



Agenda

Planning Committee

Wednesday 5 April 2023 6pm



Notice of Planning Committee Meeting

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 5 April 2023** in the Council Chamber, Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in blue ink, appearing to read "Russell Kingdom".

Russell Kingdom
Director Planning, Place and Urban Development

31 March 2023



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1. Official opening, welcome and acknowledgement

Ngala kaaditj Whadjuk moort keyen kaadak nidja Walyalup boodja wer djinang Whadjuk kaaditjin wer nyiting boola yeye.

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

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

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.



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.

8. Confirmation of minutes

OFFICER'S RECOMMENDATION

The Planning Committee confirm the minutes of the Planning Committee meeting dated 1 March 2023

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

PC2304-1 HICKORY STREET, NO. 8 (LOT 30), SOUTH FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS INCLUDING A ROOF TOP TERRACE ADDITION TO EXISTING SINGLE HOUSE (ED DA0263/22)

Meeting Date:	5 April 2023
Responsible Officer:	Director Planning, Place and Urban Development
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Development Plans (3 March 2023)
Additional information:	1. Site Photos 2. Applicant additional information

SUMMARY

Approval is sought for two storey additions and alterations including a roof top terrace addition to an existing single house at No. 8 (Lot 30) Hickory Street, South Fremantle.

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. 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
- Overshadowing
- Lot Boundary Setbacks
- Visual Privacy

This application was originally referred to the 7 December 2022 Planning Committee with a recommendation for refusal for the following reasons:

1. The proposal is inconsistent with the design principles of the Residential Design Codes in respect to the building height and solar access for the adjoining property and are considered to cause an unacceptable amenity impact upon the adjoining southern property with excessive overshadowing of habitable spaces.



At the Planning Committee held on 7 December 2022, the Council resolved as follows:

'Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the two storey additions and alterations including a roof top terrace addition to existing Single House at No. 8 Hickory Street, South Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to address overshadowing on the southern neighbour.'

Subsequently, the applicant has provided amended plans (dated 3 March 2023). It is considered that the amendments constitute a re-design of the proposal, satisfactorily addressing the reasons for deferral provided above. As such, the amended proposal is recommended for conditional APPROVAL.

PROPOSAL

Detail

Approval is sought for two storey additions and alterations (including a roof top terrace addition) to an existing single house at No. 8 (Lot 30) Hickory Street, South Fremantle. The proposed works include:

- New stairwell addition to existing ground floor;
- New first floor addition above the existing ground level providing additional living area and bedrooms; and
- New partly enclosed roof top terrace above the first-floor level.

Please note the new ground floor pool, landscaping and alfresco additions shown on the development plans do form part of this application and have been approved separately as part of application ref. DA0265/22 (determined under delegation on 22 August 2022). These elements, subject of this separate approval, are annotated with an 'N/A' on the proposed ground and upper floor plan.

The applicant submitted amended plans on 3 March 2023 after being referred back to the administration for the purpose of addressing the adverse overshadowing impacts upon the southern neighbour that were considered evident by officers in the previous plans (dated 18 November 2023).

The amended plans, submitted on 3 March 2023, included the following changes:

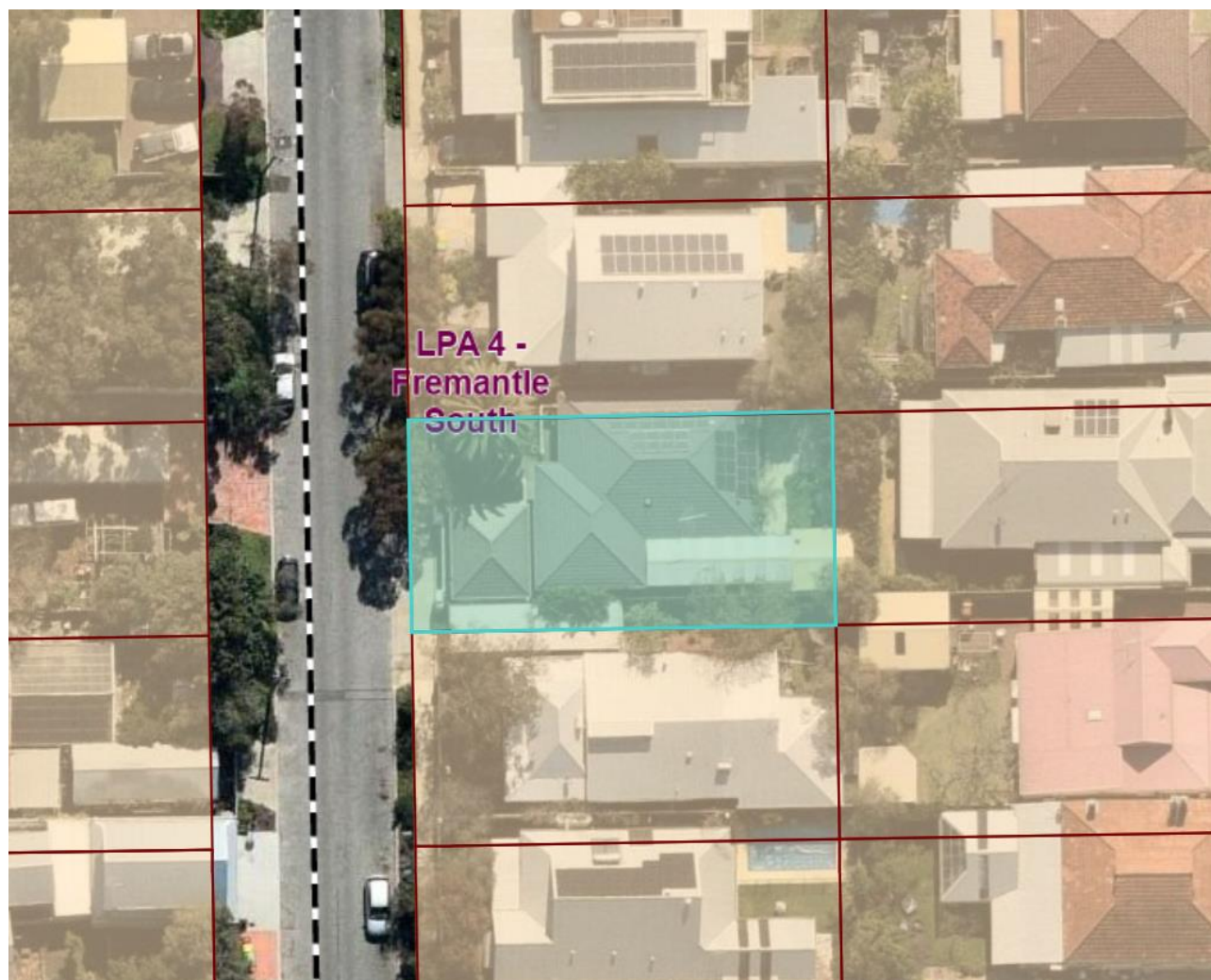
- Increase in the southern side lot boundary setback of the third level (partly enclosed roof terrace) from 4.6m to 7.195m (2.595m increase in the southern lot boundary setback of the third level);

- Reduction in the overall overshadowing of the neighbouring southern lot from 34.95% (159m²) to 29.45% (134m²), representing a 5.5% (25m²) reduction in the overshadowing of the neighbouring southern lot.

Amended development plans are included as attachment 1.

Site/application information

Date received:	2 August 2022
Owner name:	Ian Robert Stone Bellinge & Jahna Alexandra Gisela Maria Josepha Spielmanns Bellinge
Submitted by:	Australian Renovation Group
Scheme:	Residential (R25)
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION



External Referrals

Nil required.

Internal Referrals

Heritage

The proposal can be supported from a heritage perspective for the following reasons:

- The streetscape is considered to be of a complex and inconsistent nature.
- This existing building is considered non-contributory to the South Fremantle Heritage Area.
- There is a prevalence of garages and newer two-storey additions and residences to the opposite side of the road, allowing some flexibility in the nature and design of this proposal.
- Further to preliminary discussions prior to submission of the application, the roof terrace element has been modified to reduce the impact on the streetscape and the building appearance from the streetscape appears more of a two-storey nature.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as variations to the deemed-to-comply provisions of the R-Codes and Council policies were proposed. The advertising period concluded on 8 September 2022, and three (3) submissions were received. The following issues were raised (summarised):

- Concerns that the height of the external walls and overall building height exceeds the maximum permitted by the R-Codes and the impact of this will be to reduce access to natural light and unacceptably overshadow the adjacent southern property. The proposal should be made compliant with relevant R-Code and/or Council policy requirements.
- Concerns that visual privacy will be significantly compromised from the rear facing openings at first floor level and from the roof terrace that will afford direct overlooking of adjoining properties.
- The use of the rooftop terrace will generate unacceptable noise impacts upon adjoining dwellings.
- The new 1800mm dividing fencing will not be sufficient to prevent overlooking from the new decking around the pool; the fencing should be raised 1800mm above the level of the decking.
- Concerns the large 3 storey dwelling will set a precedence for such a scale of development that will adversely impact the established heritage and general character of the area and impact the amenity of neighbouring properties.

In response to the above, the applicant submitted revised plans (dated 18 November 2023) to address the visual privacy concerns from the roof terrace and



provided written responses and further justification to each of the above comments and planning assessment items (refer **Additional Information 2**).

It is noted that the adjoining northern landowners (No. 6 Hickory Street) provided written consent to the development plans.

Following referral of the application back to the administration at the 7 December 2022 Planning Committee in order to address overshadowing of the southern neighbour, further amended plans (dated 3 March 2023) were provided by the applicant to address this matter.

Detailed Officer comment on the building height, overshadowing and visual privacy elements of the proposal are provided in the officer assessment section 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:

- Primary Street Setback
- Building Height
- Overshadowing
- Lot Boundary Setbacks
- Visual Privacy

The above matters are discussed below.

Background

The subject site is located on the eastern side of Hickory Street. The site has a land area of approximately 455m² and currently comprises a single storey single house. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed though is located within the South Fremantle Heritage Area.

The surrounding area is predominantly residential and is characterised 1-2 storey single houses.

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



- DA0265/22 - Rear landscaping, pool and alfresco additions to existing Single house; and
- DA0591/16 - Carport and primary street fencing addition to existing Single House.

Primary Street Setback (1st Floor)

Element	Requirement	Proposed	Extent of Variation
Primary Street Setback (Wall Height >4.0m – 1 st Floor)	10.0m	9.43m	0.57m

The first-floor primary street setback variation of 0.57m from the required 10m setback required by LPP2.9 (Residential Streetscape) is supported on the following basis:

- The Hickory Street streetscape is of a highly varied and inconsistent nature with no prevailing character. The western side of Hickory Street is characterised by the rear of properties fronting South Terrace and includes development built right up to the Hickory Street frontage of these lots. The western side of Hickory Street is characterised by one and two-storey single houses with varied setbacks from Hickory Street (refer aerial image below). As such, the minor variation to the street setback of the 1st floor does not have an adverse impact upon the streetscape character of Hickory Street.

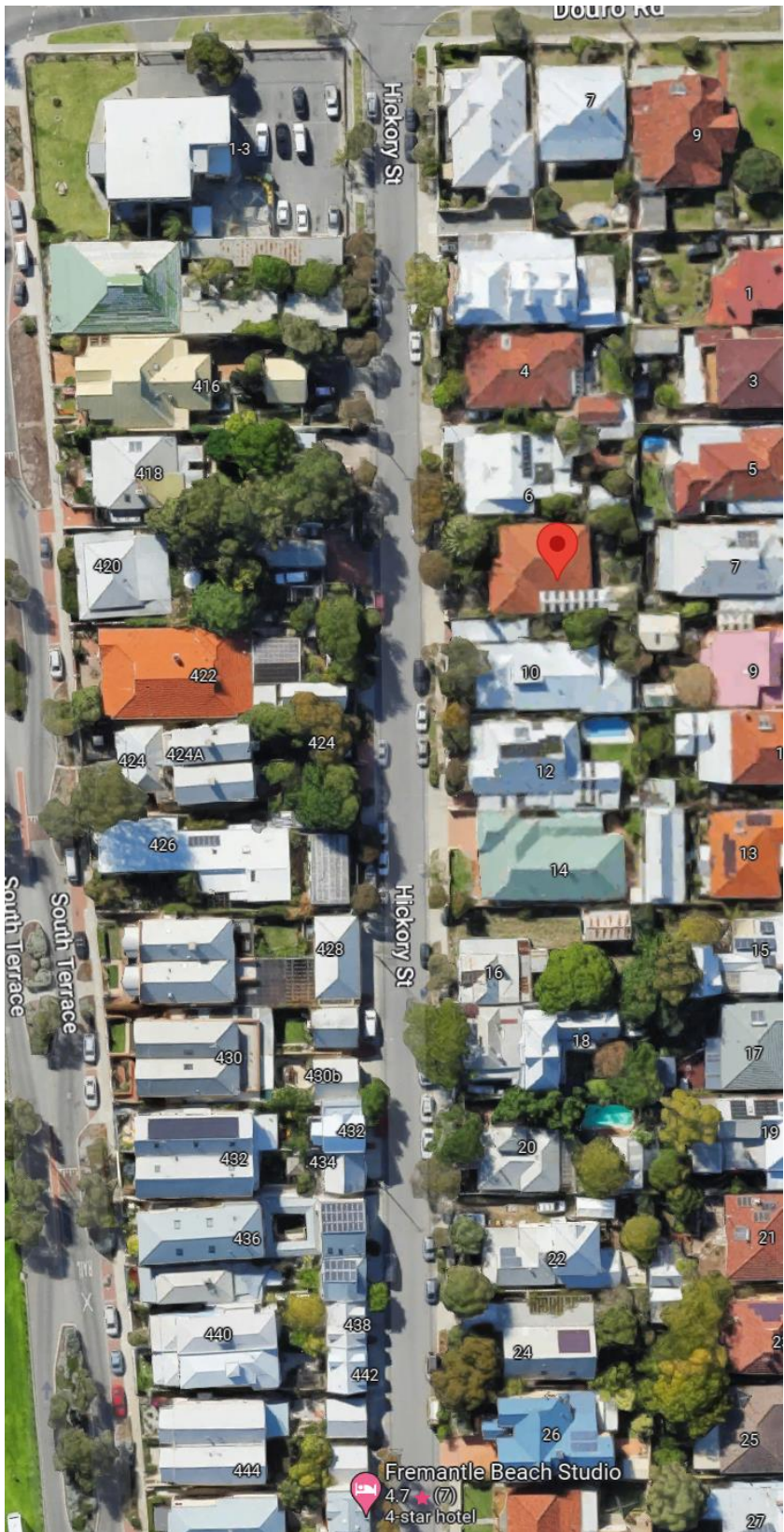


Figure 1. Aerial Image showing Hickory Street Streetscape

- The upper floor of the adjoining northern dwelling (No. 6 Hickory Street) is setback 9.7m from the street boundary (within 300mm of the proposed) and is therefore comparable and consistent with the upper floor street setback proposed at the subject site.

It should be noted that the proposed second floor is setback and stepped further from the first floor below and has a primary street setback of 14.82m which complies with LPP2.9 requirements.

Building Height

As outlined in Schedule 7 of the City's LPS4 (Local Planning Areas (Development Requirements)), building heights for residential development within LPA4 (Fremantle South) defer to the R-Code building heights in Table 3.

Element	Requirement	Proposed	Extent of Variation
External Wall Height	≤7.0m	7.2m	0.2.
Total Roof Height	≤8.0m	8.7m	0.7m

The additional building height is not considered to meet the Design Principles of the R-Codes for the following reasons:

- The additional building height is contributing to excessive overshadowing of habitable room major openings and outdoor living areas of the adjoining southern property (No. 10 Hickory Street), as discussed further in the overshadowing section below.

Notwithstanding the above, from a streetscape perspective, the additional building height is generally supported as the third level is stepped and setback 14.82m from the street (5.39m further than the first floor below) so would be expected to appear as only a two-storey dwelling from the street.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Maximum Permissible Overshadowing of Adjoining Sites (R-Codes 5.4.2)	Max. 25% shadow cover of adjoining site: No. 10 Hickory Street (Site Area: 455m ²)	29.45% (134m ²)	4.45% (20.25m ²)



On the basis of the amended development plans, dated 3 March 2023, the overshadowing of the adjoining southern lot (No. 10 Hickory Street) is considered to meet the Design principles of the R-Codes, for the following reasons:

- The applicant has taken measured steps to improve the overshadowing impact upon the southern neighbour by increasing the southern side lot boundary setback of the third level (partly enclosed roof terrace) from 4.6m to 7.195m increasing the southern lot boundary setback of this level by 2.595m. This has reduced the overall overshadowing of this southern lot from 34.95% (159m²) to 29.45% (134m²), representing a 5.5% (25m²) reduction in the overshadowing of this lot.
- It is noted that approximately 75m² of the shadow is to fall across existing roof areas of the adjoining carport and house which are non-sensitive, non-habitable areas of the adjoining dwelling.
- Importantly, the extent of overshadowing of outdoor living areas and habitable room windows has been partly reduced and given the overshadowing is assessed under the worst-case scenario (winter solstice), is it expected that the overshadowing impacts upon outdoor living areas and habitable room windows will be acceptable under the amended development proposals.
- It is also important to note that on east-west orientated lots such as those on Hickory Street, with lot widths of 15m, some overshadowing is generally inevitable for development proposals above a single storey. The shadow impact of the proposal has clearly informed the overall design of the amended proposals with all southern lot boundary setbacks achieving or greatly exceeding (in the case of the third (roof terrace) level) the deemed-to-comply requirements of the R-Codes and shadow impact of the proposal has been effectively mitigated as a result.



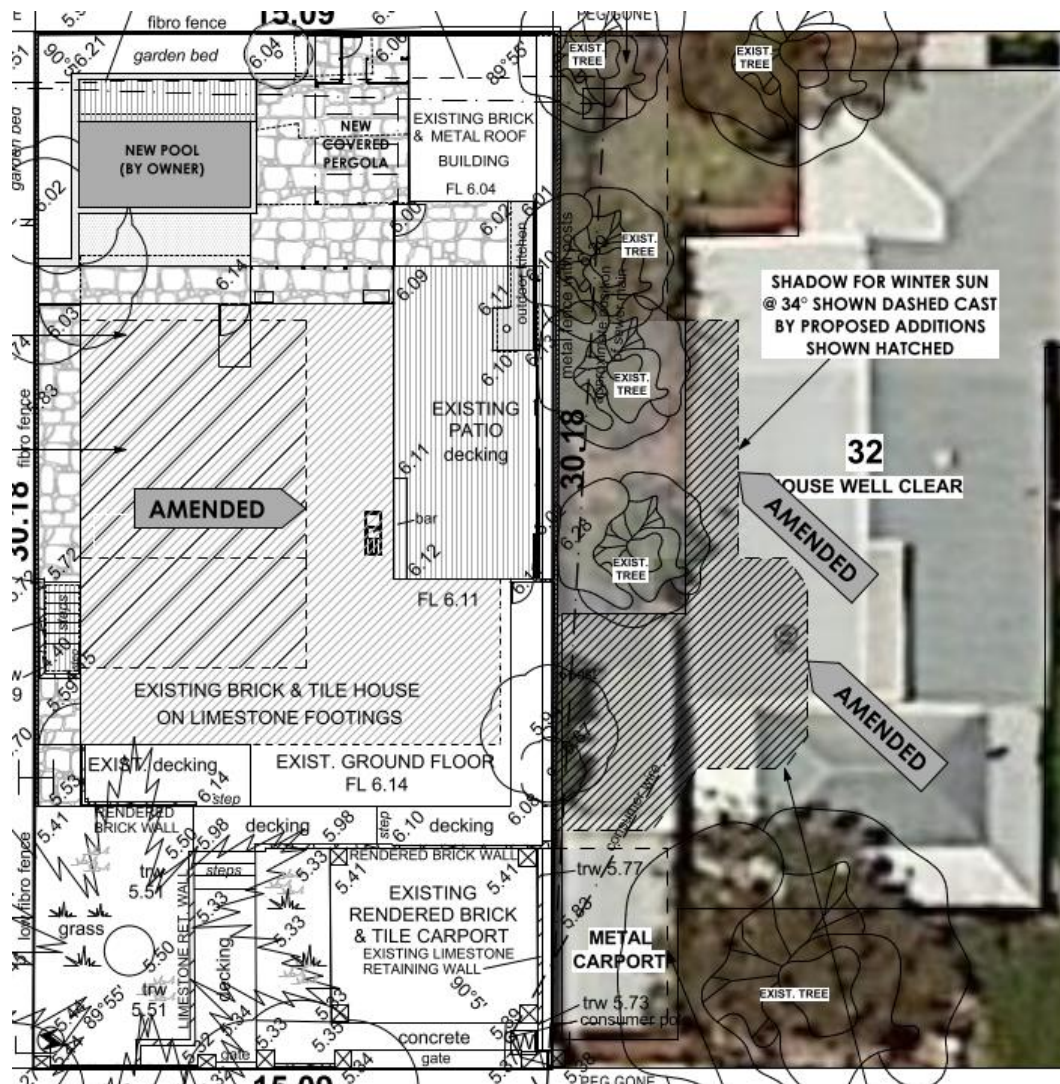


Figure 3. Amended Plans Overshadowing Assessment, plans dated 3 March 2023.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Northern Setback: First Floor New Upper Living – New Bed 2 Wall	1.7m	1.4m	0.3m

The first floor northern lot boundary setback variation is considered to meet the Design Principles of the R-Codes for the following reasons:

- The setback is to the northern lot boundary and therefore will not cause any overshadowing impact on the adjoining property (No. 6 Hickory Street).



-
- The proposed wall will be opposite the second storey of the adjoining property (No. 6 Hickory) which is setback only 1.5m from the subject site and is of a similar extent/length (12.85m compared to the proposed 12.83m). The Proposed Upper Floor Plan shows the extent of the adjoining dwelling compared to that proposed.
- The proposed wall will not be opposite any sensitive outdoor living areas of the adjoining dwelling and nor is it expected to have an adverse amenity impact upon habitable rooms of the adjoining property.
- It is noted the affected northern neighbour has provided written consent to the proposed amended development plans.

It should be noted that all other lot boundary setbacks either comply or exceed the deemed-to-comply requirements of the R-Codes.

Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Cone-of-vision setback (New Open Terrace; view west)	7.5m	1.36m	6.14m
Cone-of-vision setback (New Open Terrace; view north-west)	7.5m	3.7m	3.8m
Cone-of-vision setback (First Floor New Upper Living; view north-west)	6.0m	3.8m	2.2m

The cone-of-vision setback of the New Open Terrace (view north) is not supported by Officers though is able to be resolved through the imposition of a condition of approval to require screening of the New Open Terrace along the northern edge/elevation of the terrace.



With the exception of the above, the remainder of the above visual privacy variations are supported under the Design Principles of the R-Codes for the following reasons:

- With reference to the 'Proposed Upper Floor Plan', 'Proposed Third Floor Plan' and aerial images above, it is noted that remainder of the above cone-of-vision variations (viewing north-west only) over the adjoining properties fall onto the rooves of the adjoining dwellings. Other elements that fall within the cone of vision are in the street setback area which is deemed to comply under the R-Codes.

As such, these variations do not allow for any direct overlooking over any sensitive habitable room windows or outdoor living areas of the adjoining properties and can therefore be supported under the design principles.

It should be noted that all visual privacy assessments from other habitable spaces in the proposed additions greater than 500mm above natural ground level are fully compliant with the deemed-to-comply requirements of the R-Codes, either achieving the require cone-of-vision setback or have an appropriate design solution such as hi-lite windows or screening to ensure compliance.

CONCLUSION

In accordance with the above assessment, the proposal as amended is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Two Storey Additions and Alterations Including a Roof Top Terrace Addition to an Existing Single House at No. 8 (Lot 30) Hickory Street, South Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 3 March 2023. 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.**
- 3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the New Open Terrace located on the north elevation, is to be screened in accordance with Clause 5.4.1C1.1 of the Residential Design Codes by either:**
 - a. fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
 - b. fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
 - c. a minimum sill height of 1.60 metres above the internal floor level,**

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

- 4. Prior to commencement of development the existing tree within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here:
<https://www.fremantle.wa.gov.au/residents/trees-and-verges>.**



- 5. 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(s):

- 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. Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.**
- iii. The applicant is advised that the existing verge tree is to be protected during the construction process with a minimum 2.8 x 2.8m fencing enclosure.**



**PC2304-2 JOHN STREET, NO. 16A (STRATA LOT 3), NORTH
FREMANTLE – TWO STOREY GROUPED DWELLING (CM
DA0371/22)**

Meeting Date:	5 April 2023
Responsible Officer:	Acting Manager Development Approvals
Decision Making Authority:	Committee
Attachments:	Development Plans
Additional information:	1. Site Photos 2. Applicants Response to Submissions and Justification Letter 3. Submission from landowners 4. Applicants further letter of technical justification to previous Committee decision

SUMMARY

Approval is sought for a two storey Grouped dwelling at No. 16A (Strata Lot 3) John Street, North Fremantle.

The proposal is referred to the Planning Committee (the Committee) 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)**
- **Boundary wall (north-west)**
- **Visual privacy (north-east)**

The proposal was previously considered at the Planning Committee meeting on 1 March 2023 (ref: PC2303-3), with it being referred back to the administration with the advice that the Council is not prepared to grant planning approval based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to reconsider the level of impact created by overshadowing onto the adjoining south western strata lot and particularly the strata's existing rear outdoor living area.

The applicant was provided with feedback from the March Planning Committee Meeting, and invited to work on submitting amended plans addressing the concerns raised. The applicant declined the opportunity to submit amended plans and advised the City that they wish to proceed with the plans in their current form. Refer to officer comment for further discussion.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for two storey Grouped dwelling at No. 16A (Strata Lot 3) John Street, North Fremantle. The proposed works include:

- A four (4) bedroom, three (3) bathroom, double storey grouped dwelling with a garage gaining access off the existing common property access leg.

Development plans are included as attachment 1.

Site/application information

Date received:	28 October 2022
Owner name:	Antony Allan Terry & Elizabeth Alcock
Submitted by:	Webb & Brown-Neaves
Scheme:	Residential (R35)
Heritage listing:	North Fremantle Precinct Heritage Area / Not Listed
Existing land use:	Vacant
Use class:	Grouped Dwelling
Use permissibility:	Permitted





CONSULTATION

External referrals

Department of Water and Environmental Regulation (DWER)

The application was referred to DWER as the subject site is located within proximity to a floodplain area. When dealing with development applications impacted by potential flooding, Council is required to have due regard to DWER's advice.

DWER advised the following:

"Proposed development (i.e., filling, building, etc) that is located outside of the floodway is considered acceptable with respect to major flooding. However, a minimum habitable floor level of 2.70 m AHD is recommended to ensure adequate flood protection against the 1 in 100 AEP flooding and consideration of the evacuation potential during major flooding."

"The available contour information shows the elevation of the site is between 2m AHD and 3m AHD."

"The submitted development plan shows that the proposed final floor level for the dwelling is 2.80m AHD and it is located outside the 1% AEP flood fringe. Consequently, the proposed development is considered acceptable with regard to major flooding"

As noted above in DWER's comments, the proposal is consistent with the advice of DWER in relation to floodplain management and no modification or amendments were required.

Internal Referrals

Heritage

The proposal was referred internally to the City's Heritage department as the site is located within the North Fremantle Heritage Area. The proposal can be supported from a heritage perspective for the following reasons:

- The site is set between two very different streetscape languages and the streetscape is considered to be of a complex and inconsistent nature.
- The proposal depicts a sculptural brick element setback in an open garden space which responds to the adjacent house to the east.
- The elements and materials of the proposal reflect the adjacent house to the east and the massing elements reflect the buildings to the west including the former Gresham Hotel located at 20 John Street.



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- The vertical glazing on the windows is consistent with the vertical windows throughout the streetscape.
- The roof form, which whilst it does not reflect the prevailing streetscape, overall, the design fits into the streetscape noting the complex and diverse nature of John Street.

Refer to the officer comment section of this report for a detailed heritage assessment against LPP 3.6 – Heritage Areas.

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 to the deemed-to-comply requirements of the R-Codes, LPS4 and the City's Local Planning Policies. The advertising period concluded on 24 November 2022, and two (2) submissions were received. Refer to table 1 below which outlines the submission received, and the City's comments on the submission.



Submission	Officer's Comment
Submission 1 <i>The plans propose a colorbond fence starting at the truncation (communal driveway access side), before stepping up and changing to a rendered brick of a garage built up to the boundary line, and then stepping back down and changing back to Colorbond again at the rear. We reject this proposal as we have concerns about the visual outlook of the boundary from our (future) property. Our preference is for the garage at 16A to be pulled off the boundary by at least 300mm to allow for a continuous fence or wall (of compliant height) to run the length of the boundary, sitting on the boundary line.</i> <i>It would be beneficial to consider the first (approx.) 1-1.5metres of the wall immediately adjacent to the driveway truncation to be built lower to allow for greater visualisation of cars pulling into and out of the garage, for both other vehicles using the driveways and pedestrians (particularly for children's safety) to have greater visualisation of what vehicles are driving up/around the communal driveway. We currently live in a property with a similar shared driveway and truncations and note that a lowered wall adjacent to the truncation makes a significant difference in visualisation and safety.</i> <i>As it is a shared wall and will be part of our outlook, we would like to have a say in the materiality of the dividing fence/wall. We understand this would involve contributing shared costs to the shared boundary wall and we will contact the owners of 16A directly to have a conversation about this.</i>	The boundary wall is proposed to be on the northern lot boundary. To ensure the wall is of a clean finish, condition 2 has been recommended. The setback of the garage from the common property access leg, in addition to the truncation of the lot boundary allows for the sight lines to comply with the deemed to comply requirements of the R-Codes. All other fencing queries are a civil matter and fall under the Dividing Fences Act 1961. An appropriate advice has also been included alerting the owners of the legal obligations under the Dividing Fences Act. In addition to the above, the City received an email from the submitter on 24 January 2023 advising that they have resolved the matter with the landowners of 16A.



Submission 2

I have carried out an initial review of the proposed plans for 16A John Street, North Fremantle, Lot 3 SSPln 71728 (the 'Current Plans' or the 'Proposed Building') and object to the development on the basis that it does not meet either the 'deemed to comply' requirements or 'design principles' of State Planning Policy 7.3 Residential Design Codes Volume 1, Clause 5.4.2 Solar access for adjoining sites....

*...The current development plan suggests that the Proposed Building will overshadow 3.62% of my property at 3/18 John Street, North Fremantle, being Lot 3 of strata plan no. 16774. Following consultation with the architect from Webb & Brown-Neaves, he confirmed that this percentage was in relation to the entire strata area, not just my property. This may have been the approach used in the past, however, the R-codes now clearly state that only the area allocated for the exclusive use of the adjoining dwelling may be used as the site area for overshadowing calculations. Based on advice from a structural engineer and my consultant architect, the Proposed Building will overshadow approximately 80% of my property at midday 21 June (refer **Error! Reference source not found.**, attached, for site area).*

Furthermore, the development will:

- 1. Overshadow the large majority of my rear courtyard, which is my principal outside living area and drying space;*
- 2. Block all-natural light into my kitchen area; and*

The City notes the concerns relating to overshadowing of the adjoining property at 18 John Street.

This portion of the proposal is compliant with the deemed to comply requirements of Clause 5.4.2 – Solar access for adjoining sites under the R-Codes.

The subject site is zoned Residential R35, which allows for 35 per cent of the adjoining property to be overshadowed under the deemed to comply requirements of the R-Codes.

As the adjoining property shares its boundary with three (3) properties, it lowers the percentage allowance of overshadowing based on proportionate share. In this instance, the proposal is permitted to overshadow 11.66% of the adjoining site.

In this instance, the proposal overshadows 3.62% of the adjoining site.

It is noted that the adjoining property (18 John Street) consists of 11 strata units. Under the R-Codes, overshadowing provisions apply to a development site, which includes the whole site and not individual units with a strata development. Refer to Figure 1 for an aerial of the subject site in relation to the adjoining site at 18 John Street.

Clause 5.4.2 C2.1 of the R-Codes, states that overshadowing is to be calculated onto any other 'adjoining property'. 'Adjoining property' and 'lot' is defined as below:

3. Limit my option of installing and utilising solar energy. <i>The impact of these factors will substantially impact my wellbeing, quality of life and value of my property.</i> <i>I oppose the Current Plans and intend to seek further advice. Not only does the proposed development exceed the 'deemed to comply' requirement by over 230%, however, it also has made no effort to meet the 'design principles' of Clause 5.4.2.</i>	Adjoining property Any lot: - on which any dwelling for which provision is made in the R-Codes may be constructed under the scheme; and - which shares a boundary or portion of a boundary with a lot on which there is a proposed residential development site or is separated from that lot by a right-of-way, vehicle access way, pedestrian access way, access leg of a battleaxe lot or the equivalent not more than 6m in width. Lot For single houses, a lot as defined under the <i>Planning and Development Act 2005</i>, as amended. For multiple or grouped dwellings, the parent lot. The definition of 'lot' states that for grouped dwellings, it is considered as the parent lot, and a 'parent lot' is defined as follows: Parent lot Relating to multiple or grouped dwellings, the lot inclusive of common areas to which the strata scheme, as defined under the <i>Strata Titles Act 1985</i>, as amended, relates. Therefore, the overshadowing is calculated on the parent lot of the adjoining property being the whole site identified in Figure 1 below. Notwithstanding the above, the overshadowing caused by the proposed development does not overshadow any north facing major openings. It is noted the outdoor living area is to be overshadowed, however, there is an existing solid roof structure over the outdoor living area, thus not creating any further impact on the southern portion of the outdoor living area.
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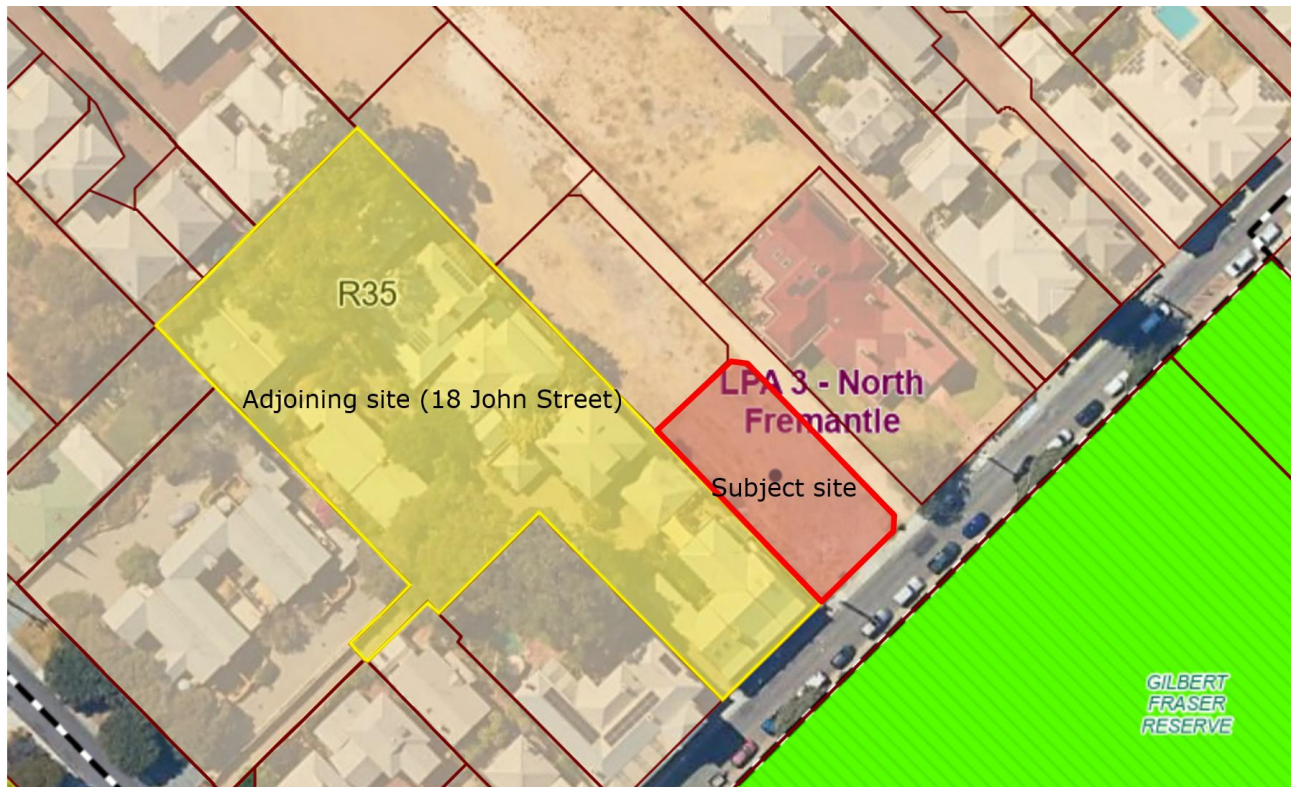


Figure 1 - Adjoining Strata Site (18 John Street)

In addition to the above, the applicant has provided a response to the abovementioned submissions and further justification to each variation sought. This can be viewed at additional information 2.

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:

- Building height (external wall)
- Visual privacy (north-east)
- Boundary wall (north-west)

The above matters are discussed below.



Background

The subject site is located on the northern side of John Street in North Fremantle. The site has a land area of approximately 458m² and is currently a vacant survey strata lot serviced by a common property access leg to the north-east of the property boundary. The site is zoned Residential and has a density coding of R35. The site is not individually heritage listed, however it is located within the North Fremantle Precinct Heritage Area.

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

- Subdivision approval was granted by the Western Australian Planning Commission (WAPC) in 2019 and subsequent subdivision clearance was issued by the City in 2021 for two (2) freehold lots at 35 Harvest Road, North Fremantle (ref: WAPC158699) creating 35 Harvest Road and 16 John Street.
- Subdivision approval was granted by the WAPC in 2019 and subsequent subdivision clearance was issued by the City in 2021 for three (3) survey-strata lots and common property at 16 John Street, North Fremantle (ref: WAPC411-19).

The proposal was considered at the Planning Committee meeting on 1 March 2023 with an officer recommendation for conditional approval. The Committee resolved to refer the application:

Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the Two Storey Grouped Dwelling at No. 16A John Street, North Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to reconsider the level of impact created by overshadowing onto the adjoining south western strata lot and particularly the strata's existing rear outdoor living area.

The City provided the above decision to the applicant on Thursday 2 March 2023, giving an opportunity for the applicant to consider the Committee's decision. The applicant provided an email response on Monday 13 March advising the City that they have no intention to change the design of the house and wish for it to be taken back to the Committee.

The landowner has since provided a submission, which is available at additional information 3, in addition to this, the applicant has provided a further letter of technical justification, which is available at additional information 4.

Building Height

Element	Requirement	Proposed	Extent of Variation
Building Height (External Wall)	5.5m	5.727m – 6.573m	0.227m – 1.073m

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

- The building height variation does not create an adverse amenity impact on the adjoining properties or the streetscape because the majority of the building has a height of 5.7 metres, being a minor departure from the requirements under Schedule 7 of LPS4, and with a minor concealed roof portion at the front of the property reaching a maximum of 6.537m (refer to figure 2 below).
- The building height variation maintains access to views of significance, and adequate access to direct sun into buildings and open spaces on adjoining properties.

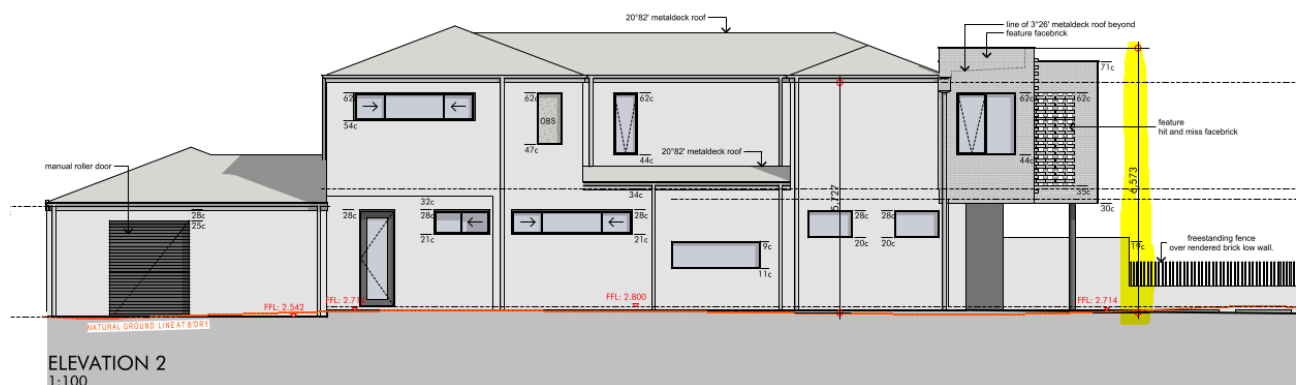


Figure 2 - Building Height

Boundary Wall

Element	Requirement	Proposed	Extent of Variation
North west (Rear) Lot Boundary Setback	1.0m	Nil	1.0m

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

- The boundary wall abuts the southern eastern boundary of the adjoining property allowing for adequate direct sun and ventilation of the adjoining property.
- The boundary wall does not have any adverse amenity impact by way of building bulk on the adjoining property which is currently a vacant site.
- The boundary wall allows for effective use of space for enhanced privacy for the occupants outdoor living areas.
- The proposal positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.

Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Visual Privacy	6.0 metres	5.6 metres	0.4 metres

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

- The visual privacy cone of vision variation does not impact on any primary outdoor living areas of the adjoining site.
- The cone of vision does not unreasonable impact on the privacy to major openings on the adjoining site
- The lesser cone of vision setback is otherwise considered to represent only a minor departure from the deemed-to-comply requirements (400mm difference); and noting the majority of the cone of vision overlooks the common property access leg (refer to figure 3 below) and side and front setback area of this residential property.

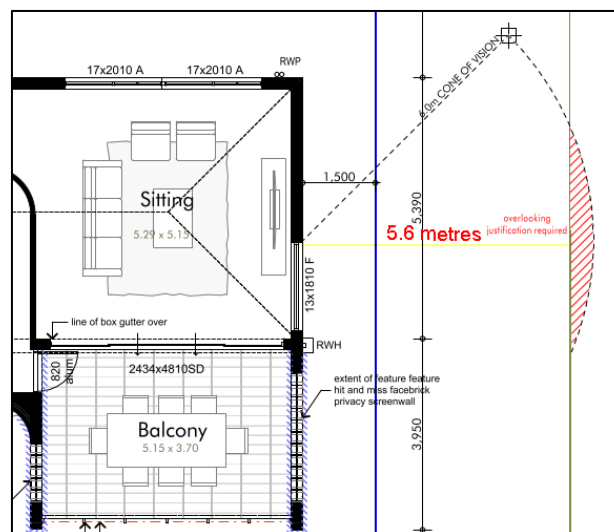


Figure 3 - Extent of Cone of Vision variation (shown hashed in red)



Heritage Assessment

As the proposed development is located within the North Fremantle Heritage Area, it is subject to assessment against LPP 3.6 – Heritage Areas Local Planning Policy. As outlined in LPP 3.6, the intent of infill development (new buildings) is as follows:

New buildings within a heritage area should respect and complement the heritage significance of the area. A respectful design approach gives special consideration to the siting, scale, architectural style and form, materials and finishes of the proposed development in relation to its neighbours, without copying historic detailing or decoration. New infill buildings should respond sympathetically to the heritage values of the heritage area as a whole, and also to that part of the heritage area in the vicinity of the proposed development. Imaginative, well designed and harmonious construction is encouraged. Professional architectural services can be of great assistance in formulating appropriate designs.

The proposal was assessed against LPP 3.6, and the heritage impact of the proposal is deemed as acceptable as it will have limited impact on the heritage significance and values of the North Fremantle Precinct Heritage Area as the design fits within the heritage context of John Street.

In accordance with LPP 3.6, new development in heritage areas needs to satisfy the following criteria (assessment against relevant criteria outlined below):

Table 1 – Assessment against LPP 3.6 – Infill Development (new buildings)

Element	Officer Comment
Siting and Scale	
New infill development within a heritage area should: a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns. b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then new infill development should also be (or present as) single storey (at least to the front section of the lot) c) Have a plate height consistent with the original street pattern. New	It is noted that the streetscape of John Street is set between two different streetscape languages. The proposal is consistent with the adjacent house at No. 12 John Street to the east which is a single separate house set well back from the street. The dwelling being two storeys is consistent with the majority of dwellings in the streetscape.

development often proposes a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.	
Building Form	
The form of the building is its overall shape, size and the general arrangement of its main parts. i. New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing. ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced. iii. The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours. iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent. v. Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.	The proposal is sympathetic to the predominant form of the prevailing streetscape without mimicking heritage. The sculptural and decorative brick elements respect the dwelling to the east. The massing and rhythm reflects the buildings to the west of the subject site. The proposal is considered to respond to, and interpret the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.
Materials, Colours and Detailing	
Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.	The sculptural brick design responds to and interprets the predominant materials and detailing of the original prevailing streetscape.



Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.	It is noted that the prevailing streetscape does not have consistent forms. The proposal is considered to respond to, and interpret the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.
Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical precedent for their use can be demonstrated.	The materials and colour of the bricks utilised are deemed as appropriate, whilst it is noted there is larger amounts of window glazing to the front façade, this is consistent with the majority of new buildings on the prevailing streetscape.
Roofs	
Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.	It is noted that the roof form does not depict a traditional roof form of the streetscape but the overall design of the proposed dwelling fits within the streetscape. The roof includes a concealed roof to the streetscape, with a pitched roof located behind, still visible from the street.
Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.	As above.
Verandahs/Porches/Awnings	
Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing.	The proposed verandah is a modern interpretation of the traditional verandah within the streetscape.
Doors and Windows	



All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.	Majority of the windows and doors have a vertical emphasis; however they are generally wider and incorporate a horizontal window frame along the front façade.
Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.	The front door addresses John Street and is not located toward the centre of the new building. This is consistent with the prevailing street, whereby front doors are not generally located in the centre of the building.

CONCLUSION

In accordance with the above assessment, it is noted that the proposal will have little impact on the heritage significance of the North Fremantle Heritage Area, and the scale, form, texture and materiality of the proposal fits within the context of John Street. Furthermore, it is considered that the proposed development will not have an adverse amenity impact on the adjoining properties and that the variations sought to building height, visual privacy, and boundary wall (lot boundary setback), demonstrate compliance with the design principles of the R-Codes.

For these reasons, the application is recommended for conditional approval.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two Storey Grouped Dwelling at No. 16A (Strata Lot 3) John Street, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 28 October 2022. 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 works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 3. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 4. Prior to the issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 1 metre above natural ground level as per clause 5.2.4 C4 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to occupation of the development hereby approved, the boundary wall located on the rear boundary shall be of a clean finish in any of the following materials:**
 - a. Coloured sand render,**
 - b. Face brick,**
 - c. Painted surface****And be thereafter maintained to the satisfaction of the City of Fremantle.**
- 6. 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 for the proposed building work. The building permit must be issued prior to commencing any work on site.**
- ii) It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of landowners regarding dividing fences.**
- iii) The swimming pool safety barrier must comply with all provisions of AS 1926 Parts 1 & 2 – 2012. The boundary fence (part that is being used as part of the barrier) must be a minimum 1.8m in height to be used as part of the barrier, in accordance with AS1926.1. A 900mm non-climbable zone quadrant on the inside only, in accordance with AS 1926.1 must be complied with.**
- iii) Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.**



10.2 Committee delegation

PC2304-3 COLLICK STREET, NO. 1 (LOT 1594), HILTON – CARPORT, OUTBUILDING AND FRONT FENCE ADDITIONS TO EXISTING SINGLE HOUSE (JZ DA0013/23)

Meeting Date: 5 April 2023
Responsible Officer: Acting Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a Carport, Outbuilding and front fence additions to existing Single House at No. 1 (Lot 1594), Collick Street, Hilton.

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 (south – outbuilding and carport).**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a Carport, Outbuilding and front fence additions to existing Single House at No. 1 (Lot 1594), Collick Street, Hilton. The proposed works include:

- Single width Carport addition,
- Outbuilding addition behind primary street setback, and
- Visually permeable Front Fence and motorised gate addition (up to 1.5m) to front of existing house.

The proposed fence meets the criteria of CI 1.5.1 of the Hilton Heritage Area Policy as the fence is to be made visually permeable (minimum of 85%) and a maximum of 1.5m in height. Therefore, the following report does not discuss the assessment of the proposed fence as it is deemed-to-comply.

Amended Development plans are included as Attachment 1.

Site/application information

Date received:	17 January 2023
Owner name:	Mariana and Lachlan Enright
Submitted by:	As above
Scheme:	R20/R25
Heritage listing:	Not Listed
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought to the deemed-to-comply requirements of the R-Codes, LPS4 and the City's Local Planning Policies. The advertising period concluded on 21 February 2023, and 1 submission was received. The following issues were raised (summarised):

- The reduced southern setback will cause an adverse impact on the maintenance and access to the subject site, resulting in poor visual amenity impact to the southern neighbour.
- Increased building height and reduced setback of the proposed outbuilding will cause a detrimental impact by way of overshadowing on southern property.
- Proposal will have significant visual amenity and appeal effects on the adjoining property.

In response to the above submission, the applicant provided further justification and additional information on 27 February 2023 which included:

- A revised overshadowing diagram was provided which demonstrated the actual shadow impacts created by the proposed boundary wall on the existing outdoor living area of the adjoining southern property, (see Figure 1 below).

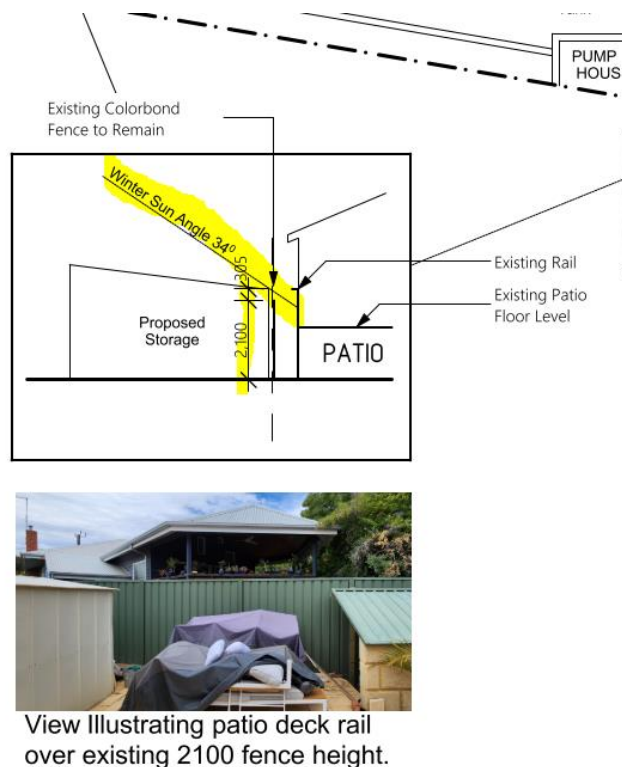


Figure 1: Sun Angle to southern adjoining property (3 Collick Street) from proposed outbuilding and view toward existing patio deck at southern adjoining property.

An excerpt from applicant's justification is provided below:

I have amended the site plan and added a diagram illustrating the overshadow impacts to the neighbouring outdoor area I have not put a shadow diagram in the usual sense because the percentage of overshadowing is nowhere near an amount that has an impact on the block anyway and the issue is the concern about overshadowing a particular outdoor living space.

In the diagram you can see that the new outbuilding is only 305mm higher than the existing fence and that the shadow cast from this is well below the existing balustrade height of the patio.

In the photo you can also see how the existing neighbouring patio overlooks the property and this does not seem to comply with screening of 1.6m either. Were this to comply they would have more overshadowing from their own screening even if the outbuilding were to be another 600 or 700 mm higher.

There will be no negative impact on the neighbouring amenity.



Officer comments on the expected impact of the proposed boundary walls are provided in the Officer Comment section 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:

- Boundary wall (south – outbuilding and carport).

The above matters are discussed below.

Background

The subject site is located on the western side of Collick Street in Hilton, bound by South Street to the north and Chadwick Street to the south. The site has a land area of approximately 862m² and is currently a single storey single house toward the front of the lot. The site is zoned Residential and has a density coding of R20/R25. The site is not individually heritage listed and is located within the Hilton Garden Suburb Precinct Heritage Area.

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

- DA0460/09 – Patio addition to existing Single house

During Officer assessment, and through the submission of revised plans and additional information it was noted that there is an issue of compliance in relation to a visual privacy variation and required screening to the southern adjoining property, No. 3 Collick Street. The matter is with the City's Compliance Team who will be undertaking further investigation.

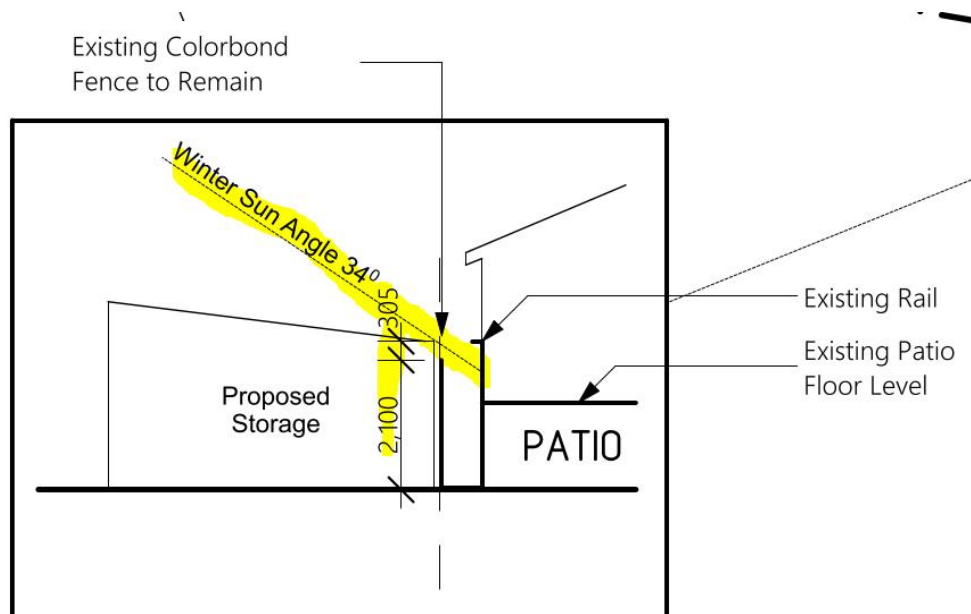
Boundary Walls (South)

Element	Requirement	Proposed	Extent of Variation
Outbuilding (south)	1.0m	Nil	1.0m
Carport (south)	1.0m	0.3m	0.7m

Outbuilding

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

- The amended site plans demonstrate the proposed outbuilding, despite being located adjacent to a portion of the existing deck/ outdoor living area of the neighbouring property (3 Collick Street), will not result in a significant loss of sunlight owing to the existing adjoining patio being substantially raised above existing ground level, due to the topography of the subject site and low height of the proposed outbuilding wall above the existing boundary fence, being only an additional 300mm above the existing fence height (see Figure 2 below).



View Illustrating patio deck rail
over existing 2100 fence height.

Figure 2: Sun Angle to southern adjoining property (3 Collick Street) from proposed outbuilding and view toward existing patio deck at southern adjoining property.

- Similarly, to the above, the proposed boundary wall will only be 300mm above the existing dividing fence height, and the existing patio and deck on the southern adjoining property (3 Collick Street), already exists slightly higher in ground level to the subject site (1 Collick Street).

Therefore, the impact of building bulk on the southern adjoining property again is considered to be negligible.

- The boundary wall does not present any visual privacy variation to the adjoining lot as there are no major openings to the outbuilding.

Carport

The carport boundary wall is also considered to meet the Design principles of the R-Codes in the following ways:

- The proposed boundary wall will be located adjacent to an area which doesn't form part of the neighbouring site's exclusive outdoor living area, nor in close proximity to sensitive habitable rooms of the respective dwelling. This area of the southern adjoining property is also heavily vegetated and within the front setback area. The boundary wall will not reduce any sunlight or ventilation to any habitable spaces or primary outdoor living areas on the southern adjoining property (see Figure 3 below).



Figure 3: Front setback area of 3 Collick Street, where proposed Carport boundary wall will abut.



- The boundary wall proposed essentially consists of a pillar and open design base, therefore having minimal impact upon the amenity of the adjoining property through a sense of building bulk.

On the basis of the above, the boundary walls are considered acceptable in this circumstance in accordance with LPP 2.4 and 5.1.3 P3.2 of the R-Codes and is therefore supported by Officers.

CONCLUSION

In accordance with the above assessment, the proposal is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore considered worthy of approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Carport, Outbuilding and Front Fence Additions to existing Single House at No. 1 (Lot 1594), Collick Street, Hilton, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 27 February 2023. 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 from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**



- 3. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. Prior to occupation of the development hereby approved, the boundary wall located on the southern boundary 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.

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



PC2304-4 LONG STREET, NO. 12B (LOT 889), BEACONSFIELD – TWO STOREY SINGLE HOUSE (ED DA0397/22)

Meeting Date: 5 April 2023
Responsible Officer: Acting Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a Two Storey Single House at No. 12B Long 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 Residential Design Codes (R-Codes). These discretionary assessments include the following:

- **Lot boundary setbacks (west);**
- **Boundary walls (east and west); and**
- **Upper Floor Primary Street Setback.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the construction of a Two Storey Single House on an existing vacant lot at No. 12b (Lot 889) Long Street, Beaconsfield. The proposed works include:

- Construction of a two storey Single house, comprising four bedrooms and three bathrooms; and,
- Site works and provision of retaining walls.

The applicant submitted amended plans on 13 March 2023, primarily to address the upper floor primary street setback pursuant to Local Planning Policy 2.9 (Residential Streetscape) and the prevailing Long Street streetscape. The amendments included the following key changes:

- Increased primary street setbacks for the ground and upper floors. In the original development plans, the ground floor was setback at 7m with the upper floor projecting/cantilevering forward of the ground floor at 6.7m with no balcony. The amended development plans have increased the ground floor primary street setback to 7.4m and introduced a balcony at the front of the upper floor of the dwelling, resulting in an increased upper floor primary street setback of 9.2m;

Amended development plans are included as attachment 1.

Site/application information

Date received:	24 November 2022
Owner name:	Christopher Edward Green, Sarah Louise Green
Submitted by:	Danny Psaros
Scheme:	Residential
Heritage listing:	Not Listed and not located within Heritage Area
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 required discretionary assessments against the R-Codes and Council Policy. The advertising period concluded on 23 December 2022, and one (1) submission was received. The following issues were raised (summarised):

Comment	Officer Response
Finished floor level (FFL) height at 11.75 is raised too high causing negative impact to eastern property.	As per the site survey, the finished floor level of the dwelling essentially achieves equal cut and fill with survey contour heights being 11.00 in the south-west corner of the site and 12.50 at the north-east corner of the proposed dwelling. As such, the FFL of 11.75 is considered acceptable.
Eastern boundary wall with decreased set back of upper floor causes further negative impact to eastern property due to raised FFL height to 11.75.	Detailed comment on the garage boundary wall is provided in the Officer Comment section below; as noted above the FFL of 11.75 is seen to achieve equal cut and fill across the natural ground levels of the site.
Master suite front windows have overlooking into eastern property private front yard.	As per the amended development plans, no eastern facing windows are proposed to the master suite and all other eastern facing windows across the upper floor are obscured. A condition of approval is recommended to ensure the eastern and western facing openings of the upper floor balcony are provided screening to a height 1600mm to ensure full compliance with the R-Codes.
A/C unit to be lowered to the ground behind the fence to minimise noise into eastern property living space and master bedroom.	Standard condition will apply requiring external fixtures (such as A/C units) to be located so as not to cause visual or amenity impacts.

Eastern boundary wall brick colour to be approved by eastern property.	Standard boundary wall condition will ensure boundary wall of a clean finish.
Any damage to the eastern property, including but not limited to the building, awnings, extensions, hard/soft scapes is subject to make good like for like.	This is to be the responsibility of the builders of the development.
Storm water must be contained so as to not impact the eastern property.	All stormwater is required to be contained on-site as per standard condition of approval
Pet proof fencing must be installed at all times during eastern boundary works until such time boundary works have been completed with the eastern property being fully secured.	This is to be the responsibility of the builders of the development.
Building debris and site rubbish management plan must be in affect so as to cause nil impact to eastern property.	This is to be the responsibility of the builders of the development.
Vehicle parking plan must be in place so no vehicles block the pedestrian foot path.	Vehicle parking plan must be in place so no vehicles block the pedestrian foot path.

Further discussion on some of the above comments is provided in the officer comment section 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 setbacks (west);
- Boundary walls (east and west); and
- Upper floor primary street setback.

The above matters are discussed below.

Background



The subject site is located on the northern side of Long Street in the middle section of the street block. The site has a land area of approximately 404m² and is currently a vacant site. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed and not located within a Heritage Area.

The site is currently vacant, with a slope to the south-west. There is no significant vegetation on site.

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

- DA0171/21 - Two Storey Single House (Approved by Planning Committee on 3 November 2021; and
- WAPC149054 – Two Lot Green Title subdivision. Cleared by the City on 11 May 2015. It is noted that a Restrictive Covenant is placed on the title, requiring that no new development be permitted unless it meets the energy efficiency and sustainability requirements of Local Planning Policy 2.2. The relevant requirements of this Policy will be conditioned to be cleared prior to the issue of a Building Permit.

Lot Boundary Setbacks

Element	Deemed-to-comply	Provided	Extent of Variation
East - Ground Floor Kitchen – Laundry Wall	1.5m	1.05m	0.45m
East – Upper Floor Bed 4 – Bed 2 Wall	1.2m	1.05m	0.15m

The eastern lot boundary setback of the Ground Floor Kitchen-Laundry wall is considered to meet the design principles of the R-Codes in the following ways:

- With a wall height of less than 3.5m as measured from the natural ground level at the shared boundary, the proposed wall is not considered to impose unacceptable building bulk on the adjoining property (12A Long Street);
- The wall is not to be opposite any area of outdoor living area of the adjoining property and will be predominantly opposite the Bath, Laundry and Office of this adjoining dwelling (see images below) which are not considered sensitive habitable rooms;
- Given the north-south orientation of the lots, the lesser setback does not contribute adversely to a loss of direct sun or natural light generally, nor unacceptably reduce ventilation to major openings given the setback of the eastern neighbour which shall provide adequate separation between the dwellings; and
- The lesser setback does not result in any new merit-based decision relating to visual privacy as the FFL is not more than 500mm above the natural ground level at the boundary.

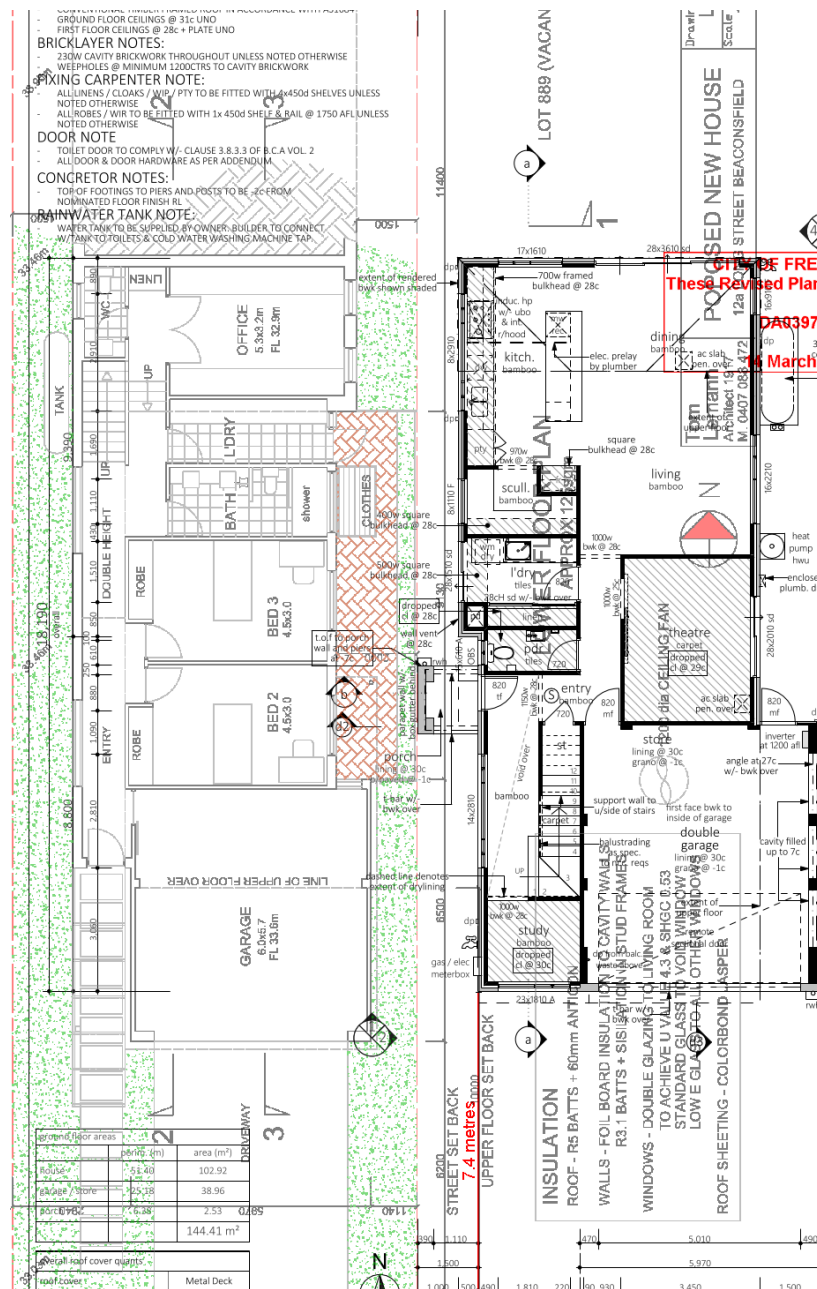


Figure 1. Ground floor comparison of existing adjoining dwelling (12A Long Street) on left and proposed dwelling at 12B Long Street (right).

The eastern lot boundary setback of the Upper Floor Bed 4-Bed 2 wall is considered to meet the design principles of the R-Codes in the following ways:

- The lot boundary setback variation is minimal at only 150mm and is proposed in a location that will not be opposite any sensitive major openings (being opposite either blank walls, the theatre and scullery of the adjoining dwelling) nor outdoor living areas of the adjoining eastern property (see image below). As such, the proposed wall is not expected to

- [illegible]

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Lot Boundary Setbacks (Boundary Walls)

Element	Deemed-to-comply	Provided	Extent of Variation
Garage Boundary Wall - East	1.0m	Nil	1.0m
Porch Boundary Wall - West	1.0m	Nil	1.0m

The proposed eastern garage boundary wall is considered to meet the design principles of the R-Codes and the additional criteria of LPP2.4 in the following ways:

- The proposed garage boundary wall is to abut the carport and parking area of the adjoining western dwelling (14 Long Street) which is non-sensitive, non-habitable space of this property. As such, no sensitive habitable room windows nor outdoor living areas are to be impacted by the proposed boundary wall and therefore, no unacceptable amenity impact is expected in terms of building bulk and overshadowing; and
- The proposed garage boundary wall has a primary street setback in excess of what is required under LPP2.9 (7.4m in lieu of the required 7.0) and therefore is not considered to have any unacceptable impact upon the streetscape character of Long Street.

The proposed western porch boundary wall is considered to meet the design principles of the R-Codes and the additional criteria of LPP2.4 in the following ways:

- The proposed western porch boundary wall has a length of only 1.8m and a height of 3.9m. Due to the minor extent of this boundary wall, it is not expected to have any adverse amenity impact upon the adjoining property (12A Long Street) in terms of building bulk; and
- Given the north-south orientation of the lots, the boundary wall will not contribute adversely to a loss of direct sun or natural light generally for the adjoining dwelling, nor unacceptably reduce ventilation to major openings given the setback of the eastern neighbour which shall provide adequate separation between the dwellings.

Primary Street Setback

Element	Required	Provided	Extent of Variation
LPP2.9 Table 1 – Min. Ground Floor Primary Street Setback	7.0m	7.4m	Nil - Complies
LPP2.9 Table 1 – Min. Upper Floor Primary Street Setback	10m	9.2m	0.8m



The reduced upper floor primary street setback is considered acceptable under the provisions of clause 1.2 of LPP2.9 for the following reasons:

- The applicant has taken positive steps to improve the impact of the proposal upon the existing streetscape, which was previously considered unacceptable in the original plans. In the original development plans, the ground floor was setback at 7m with the upper floor projecting/cantilevering forward of the ground floor at 6.7m, with no balcony. The amended development plans have increased the ground floor primary street setback to 7.4m and introduced a balcony at the front of the upper floor of the dwelling, resulting in an increased upper floor primary street setback of 9.2m. As such, the amended development plans have led officers to determine that the proposal is seen to have an acceptable impact upon the streetscape pursuant to LPP2.9 considerations (see further discussion below).
- As per the amended development plans, the proposed upper floor setback has been increased (6.7m to 9.2m) and is now considered, on balance, to be visually consistent with the setback of buildings of comparable height within the prevailing streetscape. This is primarily due to the fact that the immediately adjoining western dwelling (12A Long Street) has a ground floor street setback of 6.2m compared to the proposed 7.4m ground floor street setback of the subject proposal and an upper floor setback of 10m (with a roofed balcony projecting forward of this, similar to the subject proposal, out to match the ground floor setback of 6.2m). As such, while the ground floor of the subject proposal will be set behind the adjacent dwelling, the upper floor will be setback slightly forward, though within only 800mm. On this basis, it is considered the two dwellings will, on balance, appear visually consistent with one another when viewed from Long Street (see photos of adjacent constructed dwelling in Additional Information 1).
- Further, when considering the proposal within the wider streetscape of Long Street, it is noted that No. 20 Long Street (4 properties to the east of the subject site) has both its ground and upper floors setback between 6.5m and 8.8m which also vary the required primary street setbacks of LPP2.9 (see photo of 20 Long Street in Additional Information 1). Similarly, the below image also shows the primary street setback of most of the dwellings along the northern side Long Street is varied with little consistency or established character. Thus, the reduced upper floor setback proposed dwelling is generally considered acceptable pursuant to LPP2.9.



Figure 3. Aerial image of dwellings and their respective street setbacks along the northern side of Long Street.

CONCLUSION

In accordance with the above assessment and the amended development plans, the proposal is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore recommended for approval, subject to conditions

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two Storey Single House at No. 12B (Lot 889) Long Street, Beaconsfield, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 March 2023. 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 from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
3. **All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
4. **Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.**

Prior to occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans and maintained for the life of the development to the satisfaction of the City of Fremantle.

5. **Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the First Floor Balcony located on the east and west elevations, is to be screened in accordance with Clause 5.4.1C1.1 of the Residential Design Codes by either:**
 - a) **fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
 - b) **fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
 - c) **a minimum sill height of 1.60 metres above the internal floor level, or**
 - d) **other method otherwise approved by the City of Fremantle**

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

6. **Prior to the issue of a Building Permit for the development hereby approved, evidence is to be submitted demonstrating that the dwelling will achieve a NatHERS accredited energy efficiency star rating of 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.**



7. 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.

8. 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.

9. Prior to occupation/use of the development hereby approved, the boundary walls located on the west and east lot 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.

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. 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. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- iii. 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. The City's crossover specifications can be found via the following link: <https://www.fremantle.wa.gov.au/crossovers>



- iv. **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. The City's crossover specifications can be found via the following link:**
<https://www.fremantle.wa.gov.au/crossovers>.

- v. **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.**

The applicant is advised that the /The new/ modified vehicle crossover shall be separated from any verge infrastructure by:

- **a minimum of 1.0 metre in the case of utilities (power domes)**
- **maximum permitted width is 4.5m excluding splays / wings.**

- vi. **The City advises that the required landscaping plan should address the applicable provisions within Design Element 5.3.2 – Landscaping of the Residential Design Codes – Volume 1.**
- vii. **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.**



**PC2304-5 AINSLIE ROAD, NO. 3A (LOT 300), NORTH FREMANTLE –
ADDITIONS (SECOND STOREY) AND ALTERATIONS TO
EXISTING SINGLE HOUSE (JZ DA0004/23)**

Meeting Date: 5 April 2023
Responsible Officer: Acting Manager Development Approvals
Decision Making Authority: Committee
Attachments: Amended Development Plans
Additional information: Site Photos

SUMMARY

Approval is sought for two storey additions and alterations to the front of an existing Single house at No. 3A (Lot 300) Ainslie Road, North Fremantle.

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:

- **Primary Street setback (Ground and Upper floors)**
- **Lot boundary setback (West - Upper floor)**
- **Building Height (external wall)**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for additions and alterations to the front of an existing Two Storey Single house at No. 3A (Lot 300) Ainslie Road, North Fremantle. The proposed works include:

- A sunroom and balcony addition to the upper floor of the dwelling; and
- A new enclosed garage over existing carport area, to the lower ground floor level of the dwelling.

Site/application information

Date received:	10 January 2023
Owner name:	Jennifer Cook and David Cook
Submitted by:	As above
Scheme:	R25
Heritage listing:	Not listed, North Fremantle Precinct Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the application proposed variations to policy provisions. The advertising period concluded on 21 February, and two (2) submissions were received. The following issues were raised (summarised):

- The garage/sunroom extension will have a visual privacy impact, overlooking the front setback area and upstairs bedrooms of the adjoining property to the west.
- The garage/sunroom addition to the front will detract from the existing streetscape and introduce building bulk.

An excerpt of the submission is provided as follows:

We are concerned about the general "Bulk" of the development forward of the current house that currently has a compliant front setback.

We note that other houses in the street have solid garages with a reduced setback, but none have two storeys with this set back. It does not add any value to the streetscape.

Our main concern of the proposed extension will be the serious over-looking into our yard and directly into two upstairs bedrooms and will hence result in loss of privacy.

The proposed screens are not acceptable as they are transparent, and it is proposed that they will eventually provide screening via planting on a north facing second storey balcony. This would not be acceptable, and we would request as a minimum a screen that fully restricts overlooking of the adjacent property, ideally higher than 1.65m.

A second submission was received in support of the proposed development.

The applicant submitted amended plans on 16 March 2023 including the following changes:

- Floor levels to reflect subject site and adjoining properties to east and west.
- Sill height of proposed highlight window increased to 1.6m.
- Privacy screening added to proposed upper floor balcony.



Amended Development plans are included as attachment 1. The remaining comments are addressed in the Officer Comment section 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:

- Primary street setback (Ground and Upper floors)
- Lot boundary setback (west - Upper floor)
- Building height (external wall)

The above matters are discussed below.

Background

The subject site is located on the south side of Ainslie Road. The site has a land area of approximately 300m² and is currently occupied by a two storey dwelling. 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 Precinct Heritage Area.

The site exists within a residential area and a streetscape mostly built up of split-level and two storey dwellings.

A search of the property file has revealed there is no relevant planning history for the site.

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Street Setback LPP2.9: North Fremantle	(wall up to 4m high) 5.0m	3.0m	-2.0m
Street Setback LPP2.9: North Fremantle	(Wall above 4m high) – 7.0m	5.6m	-1.4m

The proposal has been assessed against the relevant provisions of LPP2.9 – Streetscape policy (LPP2.9) to ensure the proposed additions are designed in a manner that aligns with the existing prevailing streetscape pattern. As outlined above, the proposed garage is enclosing the existing carport onsite and there is no extension to increase in size to the existing structure. The setback of the proposed garage and upper floor addition is consistent with the existing prevailing streetscape, as there are multiple adjoining properties with reduced or nil street setbacks to garages or carports, as illustrated below in Figure 1 and 2 below.



Figure 1: Prevailing streetscape of Ainslie Road (view South-east).



Figure 2 – Prevailing streetscape of Ainslie Road (view South).

Ground Floor Setback

The impact of the proposed garage is considered minimal because of the following:

- The existing street setback of the subject site already contains a minor variation (3m in lieu of 5m) from that of the primary street setback requirements for North Fremantle set out in LPP 2.9. Therefore, the alterations are simply enclosing the existing carport with no extension or change in size to the existing structure, to be provided with a roller garage door.
- The topography of the block allows the height and visual mass of the proposed garage to be reduced as viewed from the street, due to the natural ground level and will allow the garage to sit slightly below the level of the street.
- The overall style of the proposed garage addition is consistent with the setback of buildings in the existing streetscape and adjoining properties to

3A Ainslie Road (see Figure 3 below). Therefore, the reduced setback to the proposed garage addition would not detract from the existing streetscape – which already features properties with reduced setbacks including 3B, 5, 7 and 9 Ainslie Road (see figure 3).

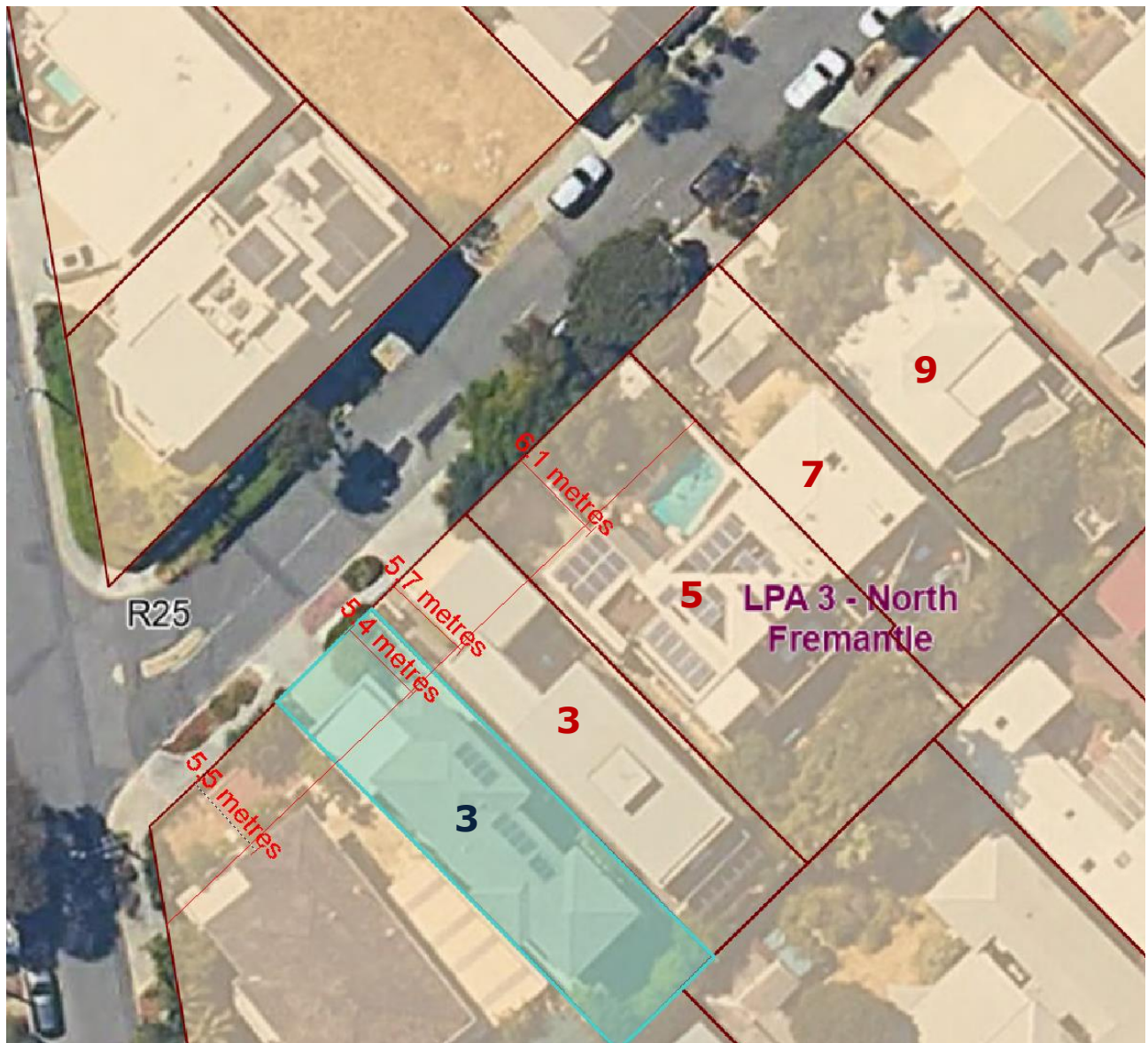


Figure 3 – Predominant lesser street setback along Ainslie Road.

On the basis of the above, the proposed ground floor street setback from the garage is considered acceptable and supportable under Clause 1.2 of LPP 2.9.

Upper Floor Setback

The upper floor setback is considered supportable for the following reasons:

- The proposed upper floor addition is consistent with the setback of the eastern adjoining property, being a building of comparable height with approximately a 2m street setback (see Figure 4).
- The upper floor street setback is considered a minor variation to the upper floor street setback requirement (1.4m variation), which can be considered a minor variation to the requirement of CI 1.2 LPP 2.9; in the context of the Ainslie Road streetscape.
- The upper floor addition is to be stepped back from the primary street to limit the dominance of the proposed structure and not result in a projecting element into the streetscape. The addition of visually permeable balustrading to the proposed balcony will open up the upper floor to address the street and increase visual surveillance.



Figure 4 – Primary Street setback – Eastern adjoining neighbour to 3A Ainslie Road.



In accordance with the above, the proposed upper floor setback is considered acceptable in this instance under Clause 1.2 of LPP 2.9.

Boundary setback

Element	Requirement	Proposed	Extent of Variation
North-West Boundary (UF)	2.1m	1.7m	400mm

The proposed lesser setback addition is considered to meet the Design principles of the R-Codes in the following ways:

- The proposed lesser setback will not cause a detrimental impact by way of building bulk of the adjoining property (2 Rule Street), as the upper floor addition is stepped back (1.7m) from the side boundary and incorporates an unroofed balcony so as to reduce visual mass when viewed from this affected property to the west.
- Despite the lesser setback proposed, the variation will be located adjacent to the rear elevation of the neighbouring property which doesn't have any existing major openings to habitable rooms, nor will it abut any sensitive outdoor living areas with majority of the wall abutting secondary street setback area of this adjoining property (see Figure 5 below).
- The revised development plans have provided a screening device extending along the western end of the upper floor balcony which will restrict any overlooking onto any existing sensitive habitable areas or openings of the neighbouring property (2 Rule Street).



Figure 5 – Lot boundary setback – impact on Western adjoining property (2 Rule Street).

On the basis of the above, the proposed lot boundary setback variation from the upper floor balcony is considered acceptable in this instance under Clause 5.1.3 of the design principles of the R-Codes.

Building Height

Element	Requirement	Proposed	Extent of Variation
Building height – Local Planning Scheme No. 4 LPA3 – North Fremantle	5.5m external wall height	5.4m - 6.5m	Up to 1.0m

The portion of the proposed development which seeks the wall height discretion is shown below in yellow.



The proposal varies the maximum permissible building height prescribed by the North Fremantle Local Planning Area LPS4 provisions. As such the additional building height needs to be assessed under the discretionary criteria of clause 4.8.1 (variation to height requirements), which are as follows:

- (a) *the variation would not be detrimental to the amenity of adjoining properties or the locality generally,*
- (b) *degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality,*
- (c) *conservation of the cultural heritage values of buildings on-site and adjoining, an*
- (d) *any other relevant matter outlined in Council's local planning policies.*

On the basis of the above, the additional building height is supported under clause 4.8.1 of the LPS4.

With regards to subclause (a), the proposed upper floor addition is located so as to limit the extent of overshadowing owing to the adjoining neighbour to the west and meets the deemed-to-comply criteria of the R-codes for the overshadowing of adjoining sites. The extent of overshadowing to the southern adjoining property is demonstrated in Figure 7 (see blue circle) showing a minimal impact on the major openings.

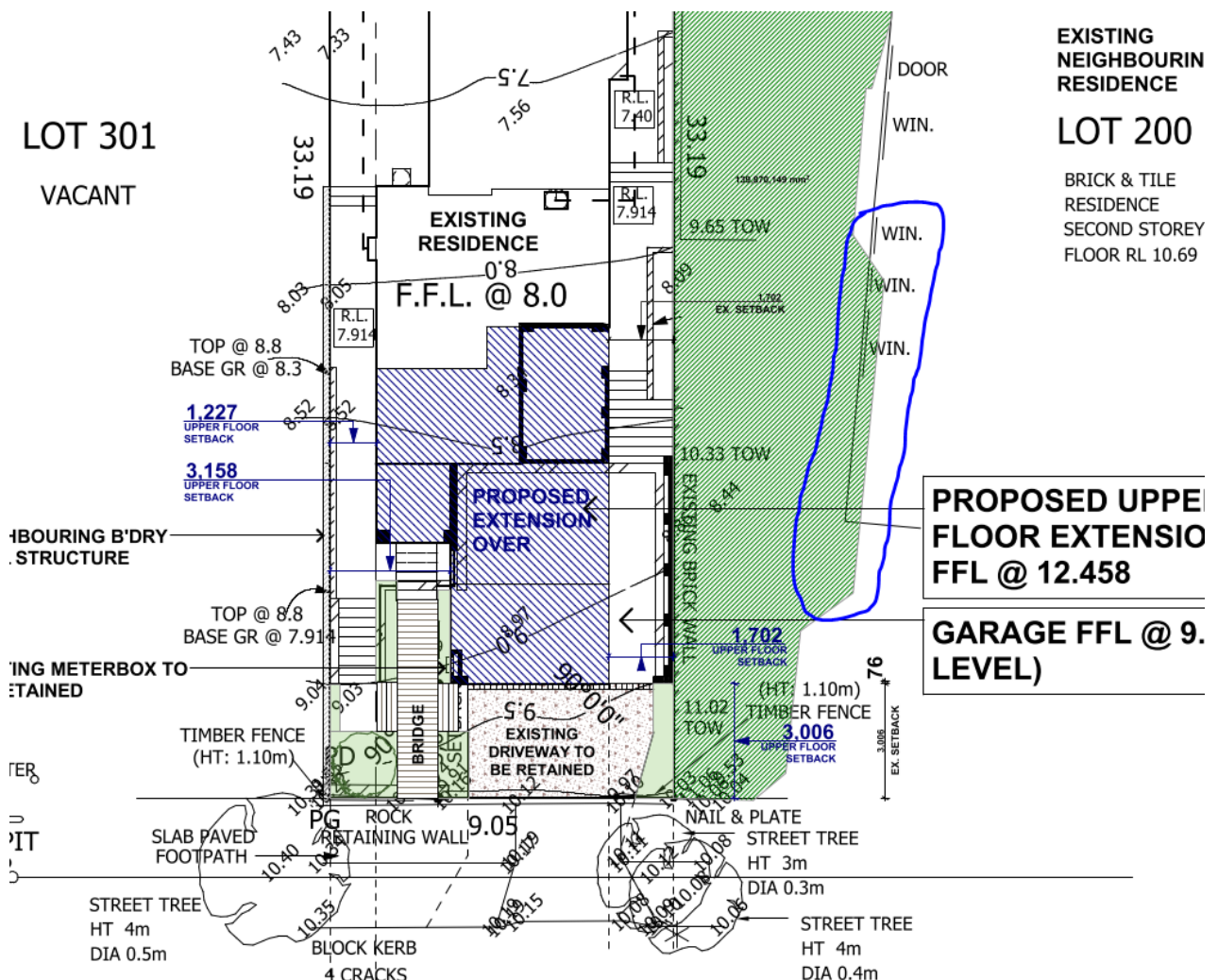


Figure 7 – Overshadowing diagram and impact on southern adjoining property.



In relation to subclause (a), the proposed additions and alterations is to be designed in a way to limit building bulk and mass when viewed from the street, by stepping the upper floor back and incorporating an upper floor balcony to limit the dominance of the proposed garage structure. The upper floor balcony will be provided with privacy screening to the north west side of the balcony to limit the opportunity to overlook the secondary street yard of the adjoining property (No. 2 Rule Street), and also provide interaction between the streetscape and the upper floor addition.

With regards to subclause (b), this precinct of North Fremantle has multiple two storey developments scattered throughout, and therefore the graduation to the area will be complementary.

In relation to subclause (c), the proposed addition is not considered a contributory place within the North Fremantle Heritage Area and nor is it individually heritage listed, due to no heritage components being identified as significant as part of the existing dwelling. Further, the development will have limited impact on the Heritage component of the prevailing streetscape.

In relation to subclause (d) there are no specific planning policies specific to this site.

Visual Privacy

The revised plans submitted on 16 March 2023, detailed the proposed additions to meet the deemed-to-comply criteria for CI 5.4.1 of the R-Codes (Visual Privacy).

The sunroom and balcony addition to the upper floor of the dwelling is to be provided with privacy screening, to comply with the reduced setback for the cone-of-vision required for an outdoor living area (7.5m). Further, the sill height for major openings to the sunroom and balcony addition to the upper floor is proposed to be 1.6m above floor level to be compliant with CI 5.4.1.

A condition of screening to be imposed prior to the occupation of a building permit in accordance with the development approval.

LPP 3.6 – Heritage Areas

An assessment of the proposal against the relevant provisions of LPP 3.6 has been completed to ensure the development responds to the heritage significance of the North Fremantle Heritage Area and is done so in a sympathetic manner. The City's Heritage Officers' have deemed the existing dwelling as a 'non-contributory' place to the heritage value of the North Fremantle Heritage Area. The proposal is therefore consistent with the objectives and design guidance of LPP 3.6.



Element	Officer comment
General	
i. Alterations and additions in heritage areas should respond sympathetically to the heritage values of the area as a whole and that part of the heritage area in the vicinity of the proposed development, with changes designed and sited in a manner that retains, conserves, respects and complements the heritage significance of the place and area.	In accordance with the attached heritage comments, the proposed additions and alterations are considered to comprise changes to the place which are able to be supported.
Siting and scale	
viii. Additions to non-contributory buildings should maintain the scale, siting and form of the prevailing streetscape and so should be guided by the above criteria, but with some greater degree of flexibility.	The scale and siting of the proposed addition complements the adjacent buildings, while maintaining a contemporary built form and an innovative interpretation of the prevailing streetscape. The addition would not detract from the existing streetscape or adjacent buildings as it respects their scale and form.
Form	
i. Additions to places within a heritage area must respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape and existing building, without falsely mimicking heritage detailing.	The additions contribute to the streetscape in a positive manner, through a contemporary, sympathetic design. The immediate streetscape of Ainslie Road does not generally consist of a heritage component.
ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.	The built form on Ainslie Road is a mix of form and architecture so no real repetitive character exists.
iii. The treatment of additions in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. of an	The proposed additions are subservient to the main house in form. The garage is an existing element that will be reclad, with no change to the size or structure.



addition should relate to the existing contributory building and to its neighbours.	The upper floor addition is designed to reduce the dominance of building mass by stepping the floor back from the street and through a balcony to be provided with privacy screening.
iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.	The façade of the main dwelling will be maintained and extended as existing.
v. Contemporary addition designs should respond to, and interpret, the scale, articulation and detail of the existing and nearby buildings in a modern, innovative and sympathetic way.	In accordance with the building height assessment, the second storey addition is considered to appropriately address the height requirements applicable to the locality as discussed above.
Roofs	
i. Traditionally roof lines are a predominant element of the streetscape. Additions should respond to and reinforce the existing characteristics of a streetscape or neighbourhood with regards to plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.	The upper floor additions extend the original roof form and reinforce the existing streetscape.
Materials	
v. New materials, finishes and colours to non-contributory buildings and additions should enhance the character of the existing heritage fabric without visually dominating the streetscape or adjacent heritage buildings/ heritage fabric.	The upper floor additions complement the existing streetscape through the use of contemporary lightweight, materials and colours. The upper floor addition to increase glazing to provide transparency to the front elevation and reduce the dominance of the structure onto the existing streetscape.



CONCLUSION

In accordance with the above considerations, the proposed additions and alterations is considered to appropriately address the relevant statutory planning requirements of the LPS4, the R-Codes and relevant Council local planning policies and is therefore recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Additions and Alterations (Two Storey) to existing Single House at No. 3A (Lot 300) Ainslie Road, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 16 March 2023. 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 from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the balcony located on the north west elevation, is to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:**
 - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
 - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**



- c) a minimum sill height of 1.60 metres above the internal floor level,**

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

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

Advice Notes:

- i. A 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.**



PC2304-6 OLDHAM CRESCENT, NO. 39 (LOT 1339) HILTON – RE-CLADDING OF EXISTING SINGLE HOUSE (JZ DA0385/22)

Meeting Date: 5 April 2023
Responsible Officer: Acting Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for the re-cladding of an existing Single house at No. 39 (Lot 1339) Oldham Crescent, Hilton.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and Heritage Officers' comments received. The application seeks discretionary assessments against the Local Planning Policies. These discretionary assessments include the following:

- **External alterations to existing Dwelling (cladding)**

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for the re-cladding to an existing single house located within the Hilton Garden Suburb Precinct at No. 39 Oldham Crescent, Hilton. The proposed works include:

- Existing asbestos fibre-cladding to be removed and to be replaced with new weatherboard cladding.
- Existing weatherboard cladding to be removed and to be replaced with new weatherboard cladding.

Development plans are included as attachment 1.

Site/application information

Date received: 16 November 2022
Owner name: Donna Camelliri
Submitted by: Colin Reguero
Scheme: Residential R20
Heritage listing: Hilton Garden Suburb Precinct Heritage Area
Existing land use: Single house
Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

Nil required.



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 policy provisions and need to be assessed under the Design principles:

- Upgrading of existing dwelling (LPP3.7)

The above matters are discussed below.

Background

The subject site is located on the southern side of Oldham Crescent in Hilton. The site has a land area of approximately 1262m² and is currently an existing single storey single house. The site is zoned residential and has a density coding of R20. The site is not individually heritage listed; however, it is located within the Hilton Garden Suburb Heritage Area.

Oldham Crescent is characterised by its heritage significance and single storey housing, which have been deliberately designed in a manner to vary the materials and typology of the dwellings. The style of housing forms part of the streetscape which includes flat fibrous, asbestos sheeting and weatherboard dado.



Figure 1 – Existing Single House at No. 39 Oldham Crescent

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

- 29 August 2008 – DA216/08 – Single Storey House – planning application refused (under Council delegation) – design inconsistent with The City of Fremantle’s Planning Policy: D.G.H3: Hilton Local Area Planning Policy.
- 5 September 2008 – DA215/08 – Demolition of Existing House – planning application refused (under Council delegation) – proposal inconsistent with The City of Fremantle’s Local Planning Policy and Scheme.

Heritage Assessment

City Heritage officers have reviewed the recladding proposal, and provided the following comments in summary:

The "Hilton Garden Suburb Precinct" Heritage Area is of cultural heritage significance within the City of Fremantle as an example of a substantially intact 'Garden Suburb' dating from the immediate post World War 2 period and characterised by its curvilinear road layout, parks, large and irregular shaped lots. It has historical value as an area developed by the State Housing Commission to provide affordable housing at a time of increased housing demand in Australia, particularly to house new arrivals: returned servicemen and immigrants.

39 Oldham Crescent was constructed as a part of the first stage of development of Hilton Park. It is a Contributory Place within the Heritage Area.

When designing the garden suburb of Hilton, the State Housing Commission tried to create as much diversity between the houses as they could within



their limited budget and the materials available. Variation was achieved by using different house plans, cladding materials and paint colours. There were three cladding types used on the State Housing Commission designed timber houses in Hilton, asbestos sheeting, weatherboards, and asbestos sheeting with a weatherboard dado. Historic plans and photographs show how cladding types and house plans were alternated to create variety and also that there were many more asbestos sheeting and half weatherboard houses than those fully clad in weatherboards. To maintain the character and original design intent of the heritage area the variation in cladding type between houses needs to be retained.

Clause 5.1 from LPP 3.7 Hilton Heritage Area provides the opportunity to use modern materials with the same profile to achieve the same appearance as the original but meet modern performance requirements. This recognises the need to replace asbestos products because of their associated health risk and also the need for the periodic renewal of timber elements such as weatherboards. Under this clause Hardie Flex sheeting or similar can be used to replace the original asbestos sheeting and timber battens can be used to replace the horizontal asbestos cover battens. Also, compressed sheet products in a profile to match the original can be substituted for the traditional jarrah weatherboards. Hardies Linea Weatherboards or similar are a good match for the simple sawn boards (Feather edge) traditionally used on State Housing Commission houses built in the 1940s – 1960s.

Generally, the replacement cladding on Hilton houses should match the profile of the original cladding and also replicate other original details such as cover battens. The designs used in Hilton show the influence of popular styles of the time such as the Californian Bungalow and for elements that give the composition a horizontal emphasis. The horizontal cover battens are an important feature of the designs and need to be replicated as part of the cladding replacement.

As identified in the Heritage statement above, No. 39 Oldham Crescent, is deemed to be a Contributory Place within the Hilton Garden Suburb Heritage Area. As such, discretion has been given to the recladding of the existing house, granted it retains the same profile and detail as is already existing. However, the proposed recladding of the existing Single house, does not meet this requirement as it will not be replaced with 'like-for-like' cladding and as such will have a negative impact on the heritage values of 39 Oldham Crescent and the Hilton Garden Suburb streetscape.

As recommended, the applicant was provided the opportunity to submit amended plans addressing the Heritage comments made by the City. However, no amended plans were provided.



LPP 3.7 (Hilton Garden Suburb Precinct) provides that the upgrading of an existing dwelling shall conserve the architectural style and original external form of the dwelling as viewed from the street. The policy outlines that it may consider a variation to this requirement where the original dwelling is not identified as an original timber framed or brick dwelling constructed during the establishment of the Hilton Garden Suburb.

The existing dwelling at 39 Oldham Crescent, is considered to be part of the first stage of development of Hilton Park, due to its original cladding materials, paint and colour. Within this heritage area the original design of housing was varied to create variety within the streetscape and is what makes 39 Oldham Crescent a contributory place within the Heritage Area. The proposed recladding, however, seeks to alter the existing architectural style with an updated modern weatherboard cladding. Therefore, the proposed recladding is not supported by City Officers as the proposal would result in a negative impact to the cultural heritage significance of the property and greater heritage area.

Table 1 – Assessment against LPP 3.7 – Conservation (applicable to contributory places only)

Design Guidance	Officer's Comment
<i>i. External alterations shall conserve the overall architectural style and the original external form of the dwelling as viewed from the street but may include modern and/or contrasting materials.</i>	Proposed re-cladding is not considered to conserve the architectural style and original external form, using contrasting materials. The proposed re-cladding is inconsistent with the heritage value of the property, as it will not be a 'like for like' replacement to retain the distinctive character of the Hilton Heritage Area. The proposal is not supported by The City's Heritage Department.

CONCLUSION

In accordance with the above assessment, the proposal does not comply with the provisions of the relevant statutory planning requirements of LPS4 and relevant Council local planning policies and is therefore, recommended for refusal pursuant to Clause 5.1 of LPP 3.7.



STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Re-cladding of existing Single house at No. 39 Oldham Street, (Lot 1399), Hilton, for the following reasons:

- 1. The proposal does not comply with clause 67 (2k and 2l) of the Planning and Development (Local Planning Scheme) Regulations 2015 by reasons of being detrimental to the cultural heritage significance of the individual place and the Hilton heritage area in which the development is located;**
- 2. The proposal is inconsistent with the City of Fremantle's Local Planning Policy 3.7, as the proposed external alterations do not conserve the overall architectural style and the original external form of the dwelling as viewed from the street due to the recladding materials proposed to be used.**



PC2304-7 INFORMATION REPORT - APRIL 2023

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Responsible Officer: Acting Manager Development Approvals
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: Acting Manager Development Approvals
Agenda attachments: Nil

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

1. Application Reference
DAP001/22
Site Address and Proposal
Address – 34-38 Amherst Street, Fremantle.
Planning Committee Consideration/Decision
- At its meeting held on 23 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development. - The applicant opted to submitted revised plans which were presented to the Planning Committee at its meeting held 2 November 2022. The Planning Committee resolved to provide a comment to the JDAP that it did not support the development. - At its meeting on 23 November 2022, the Joint Development Assessment Panel (JDAP) resolved to refuse the development in accordance with the Committee's Recommendation.
Current Status
- Late December 2023 an Application for Review by the State Administrative Tribunal was lodged by the owner. - The matter is currently at mediation between JDAP and the applicant.



2. Application Reference
DAP003/22
Site Address and Proposal
130 Stirling Highway, North Fremantle – Proposed 23 storey mixed use development, comprising three (3) residential apartment towers (198 multiple dwellings) and various non-residential uses (restaurant, shop, tavern, office, reception centre and industry light)
Planning Committee Consideration/Decision
- At its meeting held on 2 November 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with additional emphasis on the sites significance as a former Ford Factory. - At its meeting on 14 November 2022, the Joint Development Assessment Panel (JDAP) resolved to defer determination of the development for 120 days, for the following reasons: - To consider more detail on the Coventry Parade access and roundabout and its implementation. - To consider North and South connectivity for vehicles, pedestrians and cyclists through the site, with regard to the link road through to McCabe Street. - To provide further detail on the contribution to regional road upgrades. - To address affordable housing and/or housing diversity. - To provide more detailed plans demonstrating how the recommendations of the pedestrian wind assessment are to be implemented. - To provide more detail on the likely development of Stage 2. - To review the treatment of the upper floor to the administration wing. - To review of the treatment of the 1929 saw tooth structure. - To submit an updated traffic impact assessment, modified to respond to the most recent request for further information from Main Roads WA. - To suitably address and respond to the significant shortfall in parking allocated to support the non-residential uses. - Further detail regarding the areas to be protected for public access, including a plan that shows the location of any proposed easements for public access. - Late February 2023 the applicant submitted revised plans and requested the application be assessed on its merits. - On 1 March 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with additional emphasis on the sites significance as a former Ford Factory.



- At its meeting on 16 March 2023, the Joint Development Assessment Panel (JDAP) resolved to refuse the development for the following reasons:
 1. The proposal is inconsistent with clauses 67(c), 67(g), 67(h), 67(m), 67(n) and 67(x) of the Deemed provisions as it is contrary to the maximum heights set out within Local Planning Policy 3.11 and would be detrimental to the amenity of the area by virtue of the excessive height and scale of the development, and incompatibility with the scale of development immediately adjoining and within the locality generally.
 2. The proposal is inconsistent with the Element Objectives of sections 2.2 and 2.5 of the Residential Design Codes Volume 2 by virtue of the excessive scale of development which does not reflect the existing or desired future scale of development within the local area, nor respond to the changes in topography in relation to the whole of the development area.
 3. The proposal is inconsistent with clause 67(t) of the Deemed Provisions as the proposal is deemed to have a significantly adverse impact upon the local road network in terms of traffic generation, flow, safety and street parking availability.
 4. The proposal is inconsistent with clauses 67(a) and 67(s)(ii) of the Deemed Provisions as it does not provide sufficient car parking and/or delivery/servicing bays for the non-residential component of the development as per Table 2 of the City's Local Planning Scheme No.4.
 5. The proposal is inconsistent with clauses 67(k) and 67(1) of the Deemed Provisions, Clause 4.14 of the City of Fremantle LPS4 and Local Planning Policies 1.6 and 3.6 due to the extent of demolition posed to the heritage fabric of the buildings of cultural significance on the subject site, being the former Ford Factory and the adverse impact upon the cultural heritage significance of the North Fremantle heritage area generally due to the height, scale and design of the development.
 6. Pursuant to advice from the City's Design Advisory Committee, a distinctive architecture for the design and melding with the proposed adaptive re-use of the significant heritage buildings on the subject site has not been achieved. As such, the proposal is not yet seen to satisfy the objectives and design principles outlined in State Planning Policy 7: Design of the Built Environment, Clause 78B(6) of LPS4 and LPP1.9 Design Advisory Committee and Principles of Design.
 7. The proposal is inconsistent with the design objectives and desired outcomes of the City's Former Matilda Bay Brewery Site Structure with particular regard to connectivity and traffic management, built form and heritage and character.



8. The proposal is inconsistent with clause 4.4.5 of the City Local Planning Scheme No.4 in terms of multiple dwelling diversity in that only 4.5% (9) of the proposed dwellings (192) have a floor area less than 60 square metres in lieu of the required 25 per cent minimum. 9. The proposal is inconsistent with the Element Objectives of section 3.2 of the R- Codes Volume 2 by virtue of the scale, massing and orientation of the three proposed towers on the subject site which will adversely overshadow properties to the south of the subject site and the proposed communal spaces within the development.
DAP006/22
Site Address and Proposal
Address – 15 McCabe Street, North Fremantle.
Planning Committee Consideration/Decision
• At its meeting held on 1 March 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to approve the development, with an additional advice note and conditions. • At its meeting on 16 March 2023, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with Council's Recommendation, but with modified conditions

OFFICER'S RECOMMENDATION

Council receive the following information reports for April 2023:

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



10.3 Council decision

Nil

11. Motions of which previous notice has been given

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

12. Urgent business

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

13. Late items

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

14. Confidential business

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

15. Closure