



Agenda

Planning Committee

Wednesday, 5 August 2020, 6.00pm

CITY OF FREMANTLE
NOTICE OF A PLANNING COMMITTEE MEETING

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday, 5 August 2020** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read 'JK', is positioned above the typed name and title.

Julia Kingsbury
Acting Director Strategic Planning and Projects

31 July 2020

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CITY OF FREMANTLE

Planning Committee

Agenda

1. Official opening, welcome and acknowledgement

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

2. Attendance, apologies and leaves of absence

Cr Rachel Pemberton is an apology

3. Disclosures of interests by members

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

4. Responses to previous questions taken on notice

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

5. Public question time

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

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

6. Petitions

Petitions to be presented to the committee.

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

7. Deputations

7.1 Special deputations

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

7.2 Presentations

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

8. Confirmation of minutes

OFFICER'S RECOMMENDATION

The Planning Committee confirm the minutes of the Planning Committee meeting dated 1 July 2020.

9. Elected member communication

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

10. Reports and recommendations

10.1 Deferred items

Nil

10.2 Committee delegation

PC2008 - 1 FREEMAN LOOP, NO. 23 (LOTS 1 AND 2 SP 69777), NORTH FREMANTLE – ALTERATIONS AND CHANGE OF USE TO SMALL BAR (UNITS 1 AND 2) – (NB DA0146/20)

Meeting Date:	5 August 2020
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Development Plans
Additional information:	1. Herring Storer Acoustic Report (Applicants Submission) 2. Reverberate Acoustic Report (Submitters Submission) 3. Noise Management Plan 4. Schedule of Submissions 5. Applicant Response to Submissions (Applicants Submission) 6. Herring Storer Response to Reverberate Report (July) 7. Site photos

SUMMARY

Approval is sought for a change of use to a Small Bar and internal alterations to two ground floor units at 23 Freeman Loop, 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) and Local Planning Policies. These discretionary assessments include the following:

- Land use
- Car parking

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use to Small Bar within units 1 and 2 of Freeman Loop. The proposal details are as follows:

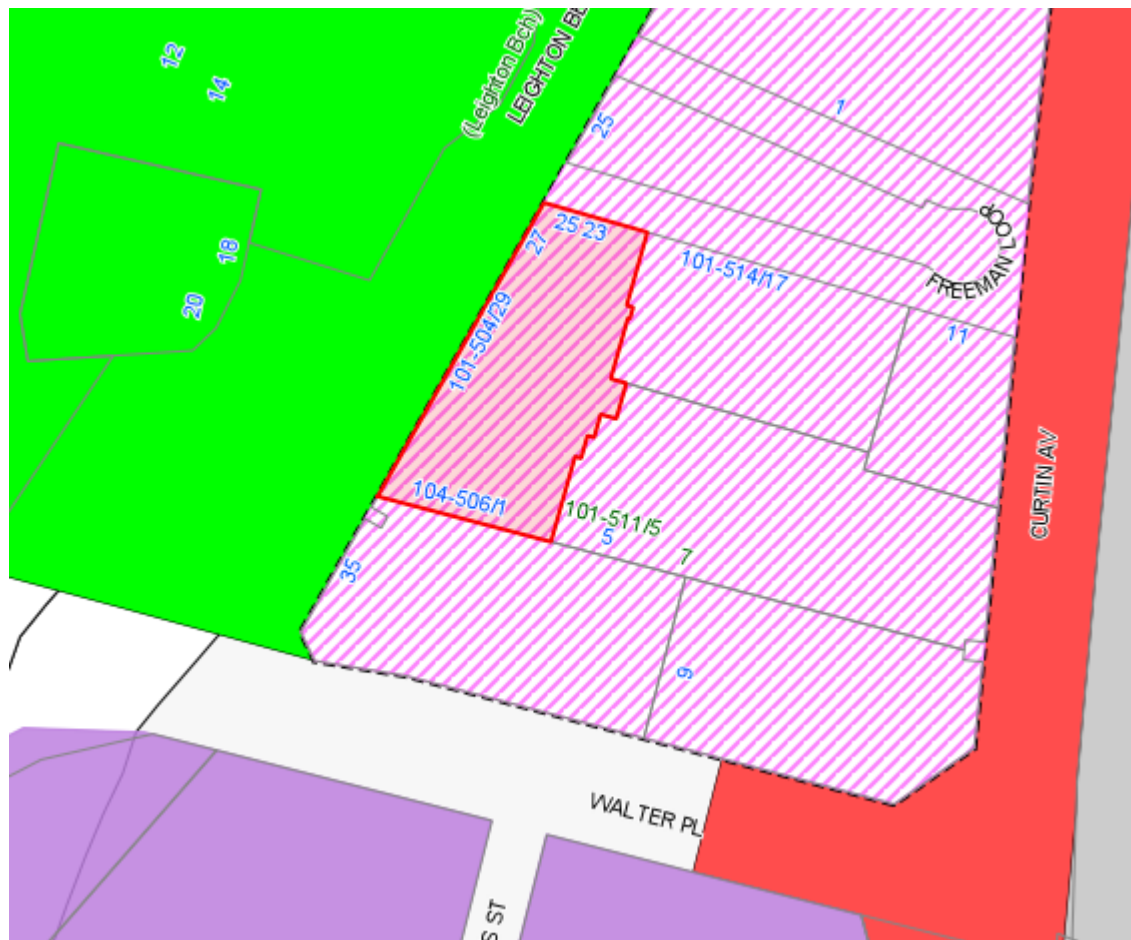
- Amalgamation of the two units and a small bar fitout.
- Liquor licensing hours of:
 - Sunday to Thursday 11am to 10pm
 - Fridays and Saturdays 11am to 11pm
 - Good Friday and Christmas Day 12 noon to 10pm
 - ANZAC Day 12 noon to 10pm
 - Venue may be open prior to the above hours for non-licensed coffee and breakfast services but not prior to 7am.
- Anticipated number of staff members is between 5 and 10 based on seasonal demand.

- No take-away liquor sales.
- Two onsite car bays are available within the building for employees.
- An alfresco area for seating *[Note: This alfresco area is outside the boundaries of the lot and does not form part of this approval. A separate alfresco application is required.]*

Development plans are included as attachment 1.

Site/application information

Date received:	29 April 2020
Owner name:	Freo Holdings (Aust) Pty Ltd
Submitted by:	Freo Holdings (Aust) Pty Ltd
Scheme:	Development Area DA5
Heritage listing:	North Fremantle Heritage Listed
Existing land use:	Shop
Use class:	Small Bar
Use permissibility:	Not listed – Development Zone



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the scheme and policies. The advertising period concluded on 23 May 2020, and 82 submissions were received. Of those submissions, 51 were in full support. Seven (7) submissions were conditionally supportive and 24 submissions opposed the application. The following issues were raised (summarised):

- Concerns about patron numbers.
- Concerns about patrons smoking, vaping, etc. outside the venue.
- Concerns about noise, particularly late at night, from the following:
 - Patrons eating on the alfresco area
 - Music from the speakers
 - Noise from inside spilling out when doors are open
 - Patrons gathering and talking outside the restaurant after closing
 - Noise from waste disposal and collection, and supply deliveries
 - Noise from staff cleaning up after hours
- The acoustic report does not capture patron conversation, which is likely to be the main cause of noise disturbance to nearby residences.
- Lack of parking is already problematic within the area and this use will increase demand.
- There are already three licensed premises within the area and there is no need for another one.
- A Small bar use is too intensive and will spoil the amenity, ambiance, and expected lifestyle of residents in adjoining units.
- Hours of operation should be more limited to reduce amenity impacts on residential units.
- The Small bar does not have strata approval and is inconsistent with the strata bylaws.
- The building does not provide adequate soundproofing from non-residential units.

Submissions in support raised the following comments (summarised):

- A Small bar will be great for the area and add vibrancy.
- Provides locals with a convenient place to dine and diversifies the existing range of options.
- The noise issues have been addressed sufficiently.
- We have always understood there would be a restaurant or bar here eventually and are supportive of the proposal.
- Having this venue will enhance the sense of community and provide a spot for locals to gather.

A full schedule of submissions is included as Attachment 4. A group of residents within the building also commissioned Reverberate to provide a Noise Impact Assessment, which is included as Attachment 2 and further discussed below.

In response to the above, the applicant submitted the following response:

- Submitted a waste management plan
- Response to applicant submissions and acoustic report, included as Attachment 5 and summarised as follows:
 - The development will function more as a higher end Restaurant, with meals encouraged.
 - The liquor license limits occupancy (including the alfresco) to 120 people.
 - Noise from patrons and staff clean up can be appropriately managed, and the Herring Storer acoustic reports demonstrate that the development will comply with the Environmental Protection (Noise) Regulations at all times.
 - The contract of sale for the apartments advised residents that the ground floor non-residential uses could include a Small bar. Those residents therefore should expect a degree of noise not otherwise associated with a purely residential development.
 - It is submitted that the proposed development would be unlikely to cause undue disturbance to its neighbours or breach noise regulations. To the contrary, it would be associated with significant community benefits and would improve the amenity of the area.
 - The development would comprise a logical and appropriate extension of the existing development and planning objectives for the development area. The proposed development will provide additional amenity for local residents and persons visiting the area.
- Closing times for the entire venue, modified as follows:
 - Sunday- Thursday: Now 10.00pm
 - Friday - Saturday: Now 11.00pm
- Closing times for the alfresco area, modified as follows:
 - Sunday- Thursday: Now 9.00pm
 - Friday - Saturday: Now 10.00pm
- Clarification of entertainment restrictions:
 - There will be no amplified music in the alfresco area at any time.
 - The only amplified music played inside the venue at any time will be via the in-house sound system. There will be no televisions, DJ's or live bands or performers
 - Speakers to be resiliently mounted in the venue
 - A sound limiter will be installed for the in-house sound system, calibrated to ensure a maximum volume of 80 dB(A) throughout the internal areas.
 - No amplified music will be played in the alfresco area at any time.
- Premises plans modified to incorporate additional acoustic attenuation measures, as follows:
 - The size of the bin room increased to accommodate all bins and a glass waste crusher.
 - Bin room acoustically treated and sealed to prevent the escape of noise.
 - Automatic door closing systems installed on all external doors

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

- Strata approval is separate legislation from planning approval and is assessed as an independent process. It is possible to get approval from one without the other; however, both approvals are required.
- Patron numbers are limited to 120, and operating hours for licensed service are limited to the proposed times as required by the liquor licensing restrictions for a Small bar.

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 most significantly in relation to land use and car parking on the site. The relevant assessment criteria are discussed below.

Background

The subject building is located on the corner of Leighton Beach Boulevard and Freeman Loop in North Fremantle. The site is zoned Development Area DA5 and the units form part of an existing five storey Mixed use development with residential units above the ground floor. The subject units are the ground floor unit on the corner and the adjacent unit fronting Freeman Loop. The lots have a combined area of approximately 247m² and are currently a Shop. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

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

- At its meeting of 14 October 2014, the Metro South-West Joint Development Assessment Panel (JDAP) approved an application on the subject site for four, five storey mixed-use buildings comprising a total of 207 multiple dwellings and three commercial tenancies (DAP80003/14). The three ground floor tenancies were shown on the approved plans as being 'Retail' in use, however with potential for future changes in use over time. Two of these retail tenancies, located on the corner of Leighton Beach Boulevard and Freeman Loop, are the subject of this change of use application.
- At the 4 April 2018 Planning Committee meeting, the Planning Committee conditionally approved a change of use to Small Bar in units 2 and 3 (as opposed to the current proposal within units 1 and 2). The application (Ref DA0570/17) has not been acted upon and is still valid. Applicants would be unable to act on both DA0570/17 and the current application (effectively turning all 3 units into one or more Small bars) as they are separate and distinct applications in conflict with each other.

Land Use

Land use provisions are outlined under Development Plan 17 of LPS4. In general terms, the development plan encourages a mixture of commercial and residential land uses within the Leighton Beach area, with specific design standards that aim to promote active uses at ground level to strengthen the connection between the railway station and the beach.

There are no specific use provisions for a Small bar within this development area. A Small bar was not a land use defined under the City's Local Planning Scheme during the planning of this area (circa 2004) as a Small bar category of liquor licence was only introduced in 2007 when the Liquor Control Act was amended. The City's Local Planning Scheme was subsequently amended in 2009 to include a Small bar land use definition and relevant provisions.

The subject site is specifically located within an area noted as DP3A on the precinct development plan, which includes 'preferred' uses of Restaurant and Shop as well as 'potential' uses which include Tavern, Amusement Parlour and Fast Food Outlet.

With regard to considering a use not listed within this development area, Clause 5.2 of Development Plan 17 states that uses which are not listed as 'preferred' or 'potential' uses can be considered at the discretion of the City. The City has previously considered and approved two applications for Small bars within the Leighton Beach precinct, one at units 2/3 of 23 Freeman Loop as noted above, and another across the street at No. 1 Freeman Loop in 2010, which was not acted upon and is currently a Restaurant use.

The primary differences between the previously approved Small bar within units 2 and 3, and the current proposal within units 1 and 2 is shown in the table below:

Element	Approved in DA0570/17	Currently Proposed
Operation	Operates as a shop/café during the day, and a Small bar after 4pm.	Operates as a café outside of liquor licensing hours, and a Small bar the remainder of the time.
Maximum capacity	75 patrons	120 patrons
Indoor seating area	~45 sqm (remainder is back of house and retail)	~95 sqm
Hours	6.30am - 11.00pm Monday to Thursday 6.30am -12 midnight Friday 7.00am -12 midnight Saturday 7.00am -10pm Sunday	7.00am – 10.00pm Sunday to Thursday 7.00am – 11.00pm Friday and Saturday

The applicant's acoustic report (Attachment 1) concludes that the noise received at the neighbouring premises would comply with the regulatory requirements at all times subject to the following conditions:

- Internally, music to be limited to background noise levels of a maximum of 80 dB(A) throughout the venue. Doors are to remain "normally closed" (i.e. not propped open)
- Music within any external alfresco area is to be limited to 65 dB(A) for the Sunday and evening periods. Music during the night period or before 7am Monday to Saturday and before 9am on Sundays and Public Holidays, is not allowed. Speakers are to be positioned where the building structure provides the maximum barrier affect to neighbouring apartments.

The report further finds:

- **SPEAKERS:** The mounting of any speakers are to resiliently mounted and not directly mounted (bolted) to the wall or ceiling.
- **EMPTYING OF GLASS INTO RUBBISH BINS:** From information provided, we understand that the emptying of glass into rubbish bins has been raised as one of the concerns relating to noise. However, we note that for this development the commercial bin store is located internally, within the development. Thus, any noise would be contained within the bin store and would not be received at the neighbouring premises.

A group of residents commissioned Reverberate to review the applicant's report and carry out a further acoustic report (Attachment 2). Their findings are as follows:

- The proposed external patron numbers (i.e. 30 patrons) are likely to generate environmental noise which exceeds the Environmental Protection (Noise) Regulations 1997.
- The proposed internal patron numbers (i.e. 120 patrons) are likely to generate environmental noise which exceeds the Environmental Protection (Noise) Regulations 1997.
- Insufficient attention has been paid to controlling this noise to meet acceptable limits.
- A series of discrepancies were found in the Herring Storer acoustics environmental noise report which cause the true noise impact to be greater than forecast by HAS.
- Substantial differences exist between recommendations in the acoustic report and the proposed Noise Management Plan such that the overall noise impact of the bar will be greater than that presented in this report.

Herring Storer provided a response (Attachment 6) to the Reverberate report, which addresses each point raised above, and concludes (summarised):

- Hours and venue design have been amended in consultation with the council of owners (see applicant's response to comments above).
- Amplified music will not be played in external areas, and there will be no live music, DJs, TVs, or similar entertainment.
- The minor discrepancies identified do not impact compliance with Regulations and, particularly when assessed against the amendments, the venue will operate within regulatory limits.

The City's Environmental Health Officers have reviewed all three reports and conclude:

The Herring Storer Report from July is considered satisfactory to permit development. The proposal is supported subject to the following:

- 1. The installation and practices regarding amplified music is to be in accordance with the HSA July and the Leighton Beach Bar's Noise Management Plan, dated 9 July 2020.*
- 2. Noise is monitored after opening and a report submitted to the City demonstrating that the noise emitted from the premises complies with the Environmental Protection (Noise) Regulations 1997 (Regulations). Monitoring should occur within the neighbouring noise sensitive premises to the south and the noise sensitive premises above the development, at the discretion of the occupiers of these premises.*
- 3. If the noise from the development is found to exceed the levels permitted by the Regulations, further actions are taken to ensure compliance with the Regulations.*

City Officers are of the opinion that the noise can be managed subject to conditions of approval in regard to hours of operation and compliance with the submitted Noise Management Plan. It is noted in all reports that patron conduct upon leaving the venue (loud voices, slamming of car doors, etc.) is not captured in acoustic reporting, even though these noises have the potential to cause disturbance. There is only a limited amount of control venue operators can exercise on patrons after they exit in regard to noise and other impacts such as smoking. This is true for any commercial endeavour, but the reduced operating hours go some way to mitigating late night impacts.

As food will be served to patrons, the operation will be similar in nature to a Restaurant use, which is a 'preferred' use in the zone. Additionally, the business will have a lesser impact than a Tavern use, which is a 'potential' use within the zone. These uses are intended to facilitate the dining opportunities within the locality and are in accordance with the social and economic aims of policy DGN 14: Leighton Design Guidelines, which seek to create a proud and vibrant place and achieve the highest level of economic activity and employment opportunity by encouraging commercial uses.

It is noted that some residential units, particularly those located directly above the Small bar, may be more impacted than other units. Given that the ground floor tenancies were approved and intended to be used for non-residential uses, there was always a degree of potential noise and disturbance expected for the nearby dwellings. Conditions on operating hours and adherence to a Noise Management Plan and a Waste Management Plan, as well as the restriction on hours, will allow the Small bar to operate on a similar level as a Restaurant and with minimal amenity impact. Therefore, any noise generated will be in keeping with the context of the locality in regard to nearby hospitality venues and the intended activation and use of the development.

Car parking

Element	Requirement	Proposed	Extent of Variation
Small bar	1: 2.5 m ² of public bar area (42m ²) and 1: 5 m ² of lounge /garden area (53m ²) =27 car bays	2 car bays	25 car bays
Shop (Current Approved Use)	1:20m ² = 12 car bays	2 car bays	10 car bays
Approved Shop and Small bar of Units 2 and 3 (DA0570/17)	13 – based on 43.6m ² of café seating area and 67.2m ² of shop net lettable area (day time café and shop) 11 – based on 3.5m ² of public bar area and 45.3m ² of seating area. (night time Small bar use)	2 car bays 2 car bays	11 car bays 9 car bays

As detailed in the table above, a car parking shortfall of approximately 9 bays was approved with the original development application in 2014. Taking into account the existing shortfall, the current application proposes a further shortfall of 15 bays.

It is noted that clause 5.7 of the Leighton Beach Development Plan states that resident or employee parking is to be provided within basement or undercroft parking areas and customer parking is encouraged to be provided on the street. In addition, Clause 2.1.4 of Development Plan 17 states that in relation to transportation, reduced on-site parking requirements are to be encouraged as an incentive for the use of the available public transport services within the locality.

The subject tenancy is located in close proximity to the Fremantle train line, and public car parking at Leighton Beach. There are also public cycle facilities in close proximity and a number of dual use bike and pedestrian paths. As such there will be opportunity for staff and users of the Small bar to utilise off-site car parking, or alternative transport methods.

It is acknowledged that public parking in the Leighton Beach area is difficult, particularly during peak periods in the summer. However, the proposal comprises two units within an existing development, allowing no opportunity for construction of further onsite parking bays. The area is also bound by a major road and railway line to the east, and Open Space Reserves along the coast to the west, further diminishing any opportunities for public parking to be provided. The lack of street parking is a well-known and ongoing concern within the area but, conversely, may also act as a detractor to visitors for the Small bar during these same peak periods, as visitors are aware that they may be unable to find parking. In these periods, the Small bar is likely to be patronized by locals and

people using alternate forms of transport rather than act as an additional attractor for people solely intending to visit the bar.

CONCLUSION

There is likely to be some amenity impacts to immediately adjoining dwellings as well as an impact to street parking availability, however, these impacts are, to a degree, to be expected within a mixed use development and can be managed appropriately. It is considered that a sufficient balance has been struck between activating the space for the benefit of the wider area and any detrimental impacts to neighbours.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle
- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, alterations and change of use to Small bar (units 1 and 2) at No. 23 (Lots 1 and 2) Freeman Loop, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 July 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Notwithstanding Condition 1, this development approval does not relate to any works within the road reserve, including the proposed alfresco dining area.**
- 3. The hours of operation be limited to:**
 - 7.00am – 10.00pm Sunday to Thursday
 - 7.00am – 11.00pm Friday and Saturday

4. The development is to adhere to the approved Noise Management Plan (Dated 9 July 2020) for the life of the development and to the satisfaction of the City of Fremantle.
5. Prior to issue of a building permit, the owner/applicant is to submit a Waste Management Plan to be approved by the City of Fremantle. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.
6. The installation and practices regarding amplified music is to be in accordance with the Herring Storer Acoustic Report (July) and the Leighton Beach Bar's Noise Management Plan, dated 9 July 2020. Specifically:
 - a) Internally, music to be limited to background noise levels of a maximum of 80 dB(A) throughout the venue. Doors are to remain "normally closed" (i.e. not propped open).
 - b) No amplified music source is permitted outside of the venue (ie: in the alfresco area) at any time.
 - c) No live music, DJs, TVs, or similar are permitted to perform on the premises
 - d) Speakers to be resiliently mounted in the venue.
 - e) A sound limiter to be installed for the in-house sound system, calibrated to ensure a maximum volume of 80 dB(A) throughout the internal areas.
7. Within 60 days after occupation, noise is to be monitored and a report submitted to the City demonstrating that the noise emitted from the premises complies with the Environmental Protection (Noise) Regulations 1997 (Regulations). Monitoring should occur within the neighbouring noise sensitive premises to the south and the noise sensitive premises above the development, at the discretion of the occupiers of these premises. If the noise from the development is found to exceed the levels permitted by the Regulations, further actions are taken to ensure compliance with the Regulations to the satisfaction of the City of Fremantle.

ADVICE NOTES

- i. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at health@fremantle.wa.gov.au.
- ii. The proponent must make application during the Building Permit application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

- iii. **A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**

PC2008 - 2 COLLICK STREET, NO. 84 (LOT 214), HILTON - TEN MULTIPLE DWELLINGS (AGED AND DEPENDENT PERSONS DWELLINGS) AND HOSPITAL (TWO STOREY RESIDENTIAL AGED CARE - HIGH CARE FACILITY) - (TG DAP003/20)

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 2. Schedule of Submissions
3. Site Photos

SUMMARY

Approval is sought for the addition of a two-storey development at No. 84 Collick Street, Hilton (the subject site), the existing Foley Village. The proposal is for the development of the vacant portion of the existing site, previously known as Stage 3 and comprises ten Multiple Dwelling apartments facing the existing dwellings on site and a two storey Hospital (High Care Residential Aged Care). The application is to be determined by the Metro Inner South Joint Development Assessment Panel (JDAP) and is therefore presented to Planning Committee (PC) for comment prior to determination.

The land uses have been considered in accordance with Local Planning Scheme No. 4 (LPS4) and accordingly the Multiple Dwelling portion of the development must be assessed against the Residential Design Codes Volume 1 (R-Codes) as the subject site is coded R20/R25.

The application is considered to address the relevant statutory provisions relating to the development of the site and is therefore recommended for approval, subject to conditions.

PROPOSAL

Detail

Approval is sought for a two-storey development on a currently vacant portion of the existing Foley Village, an existing retirement village. The applicant has described the proposal as "aged care and transitional residential units". The site is reserved under LPS4 as a Community Facility (Private Hospital) Reserve and is currently occupied by Foley Village, being eighty-six (86) independent living units and a respite centre. The development is valued at \$19 million and accordingly the development is to be determined by the JDAP.

The proposed plans comprise the following:

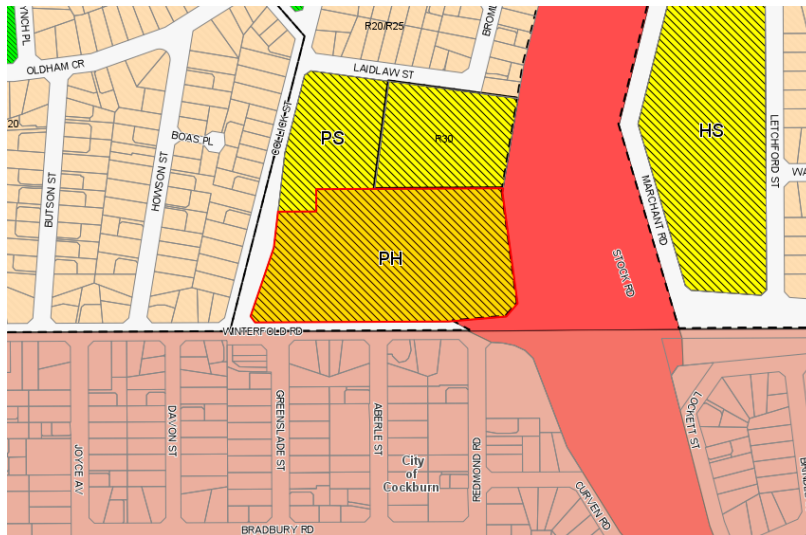
- On site car parking for 55 bays, including bays dedicated to the transitional residential units, 25 visitor parking bays, and 17 staff parking bays.
- Loading bays and pick up/drop off area.
- Ground floor –
 - Five, two-bedroom multiple dwelling units.
 - Carports.
 - 36 aged care bedrooms including 16 high care, 18 memory support (dementia ward) and 2 bariatric beds.
 - Reception, waiting area, nursing posts, meals, dining and lounge rooms, kitchen and waste store, office and meeting room.
 - Support services including hairdresser, chapel and consultation room for visiting health practitioners.
- Upper floor –
 - Five, two-bedroom multiple dwelling units.
 - 36 aged care beds, including 34 high care and 2 bariatric beds.
 - Nursing posts, meals, dining and lounge rooms, multipurpose activity rooms and laundry.
- Relocation of the existing telecommunications tower located in the northeast corner of the site onto the proposed building.

The 72-bed aged care facility is proposed to provide 24 hour nursing care to aged residents. The building is designed to provide specialist care to memory support/dementia residents (including a secure walking circuit). The ‘transitional residential unit’ Multiple Dwellings are integrated into the southern portion of the building. The dwellings have two bedrooms and two bathrooms and are designed to provide assisted living to residents transitioning into the high care facility. The site is also proposed to be landscaped.

Further detail about the land use is included in the RAR attached.

Site/application information

Date received:	22 May 2020
Owner name:	Southern Cross Care
Submitted by:	Element
Scheme:	Community Facilities (Private Hospital) Reserve
Heritage listing:	Not individually listed
Existing land use:	Grouped dwellings
Use class:	Multiple Dwelling and Hospital
Use permissibility:	N/A



OFFICER'S RECOMMENDATION

The Planning Committee acting under delegation 1.1:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Ten Multiple Dwellings (Aged and Dependent Persons Dwellings) and Hospital (Two Storey Residential Aged Care - High Care Facility) development at No. 84 (Lot 214), Collick Street, Hilton, subject to the conditions outlined in the responsible authority report.

Form 1 – Responsible Authority Report
(Regulation 12)

Property Location:	No.84 (Lot 214) Collick Street, Hilton
Development Description:	Two storey development comprising aged care and transitional residential units.
DAP Name:	Metro Inner South
Applicant:	Element
Owner:	Southern Cross WA Aged Care Inc.
Value of Development:	\$ 19 Million
LG Reference:	DAP003/20
Responsible Authority:	City of Fremantle
Authorising Officer:	Manager Development Approvals
DAP File No:	DAP/20/02791
Report Due Date:	5 August 2020
Application Received Date:	21 May 2020
Application Process Days:	90 Days
Attachment(s):	1: Location Plan 2: Development Plans and Elevations 3: Schedule of Submissions. 4: Council Minutes. 5: Applicant Reports 6: Site Photos

Officer Recommendation:

That the Metro Inner South JDAP resolves to:

Approve DAP Application reference DAP/20/02791 and accompanying plans 3174 01-12 and C1 101 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City Of Fremantle Local Planning Scheme No. 4, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

Conditions

- 1. This approval relates only to the development as indicated on the approved plans dated 22 May 2020. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.**
- 2. Prior to for the issue of a building permit, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.**

3. Prior to the issue of a building permit for the development hereby approved, details are to be submitted and approved by the City of Fremantle that demonstrate that the development incorporates the noise mitigation measures listed in the recommendations of the Marshall Day Acoustics report dated 20 July 2020 to the satisfaction of the City of Fremantle.
4. Prior to Occupation for the development hereby approved, a notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the certificate of title for the subject lot. The notification shall be at the owner/applicants' expense and lodged with the Registrar of Titles for endorsement. The notification is to state as follows:

'This lot is in the vicinity of a transport corridor and is affected, or may in the future be affected, by road and rail transport noise. Road and rail transport noise levels may rise or fall over time depending on the type and volume of traffic.'
5. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be registered against the Certificate of Title to the land the subject of the proposed development, advising the owners and subsequent owners of the land of restrictions that apply to the use of the Multiple dwellings (Transitional Residential units) for Aged and dependent persons' dwelling. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties.
6. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
7. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste including collection times
 - Additional management requirements to be implemented and maintained for the life of the development.The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.
8. Prior to the occupation of the development hereby approved, all car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.

9. Prior to the issue of a Building Permit for the development hereby approved, **eleven (11) Class 2 and two (2) Class 3 bicycle racks** (As defined in LPS4) shall be provided for the Hospital building, to the satisfaction of the City of Fremantle. Prior to occupation of the development the approved bicycle racks must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle
10. Prior to the issue of a Building Permit for the development hereby approved, **one male and one female or two unisex** end of trip facilities shall be provided for the Hospital building, to the satisfaction of the City of Fremantle. Prior to occupation of the development the approved end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.
11. Prior to the issue of a Building Permit for the development hereby approved, **eleven (11), lockers** shall be provided for the Hospital building, to the satisfaction of the City of Fremantle. The facilities must thereafter be retained for the life of the development to the satisfaction of the City of Fremantle.
12. Prior to the occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.
13. Prior to the issue of a Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.
14. Prior to the issue of a Building Permit for the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:
 - a) Use of City car parking bays for construction related activities;
 - b) Protection of infrastructure and street trees within the road reserve;
 - c) Security fencing around construction sites;
 - d) Gantries;
 - e) Access to site by construction vehicles;
 - f) Contact details;
 - g) Site offices;
 - h) Noise - Construction work and deliveries;
 - i) Sand drift and dust management;
 - j) Waste management;
 - k) Dewatering management plan;
 - l) Traffic management; and

m) Works affecting pedestrian areas.

The approved Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

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

Advice Notes

- i. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.
- ii. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- iii. Prior to the issue of a building permit, the development is to comply with the applicable construction requirements as prescribed in Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas, to the satisfaction of the City of Fremantle. Specifically, the requirements set out under Section 5 – Construction for Bushfire Attack Level [LOW] are to be met accordingly. There is also a requirement to provide a Bushfire Attack Level (BAL) assessment by an appropriately accredited professional. The BAL will determine the severity of a building’s potential exposure to ember attack, radiant heat and direct flame contact, and is also the basis for determining the requirements for construction to improve protection of building elements from attack by bushfire.
- iv. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City’s web site via <http://www.fremantle.wa.gov.au/development/policies>. A copy of the City’s Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via: <https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf> The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999.

- v. The proponent must make application during the Building Permit application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- vi. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- vii. The premises must comply with the Hairdressing Establishment Regulations 1972. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- viii. Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.
- ix. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.
- x. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).

Details: outline of development application

Insert Zoning	MRS:	Urban
TPS:		Community Facility (Private Hospital) Reserve
Insert Use Class:		Multiple Dwelling (Aged and Dependent Persons Dwellings) and Hospital (Residential Aged Care)
Insert Strategy Policy:		N/A
Insert Development Scheme:		Local Planning Scheme No. 4
Insert Lot Size:		39,520m ² (overall site)
Insert Existing Land Use:		Grouped Dwellings (Aged and Dependent Persons Dwellings).

Approval is sought for the construction of a two-storey building on a currently vacant portion of the existing Foley Village, an existing retirement village. The applicant has described the proposal as being a “two storey development comprising aged care and transitional residential units”. The proposal also results in the relocation of an existing telecommunications tower on site.

The site is reserved under Local Planning Scheme No. 4 (LPS4) as a Community Facility (Private Hospital) Reserve and is currently occupied by Foley Village, (eighty-six independent living units and a respite centre). Notwithstanding its reservation for Community Facility purposes, the site also has a residential density coding of R20/25 applied to it under LPS4. The development is valued at \$19 million and must be determined by the JDAP.

The development is considered to comprise ten Multiple Dwelling units (Aged and Dependent Persons Dwellings) and a Hospital (Two Storey Residential Aged Care - High Care Facility) in accordance with the land uses listed in LPS4.

The Multiple Dwelling units comprise the southern portion of the development, facing the existing dwellings on site. The 72-bed aged care facility is proposed to provide 24 hour nursing care to aged residents. The building is designed to provide specialist care to memory support/dementia residents (including a secure walking circuit). The ‘transitional residential unit’ Multiple Dwellings are integrated into the southern portion of the building. The dwellings have two bedrooms and two bathrooms and are designed to provide assisted living to residents transitioning into the high care facility. The site is also proposed to be landscaped

Specific details of the proposal include:

- On site car parking for 55 bays, including bays dedicated to the transitional residential units, 25 visitor parking bays, and 17 staff parking bays.
- Loading bays and pick up/drop off area.
- Ground floor –
 - Five, two-bedroom multiple dwelling units.
 - Carports.
 - 36 aged care bedrooms including 16 high care, 18 memory support (dementia ward) and 2 bariatric beds.
 - Reception, waiting area, nursing posts, meals, dining and lounge rooms, kitchen and waste store, office and meeting room.
 - Support services including hairdresser, chapel and consultation room for visiting health practitioners.
- Upper floor –
 - Five, two-bedroom multiple dwelling units.
 - 36 aged care beds, including 34 high care and 2 bariatric beds.
 - Nursing posts, meals, dining and lounge rooms, multipurpose activity rooms and laundry.
- Relocation of the existing telecommunications tower located in the northeast corner of the site onto the proposed building.

Further detail about the land use is included in the ‘Officer Comment’ section below.

Background:

No. 84 Collick Street, Hilton (the subject site), is located on the eastern side of Collick Street, at the intersection of Stock Road and Winterfold Road. To the north is a Primary School and an Aged care facility, and there is also residential development located to the west and south across Collick Street and Winterfold Road. To the east of the subject site is the Stock Road primary regional road reserve.

Planning history for the site is as follows:

- DA549/05 – Partial demolition of existing nursing home and forty six aged persons dwellings and community facility (Stage 1) (December 2005)
- DA704/06 – Complete demolition and forty eight aged persons multiple dwellings, two single storey aged day care dwellings (respite care) and eleven two storey grouped dwellings (Stage 2 and Stage 3) (July 2007)
- DA705/06 – Twenty aged persons multiple dwellings (Stage 3 – different proposal) (July 2008)
- DAP005/18 – Five storey use not listed (Assisted Living Facility) – *Note: this application was refused by the JDAP as the proposed density was unable to be considered under LPS4.*

It is noted that stage 1 and 2 have both been constructed with only stage 3 left to be developed. No work commenced on the above approval for stage 3 and the application therefore lapsed.

Legislation and Policy:

Legislation

Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) – Deemed Provisions

- Clause 60 – Requirement for development approval
- Clause 67 – Matters to be considered

Local Planning Scheme No. 4 (LPS4)

- CI 1.6 Aims of the scheme
- CI 2.4 Objectives of reserves
- CI 3.4.2 Use not listed
- CI 4.2.2 Requirement to adhere to R-Codes
- CI 4.3.4 Split density coding

State Government Policies

SPP 3.1 - Residential Design Codes (R-Codes) – Part 5

SPP3.7 – Planning in Bushfire Prone Areas

SPP5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning

Local Policies

LPP 1.3 – Public notification of planning proposals

LPP 2.2 – Split density codes and energy efficiency and sustainability schedule

Consultation:

Public Consultation

The City undertook consultation with surrounding landowners in relation to the proposal in accordance with LPP 1.3 Public Notification of planning proposals, notification was undertaken as follows:

- Period of fourteen days.
- Letter to owners and occupiers surrounding the development site.
- Inclusion of plans on website.

The notification period closed on 8 July 2020 with 21 submissions being received, including some late submissions. The key planning issues raised in the submissions received are detailed in the report below, with a table of submissions included in the attachments to this report.

Issue Raised	Officer's comments
On site vehicle parking Submitters were concerned with regard to a lack of parking being provided to support the operation of the development. Submitters queried why basement parking was not proposed for the development.	Noted As noted in the Officer's assessment below, the development provides vehicle parking in excess of the requirements of Local Planning Scheme No. 4 and the Residential Design Codes.
Traffic and pedestrian safety Submitters were concerned about the safety of traffic and service vehicles moving through the development, raising concerns with regard to the lack of internal footpaths in Foley Village.	Noted Internal speed restrictions apply throughout the existing village. The development includes an access footpath along the southern portion of the site. It is understood that direct access to the site via Stock Road would be unlikely to be supported by Main Roads. The traffic report submitted by the applicant has been reviewed by the City's Engineering department and they have advised that traffic generation and distribution have been shown to not adversely affect the network with conclusions agreed to. The provision of further footpaths throughout the remainder of the development is a matter to be agreed to by the landowner.

	It is a recommended condition of approval that a construction management plan be provided for the development to ensure that the impact of the construction on neighbours and adjoining sites can be appropriately managed.
Building Design The two storey development is out of keeping with the existing development on site, predominantly single storey. The proposed dwellings may overlook existing buildings and should be set back further.	Noted It is noted that the development proposes a two storey structure. This is considered consistent with other purpose-built buildings on the subject site. The height of the proposed development is discussed in the officer comment section below. The proposed dwellings are set back from existing dwellings on site in accordance with the relevant requirements of the R-Codes. While these do not directly apply to internal setbacks, they provide a guide for appropriate setbacks.
Telecommunications Submitters queried whether the existing telecommunications tower on site was to be retained.	Noted The applicant has noted that the tower is to be relocated to the proposed building per the submitted plans. The applicant has advised that the lease for the existing tower expires in January 2022. The landowner is working with the provider to determine if a suitable solution on the site can be arranged. The applicant advised that if such an arrangement cannot be reached, the landowner will not be proceeding. This matter is discussed further below.

Consultation with other Agencies or Consultants

Main Roads WA

Due to the site's proximity to Stock Road (a Category 3 Primary Regional Road), the application was required to be referred to Main Roads for comment. Main Roads requested that some additional details be addressed in the submitted noise assessment, with these amendments being made by the applicant. This final detail has been sent to Main Roads and their final recommendation in relation to the proposal was received on 29 July 2020. Main Roads advised that they had no objection to the proposal, subject to the following conditions being imposed on any approval:

1. The noise sensitive development adjacent to a major transport corridor must implement measures to ameliorate the impact of transport noise. The development is to comply with WAPC State Planning Policy 5.4 Road and Rail Noise and implement the noise mitigation measures outlined in the Marshall Day Acoustics, Acoustic Report (Ref: Rp 001 r05 20180276; dated July 2020).
2. A notification, pursuant to Section 70A of the Transfer of Land Act 1863 is to be placed on the certificate of title of the proposed lot. The notification is to state as follows:

‘The lot is situated in the vicinity of a transport corridor and is currently affected, or may in future be affected by transport noise’.

Main Roads' recommendation has been addressed through conditions 3 and 4 of the recommendation.

Planning Assessment:

Local Planning Scheme

The development has been considered against the requirements of Local Planning Scheme No. 4, the City's relevant policies and the requirements of the Residential Design Codes. A summary of the planning assessment is detailed in the table below.

The proposed development is considered to comprise two distinct elements, being the transitional residential units and remaining aged care facility. Based on the information provided by the applicant, the units are considered to operate as aged or dependent persons dwellings as defined in the R-Codes and are considered as such. The remaining aged care centre is considered to operate as a Hospital, as defined in LPS4, being a place where persons are admitted and lodged for care. This is due to the specialised nature of the aged care premises, concentrating on patients with dementia related issues.

The development also includes a number of incidental facilities which are considered to support the operation of the predominant land uses on site such as administrative offices, a hairdresser, consulting rooms for visiting specialists and a chapel.

Item	Requirement	Proposal	Compliance
Local Planning Scheme No. 4 – Land Use	Appropriateness of land uses Multiple Dwelling and Hospital in the Community Facilities (Private Hospital) Reserve	Multiple Dwellings and Hospital as defined in Local Planning Scheme No. 4	Requires discretionary assessment, refer to officer assessment section below.
Local Planning Scheme No. 4 – Vehicle Parking	Hospital Car parking bays 1 bay per 3 beds (72) 1 bay per 2 staff (20) Total: 34 bays Multiple dwelling 1.25 bays per dwelling Total: 12.5 (13) bays 1 visitor bay per 4 dwellings (including one accessible bay) 2.5 (3) bays <u>Total: 50 bays</u> Delivery bays 1: building Bicycle parking Class 1: 1 per 7 beds Class 3: 1 per 60 beds	Proposal Car parking bays 55 parking bays Delivery bays One delivery area Bicycle parking Class 1: 10.2 (11) Class 3: 1.2 (2)	Bicycle parking does not comply, refer to officer assessment section below.

SPP 3.7 – Planning in Bushfire Prone Areas

While the overall subject site is identified as being bushfire prone in accordance with Department of Fire and Emergency Services Map of Bushfire Prone Areas, the subject site is located more than 100m from bushfire prone vegetation. A Bushfire Attack Level (Basic) report has been submitted to in support of the application confirming that the Bushfire Attack Level affecting the site is 'Low'. Accordingly, it is considered that there is no apparent bushfire hazard affecting the subject development.

As a BAL lower than 12.5 has been identified for the subject development site, a formal notification on the property title is not considered to be required as a condition of development approval. Instead advice to the applicant has been provided in this regard.

SPP 5.4 – Road and Rail Noise

This State Planning Policy assists in mitigating noise-sensitive development from major road and rail transport corridors. The policy provides an assessment tool to determine the level of noise and vibration impact on a noise-sensitive development, in addition to recommending suitable mitigation methods to reduce noise level impact for future inhabitants.

The subject development is within 300m of an identified primary freight road (Stock Road). Accordingly, the applicant has provided an acoustic report detailing the impact of received noise on the subject site, and measures which have been undertaken in the building design to mitigate noise impact to outdoor living areas and the inclusion of noise protective glazing and acoustic rated walls.

In accordance with SPP 5.4, a notification advising the applicant that the site is located close to a primary freight road is recommended. A condition of development approval is also recommended requiring that the recommendations of the Marshall Day acoustic report be incorporated into the development, to the satisfaction of the City.

SPP 7.3 – Volume 1 – Residential Design Codes

The portion of the proposal comprising Multiple dwellings has been considered against the deemed-to-comply criteria of SPP 7.3 Volume 1. It is noted that while the development comprises multiple dwellings (apartments), the recently introduced Volume 2 requirements do not apply as the site has an R-Coding of less than R40 (R25). Where the development has been assessed to not satisfy the relevant deemed-to-comply criteria, compliance with the relevant design principles is discussed in the Officer Comment section below.

Item	Requirement	Proposal	Compliance
Building height	Maximum height (concealed roof): 7m	8.2m	Requires discretionary assessment, refer to officer assessment section below.
Aged or dependent persons area	Maximum plot ratio area of 80m ² for Multiple dwellings.	Each dwelling approximately 100m ²	Requires discretionary assessment, refer to officer assessment section below.

Telecommunications Policy

The City's Local Planning Policy DBM9 seeks to guide telecommunications providers on the siting and design of their facilities, such as mobile phone towers. The subject site is identified in the policy as having an existing tower on site, as shown in site photos, this is located in the north east corner of the site. The subject development application seeks to relocate this tower onto the development itself, to be located above the proposed Multiple Dwellings.

The proposed development is considered to satisfy the requirements of this policy for the following reasons:

- The proposed relocated facility replaces an existing tower on site, resulting in minimal change to the visual impact of the development to the locality.
- The proximity to sensitive uses is likewise generally consistent with the existing impact.
- The development does not impact significant vegetation to the site.
- The infrastructure is to be partially integrated into the proposed development.

Officer Comments

Land use

The applicant has provided the following explanation of their proposed land use:

- *The main component of the development proposal is a 72-bed facility providing 24 hour nursing care to aged residents. Its design also ensures specialist care for memory support/ dementia residents (including a secure walking circuit) and bariatric residents. Every care room is afforded outlook to a landscaped garden or courtyard.*
- *The development incorporates 10 transitional residential units (TRUs) sited to the south of, but integrated with, the main age care facility. The TRUs are two-bed, two-bath units designed to provide assisted living to residents transitioning into the high care facility. Their layout offers the ability to provide care to one resident while not disturbing their spouse living in the unit with them.*

Table 1 – Zoning includes all zones with the City, however it does not include reserves. Notwithstanding this, clause 2.4.1 outlines the objectives for the reserve:

(b) Community Facilities - To provide for civic and community activities and facilities that are provided for the general community by public institutions and groups.

Specifically, the reserve at No. 84 Collick Street is designated as Community Facility – Private Hospital. The specification of the reserve being for a Private Hospital suggests a place where there is medical treatment, full time nursing care to ill or injured patients.

It is noted that the remainder of the development on the reserve is a retirement village in the form of Grouped dwellings – this would seem to contradict the ultimate purpose of the reserve. The proposed use of the remainder of the site as an assisted living /dementia care facility could therefore be considered appropriate, particularly given the specified nature of care proposed including the dementia wing.

Density

Clause 4.2.2 of LPS4 requires that residential development shall conform to the requirements of the R-Codes. The subject development includes a component of permanent residential accommodation, being the ten Multiple Dwellings to the southern portion of the proposed development.

The predominant use of the development is for permanent accommodation with varying levels of care in both independent and assisted living units. Due to the intended purpose of the building, the transitional residential units are classified a 'residential development' as defined by the R-Codes –

Development of permanent accommodation for people, and may include all dwellings, the residential component of mixed-use development, and residential buildings proposing permanent accommodation.

Residential development not only includes Single houses, Grouped dwellings, Multiple dwellings and Residential Buildings, but any other development that provides permanent accommodation for people. The applicant has clearly identified that the primary purpose of this portion of the development is the permanent accommodation of people and the R-Codes must therefore be applied to this development.

The site is subject to a density coding of R20/25 under LPS4. In accordance with clause 4.3.4 of LPS4, one of four criteria must be met for a proposal to have the higher of the split codes to be applied. The application does not indicate that any of these criteria have been proposed. As such, a density of R20 is relevant.

The existing site is occupied by eighty-six (86) Grouped dwellings and a respite centre for the care of dementia patients. Given the size of the site (and considering a one third reduction for aged and dependent persons dwellings resulting in an average site area required of 300m²), a maximum of 131 dwellings would be permitted across the site. The addition of ten "transitional residential units" and the remainder of the subject development remains compliant with these requirements.

Bicycle Parking

It is considered that the provision of bicycle parking for the development should be required as a condition of development approval in accordance with Local Planning Scheme No. 4. While it is noted that the majority of residents in the aged care section of the development are unlikely to regularly ride bicycles, staff may wish to take advantage of opportunities in this regard.

It is however considered that the provision of multiple class 1 bicycle parking bays would be unnecessary and not easily incorporated into the development. Accordingly, it is recommended that a commensurate number of class 2 bays be provided in one enclosure and associated end of trip facilities be provided. Considering the consolidated nature of the aged care portion of the development, a shared, but enclosed, bicycle parking area is considered appropriate.

Building height

The proposed height of the proposed Multiple Dwellings is considered appropriate in accordance with the design principles of the R-Codes for the following reasons:

- Daylight access into buildings and appurtenant open spaces on adjoining properties is considered to be maintained.
- No views of significance are considered to be enjoyed over the subject site that would be limited by this development.

Aged or dependent persons dwelling area

The area of the Multiple Dwellings is considered appropriate in accordance with the design principles of the R-Codes for the following reasons:

- The development is not considered to impinge on neighbouring amenity.
- The development is considered to respond to a demand for aged persons dwellings in the immediate locality of the subject site and provides for housing diversity across the existing retirement village on site.
- The overall area of the dwellings provide for the ability to provide assisted living care to one inhabitant without disturbing the other.

Conclusion:

The proposed development is considered appropriate in providing for aged care in the area and allowing residents in the locality to 'age in place', providing opportunities to remain in the immediate area of their current living arrangement while receiving the care they may require. The development is considered to appropriately address the relevant requirements of LPS4, Local Planning Policies and the R-Codes. Accordingly, the development is recommended for approval, subject to conditions.

**PC2008 - 3 COODE STREET, NO. 10B (LOT 2), FREMANTLE - SINGLE STOREY
GROUPED DWELLING (JCL DA0154/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for a single storey Grouped dwelling at 10B Coode Street, 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:

- Lot boundary setback
- Boundary wall

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a single storey Grouped dwelling to a currently vacant lot at 10B Coode Street, Fremantle.

In response to neighbour and officer comments, the applicant submitted amended plans on 2 July 2020 reducing the height of the boundary wall by 200mm and the finished floor level of the dwelling and deck by 100mm.

Development plans are included as attachment 1.

Site/application information

Date received: 6 May 2020
Owner name: Mr Stephen Mapula Cerqueira
Submitted by: Sidi Constructions Pty Ltd
Scheme: Residential R30
Heritage listing: Not Listed
Existing land use: Vacant site
Use class: Grouped dwelling
Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal seeks variations to the lot boundary setback and boundary wall requirements of the R-Codes. The advertising period concluded on 8 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

- The boundary wall will have a material impact on our only small outdoor living area in terms of day light and ventilation.
- The boundary wall will box in our courtyard as it sits above the fence line.
- The length and height of the wall is excessive relative to the boundary. The nib of the wall to the garage should be removed to reduce its visual impact. The dwelling should be moved closer to the eastern boundary.
- Bushes on the site have pushed the rear fence onto our patio. The bushes have been removed but the fence must be fixed or replaced as part of this application.

In response to the above concerns, the applicant submitted revised plans reducing the height of the boundary wall by 200mm.

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

- Dividing fences matters are Civil matters and governed by the Dividing Fences Act. An advice note has been included to encourage the applicant to liaise with the adjoining owner(s) regarding the dividing fences.

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 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.
- Boundary wall.

The above matters are discussed below.

Background

The subject site is located on the eastern side of Coode Street on a rear survey strata lot. The subject site slopes down approximately 0.8m to the north-east. The site has a land area of approximately 256m² and is currently a vacant lot. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed nor is it located in a Heritage Area.

A search of the property file has revealed a two lot survey strata subdivision was approved by WAPC on 8 April 2015.

Land Use

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

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

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

- The Grouped dwelling land use is considered consistent with the objectives of the Residential zone of LPS4;
- As discussed in the body of the report, it is considered that the proposal provides an acceptable level of building bulk to neighbours. Further, the proposal is of a modest scale given it being single storey, and has a minimal presentation to the public realm; and,
- Given the above, it is considered that any adverse amenity impacts of the proposal are minor. It is further noted that the proposal has no identified negative environmental or social impacts, and that it is consistent with the prevailing character of the area, which is predominantly single storey dwellings.

Lot boundary setbacks

Element	Requirement	Proposed	Extent of Variation
Bed 1 and Ensuite (south)	1.5m	1m	0.5m

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

- The lesser setback does not result in a perception of adverse building bulk when viewed from the adjoining property given the wall graduates back from the boundary and is single storey in height;
- The lesser setback does not contribute adversely to a loss of direct sun, light generally or ventilation to major openings; and,
- The lesser setback does not pose any overlooking concerns.

Boundary wall

Element	Requirement	Proposed	Extent of Variation
Garage and Store (west)	1m	Nil	1m
Patio Posts (north)	1m	Nil	1m

The proposed western 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 wall doesn't unreasonably remove sunlight access to the western neighbours patio, given it abuts the eastern portion of the patio and the patio roofing is transparent, with the northern portion of the neighbours outdoor living area is uncovered;
- The wall is not considered to contribute to an unreasonable sense of confinement and building bulk given the height of the wall has been reduced by up to 200mm for the length of the wall. The wall height is 100mm higher than that of the existing dividing fence, providing a gap between the top of the wall and the eave of the neighbours patio; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

The proposed northern 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 posts do not result in a loss of access to daylight or direct sunlight owing to its location of the northern boundary and its setback to the existing dwelling contained on the adjoining site;
- The posts do not contribute to a sense of confinement or building bulk at it affects only a small portion of the boundary, is open framed, and the rest of the development is sufficiently setback from this boundary; and,
- The posts do not impact on any views of significance or existing significant vegetation.

CONCLUSION

On the basis of the assessment above, it is considered that the proposal, as amended, is supportable. The application is recommended for approval, subject to the conditions contained in the Officer recommendation below.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, single storey Grouped dwelling at No. 10B (Lot 2) Coode Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 2 July 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**

- 4. Prior to occupation of the development hereby approved, the boundary wall located on the western side 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.**
- iii. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**

**PC2008 - 4 ROSE STREET, NO.16 (STRATA LOT 1), SOUTH FREMANTLE –
ADDITIONS AND ALTERATIONS TO EXISTING GROUPED
DWELLING – (CS DA0143/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for additions and alterations to the rear of the existing Grouped dwelling.

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 boundary wall requirements of Council Policy.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a single storey rear extension to an existing grouped Dwelling at No.16 Rose Street, South Fremantle. The proposed works include:

- Demolition of existing lean-to structure
- Construction of single storey addition including kitchen/living area, bathroom and covered outdoor living area.

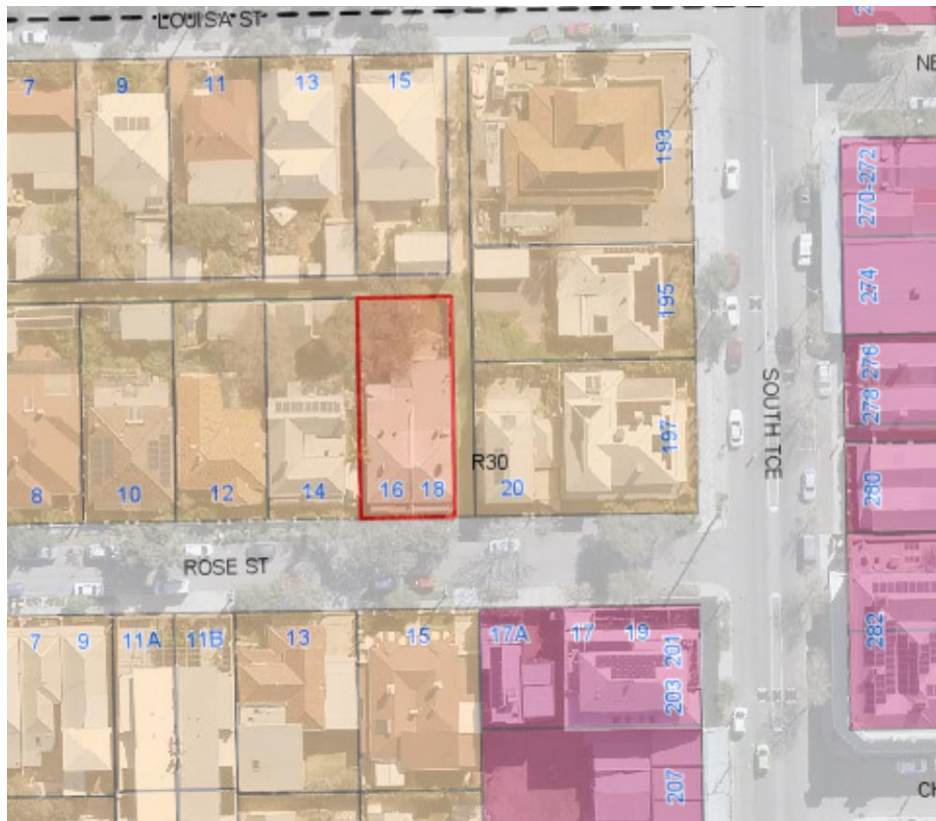
Amended plans were submitted on 30 June 2020 including the following:

- Reduction in the height of the boundary wall on the western boundary to a maximum height of 2.9 – 3.1m.
- The highlight windows have been setback an additional 0.6m away from the western boundary to a setback of 1m.

Development plans are included as attachment 1.

Site/application information

Date received: 24 April 2020
Owner name: A R Martin and S M Martin-Robins
Submitted by: Huston Architecture
Scheme: Residential R30
Heritage listing: Individually Listed (Level 3) and South Fremantle Heritage Area
Existing land use: Grouped dwelling
Use class: Grouped dwelling
Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought for a boundary wall. The advertising period concluded on 8 June 2020, and one (1) submission was received. The following issues were raised (summarised):

- The proposed boundary wall on the western lot boundary will block morning sun and garden views of adjoining property.
- The proposed wall height on the western boundary is over-height.
- The proposed boundary wall finish should be agreed with the neighbour.

In response to the above, the applicant submitted amended plans to reduce the height of the proposed boundary wall to 3.1m (max) high, and increased the setback of the upper portion of the addition (which contains a north facing opening) by an additional 0.6m (total of 1m away from boundary)

The western boundary wall is addressed in the officer comment below, however in response to the finish of the wall, the following comments are provided by officers:

- The appearance of the boundary wall is expected to be a clean finish, generally clean face-brick, render or painted finish, to the City's satisfaction. A condition of approval with this requirement has been imposed as part of the officer's recommendation.

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

The above matter is discussed below.

Background

The subject site is located on the northern side of Rose Street, between South Terrace and Marine Terrace. The property is an old style strata, being the western half of a duplex development which was built in c1901/1902. The site is zoned as Residential with a density coding of R30. The property is heritage listed by the City of Fremantle, Level 3 and is located within the South Fremantle Heritage Area.

Demolition and Heritage

The site is listed in the City's Heritage List and the Local Heritage Survey (formally the Municipal Heritage Inventory) as a level 3 Management Category. It is also located in the South Fremantle Heritage Area. This means that the City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the streetscape and to the local area. Its contribution to the streetscape and urban context should be conserved. The proposal was referred to the City's Heritage Team who advised that the proposed demolition and new addition is supported in accordance with Clause 4.14 of LPS4 and on heritage grounds.

Lot Boundary Setback (boundary wall)

Element	Requirement	Proposed	Extent of Variation
Living and Patio (west)	1.5m	Nil - 0.25m	1.25m – 1.5m

The property has an existing boundary wall on the eastern lot boundary which matches the boundary wall at the adjoining property (No.18 Rose Street). The proposal proposes to retain this wall, with only internal modifications.

The proposed boundary wall on the western elevation is considered to meet the Design principles of the R-Codes and the discretionary criteria of policy LPP 2.4: Boundary Walls in Residential Development in the following ways:

- The proposed rear extension replaces a smaller sized extension to the dwelling. The new addition has included an additional boundary wall to make the biggest area possible internally on a narrow lot (7.15m wide), whilst retaining a good size outdoor living area to the rear.
- The minor height variation of the solid portion of wall is sought due to the slight change in natural ground levels along the side of the dwelling compared to a slightly higher level in the rear garden area. The upper portion of the addition has been set back 1m away from the lot boundary to reduce the impact on the adjoining neighbour. The remainder of the shared boundary with No.14 Rose Street (to the west) is a dilapidated 1.5m high (approximately) wooden panel fence.
- Due to the orientation of the lot (north/south), the rear garden area of the application property and neighbouring properties benefit from direct northern light into the rear of the dwelling and the outdoor living area(s). The proposed addition is single storey and will not result in loss of adequate direct sun and ventilation to adjoining properties and will improve the situation in relation to overlooking and privacy.
- The proposed addition projects beyond the rear of the adjacent dwelling, therefore due to the north/south lot orientation the outdoor living area and north facing rooms of the dwelling will not be impacted by loss of direct sun. Due to the single storey nature of the proposed addition, overshadowing is also compliant with the requirements of the R-Codes.
- The proposal is located to the rear of the property and would have no impact on the streetscape.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and Alterations to existing Grouped dwelling at No. 16 (Strata Lot 1) Rose Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 30 June 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**

2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.
4. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of the City of Fremantle.
5. Prior to occupation of the development hereby approved, the boundary wall located on the western boundary shall be of a clean finish in any of the following materials:
 - Coloured sand render,
 - Face brick,
 - Painted surfaceAnd be thereafter maintained to the satisfaction of the City of Fremantle.

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 (patio and deck) must comply with Part 3.7.1 of the Building Code of Australia.

**PC2008 - 5 SWANBOURNE STREET, NO.18 (LOT 1034), FREMANTLE –
DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION
OF A TWO STOREY SINGLE HOUSE – (CS DA0088/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for demolition of an existing house and construction of a two storey Single house.

The proposal is referred to Planning Committee (PC) as it proposes the complete demolition of a house within a heritage area and 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 follows:

- Demolition
- Lot boundary setback (north)
- Boundary wall (south)
- Building height
- Visual Privacy

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for demolition of an existing house and construction of a two storey Single house.

Development plans are included as attachment 1.

Site/application information

Date received: 11 March 2020
Owner name: Spencer Flay
Submitted by: Pindan Homes Pty Ltd
Scheme: Residential R25
Heritage listing: Memorial Reserve Heritage Area, Adjacent to State
Registered Place
Existing land use: Single house
Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Heritage Service (DPLH)

The application was referred to Heritage Services as the subject site is located adjacent to a property listed on the State Register of Heritage Places (Fremantle War Memorial and Monument Hill). Heritage Services have advised that the proposed development does not significantly impact on the identified cultural significance of Monument Hill and War Memorials, Fremantle therefore they have no objection to the proposal.

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 included the demolition of a building in a Heritage Area and discretion was sought for lot boundary setbacks, wall height and visual privacy. The advertising period concluded on 3 April 2020, and one (1) submission was received. The following issues were raised (summarised):

- Concern regarding overshadowing to property to the south and their north facing outdoor areas and living areas
- Concern regarding the height and length of proposed boundary wall being longer and higher than the existing boundary wall
- Concern regarding bulk of the two storey element being closer to the boundary
- Concern that the building hasn't been designed to accommodate the slope of the land
- Overlooking, would require screening to be applied where necessary
- Retaining walls and excavation close to an old (c1900) dwelling

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

- It is noted that the adjoining property is not a heritage listed property
- Overshadowing is compliant with R-Codes clause 5.4.2 – solar access for adjoining sites (properties coded R25, 25% of the site area permitted, 24.9% proposed) The height measurements for south and north elevations are taken at the highest point of the side elevations.
- It should be noted that with a significant level change across the site both east/west and north/south, the proposed dwelling has a number of different heights. For example:
 - Viewed from the street (western elevation) – 7m
 - Viewed from the garden area of No.18 (eastern elevation) – 6.5m
- The dwelling could be considered as three storeys as viewed from the rear due to the slope of the land, however this only applies to a small portion of the dwelling, with the majority of the house being two storey.

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:

- Demolition
- Lot boundary setback (north)
- Boundary wall (south)
- Building height
- Visual Privacy

The above matters are discussed below.

Background

The subject site is located on the eastern side of Swanbourne Street directly opposite the Fremantle War Memorial and Monument Hill. The site has a land area of approximately 684m² and is currently a Single house. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the Memorial Reserve Heritage Area. The site is improved by a two storey Single house which is proposed to be demolished as part of this application.

The site slopes quite steeply from the highest point at the front (west) towards the rear (east), with approximately 3m difference between the front corner of the site and approximately half way down the block to the Water Corp Easement. There is also a 1.4m slope across the site north/south, with the northern side being 1.4m lower than the southern side.

Demolition and Heritage

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

Clause 4.14.1 of LPS4 states:

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

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

The existing house and associated additions and outbuildings are considered to be of limited heritage significance. Any remnants of the C1950's house have been largely altered due to the later construction and therefore does not require retention and demolition can be supported.

Although the site is not individually heritage listed it is located within the Memorial Reserve Heritage Area. Although the new two storey development is considered to be more substantial in form than the existing house, it is considered that the overall impact will be minimal and is acceptable on a heritage basis.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (north)	2.4m	1.3 – 2m	0.4 – 1.1m

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

- The proposal has compliant lot boundary setbacks on the southern side. The staggered wall (height and setback) on the northern side results in some variations (between 0.4m and 1.1m). However, it is considered that the design has taken account of the sloping site and reduced height and setback where possible.
- No objection has been received in relation to these variations and it is considered that there would be no impact of the bulk of the building to the property to the north, which is also a large two storey dwelling.

Lot boundary setback (boundary wall)

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (south)	1m	Nil	1m

The Lot boundary setback (boundary wall) is considered to meet the Design principles of R-Codes and the discretionary criteria of LPP2.4 in the following ways:

- The proposed boundary wall would be located 1.8m away from the window of the living area at No.20. Given the raised FFL of No.20 (approx. 1.5m higher than NGL at this point), the proposed boundary wall is not considered to have a significant impact on the amenity of this property

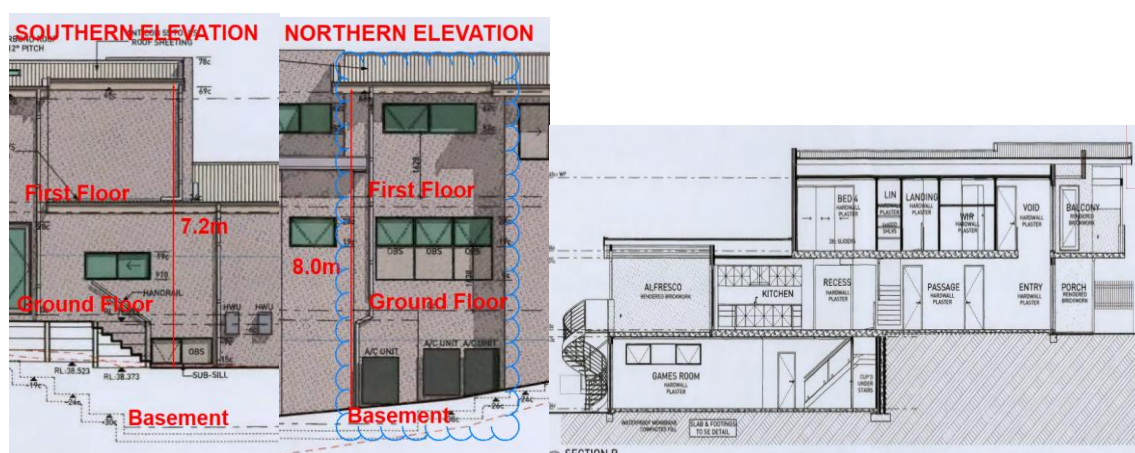
- The proposed boundary wall located on the southern boundary is 8.7m long. It replaces an existing boundary wall in a similar location. The FFL of the adjoining house and the setback from the boundary is not considered to create an unacceptable loss of sunlight to these rooms.
- The proposed boundary wall is considered to be acceptable in the general streetscape context as it makes best use of the space available and there are many examples of boundary walls in the street.

Building height

Element	Requirement	Proposed	Extent of Variation
Wall height (south)	6m	7.2m	1.2m
Wall height (north)	6m	8m	2m

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

- The proposal seeks discretion for wall height on both the north and south sides of the dwelling due to the significant sloping site. It should be noted that the overall height of the development remains compliant when measured to the NGL at various points across the site. The design of the dwelling has created a house with a partial basement level, a full length ground floor level and a first floor that extends only partly across the ground floor. A portion of the dwelling in the middle is therefore three storeys (but remaining within the 9m overall height parameters). (See north and south elevations and cross section shown below):



Figures 1, 2 and 3: North and south elevations and cross section of the proposed dwelling illustrating the location of the proposed height variations.

- Overshadowing is compliant, and the staggered design of the three different levels results in a reduced amount of overshadowing over the kitchen window and outdoor living area at No.20.
- Due to the east/west orientation of the lot, overshadowing of the north facing windows of the property to the south will always occur, however the higher FFL of No.20 assists in ameliorating any significant impact from the compliant overshadowing.
- The adjoining property to the south is positioned 1.8m away from the lot boundary. It has two north facing major openings that the occupier is concerned about. The house at No.20 is single storey but has a FFL approximately 1m above NGL at the

front of the dwelling, and due to the slope of the land towards the rear of the site, this equates to a FFL approximately 2m above NGL, with the rear raised patio area being at first floor level.

Visual privacy

Element	Requirement	Proposed	Extent of Variation
Ground Floor - Living/dining area	6m	2.8m	3.2m
Ground Floor - Alfresco area	7.5m	2.8m	4.7m
First Floor – Bed 3	4.5m	3.8m	0.7m
First Floor – Bed 4	4.5m	2.8m	1.7m

The proposed setbacks are not considered to meet the Design principles of the R-Codes as the cone of vision falls over the rear garden area of adjoining properties.

It is considered appropriate to require the applicant/owner to provide appropriate screening to the openings listed above to ensure that privacy of adjoining owners is protected.

CONCLUSION

The proposed dwelling seeks discretion for a number of areas, however, as detailed above, none are considered to be major variations. The impact on the adjoining properties has been considered in terms of access to light and overshadowing and are not considered to create an unacceptable outcome. However, a condition requiring visual privacy to be compliant is considered to be appropriate. On balance the proposal is considered supportable.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and construction of two storey Single house at No. 18 (Lot 1034) Swanbourne Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 11 March 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the window(s) and alfresco area located on the north and east elevations are 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 1.60metres 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 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 surfaceAnd be thereafter maintained to the satisfaction of the City of Fremantle.
5. 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 1.0 metres 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.
6. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.

ADVICE NOTE(S):

- i. The applicant is advised in relation to condition 3, the application of film to a window can be considered provided the film is translucent or obscured to a minimum of 75% obscure in order to meet the objectives of Clause 5.4.1 C1.1 of the Residential Design Codes and is maintained for the life of the development.

- ii. In regards to condition 5 visually permeable is defined by LPP 2.8 Fences Policy as:

Means, in reference to a wall, gate, door or fence that the vertical surface has:

- Continuous vertical or horizontal gaps of at least 50mm width occupying not less than one half of its face in aggregate of the entire surface or where narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street; or
- A surface offering equal or lesser obstruction to view.

Visual Permeability Based on Size of Slats

Slat Size	Gap Size
Slats less than 50 mm wide	Gap size equal to or greater than twice the slat size
Slats 50 mm wide and greater	Gap size equal to or greater than slat size

- iii. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- iv. 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.
- 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 website.

**PC2008 - 6 SOUTH STREET, NO.41 (LOT 5), SOUTH FREMANTLE - DEMOLITION
OF EXISTING SINGLE HOUSE (JCL DA0199/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for the demolition of the existing Single house at No. 41 South Street, South Fremantle. No new structures are proposed, however it is proposed to retain an existing Ancillary dwelling and outbuilding.

The proposal is referred to the Planning Committee (Committee) as the proposal involves the demolition of a Single house located in the South Fremantle Heritage Area.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for demolition of the existing Single house at No. 41 South Street, South Fremantle. The proposed works include:

- Demolition of existing Single house; and,
- Retention of existing outbuilding, ancillary dwelling and garden beds.

Development plans are included as attachment 1.

Site/application information

Date received: 12 June 2020
Owner name: Kelly Vujcic and Adrian Vujcic
Submitted by: Kelly Vujcic and Adrian Vujcic
Scheme: Residential R30
Heritage listing: Not individually listed; South Fremantle Heritage Area
Existing land use: Single house
Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involves the demolition of a Single house in a Heritage Area. The advertising period concluded on 14 July 2020, and 1 submission was received. The following issues were raised (summarised):

- The newly constructed studio blocks sunlight, however it doesn't affect the back-yard garden area; and,
- Any new structures constructed west of the studio would diminish sunlight from the north, which would not be acceptable.

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

- The existing Ancillary dwelling was exempt from the need to obtain Planning Approval and was constructed in accordance with a Building Permit issued by the City in 2019.
- No new structures are proposed as part of this application.
- Any future development will be subject to a separate application for Planning Approval and assessed against the relevant provisions of LPS4, Council Policy and the R-Codes.

OFFICER COMMENT

Statutory and policy assessment

The proposal is assessed against the relevant provisions of relevant Council Local Planning Policies and Local Planning Scheme No.4 (LPS4).

Background

The subject site is located on the south side of South Street between Francisco and Attfield Streets. The site has a land area of approximately 539m². The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed however it is located within the South Fremantle Heritage Area.

The site currently contains a single storey Single house, Ancillary dwelling and an outbuilding. The existing house appears to have been constructed between 1953 and 1965 per historic aerial imagery.

A search of the property file has revealed that a Building Permit was issued in June 2019 (BP0171/19) for the existing Ancillary dwelling. The Ancillary dwelling was exempt from the need to obtain planning approval.

Demolition

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

Cl4.14.1 states:

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

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

It is considered that the dwelling doesn't have any individual cultural heritage significance, nor does it make a significant contribution to the broader cultural heritage significance and character of South Fremantle. As such, its demolition is supported.

Land use

The existing Ancillary dwelling and outbuilding are proposed to be retained. The Ancillary dwelling includes a room that can be used as a living area/bedroom including a kitchenette and a separate bathroom. As per the definition of the R-Codes, an Ancillary dwelling can only exist on a lot that contains a Single house. In this instance, as the existing Single house is to be demolished, the Ancillary dwelling will become a Single house itself. Given a Single house is a P use in the Residential Zone and the site can accommodate the necessary car parking requirements, the retention of the Ancillary dwelling and the outbuilding is considered acceptable in this instance.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of the existing Single house at No. 41 (Lot 5) South Street, South Fremantle, subject to the following condition:

1. This approval relates only to the development as indicated on the approved plans, dated 22 July 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.

ADVICE NOTES:

- i. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- ii. Any removal of asbestos is to comply with the following –

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

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

- iii. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.

**PC2008 - 7 WATKINS STREET, NO. 107A (STRATA LOT 1), WHITE GUM
VALLEY - TWO STOREY SINGLE HOUSE (TG DA0160/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

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

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

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

The application is recommended for conditional approval.

PROPOSAL

Detail

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

- Ground floor:
 - Double garage.
 - Living/Dining/Kitchen room.
 - Laundry.
 - Scullery.
 - Two bedrooms.
- Upper floor:
 - One bedroom.
 - Activity room.
 - Bathroom.
 - Sitting room.
 - Balcony/Sun terrace.

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

Development plans are included as attachment 1.

Site/application information

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



CONSULTATION

External referrals

Nil required.

Community

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

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

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

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

- The extent of the proposed boundary wall does directly adjoin the window onto the neighbouring ensuite but ends before the neighbouring bedroom window.
- The balcony/sun terrace area is proposed to be screened to protect adjoining visual privacy in accordance with the deemed-to-comply criteria of the R-Codes, however it is noted that the R-Codes do not directly address acoustic privacy.

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

OFFICER COMMENT

Statutory and policy assessment

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

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

The above matters are discussed below.

Background

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

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

Energy efficiency

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

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

Boundary Wall (East)

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

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

- The use of the proposed boundary wall is considered to comprise an effective use of a side setback area which would be of limited utility.
- The boundary wall abuts a portion of the neighbouring wall which has only a window onto a non-habitable room (ensuite), and otherwise has limited bulk impact.
- The wall is single storey (approximately 3.2m high (max) and 6.7m long) and due to lot orientation, shade cast by the wall at midwinter would fall over the subject site.
- The wall is to a non-habitable room and therefore is not considered to impose a significant privacy impact.

- Garage boundary walls are common to new developments in the immediate locality, including the properties directly over the road (128A and 130 Watkins Street). The wall is well set back from the street in accordance with LPP 2.9 resulting in minimal streetscape impact.

Open Space

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

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

- The open space areas around the dwelling provide for natural sunlight to the primary living areas of the proposed dwelling.
- The dwelling proposes a primary street setback consistent with the requirements of LPP 2.9, being 7m on the ground floor this results in a large open space area to the front of the dwelling providing for landscaping, vegetation, and external fixtures.
- Inhabitants of the dwelling are provided with opportunities to use areas external to the dwelling on the proposed balcony and sun terrace.
- The development includes an uncovered upper floor sun terrace which could be considered to contribute to the area of open space available to the subject dwelling.

Building Height

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

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

- Views of significance are not considered to be enjoyed across the subject site.
- The areas of the dwelling which exceed the deemed-to-comply wall height requirements of the R-Codes are located towards the front of the dwelling and are therefore not considered to unduly contribute to the shade cast by the dwelling to the south.
- Generally, the over height portions of the dwelling result from the dwelling not stepping across the site from front to back. The applicant does propose excavation to the rear of the subject site resulting in the southern portion of the dwelling generally complying with the relevant height requirement.

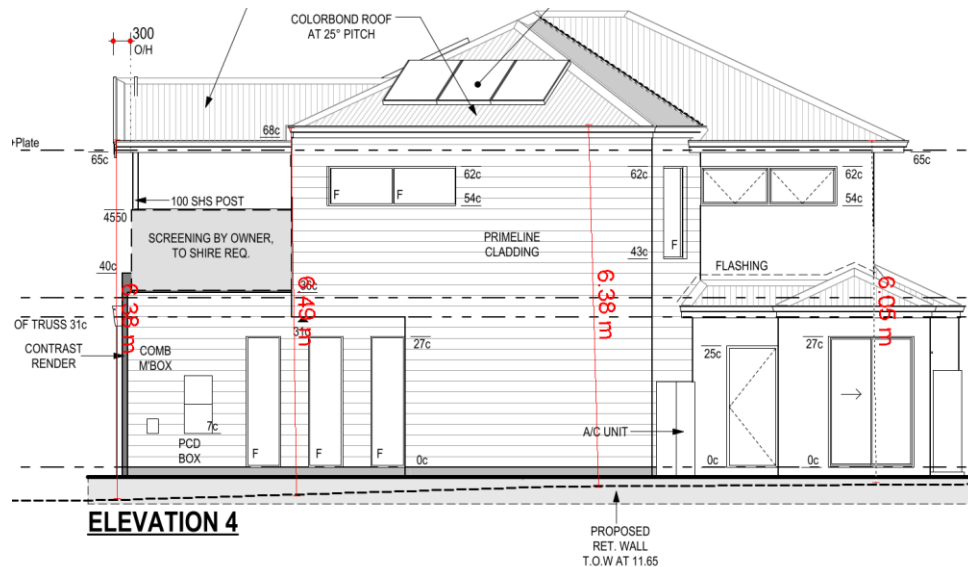


Figure 1: Elevation of proposed dwelling illustrating areas exceeding the building height requirement

Outdoor living area

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

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

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

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Upper floor setback –(east)	1.5m	1.6m	0.1m
Upper floor setback (west)	1.2m	1m	0.2m

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

- On the western side, the upper floor element is onto a void and does not propose major openings, therefore being of limited privacy impact. The eastern wall likewise includes only highlight openings in this wall.
- The western wall adjoins the neighbouring front/side setback area, an area which is not considered to be susceptible to undue building bulk impact. The eastern wall adjoins the side setback area of the adjoining dwelling and will be partially screened by the eaves of the existing dwelling on site.
- The shade cast by the both walls is to fall over the subject site at midwinter, when the shade cast by buildings is greatest.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Shade cast over adjoining properties to the south.	12% (max) (see note below)	23%	11%

Note: In accordance with R-Codes 5.4.2 C2.2 – Solar access for adjoining sites, where a development site shares a southern boundary with a lot and that lot is bounded to the north by another lot, the limit of shading for the development site is reduced proportionate to the percentage of the affected property's northern boundary that the development site abuts. In this instance, the subject site shares 48% of the northern boundary of 13A Minilya Avenue, resulting in the deemed-to-comply requirement of 12%. It is also noted that these calculations assume a flat site which has not been developed.

The shade cast by the development as shown on the amended plans over the property to the south is considered to meet the Design principles of the R-Codes for the following reasons:

- The shade cast by the development does not fall over the rear outdoor living area of the adjoining property to the south. A portion of the shade cast by the development will fall over the existing courtyard at the centre of the adjoining dwelling (see aerial image below), however northern exposure to the windows onto this courtyard will be maintained.
- There are no north facing openings onto habitable rooms in north facing rear portion of the adjoining dwelling abutting the subject dwelling.
- Based on the additional detail provided by the applicant, solar access will be maintained for the solar collectors on the roof of the adjoining southern property's dwelling. The applicant provided the below plan which shows the extent of shade cast over the roof by the dwelling accounting for the level difference between the two sites and the fact that the solar panels are on the roof of the dwelling.

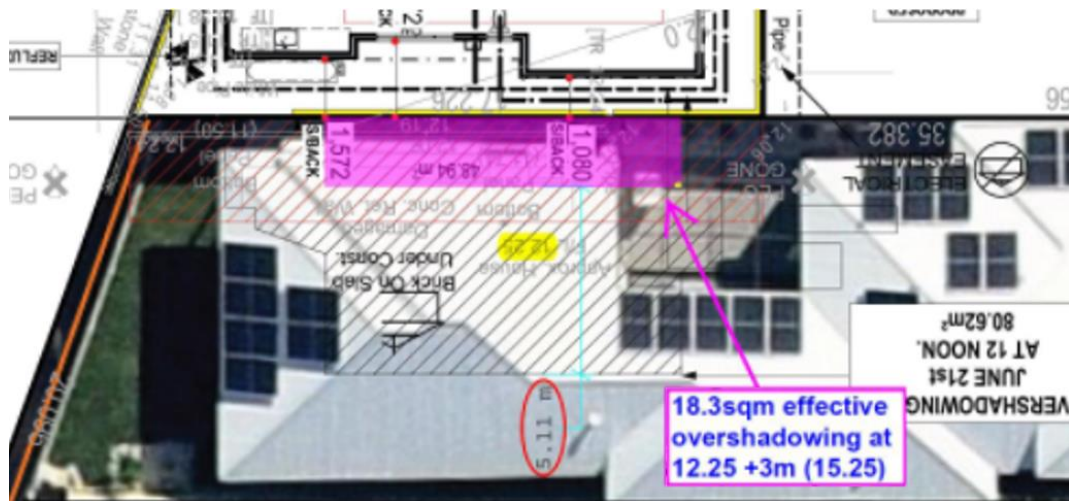


Figure 2: Overshadow diagram including adjoining property to the south

Note: the submitted overshadowing plan juxtaposes an aerial of the adjoining dwelling with the shade cast by the subject development. It is also noted that the updated overshadowing plan does not take into account a difference in levels between the adjoining properties – the applicant’s submission notes that if this level difference is taken into account, the shade cast over the adjoining property is actually 20% (inclusive of the shade cast by dividing fencing).

CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Single House at No. 107A (Strata Lot 1) Watkins Street, White Gum Valley, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 23 June 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. That the dwelling achieve a NatHERS accredited energy efficiency star rating of seven stars that is certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle.**
- 5. Prior to occupation of the development hereby approved, a minimum 1.5kw photovoltaic solar panel system shall be installed and maintained thereafter to the satisfaction of the City of Fremantle.**
- 6. Prior to occupation of the development hereby approved, a 3000L rainwater tank plumbed to a toilet and/or laundry, or an approved grey-water reuse system that collects grey water from the laundry and bathroom and re-directs it for garden irrigation/ground water recharge, shall be installed or and maintained thereafter to the satisfaction of the City of Fremantle.**
- 7. Prior to occupation of the development hereby approved, the boundary walls located on the east and west boundaries shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 8. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**

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

Advice notes:

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- ii. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.

New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For the City's crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>.

- iii. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.
- iv. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Watkins Street road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au.
- v. Levels as per existing footpath and/or ROW
 - Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - Any adjustment in levels is to be achieved within the property boundaries;
 - Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

**PC2008 - 8 ATTFIELD STREET, NO. 95 (LOT 5), SOUTH FREMANTLE – HOME
BUSINESS (PIANO LESSONS) – (NB DA0184/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site photo

SUMMARY

Approval is sought for a Home Business (Piano Lessons) at 95 Attfield 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 that cannot be addressed through conditions of approval. The application seeks a discretionary assessment against the Local Planning Scheme No. 4 (LPS4) for the land use.

The application is recommended for conditional approval.

PROPOSAL

Detail

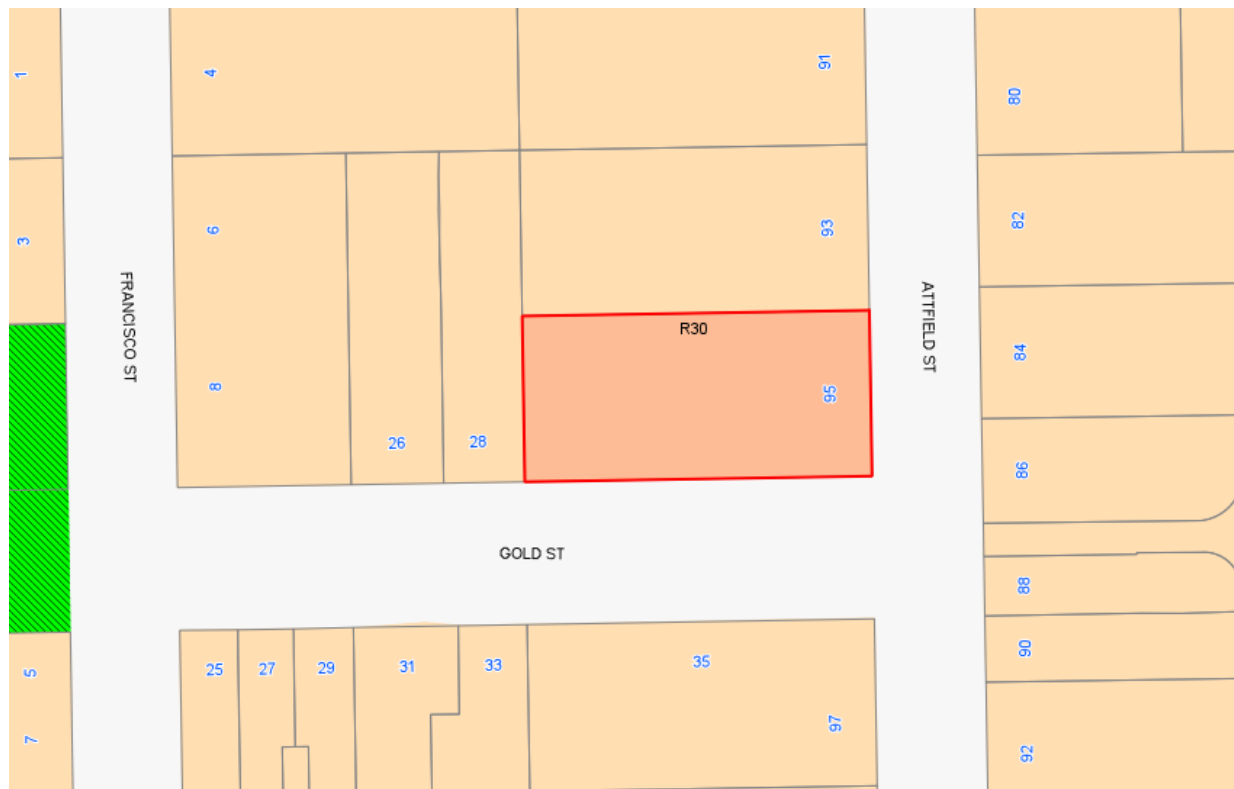
Approval is sought for a Home Business to an existing Single house to teach piano lessons. The details of the application are as follows:

- Shared piano lessons for small groups totalling up to 8 students per lesson
- Maximum of 20 hours of lessons per week
- Classes to be conducted between 7am and 7pm Monday through Saturday
- One instructor (the applicant)

Development plans are included as attachment 1.

Site/application information

Date received: 2 June 2020
Owner name: Anna Pearton
Submitted by: Anna Pearton
Scheme: Residential R30
Heritage listing: Heritage Listed Level 3, South Fremantle Heritage Area
Existing land use: Single house
Use class: Home Business
Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the land use provisions of LPS4. The advertising period concluded on 29 June 2020, and four submissions were received. One submission was in support, whilst the remaining three submissions raised the following issues (summarised):

- Car parking is already difficult for residents and large classes will make it more so.

In response to the above, the applicant submitted the following response:

- The Home Business has been operating under the State's emergency COVID-19 legislation since May 2020 with no complaints received.
- My house is on a corner block and has two on-site car bays and six immediately adjacent street parking bays.
- I am happy to provide instructions to my students on where to park and recommend alternate transportation, as well as providing my contact information to neighbours to assuage any concerns as they arise.

Following the above, one of the original comments in opposition confirmed they now support the application after discussions with the applicant. A further five (5) submissions from adjoining owners/residents were also sent in support of the application, resulting in a total of nine (9) submissions: seven (7) in support and two (2) with the above concerns. The comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 as discussed below. The assessment is only for the land use, as there are no associated car parking requirements for a Home Business within the scheme.

Background

The subject site is located on the corner of Attfield Street and Gold Street in South Fremantle. The site has a land area of approximately 486m² and is currently a Single house. The site is zoned Residential and has a density coding of R30. The site is individually heritage listed as Level 3 and is located within the South Fremantle Heritage Area.

The site has two existing car bays. The Home Business has been operating under the State's emergency COVID-19 legislation, which permits Home businesses to operate temporarily without planning approval (provided there are no works components) until 90 days after the emergency orders are rescinded. Those temporary emergency orders are still in effect and the applicant is seeking permanent approval for the Home business.

Land Use

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

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

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

- The Home business takes place within an existing Single house, being a built form that is compatible with the surrounding area.
- The development is located within a high frequency transport route and near to bus stops serving eight different routes and the Blue CAT.
- The classes will only occur for a maximum of twenty hours each week, and any parking is likely to be used in approximately one hour increments rather than extended periods that would detrimentally impact residents within the locality.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Home Business (Piano Lessons) at No. 95 (Lot 5) Attfield Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 2 June 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Classes shall be limited to a total of twenty (20) hours per week and only be conducted between 7.00am to 7.00pm Monday through Saturday.**

**PC2008 - 9 KEEL PLACE, NO. 4 (LOT 51), NORTH FREMANTLE - THREE
STOREY SINGLE HOUSE AND ANCILLARY DWELLING (TG
DA0166/20)**

Meeting Date: 5 August 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended development plans
Additional information: 1. Site photos

SUMMARY

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

The proposal is referred to the Planning Committee (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)
- Visual privacy (north west)
- Lot boundary setbacks (north west, south east)
- Boundary walls (north west, north east)

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

PROPOSAL

Detail

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

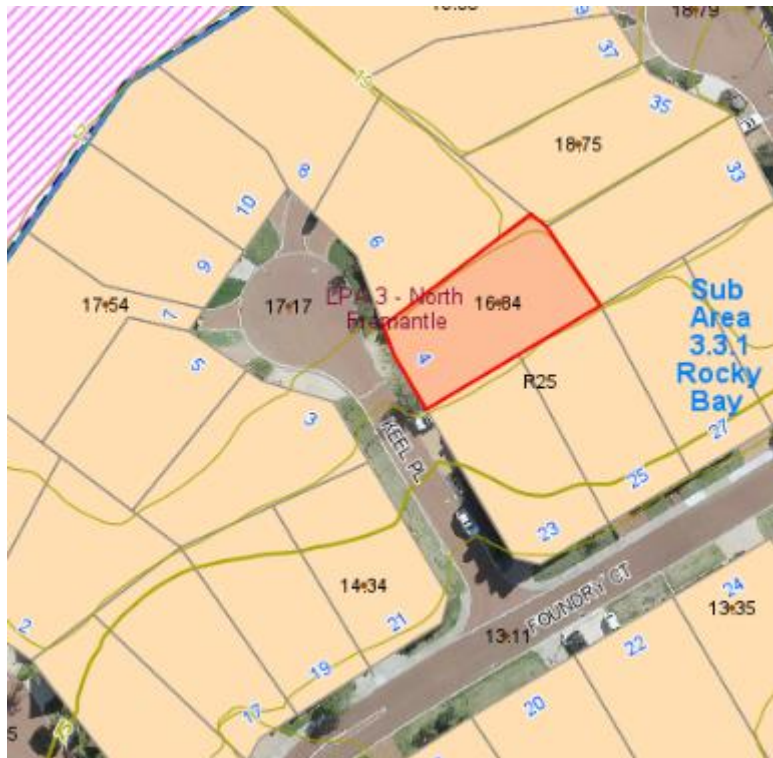
- Ground floor:
 - Double garage and store.
 - Self contained guest room/ancillary dwelling.
 - Kitchen/dining/living room.
 - Gazebo and pool.
- Upper floor:
 - Three bedrooms.
 - Family Room.
 - Three bathrooms.
 - Study.
 - Balcony.
- Terrace:
 - Terrace room.
 - Balcony.

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

Amended development plans are included as attachment 1.

Site/application information

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



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 included elements which varied deemed-to-comply criteria of the R-Codes. The advertising period concluded on 8 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

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

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

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

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

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

OFFICER COMMENT

Statutory and policy assessment

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

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

The above matters are discussed below.

Background

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

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

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

Building Height (External Wall)

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

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

LPS4 - 4.8.1.1	Officer Comment
a) The variation would not be detrimental to the amenity of adjoining properties or the locality generally.	The height of the building is considered to be detrimental to the amenity of adjoining properties for the following reasons: • The height of the building may limit views of significance for properties to the north and west of the subject site. • The overall height of the building is considered to contribute to a bulky appearance for the subject dwelling as viewed from adjoining properties. In accordance with the Rocky Bay Estate design guidelines (LPP N9), generally two storey development is expected to be developed.
b) degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality.	Based on a review of the properties in the immediate area of the subject site, only one building exceeds the relevant building height requirements, being the tower element to the dwelling at 3 Keel Place. It is considered that the height proposed dwelling will not contribute to the graduation of the scale of the dwelling at 3 Keel Place for the following reasons:

	• The proposed upper floor terrace is higher than the height of the 3 Keel Place tower element. • The 3 Keel Place tower element is a minor element which is located to the centre of this lot. The proposed terrace forms a much larger element. • The two properties are separated by the Keel Place road reserve. The dwelling to the rear at 33 Foundry Court is noted, however this dwelling has a floor which comprises a loft with dormer windows only.
c) conservation of the cultural heritage values of buildings on-site and adjoining.	No adjoining sites are individually identified on the City's heritage list.
d) any other relevant matter outlined in Council's local planning policies.	Local Planning Policy N9 contains criteria relevant to the assessment of building height. A further assessment against these criteria is carried out below.

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

Local Planning Policy Design Guideline N9 Rocky Bay Estate (Former State Engineering Works Site)	Officer Comment
7.3b – "...Council will have consideration to river views and vistas between buildings and the roofscapes that affect those vistas..."	Generally it is considered that this element can be satisfied due to the additional storey being located at the centre of the subject lot, rather than impacting views across the rear setback area of the subject site.
7.3d – The development plan outlines a 7.0m wall height or 10m roof height limit and therefore a two storey limit will be generally applied to the design of houses. Development of residences more than two storeys is not generally supported unless particular site characteristics or the individual design indicate that this form of development can be constructed in a manner that will have no unacceptable impact upon the amenity of the locality and adjoining properties, and within the indicated height limits.	See discussion above with respect to building height. The topography of the site is generally flat, with no site characteristics resulting in a need to exceed the height requirements applicable to the site. Generally the proposed additional floor is considered to have an undue impact upon the amenity of the locality for the reasons outlined above.
7.5c/d – In assessing the impact of development the Council will pay	Generally it is considered that the character of the immediately adjoining

particular attention to whether the proposed development is sympathetic to the streetscape and the scale and character of the locality and the amenity of the locality.	dwelling is two storey, with the exception of the minor tower element to 3 Keel Place.
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Based on the above assessment, the discretionary criteria of Local Planning Scheme No. 4 are not considered to be satisfied with respect to the height of the building. Accordingly, the application is recommended for refusal.

Visual Privacy

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

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

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

- The window is generally obscured, and this window is marked as an awning window. Accordingly, views would generally be limited towards the neighbouring ground floor and front yard area.
- This view would also be oblique as any view would generally be available around the window when open. Should the proposal be supported, a condition limiting the operability of the window would be recommended to ensure that the neighbours privacy can be appropriately maintained.

Lot boundary setbacks

Element	Requirement	Proposed	Extent of Variation
Upper floor (north west)	2.8m	1.3m	1.5m
Terrace (north west)	1.4m	1.2m	0.2m
Upper floor (south east)	4.7m	4.5m	0.2m

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

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

The setback of the terrace element is not considered to address the design principles of the R-Codes for the following reasons:

Terrace

- It is considered that providing this terrace element at a consistent setback to the floors below results in an undue building bulk impact, with the three storey overall height of this wall comprising a large, imposing element facing the neighbouring property.
- With respect to protecting privacy, the wall facing this boundary includes only highlight windows or fixed non-major openings.
- With respect to sunlight access, this will generally not be limited for neighbouring properties due to lot orientation, shade at midwinter from this wall will fall over the subject site.

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

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

Based on the above assessment, were the terrace element removed from consideration, this element of the proposal would be considered worthy of approval.

Boundary walls

Element	Requirement	Proposed	Extent of Variation
Gazebo (north west)	1m	Nil	1m
Gazebo (north east)	1m	Nil	1m

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

- The location of the gazebo more effectively utilises the previously proposed 1m setback space between the originally proposed location.
- The walls are both single storey, limited in dimension along each respective boundary, and do not appear to adjoin the primary outdoor living area for each adjoining sites, thereby effectively reducing the proposed bulk of the walls. Based on site retaining walls, it appears that the adjoining lots are set higher than the subject site, reducing the perceived height of the boundary walls.
- The gazebo is proposed to be constructed at the existing ground level and generally faces towards the subject site, reducing potential privacy impacts.
- With respect to shade impacts, the walls will cast winter shade over the subject site rather than adjoining properties.
- The walls will not be readily visible from the streetscape and boundary walls of this nature can be found in the subject area.

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

Driveway

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

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

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

CONCLUSION

As discussed in the officer comment section above, the proposal as submitted does not satisfy the building height requirements of Local Planning Scheme No. 4 sub area 3.3.1 and it is likewise not considered to address the discretionary criteria of scheme clause 4.8.1. Accordingly, the proposal is recommended for refusal.

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, three storey Single house and Ancillary dwelling at No. 4 (Lot 51) Keel Place, North Fremantle, as detailed on plans dated 26 June 2020, for the following reasons:

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

PC2008 - 10 INFORMATION REPORT – AUGUST 2020

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

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

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

Responsible Officer: Manager Development Approvals
Agenda attachments: Nil

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

1. Application Reference
DAP001/20
Site Address and Proposal
254C Hampton Road and 2 Culver Street, Beaconsfield – Mixed Use Commercial Development (Petrol Filling Station, Lunch Bar, Restaurant)
Planning Committee Consideration/Decision
At its meeting held on 15 April 2020, the Council resolved to support the officer's recommendation to refuse the application.
Current Status
- At its meeting held on 7 May 2020, the Metro Inner-South Joint Development Assessment Panel refused the application in accordance with the officer recommendation including with the inclusion of additional reasons relating to the built form of the proposed development. - In June 2020, the applicant lodged an application for review to the State Administrative Tribunal. A Directions Hearing has been scheduled for 26 June 2020. - A mediation session was scheduled for 22 July 2020. - On 20 July 2020, the application for review was withdrawn at the applicant's request.

OFFICER'S RECOMMENDATION

Council receive the following information reports for August 2020:

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

10.3 Council decision

Nil

11. Motions of which previous notice has been given

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

12. Urgent business

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

13. Late items

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

14. Confidential business

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

15. Closure