which exceeds the maximum height permitted under LPP 2.4 is considered to be a minor element which provides for a consistent front façade for the dwelling. The remainder of the boundary wall is wholly compliant with the listed maximum and average boundary wall height requirement.
- The building and boundary wall is set back to the street setback line.
- The laundry boundary wall adjoins a neighbouring shed and rear yard.
- The overall development complies with the relevant overshadowing requirements of the Residential Design Codes and does not impose privacy impacts as it is a blank wall onto a non-habitable space.
- The shade cast by the non-compliant portion of wall (shown highlighted below in green) is shown below and considered to be minor.
- The boundary wall abuts the neighbouring front yard and a side access area of the neighbouring property. It is noted that the boundary wall projects forward of the neighbouring property, but the wall is set back from the street in accordance with LPP 2.9.
- The boundary walls are consistent with a number of new side by side subdivisions in the locality, including the adjoining dwelling at 67A Shepherd Street.

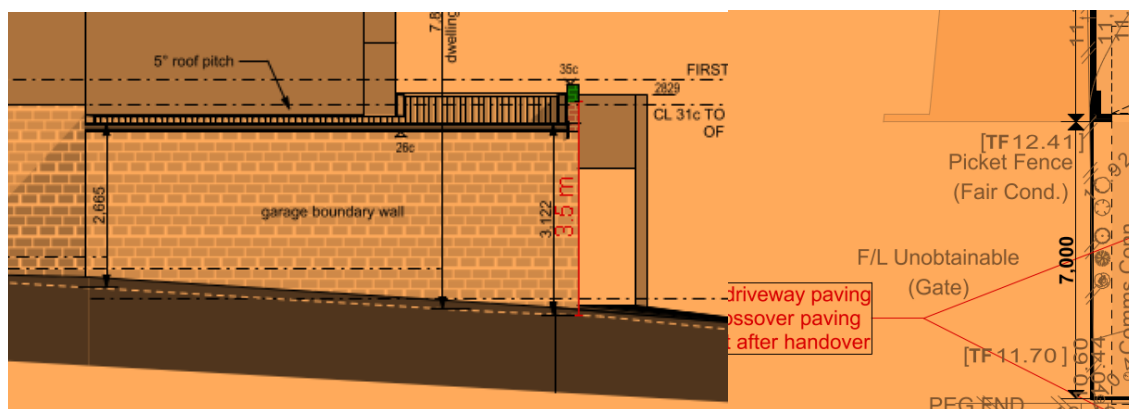


Image 1: Area of overheight boundary wall highlighted and extract from shade diagram.

Overshadowing

With respect to the shade cast by the building over the neighbouring property, this was included by the applicant for discretionary assessment in their initial application submission. In accordance with the requirements of the Residential Design Codes, overshadowing for Grouped dwelling sites is calculated for the parent lot, with the proposed development complying with the deemed-to-comply criteria of the R-Codes, casting shade over 17.8% of the neighbouring property (maximum 25% deemed-to-comply).

Driveway Width

Element	Requirement	Proposed	Extent of Variation
Driveway width	4.5m	5m	0.5m

The proposed driveway width exceeds the required width under LPP 2.9 by 0.5m. There is no specific reason why the wider crossover would be required, accordingly a condition of approval is recommended to limit the width of this driveway, which can taper to the property boundary.

CONCLUSION

On the basis of the above assessment, the development is considered to generally comply with the relevant deemed-to-comply criteria of the R-Codes, relevant Council Policy requirements and the elements which require discretionary assessment are appropriate as discussed above.

It is noted that the dwelling is set forward of the dwellings to the south streetscape however this is because these existing dwellings exceed the street setback requirements of the Residential Streetscapes policy.

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, the Two Storey Single house at No. 67B (Strata lot 1) Shepherd Street, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 4 September 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 occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
- 3. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 5. Prior to occupation of the development hereby approved, the boundary wall located on the southern shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 6. Prior to the issue of a building permit for the development hereby approved, the property driveway is to taper from garage to the street at a maximum rate of 1:5, and be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.**
- 7. 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) 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.**

- 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) Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**

- iv) Levels as per existing footpath and/or ROW**
 - Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;**
 - Any adjustment in levels is to be achieved within the property boundaries;**
 - Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.**

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

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

**PC2011 - 8 DOURO ROAD, NO. 2/19 (STRATA LOT 2), SOUTH FREMANTLE -
VARIATION TO OPERATING HOURS OF DA0099/19 (CHANGE OF USE
TO RESTAURANT) – (JK VA0027/20)**

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plan
Additional information: 1. Site Photos
2. Applicant's Noise and Traffic Management Plan

SUMMARY

Approval is sought to vary an existing approval to extend the operating hours for the approved Restaurant at No. 2/19 Douro Road, South Fremantle so as to allow the Restaurant to operate until 9pm.

At the 5 June 2019 Planning Committee meeting, it was resolved to:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, change of use from Lunch bar to Restaurant at No. 2/19 (Lot 2) Douro Road, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 20 March 2019. 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. The Restaurant hereby permitted shall have opening hours that do not exceed 7:00 am to 4:00 pm daily, to the satisfaction of the City of Fremantle.***
- 3. Prior to occupation of the development hereby approved, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development, 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.***

In support of the proposed amendment to the operating hours the applicant has submitted details of the proposed Restaurant, a revised floor plan and a Noise and Traffic Congestion Management Plan.

The proposal is referred to the Planning Committee (PC) as the original decision was made by PC and submissions have been received that cannot be addressed by conditions of approval.

Given the nature of the proposed Restaurant and the operators commitment to implement their Business Management Plan, the proposed variation is recommended for approval.

PROPOSAL

Detail

Approval is sought to amend condition 2 of DA0099/19 to extend the current approved evening operating hours of the approved Restaurant tenancy from 4.00pm to 9.00pm.

In support of the amendment, the applicant has submitted the following information:

- Details that the Restaurant is to operate as a Japanese Café
- An amended tenancy floor plan illustrating a dining area of 46m² for 30 patrons
- A Noise and Traffic Congestion Management Plan detailing the following measures:
 - Practical measures to reduce potential noise after 5.00pm
 - Signage to advise patrons to leave the premises quietly and respect neighbours of the premises.
 - Monitoring of large groups (if any) to minimise noise
 - Commence closing procedures 15 minutes prior to closing
 - Finalise closing procedures no later than 15 minutes after closing
 - Staff training
 - Encourage patrons via bookings and the website to avoid parking in the adjoining streets and park at the shopping centre or beach and make the short walk to the café.
 - Encourage patrons via bookings and the website to walk and ride to the café
 - Provide instructions to takeaway delivery companies to park bicycles in the alfresco area and not block the footpath.
- Confirmation that the tenancy has the exclusive use of four (4) car parking bays within the existing building.

Development plans are included as attachment 1.

Site/application information

Date received:	14 August 2020
Owner name:	Stadium Drive Pty Ltd
Submitted by:	Sanco Japanese Cuisine Pty Ltd
Scheme:	Neighbourhood Centre Zone
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Restaurant
Use class:	A
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 discretion was sought against the land use provisions of the scheme. The advertising period concluded on 1 October 2020, and three (3) submissions were received.

One (1) submission was in support stating the following:

- I would be very happy to have a Japanese Restaurant operating from this tenancy.
- It's a pity one hasn't opened since the apartments were completed some years ago.

Two (2) submissions raised the following concerns (summarised):

- The extension of hours will exacerbate existing parking issues in the immediate locality.
- The extension of hours will cause detrimental and unacceptable noise, traffic and parking impacts to the immediate neighbourhood.

The 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 requires an assessment against the land use provisions of the scheme and the Matters to be Considered of the *Deemed provisions*.

The above matters are discussed below.

Background

The subject site is located on the south eastern corner of the intersection of Douro Road and Hulbert Street. The site has a land area of approximately 1400m² and is currently occupied by a mixed use development. The unit the subject of this proposal (No. 2) is located on the corner on the ground floor. The site is zoned Neighbourhood Centre and has a density coding of R25. The site is not individually heritage listed but it is located within the South Fremantle Heritage Area.

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

- DA0587/13 – Demolition of existing building and construction of three storey Mixed use development (4xOffices, Lunch Bar/Shop, and 20 Multiple Dwellings)
- DA0256/16 – Change of use (Units 4 and 5) from Office to Consulting Rooms (Chiropractic Clinic)
- VA0022/16 – Change in operating hours (Units 4 and 5) of DA0256/16
- DA0453/16 – Change of use (Unit 3) from Office to Shop
- DA0157/17 – Change of use (Unit 1) from Office to Consulting Rooms
- DA0099/19 – Change of use (Unit 2) from Lunch Bar to Restaurant

The previous application for the subject tenancy (DA0099/19) sought approval for use as a Restaurant without a specific tenant in mind, rather simply seeking to have the existing use changed in order to increase the success of attracting a tenant to the building due to difficulties in attracting one for the existing Lunch bar use. Therefore details regarding signage, internal fit out and expected visitation rates were limited at that stage.

Due to the history of the subject mixed use development and the subsequent approvals for each of the commercial tenancies within the development since the original approval was granted, officers have been concerned about the incremental increase in the number of required car parking bays as per the LPS4 requirements given there is no ability to provide additional car parking on the site and the demand for the available on-street parking in the immediate locality.

At its meeting on 5 June 2019 Planning Committee were satisfied that the proposed Restaurant use, albeit limited details of the future tenant, was acceptable having regard for the hours of operation proposed by the applicant at the time of the application.

Operating Hours

Approval is sought to extend the approved evening hours of operation from 4.00pm to 9.00pm. The request has been assessed against the relevant provisions of LPS4 and the Matters to be Considered of the *Deemed provisions* in consideration for potential amenity impacts relating to noise, patron behaviour and traffic and parking.

As discussed previously, the original approval was granted on the basis of an unknown operator to increase the chances of leasing the tenancy. The current application specifically seeks to operate a Japanese Café consisting of a maximum of 30 dine-in patrons, until 9.00pm at night. The proposal is considered to be compatible with the existing land uses within the mixed use development being consulting rooms and residential apartments and consistent with the LPS4 objectives of the Neighbourhood Centre Zone in that the café will provide a daily and convenient offering that has the potential to serve the local community. The proposed hours of operation are also not considered to be inconsistent with a café/restaurant that offers an evening service without extending late into the evening.

The applicant has also submitted a Management Plan that includes practices and measures to minimise the potential impact from noise generated within the tenancy or by patrons leaving the premises. These practices and measures also extend to staff including procedures to minimise noise and disturbance whilst the café is closed at the end of each night. Having regard for the nature of the proposed café and the management practices and procedures proposed to be implemented by the operator, the extended operating hours are not considered likely to result in adverse noise impacts.

In regard to car parking, previous reports have detailed the incremental increase in car parking requirements for the whole of the existing mixed use development, which has resulted in the current cumulative shortfall of 18 car bays.

As per LPS4, car parking for a Restaurant is based on the number of seats or the dining area associated with the Restaurant. The previous approval included an indicative floor plan which generated a car parking requirement of 11 bays. The submitted floor plan reduces this requirement to 9.2 bays (nine bays). It is noted that the original approval for the Lunch Bar generated a car parking requirement of six (6) bays. The subject tenancy has the exclusive use of four (4) car parking bays within the mixed use development. Having regard for the previous original shortfall for this tenancy, the Restaurant use creates an additional three (3) bay shortfall for this tenancy.

Given the location of the four (4) car parking bays within a secure ground floor car park, they are considered to be most suitable for use of staff of the Café. This is considered to be a suitable allocation, given staff will most likely be required to park for longer periods of time than patrons. In regard to patron parking, it is noted that some on-street parking is available in the immediate locality including, six (6) bays immediately adjacent to the property (Douro Road and Hulbert Street) and unrestricted bays in Thomas Street (no through road), Hulbert Street, Walker Street (no through road) and both sides of Douro Road. Although it is understood that the demand for these bays is relatively high, it is considered that in combination with the availability of public (South Beach) and after hour bays (Shopping Centre) further from the site there is some availability in the area to help support this use.

The tenancy has remained vacant for its existence and the proposed Japanese Café is considered to be an acceptable use. Subject to the implementation of the operators Noise and Traffic Congestion Management Plan, the potential noise and parking impacts can be minimised.

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 for the Variations to Planning Approval for DA0099/19 Change of use from Lunch Bar to Restaurant granted 5 June 2019 at No. 2/19 (Strata Lot 2), subject to the same terms and conditions, except whereby modified by the following condition(s):

- A. Conditions 1 and 2 of the Planning Approval dated 5 June 2019, be deleted and replaced with the following conditions:**
 - 1. This approval relates only to the development as indicated on the approved plans dated 14 August 2020. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the original decision letter, being 5 June 2019. If the subject development is not substantially commenced within a 4 year period of the original decision letter, the approval shall lapse and be of no further effect**
 - 2. The Restaurant hereby permitted shall have opening hours that do not exceed 7:00 am to 9:00 pm daily, to the satisfaction of the City of Fremantle.**
- B. Add an additional condition 5:**
 - 5. The approved Noise and Traffic Congestion Management Plan dated 20 October 2020 is to be implemented on an on-going basis to satisfaction of the City of Fremantle.**

PC2011 - 9 STACK STREET, NO. 16 (LOT 3) FREMANTLE – ADDITIONS (SEA CONTAINER AND DECKING) AND PARTIAL CHANGE OF USE TO RESTAURANT (TG DA0294/20)

Meeting Date: 4 November 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 to the existing buildings at 16 Stack Street, Fremantle and a partial change of use to Restaurant for the site.

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

- Land use (Restaurant)
- On site car parking

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the addition of a sea container to be used as a café shopfront to the existing building and a partial change of use of the front portion of the building, currently used as a Motor Vehicle Repair, to a Restaurant at 16 Stack Street, Fremantle. The proposed works include:

- The addition of a sea container to accommodate the proposed café.
- Covered decking adjacent to the sea container.
- Modifications to the front of the building to provide for access and seating.
- Bicycle parking provided in front of the building.

The details of the café are as follows:

- Seating for approximately 24 persons.
- Operating hours 6.00am to 2.30pm, six days per week (not operating Sundays)
- Up to two staff on site at any one time.
- The plans show eight (8) on site parking bays at the property.

The applicant submitted amended plans and additional details on 7 October 2020 which confirmed the use of the rear tenancy on site, showed marked parking bays and confirmed connection to the existing on site septic system for the additions.

Amended development plans are included as attachment 1.

Site/application information

Date received:	31 July 2020
Owner name:	N Bindon
Submitted by:	R Fittock
Scheme:	Development Zone
Heritage listing:	Not Listed
Existing land use:	Motor Vehicle Repair
Use class:	Motor Vehicle Repair and Restaurant
Use permissibility:	Discretionary (Structure Plan)



CONSULTATION

External referrals

Department of Water and Environmental Regulation (DWER)

The application was referred to DWER for comment as the site is noted to be potentially contaminated. DWER provided a response on 11 August 2020 confirming that they had no objection to the proposed development and confirmed that a contamination advice condition was not necessary as the development was unlikely to result in significant disturbance to the site.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved a discretionary land use and a shortfall of on site car parking as assessed in accordance with Local Planning Scheme No. 4 requirements. The advertising period concluded on 26 August 2020, and one (1) submission was received. The following issues were raised (summarised):

- Stack Street is relatively small and already has two similar cafes. It is questionable as to whether it is appropriate to develop a third.
- The operation of the café may result in hazardous parking in the street. There are few on site parking bays and on street parking may cause traffic hazards. The proposed use will exacerbate existing parking and road safety problems.

The City is not able to directly control the density of various land uses with respect to commercial viability, and as discussed below potential impacts of the use are considered to be appropriately addressed by existing legislation or recommended conditions of approval. The provision of parking for the proposed business is discussed below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application the areas outlined below do not meet the Scheme or policy provisions and need to be assessed:

- On site parking
- Land use (Restaurant)

The above matters are discussed below.

Background

The subject site is located on the northern side of Stack Street, Fremantle. The site has a land area of approximately 1363m² and is currently occupied by a large building made up of two tenancies, one of which is currently used as a motor vehicle repair use (Volkswagen Combi restoration and repairs). The applicant advises that the rear tenancy is used as a Warehouse. The site is zoned Development and is subject to the requirements of the Knutsford Street East Local Structure Plan (KSELSP). The site is not individually heritage listed nor located within a Heritage Area.

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

- DA18/08 – Signage approved to tenancy frontage.

Land Use

In accordance with the requirements of the KSELSP, a Restaurant (Café) is a discretionary land use, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. In considering a discretionary use, the Council will have consideration of the 'D' use provisions of LPS4, which means that the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

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

- The use is considered to be partially incidental to/subservient to the predominant ongoing use on site for the front tenancy (being motor vehicle repairs) in that customers of the vehicle repair facility may choose to stay and observe the works being done from the café, also resulting in a degree of reciprocity with respect to parking demand (discussed further below).
- The nature of the use is inherently temporary and small scale, being operated out of a sea container and designed so as to minimise any disturbance to the site due to potential contamination. Any intensification of the use would likely require further change of use or works to be considered by the City.
- Parking for the use and existing on site use is considered to be appropriately accommodated (per the below assessment) without undue impact to the immediate locality.
- Multiple other examples of this sort of use exist in the immediate locality, providing for small scale café uses adjacent to other enterprises.
- The impacts of the use and potential future modifications to the initially proposed hours of operation and staffing numbers are considered to be appropriately addressed through the requirement to submit a business management plan for approval by the City. This will allow the City to review minor alterations to operating hours and staffing levels to ensure that the use as approved does not over time change to comprise a new land use, which may require further approval from the City and avoid potential compliance issues in this case.

On site parking

Element	Requirement	Proposed	Extent of Variation
On site parking	Restaurant 1/5 seats (5 bays) Motor vehicle repair (MVR) 5/1 Service bay – 2 Service Bays (10 Bays) Tenancy 2 – Warehouse/storage 427m2 (4.3 bays) Total – 19.3 (20) bays	8	12
Bicycle parking	Restaurant Class 1/2 – 1/100m2 public area Class 3 – 2 bays MVR N/A Total – 1 class 1/2 bay 2 class 3 bays	An unknown number of class 3 bays (marked as 'scooter and bicycle bays' on the submitted plans. A condition of development approval is recommended to ensure sufficient bicycle bays are provided.	1 class 1/2 bay.
Delivery bays	Restaurant - 1 MVR – 1 Warehouse 1 bay Total - 3	Nil	3

The provision of vehicle parking for the proposed Restaurant and the site generally is considered to meet the discretionary criteria of Local Planning Scheme No. 4 for the following reasons:

- The applicant advises that proposed Restaurant (Café) use is in part proposed to support the Motor Vehicle Repair use on site, in that people having their cars worked on will be able to use the café and observe the workshop while they wait. The Restaurant (Café) will also be available for use by general members of the public not associated with the Motor Vehicle Repair. Accordingly it is considered that there is a degree of reciprocity between these uses as the vehicles being worked on will not be taking up any of the parking bays on site.
- It is noted that the requirement for the Motor Vehicle Repair use in Local Planning Scheme No. 4 addresses a more traditional repair garage which would have a number of vehicles pending repair each day (5 parking bays per 1 service bay). In this case the applicant has confirmed that approximately 6 vehicles would be on site for works only, with two of these being worked on in the service bays, only approximately 4 bays would otherwise be required for the remaining vehicles pending works. Accordingly, the effective parking shortfall for the site is considered to be reduced.
- The existing bituminised verge is noted, with the applicant indicating the provision of an additional 8 parking bays in this area. The City's Infrastructure team are unable to support the formalisation of these bays in the verge area, however their use on an informal basis is noted and considered to support the use of the site as proposed as potential informal overflow parking without unduly impacting the remainder of the streetscape.
- With respect to bicycle parking, the proposal plans show an area to be used as bicycle parking which would satisfy the LPS4 definition of Class 3 bicycle bays. This can be enforced through a recommended condition of development approval.
- One class 1 or 2 bay would normally also be required for a Restaurant use, however considering the temporary and small scale nature of the proposed use, the provision of this type of bay is considered able to be waived in lieu of an additional class 3 bay, accordingly the recommended condition reflects this requirement, providing for a minimum of 3 class 3 bays on site.
- Deliveries are able to be readily accommodated on an informal basis either in the property verge area, in the access driveway to tenancy 1, or in one of the proposed on site parking bays without requiring a dedicated delivery bay for the site. It is considered that based on the available parking areas on site, deliveries can be appropriately managed without the need for a formal delivery bay.

Signage

No signage details have been provided by the applicant other than an indication on the submitted plans that existing signage to the front façade of the building is to be upgraded.

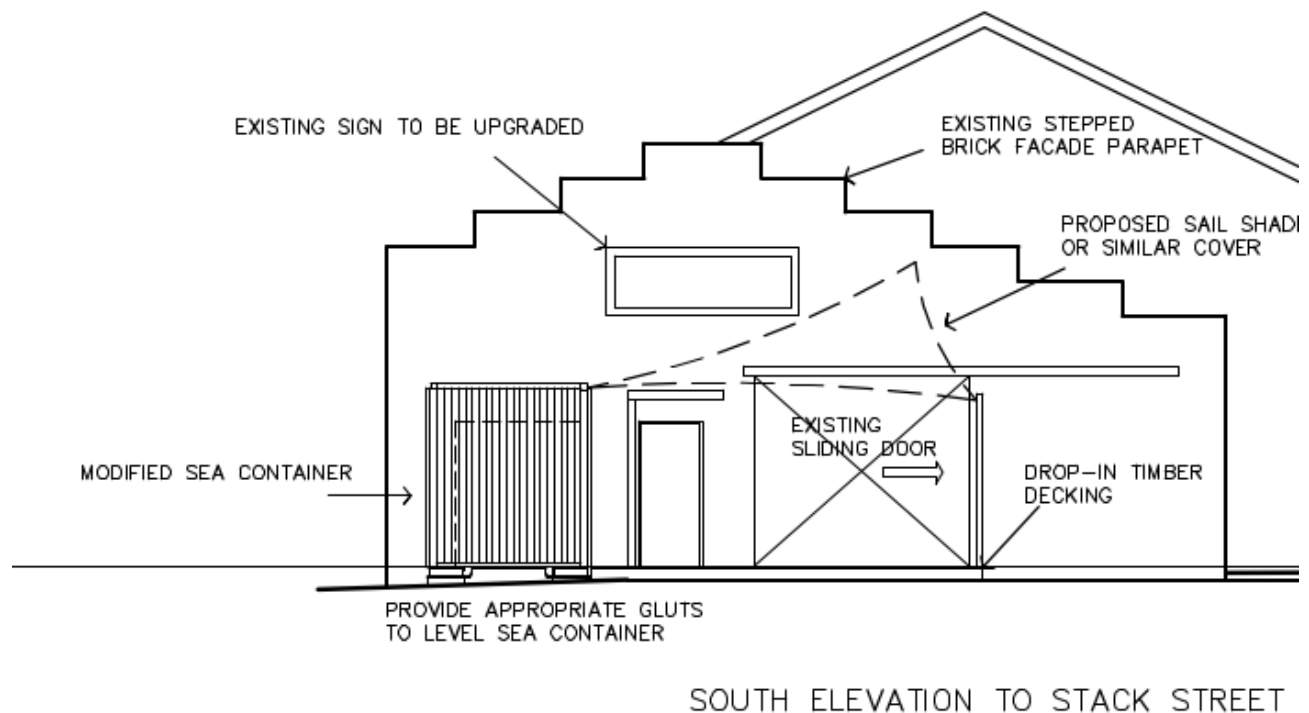


Image 1: Proposed Stack Street elevation

A site visit has found that the existing signage panel to the front of the tenancy has been painted over and is not currently used. Based on the plans submitted, the use of the signage panel to the front façade of the existing building would comply with the wall sign requirements of Local Planning Policy 2.14, and is therefore capable of support.

Advice to the applicant is provided to confirm that any additional signage would likely require further approval from the City, unless designed in such a way to satisfy the exemption criteria of Local Planning Policy 2.14 – Advertisements Policy.

Environmental health

In order to operate the proposed Restaurant (Café) in accordance with relevant environmental health legislation, the applicant needs to connect the additions to the existing septic services on site. Advice to the applicant is provided in this regard to ensure that they are aware of their obligations prior to commencing the use on site. The City's Environmental health team have reviewed the proposal and have confirmed that the applicants proposal to direct waste water to the existing septic system can be installed in a compliant manner.

CONCLUSION

In accordance with the above considerations, the proposed use and associated works is considered worthy of approval, subject to conditions.

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, Additions (Sea Container and Decking) and partial change of use to Restaurant at No. 16 (Lot 3) Stack Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 7 October 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 unless otherwise approved by the City of Fremantle.**
- 3. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.**
- 4. Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:**
 - Delivery Management Plan;**
 - Parking Management Plan**
 - Hours of operation for the business;**
 - The maximum number of employees for the business; and**
 - Parking arrangements for customers and staff.**

The business shall operate in accordance with the approved business management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

- 5. Prior to the issue of a Building Permit, three, Class 3 bicycle racks shall be provided, to the satisfaction of the City of Fremantle.**

6. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.The approved Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle. Onsite waste storage and disposal shall comply with the City's Local Laws and not create a nuisance.
7. Prior to the occupation of the development hereby approved, all on site car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.
8. 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. The applicant is advised that any signage may be subject to a separate application for planning approval.
- ii. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- iii. The proponent must make application and submit plans during the Building License application stage to Environmental Health Services via *Apparatus for the treatment of sewage application*. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

iv. Any removal of asbestos is to comply with the following –

Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2001*. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the *Occupational Safety and Health Act 1984* and accompanying regulations and the requirements of the *Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]*;

Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>

- v. If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, a completed noise management plan must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.

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

- vi. Design and install all mechanical service systems, including air-conditioners, pool filter motors, gym weight equipment, amplified music, kitchen exhaust ducts and refrigeration motors, etc. to prevent noise levels from exceeding the relevant assigned levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended). It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.
- vii. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- viii. Under the *Building Act 2011*, a Building Licence may not be issued until an “Approval to Construct or Install an Apparatus for the Treatment of Sewage” has been granted under the *Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

- ix. **The Department of Health WA has not approved a sewage holding tank for this purpose. Any “Application to Construct or Install an Apparatus for the Treatment of Sewage” should incorporate an approved ATU/Septic Tank model OR connect to the existing system and demonstrate that the system can handle the expected wastewater volume.**

- x. **Upon completion of the building work a BA9 – Occupancy Permit application form is required to be submitted. A Certificate of Construction Compliance (BA17) must be submitted with the application and signed and completed by a Registered Building Surveyor Contractor (private sector). A list of Registered Building Surveyors can be obtained from the Western Australian Building Commission website - <https://www.commerce.wa.gov.au/building-commission>.**

**PC2011 - 10 SAMSON STREET, NO. 95 (LOT 903) WHITE GUM VALLEY –
DEMOLITION OF EXISTING OFFICE BUILDING (TG DA0395/20)**

Meeting Date: 4 November 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site Photos
2. Internal Heritage Assessment

SUMMARY

Approval is sought for the demolition of an existing office building at 95 Samson Street, White Gum Valley, known as the 'Italian Village'.

The proposal is referred to the Planning Committee (PC) as the application involves the demolition of a building on the Heritage List. The application seeks a discretionary assessment against the Local Planning Scheme No. 4 (LPS4) for:

- Demolition of heritage listed building.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought to demolish an existing building, used as an office at 95 Samson Street, White Gum Valley (the Italian Village). The building is located next to the existing car park in the south east corner of the site.

Demolition plans are included as attachment 1.

Site/application information

Date received: 17 September 2020
Owner name: Fremantle Italian Aged Persons Services Association
Incorporated
Submitted by: F Calginari
Scheme: Residential R20
Heritage listing: Heritage Listed (No specific category)
Existing land use: Existing Residential Building (Nursing Home)
Use class: Residential Building
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 proposal involved the demolition of a heritage listed building. The advertising period concluded on 27 October 2020, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4 in relation to the demolition of heritage listed buildings.

Background

The subject building is located on the corner of Nannine Avenue and Ferres Street, on a large property otherwise occupied by the Fremantle Italian Village. It is understood that the building has been used as an office supporting the Italian Village. The overall site has a land area of approximately 8558m² and is currently occupied by a retirement village. The site is zoned Residential and has a density coding of R20. The original site of the subject building (25 Nannine Street) is included in the City's heritage list, noting that the building was thought to be demolished, and the City's records indicate that the building was constructed in approximately 1963.

There is some indication that the property was previously known as 25 Nannie Street, which is listed on the City's Heritage List as a demolished property. The building in question is a typical 1960s cream brick and tile single storey house.

The building is surrounded by an existing car park and adjoins existing Western Power infrastructure. The building itself appears to be visible in aerial photography from 1965 (below).



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

- DA0269/10 – Addition of toilet to existing building (Approved).
- DA0404/12 – Upgrade and additions to existing residential care facility (Cancelled).
- DAP0002/12 – Redevelopment of existing Residential Building (Nursing Home) (Approved).
- DA0485/15 – Carport addition to existing Residential Building (Approved).

Demolition of Heritage Listed Building

The proposal comprises the demolition of an existing building which is on the City's Heritage List,. In determining an application for demolition, Council must be satisfied the criteria of clause 4.14.1 of LPS4 is achieved.

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.*

Demolition can be supported on the basis of the attached heritage assessment, and for the following reasons:

- The demolition is able to be supported as the place is of modest construction, dating from the 1960s.
- The building does not form part of a cohesive streetscape of similar properties.
- While the building is a representative example of a simple house from this time, many other examples are still extant. Accordingly the building is considered to be of limited or no cultural heritage significance and does not make a significant contribution to the broader cultural heritage significance and character of the immediate locality.

As such, the proposed demolition is supported, subject to the submission of an archival record of the place being provided to the City's satisfaction prior to the demolition taking place.

CONCLUSION

The demolition of the building is considered to be worthy of support on the basis that an archival record of the building is prepared and provided to the City of Fremantle for approval.

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 office building at No. 95 (Lot 903) Samson Street, White Gum Valley, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 September 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 demolition permit for the development hereby approved, the existing building to be demolished shall be fully documented in the form of a professionally prepared study of the physical, documentary and other evidence associated with the site before any physical or material disturbance. This documentation shall consist of the following:**
 - a) A professionally prepared architectural report including the address, names, use and description of the building and accurate measured drawings at a scale not less than 1:100 comprising the following:**
 - i. Site plan.**
 - ii. Floor plan(s)**
 - iii. External elevations.**
 - iv. Background.**
 - v. Statement of significance.**
 - vi. Location plan.**
 - vii. Heritage assessment documentation or brief written history.**
 - viii. Other significant details.**
 - b) A photographic report which includes the following:**
 - i. A site plan showing the position, direction and number of each photograph.**
 - ii. Photos of the place and its setting, all external elevations, significant/representative external and internal spaces and other noteworthy items.**
 - iii. The history of the original building and subsequent stages of development.**
 - iv. Old photographs relating to this site and building.**
 - v. Any other relevant historical information.**

One set of such including photographs shall be submitted to the City of Fremantle for approval in electronic format prior to the commencement of development.

- 3. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues**

Advice note

- i) A 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) In relation to condition No. 2 above, should there be any further clarification regarding the requirements of this condition please contact the City's Heritage Department on 9432 9999 or alternatively planning@fremantle.wa.gov.au.**

PC2011 - 11 INFORMATION REPORT – NOVEMBER 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
DAP005/20
Site Address and Proposal
9 and 7 Pritchard Street, O'Connor – Proposed single storey, 24 hour Petrol Filling Station, associated canopy and car parking
Planning Committee Consideration/Decision
At its meeting held on 3 September 2020, the Council resolved to support the officer's recommendation to approve the application, subject to relevant conditions.
Current Status
At its meeting held on 14 October 2020, the Metro Inner-South Joint Development Assessment Panel approved the application in accordance with the officer recommendation with minor alterations to the condition relating to landscaping.

2. Application Reference
DAPV002/20
Site Address and Proposal
1, 1a and 1b Beach Street, Fremantle – Proposed extension to term of approval for DAP0011/15 Six to seven storey Mixed Use development containing Multiple Dwellings and Commercial tenancy
Planning Committee Consideration/Decision
At its meeting held on 7 October 2020, the Council resolved to support the officer's recommendation to approve the extension of term request for an additional two years.
Current Status
At its meeting held on 14 October 2020, the Metro Inner-South Joint Development Assessment Panel approved the extension of term request for an additional four years.

OFFICER'S RECOMMENDATION

Council receive the following information reports for November 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

PC2011 - 12 SPECIAL PLANNING PROVISIONS RELATING TO COVID-19 – DEVELOPMENT APPLICATIONS MADE UNDER PART 17 OF THE PLANNING AND DEVELOPMENT ACT 2005 - OUTCOME OF COMMUNITY ENGAGEMENT AND FINAL ADOPTION

Meeting date: 4 November 2020
Responsible officer: Director Strategic Planning and Projects
Decision making authority: Council
Agenda attachments: Nil
Additional information: 1. Minutes of previous item PC2009-11

SUMMARY

In September 2020, the Planning Committee resolved to commence community engagement on a new Local Planning Policy to guide the process for confirming submissions to be made by the City of Fremantle on applications to be determined by the WA Planning Commission which relate to sites with the City.

The draft Policy was advertised for public comment between 18 September and 11 October 2020 and four submissions were received. The submissions provided comment on the recent changes to the Planning and Development Act and not specifically in regard to the proposed Local Planning Policy. These submissions are noted.

This report recommends that the proposed policy be adopted without modification.

BACKGROUND

On 7 July 2020 the *Planning and Development Amendment Act 2020* (the 2020 Act) received Royal Assent and on 8 July provisions in Part 2 of this Act commenced. These provisions are intended to provide an urgent response to the COVID-19 pandemic as it relates to planning and development. This part of the 2020 Act introduces new provisions into the *Planning and Development Act 2005* which can be summarised as follows:

- A definition of *significant development* which, in the case of development anywhere in the Perth metropolitan region, means any development (except for a warehouse) with an estimated cost of \$20 million or more.
- A person making an application for development approval for a significant development may choose to make the application to the Western Australian Planning Commission (WAPC) for determination rather than making the application through the local government/Development Assessment Panel process.

- Even if a development proposal does not meet the definition of a significant development, if the applicant notifies the Minister for Planning that they wish it to be determined by the WAPC and the Minister considers the application raises issues of major State or regional importance, the Premier on the Minister's recommendation may refer the application to the WAPC for determination.
- In assessing and determining applications of the above types, the WAPC must have due regard to:
 - the purpose and intent of the planning scheme applying in the locality of the proposed development;
 - the need to ensure orderly and proper planning and the preservation of amenity;
 - the need to facilitate development in response to the economic effects of COVID-19;
 - any relevant WAPC policies.
- Notwithstanding the above 'due regard' matters, the WAPC is not bound by any legal instrument that would ordinarily apply to consideration of a development application (e.g. the local planning scheme) and is not limited to planning considerations in determining the application – it may have regard to other matters affecting the public interest.
- The WAPC must give the local government to whose district a significant development application relates an opportunity to make submissions and have due regard to any submissions made.
- The WAPC must advertise the application and invite submissions from members of the public in a manner it considers appropriate and have due regard to any submissions made.
- Development approved by the WAPC under these provisions must substantially commence within 24 months of the date of approval. The period for commencing the development cannot be extended by the WAPC.
- The above provisions only apply during the COVID-19 recovery period – defined as 18 months from 8 July 2020.

The State's Department of Planning, Lands and Heritage (DPLH) has established a new team of officers called the State Development Assessment Unit to receive and assess applications lodged under these provisions.

The following flowchart illustrating the State Development Assessment Unit application process is taken from the DPLH website:

Application process

The State Development Assessment Unit application process is as follows:

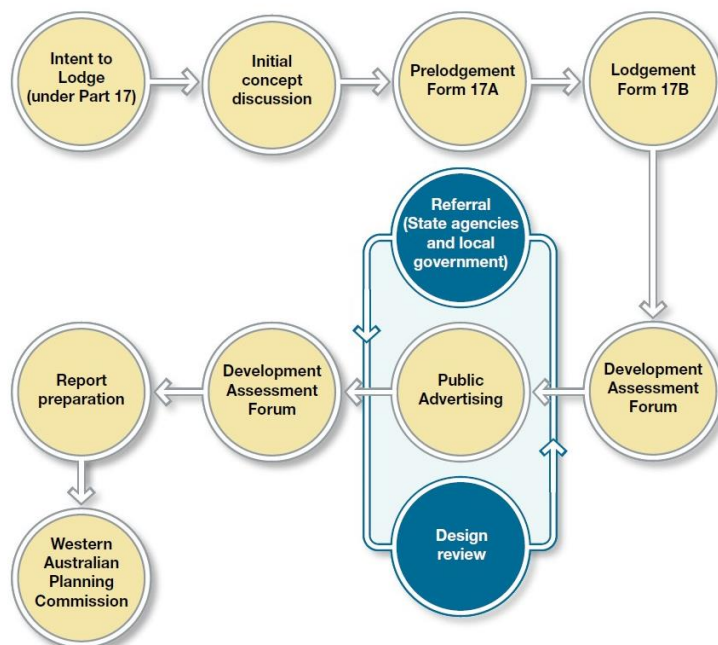


Figure 1: The State Development Assessment Unit application process

At its meeting held on 2 September 2020, the Planning Committee resolved:

1. Council endorse the draft Local Planning Policy 1.11 – Planning and Development Act 2005, Part 17 Development Application Submissions, as shown below for the purposes of consultation in accordance with the procedures set out in clause 4 of the deemed provisions in schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Fremantle Local Planning Policy 1.3 Public Notification of Planning Proposals.
2. The draft local planning policy in recommendation (1) above shall be used as interim guidance by the City of Fremantle in the event that a development application made under Part 17 of the Planning and Development Act 2005 is submitted in relation to a location within the City prior to final adoption of the local planning policy by Council.

For further information refer to previous item PC2009-11.

Consultation

Consultation on the local planning policy was undertaken in accordance with the 'deemed provisions' of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City's *Local Planning Policy 1.3* between 18 September and 11 October 2020 including the following:

- Inclusion on the City's My Say Freo website; and
- Notification in the Fremantle Herald.

At the conclusion of the consultation period, four (4) submissions were received. The submissions did not specifically comment on the draft policy, rather raising the following comments in regard to the recent changes to the Planning and Development Act (as summarised):

- I do not see the necessity for this State intervention in principle.
- The COVID-19 rationale is not clear.
- I find it very disturbing that planning powers have been removed from local councils under the new process
- I hope the Policy enables the City to be heard on issues related to any proposal that the WA Government and/or DAP wants to approve to satisfy developers.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this report, however as reported previously it is noted that fees for applications for significant development which are lodged with and determined by the WAPC will be paid to and retained by the DPLH, not the local government. The fee payable for an application submitted through this process will be the same as the maximum fee (local government fee and DAP fee combined) charged for a development costing \$21.5 million or more lodged with a local government and determined by a Development Assessment Panel (DAP).

LEGAL IMPLICATIONS

The procedure for making and amending local planning policies is outlined within Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The City has followed these procedures accordingly.

OFFICER COMMENT

The new COVID-19 related special provisions in the *Planning and Development Act 2005* mean that an applicant seeking approval for a development costing \$20 million or more now has a choice of two pathways for assessment and determination of the application:

1. The pre-existing pathway of lodging the application with the local government for determination by a Development Assessment Panel, based on consideration of a Responsible Authority Report prepared by the local government.
2. The new option of submitting the application to the DPLH State Development Assessment Unit for determination by the WAPC, based on a report prepared by the State Development Assessment Unit.

There is a reasonable likelihood that one or more development proposals for sites in the City of Fremantle which will be dealt with through the new WAPC determination pathway will be lodged in the next few months.

The previous report to Planning Committee (refer to Additional Information document PC2009-11) outlined why it is considered that it would be helpful for the Council to adopt arrangements through a local planning policy to guide the City's input to applications being dealt with through the WAPC determination pathway.

The proposed process for preparing and obtaining Council approval of submissions to be made by the City of Fremantle on applications to be determined by the WAPC is set out in the text of the local planning policy in the Officer's Recommendation below. Further explanation of the recommended policy content is provided in the attached Additional Information document (previous item PC2009-11).

The submissions received through the community consultation process do not make any substantive comment on the content of the proposed policy itself; rather they comment on the merits or otherwise of the significant applications process introduced by the State Government. Accordingly, officers do not consider any amendments to the text of the draft local planning policy are required.

It is accordingly recommended that Council adopt Local Planning Policy 1.11 – Planning and Development Act 2005, Part 17 Development Application Submissions as set out in the Officer's Recommendation below without modification.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required.

OFFICER'S RECOMMENDATION

Council:

1. Note the outcomes of the community consultation on the draft Local Planning Policy 1.11 – Planning and Development Act 2005, Part 17 Development Application Submissions as detailed in this report.
2. Adopt the Local Planning Policy 1.11 – Planning and Development Act 2005, Part 17 Development Application Submissions, as shown below in accordance with in accordance with Schedule 2, Clause 4 (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*:

CITY OF FREMANTLE

LOCAL PLANNING POLICY 1.11

PLANNING AND DEVELOPMENT ACT 2005, PART 17 DEVELOPMENT APPLICATION SUBMISSIONS

ADOPTION DATE: ??/??/2020

AUTHORITY: LOCAL PLANNING SCHEME NO.4 and/or PLANNING AND
DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015

STATUTORY BACKGROUND

On 7 July 2020 the *Planning and Development Amendment Act 2020* received Royal Assent and on 8 July provisions in Part 2 of this Act commenced. These provisions are intended to provide an urgent response to the COVID-19 pandemic as it relates to planning and development.

The Government has introduced these provisions as part of its response to the COVID-19 pandemic. Under these provisions (contained in Part 17 of the *Planning and Development Act 2005*) applicants for development costing \$20 million or more (in the Perth metropolitan region) have the option of submitting their application to the State's Department of Planning, Lands and Heritage for determination by the Western Australian Planning Commission rather than the application being dealt with through the existing local government/Development Assessment Panel process. This arrangement will operate for a temporary period of 18 months from July 2020.

PURPOSE

The purpose of this Policy is to outline the approach to be taken in preparing and determining the content of submissions by the City of Fremantle to be made to the Western Australian Planning Commission (WAPC) in response to any development application submitted to the Commission for determination in accordance with Part 17 of the *Planning and Development Act 2005*.

POLICY

- 1. All applications will be reported to the Council, or a Standing Committee of Council with delegated authority in relation to development applications, for consideration. Precedence will be given to reporting applications to the Planning Committee so long as this will enable the deadline for providing a submission to the WAPC to be met.**
- 2. A report for Council's consideration will be prepared by City planning officers and will include the following information:**
 - a) brief description of the proposal and site context/area character.**
 - b) A planning assessment against relevant provisions of the Local Planning Scheme No. 4 (LPS4) and local planning policies, and any other key planning considerations in a local context (e.g. heritage, design quality, other relevant Council strategic objectives).**
 - c) A comment on relevant design matters, including the architectural merit of the proposal as advised by the City's Design Advisory Committee, in relation to the LPS4 CABE Principles of Good Design, SPP7.0 The Design of the Built Environment and specific LPS4 provisions relating to exceptional design quality.**
 - d) An assessment of the economic benefit of the proposal for Fremantle including an assessment against the vision of Council's Economic Development Strategy 2015-2020, any COVID-19 Recovery Action Plan and/or other economic benefit.**

- e) In circumstances where a proposal departs from requirements or standards in the local planning scheme, and the matter is not one which can be dealt with under existing discretionary variation provisions of the scheme (e.g. variations to site or development standards) but in the professional opinion of officers support for the proposal could still be justified, the report will identify the grounds on which discretion might be exercised to support the proposal. In the interests of orderly and proper planning, this discretion should be limited to situations where the departure from a scheme requirement is still generally consistent with the intent of the provision of the scheme being departed from, and is not treated as unlimited license to set aside requirements of any part of the scheme.
 - f) A recommendation including an overall comment on whether the City supports approval of the application or considers it should be refused, identifying general reasons for the City's position including the general nature of any recommended conditions of approval but not exact wording of conditions.
3. The resolution of the Council after consideration of the report presented by officers will constitute the City's submission to the WAPC.

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