



Agenda

Planning Committee

Wednesday 7 December 2022 6pm



Notice of Planning Committee Meeting

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 7 December 2022** in the Council Chamber, Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

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

Russell Kingdom
Director Planning, Place and Urban Development

2 December 2022



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1. Official opening, welcome and acknowledgement

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

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

2. Attendance, apologies and leaves of absence

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

3. Disclosures of interests by members

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

4. Responses to previous questions taken on notice

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

5. Public question time

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

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

6. Petitions

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

7. Deputations

7.1 Special deputations

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

There are no special deputation requests.



7.2 Presentations

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

8. Confirmation of minutes

OFFICER'S RECOMMENDATION

The Planning Committee confirm the minutes of the Planning Committee meeting dated 2 November 2022

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

PC2212-1 REFERRED ITEM - MANNING STREET, NO. 5 (LOT 28) FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (JCL DA0100/22)

Meeting Date:	7 December 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Attachments:	1. Amended development plans
Additional information:	1. Site Photos 2. Amended Heritage Assessment

SUMMARY

Approval is sought for two storey additions and alterations to existing Single house at No. 5 (Lot 28) Manning 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:

- **Boundary wall (north)**
- **Visual privacy (north / south)**
- **Open space**
- **Overshadowing**

This application was originally referred to the 6 July 2022 Planning Committee with a recommendation for refusal for the following reasons:

- a) The proposal is inconsistent with the requirements of the Residential Design Codes in respect to the northern boundary walls, the southern lot boundary setback variations, the visual privacy variations to the northern and southern neighbours, and the extent of overshadowing.**
- b) The proposal would be detrimental to the residential amenity of the area under clause 67 of *Planning and Development (Local Planning Scheme) Regulations 2015* by reasons of significant amenity impacts posed by the extent of the development relative to the size of the lot and the neighbouring properties.**
- c) The intensity and nature of the proposed use is incompatible with the existing and future character of the area as envisaged**



by Council. This incompatibility is due to the adverse heritage outcomes posed by the development.

At the Planning Committee meeting held on 6 July 2022, the Council resolved as follows:

Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the Two Storey additions and alterations to existing Single house at No. 5 Manning Street, Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting an amended proposal to reconsider the bulk and scale of the additions, impact on the southern lot and the impact on the heritage dwelling.

Subsequently, the applicant has provided amended plans (dated 24 October 2022). It is considered that the amendments constitute a significant re-design of the proposal, satisfactorily addressing the reasons for refusal and deferral provided above. As such, the amended proposal is recommended for approval.

PROPOSAL

Detail

Approval is sought for two storey additions and alterations to an existing Single house at No. 5 (Lot 28) Manning Street, Fremantle. The proposed works include:

- Partial demolition of rear portion of existing Single house; and,
- Construction of a two storey rear addition at the rear of the existing Single house (with cellar).

After significant discussions, multiple sets of revised plans and advertising, the applicant submitted amended plans on 24 October 2022 after being referred back to the administration, which are the subject of this report. The plans are altered from the previous as follows:

- Modification of proposed internal layout of ground and upper floors of proposed extension;
- Reconfiguration of extension to reduce building bulk towards the southern neighbour;
- Relocation of the upper floor extension approximately 6.5m to the west;
- Removal of lot boundary setback variations to the north and south;
- Removal of proposed swimming pool; and
- Updated overshadowing diagram.

To illustrate the amendments, Figures 1-5 are provided below.

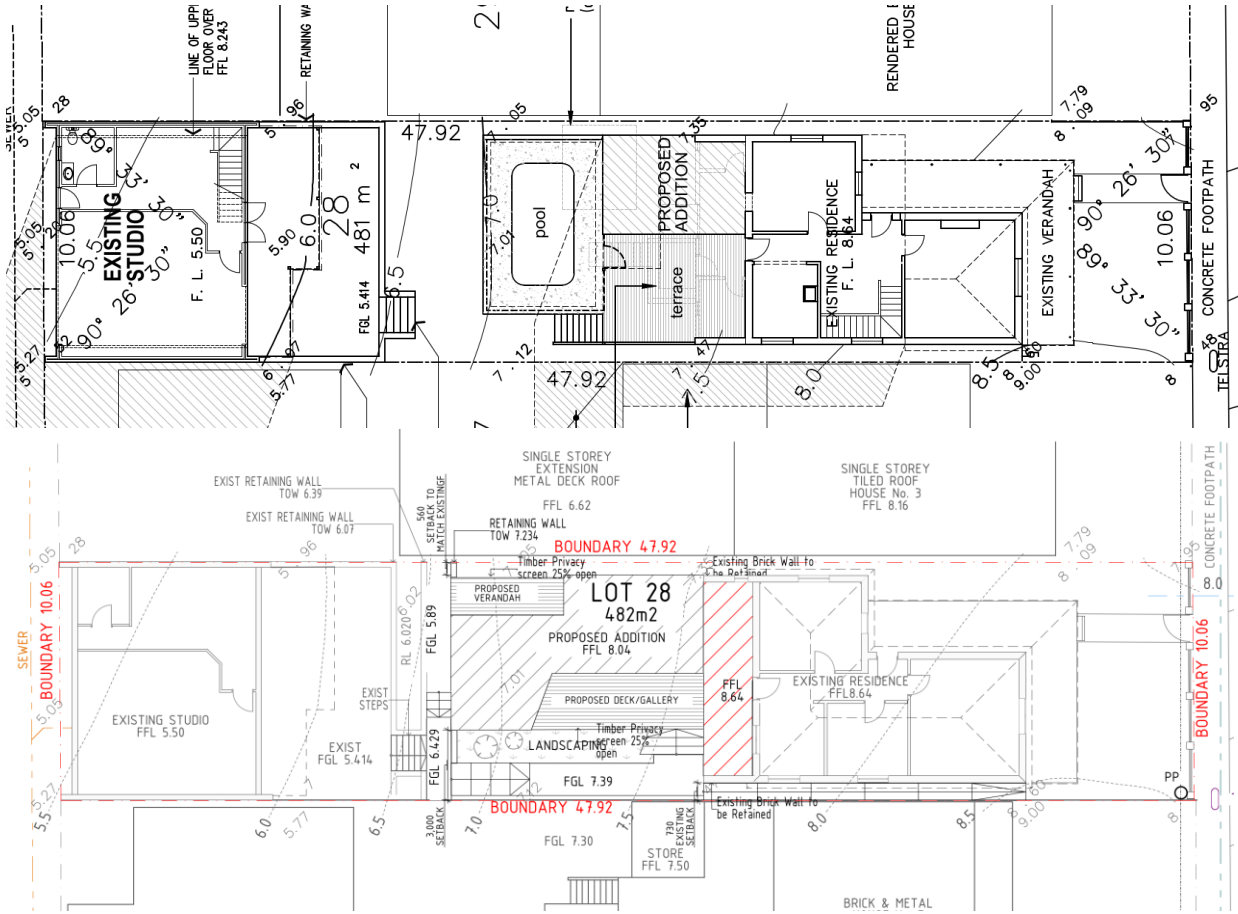
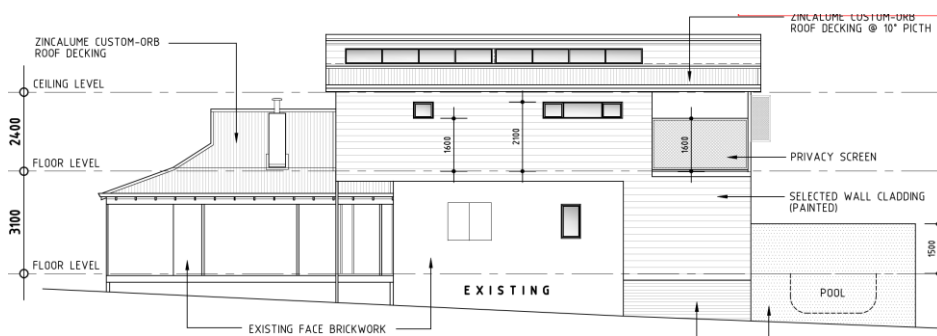


Figure 1: Comparison of original site plan (top) and amended plans (bottom).



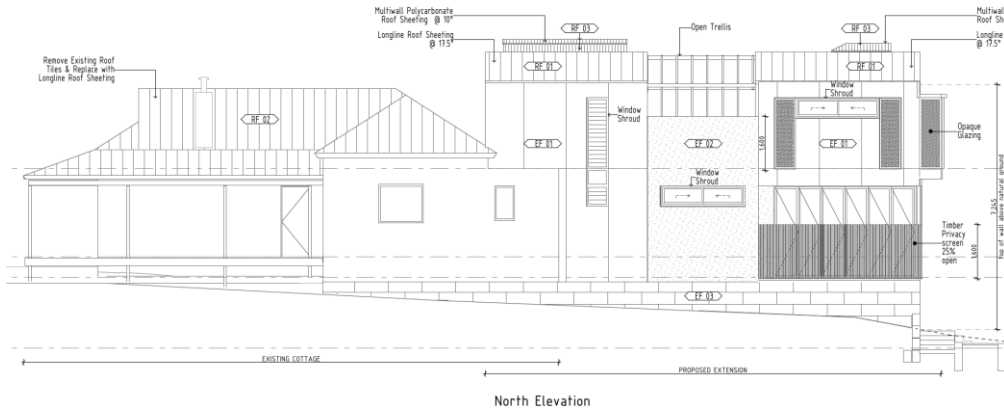


Figure 2: Comparison of original north elevation (top) and amended plans (bottom).

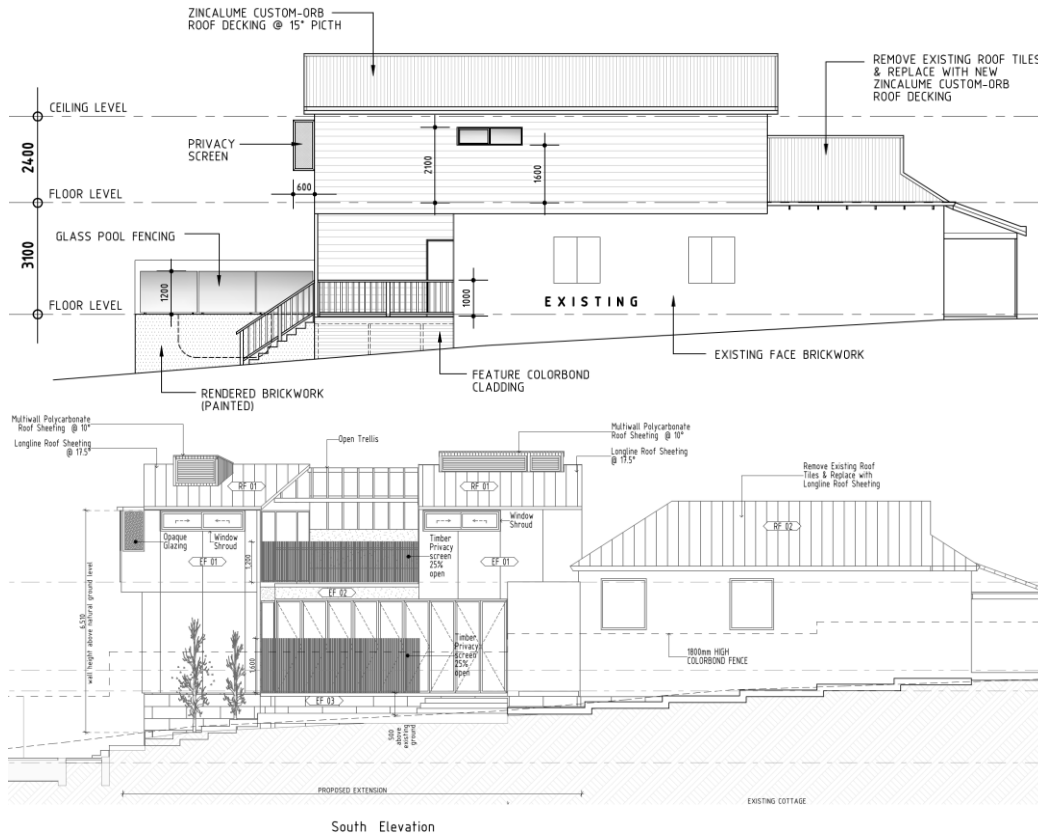


Figure 3: Comparison of original south elevation (top) and amended plans (bottom).

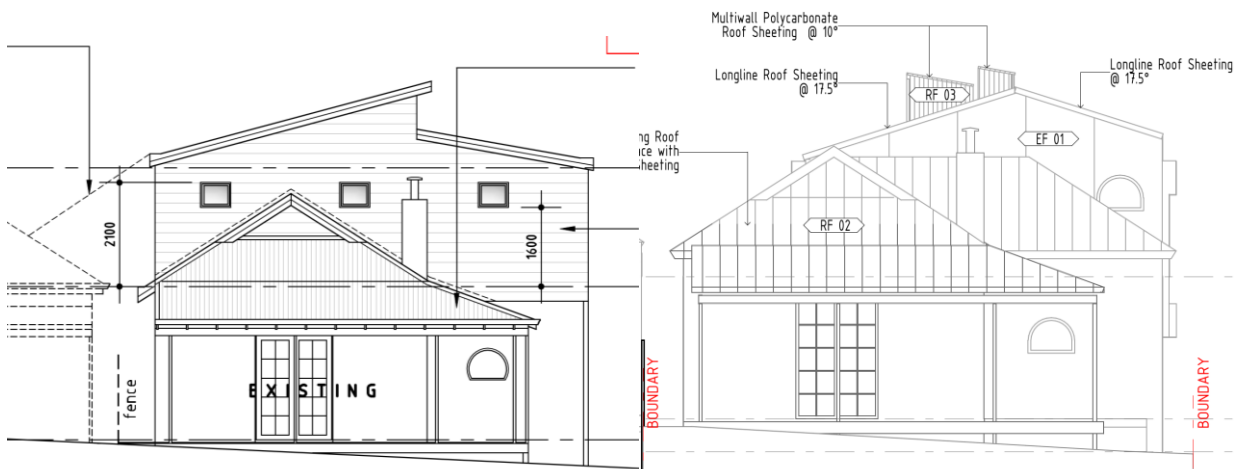


Figure 4: Comparison of original east (front) elevation (left) and amended plans (right).

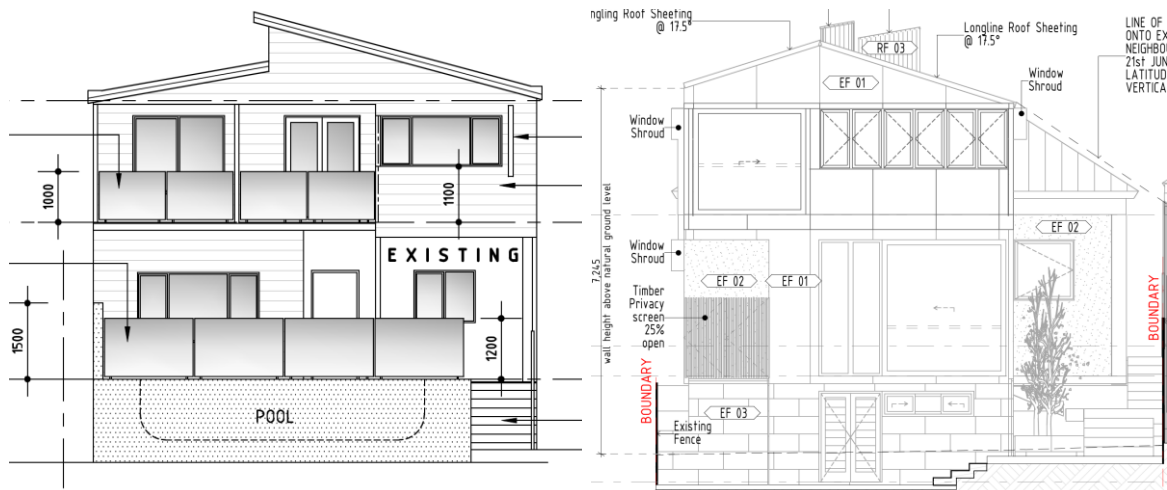
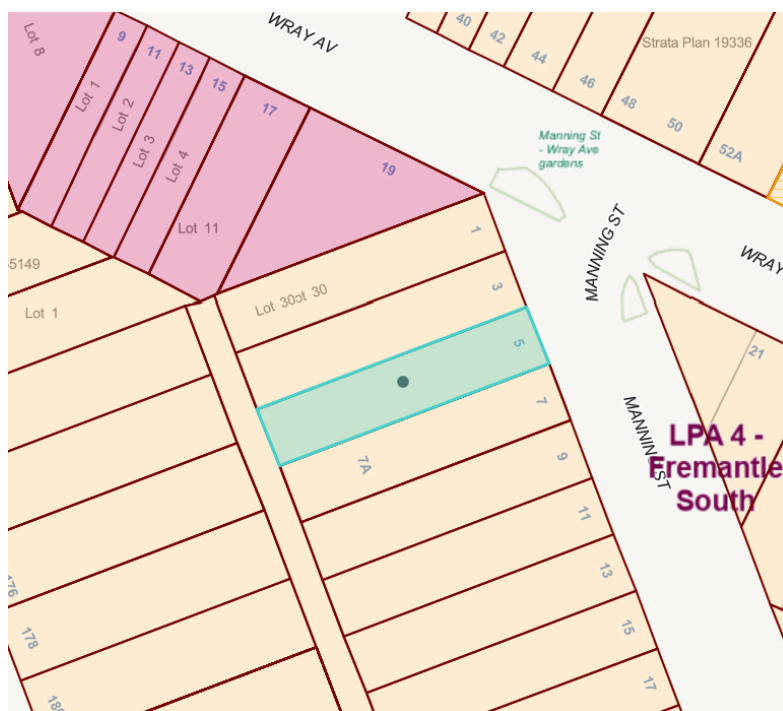


Figure 5: Comparison of original west (rear) elevation (left) over amended plans (right).

The amended development plans are included as attachment 1.

Site/application information

Date received:	30 March 2022
Owner name:	Jeremey John Carter & Rebecca Leigh Carter
Submitted by:	Jeremey John Carter
Scheme:	Residential R30
Heritage listing:	Level 3, Not in a Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was initially advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, due to the following discretions being posed:

- Boundary wall (north)
- Side setback (south)
- Visual privacy (north/south)
- Open space
- Overshadowing

The initial advertising period concluded on 3 May 2022, and two submissions were received. Issues relating to lot boundary setbacks, visual privacy and overshadowing were received.

Following the Planning Committee deferral, the applicant submitted a set of revised plans that introduced new discretions and was subsequently advertised. While improvements were noted, issues were again raised in relation to lot boundary setbacks, visual privacy and overshadowing.

The proposal was re-advertised a third time upon receipt of new amended plans provided on 24 October 2022 (the subject of this report). Given the amended length and location of the boundary wall to the north, new major openings, and



amended open space and overshadowing provision, the proposal constituted a significantly modified design. Therefore, advertising was undertaken for the following identified variations:

- Boundary wall (north)
- Visual privacy (north / south)
- Open space
- Overshadowing

Two submissions were received from the final re-advertising period, objecting to the proposal, with the following relevant comments (summarised):

Submitter 1

- The amended plans don't show the location of our house correctly, nor do they show surrounding building heights correctly. Our house is located on the boundary, meaning that the distance between the houses will be less than that shown;
- The retaining wall will be holding dirt against our house, rather than the fence, as depicted on the plans;
- Proposal has significant bulk and scale, and the proposed verandahs may cause noise issues;
- Overlooking will be posed by all floors of the development, particularly the upper floor kitchen/living area, impacting on our outdoor area amenity;
- Insufficient open space. The plans don't demonstrate the visual impact or heat island impacts onto the locality. Consider this proposal to be overdevelopment of the site; and,
- Further, the following information is missing:
 - Topography of the site; and
 - The scale of the existing two storey dwelling at the rear of the site (studio).



Submitter 2

- Setbacks to the south are improved. The height and bulk of the addition remains a concern, noting that when viewed from the rear, the proposal presents as a three storey building (including the proposed cellar);
- Sight lines from the deck on level 1 are for an average eye height, meaning that at least 50% of adults can see over the proposed screens. This results in less visual privacy for our open rear deck than is shown on the plans. It is noted that some windows haven't been dimensioned to show their height;
- The increased footprint, combined with the height of the addition, will result in an overly bulky building, dominating its surroundings;
- The overshadowing diagram doesn't show the shadow cast to our granny flat; and
- The walkway to the kitchen is proposed to be open, given it is a pergola. This pergola will likely be covered in future, which will cause more overshadowing.

Regarding the above submission, the City's Officers make the following comments:

- Comments relating to building bulk and scale are noted. It is considered that the amended plans demonstrate a meaningful reduction in bulk and scale through a variety of design features. The most notable amendment in this regard is separating the upper floor through the provision of an upper floor deck in the mid portion of the extension;
- The overshadowing diagram provided is accurate and shows the impact of shadow throughout the southern neighbours site;
- Given open space is a discretion, any future placement of water impermeable material over the proposed pergola to the upper floor deck will require development approval;
- The City uses the provided survey plan and plans derived from it in good faith. Notwithstanding, it appears that the location of neighbouring buildings in aerial photography and as observed on site, appear to be consistent with their locations per the plans;
- No new fill is proposed to lot boundaries that will require neighbouring walls to support the fill. Notwithstanding, all development is to be contained on the subject site, and is not permitted to encroach onto neighbouring properties;
- It is noted that the urban heat island isn't a planning consideration in this instance; and,
- The studio is shown on the plans, and partially shown on the elevations.

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:

- Boundary wall (north)
- Visual privacy (north / south)
- Open space
- Overshadowing

The above matters are discussed below.

Background

The subject site is located on the west side of Manning Street. The site has a land area of approximately 481m² and is currently a Single house. The site is zoned Residential and has a density coding of R30. The site is individually heritage listed but is not within a Heritage Area. The site has a significant slope from south-east to north-west.

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

- DA0361/11 – Detached Two Storey Ancillary Accommodation Addition to an existing Single House. Approved by Planning Committee on 25 January 2012. This Ancillary dwelling is currently present on the site.

This application was originally referred to the 6 July 2022 Planning Committee meeting and was recommended for refusal by officers. The Planning Committee invited the applicant to amend the development plans to address the reasons for deferral, namely the bulk and scale of the proposal, the impact on the southern neighbouring lot, and the impact on the existing heritage dwelling. Following several revisions, the applicant provided the final set of amended plans on 24 October 2022, which are the subject of this report.

The applicant has made the following notable primary changes to the proposal to address the City's concerns:

- Increasing the ground floor setback to the south from 0.7m to 3m-5.3m;
- Increasing the upper floor setbacks to the south from 0.7m to 3m-4.1m;
- Removing the southern boundary wall caused by the proposed raised deck and above ground pool;
- Decreasing the overshadowing proposed to the southern neighbour by 11m²; and,
- Reducing the height and amending the roof form to reduce the impact on the southern neighbour.



It is noted that the following discretions have been intensified:

- Increase the extent of the ground and upper floor boundary walls to the northern lot boundary by approximately 6.9m; and
- Visual privacy is cast by different areas to different portions of the adjoining properties, as is further discussed in the body of the report.

Heritage assessment

The proposal was not supported on heritage grounds due to the adverse impact on the heritage significance of the dwelling, particularly regarding the proposed demolition of the original hipped roof and siting of the upper floor additions. The amended plans have addressed these concerns by setting the extension further back from the street to be behind the existing house and reducing the extent of demolition works proposed.

5 Manning Street is a modest but well composed single storey Inter-War Bungalow house in a largely intact heritage streetscape.

Initial drawings for additions to this property overwhelmed the house and diminished the significance of the place and its contribution to the surrounding streetscape.

The heritage impact of this revised scheme (drawings dated 24 October 2022) is acceptable as demolition is limited to the less significant lean-to attached to the rear of the house and because the two storey additions are set back behind the house requiring little change to significant heritage fabric and reducing the visual impact of the additions on the heritage streetscape of Manning Street.

This proposal is supported because it will have minimal impact on the heritage significance of this place and the historic streetscape in which it is located.

Noting the above, it is considered that the revised proposal meets the provisions of Clause 4.14 of LPS4, given the demolition works are occurring to a portion of the dwelling with limited cultural heritage significance, and the portions to be demolished aren't readily visible from the public realm.

Based on the above, it is considered that the amended proposal is supported from a heritage perspective.

Boundary wall

Element	Required setback (amended proposal)	Proposed setback (amended proposal)	Extent of Variation (amended proposal)
North – ground floor	1.8m	0.56m	1.24m



North – upper floor	1.9m	0.56m	1.34m
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Regarding the amended boundary walls, the below modifications have been made:

- The previously proposed southern boundary wall posed by the raised deck has been removed; and,
- Due to the modified design relocating the rear extension further to the rear of the site, the location of the proposed upper floor southern boundary wall has moved approximately 6.5m further west and is increased in total length by 0.3m. It is noted that the ground floor boundary wall remains in the same location, though is increased in length by 1.8m.

The north facing ground and upper floor boundary walls are considered to meet the Design principles of the R-Codes in the following ways:

- The proposed boundary wall does not result in a loss of access to winter sunlight owing to its location on the northern boundary;
- The boundary wall is not considered to contribute to a sense of confinement or building bulk as it doesn't have an unacceptable adverse impact on any existing major openings. Further, the ground floor boundary wall abuts an existing boundary wall present on the northern neighbour's site. Whilst the upper floor doesn't abut a boundary wall, it is considered that the presence of the neighbour's boundary wall at the ground floor reduces any adverse building bulk impact to the northern neighbour's site;
- No visual privacy variations are posed by this boundary wall; and
- The boundary wall does not impact on any views of significance or existing significant vegetation.



Visual privacy

Element	Requirement	Proposed	Extent of Variation
Ground floor – Games - north	6m	4.6m	1.4m
Ground floor – Games - south	6m	4.5m	1.5m
Ground floor – Gallery/Deck - south	7.5m	3m	4.5m
Upper floor – Kitchen/Living - north	6m	0.9m	5.1m
Upper floor – Kitchen/Living - south	6m	4.4m	1.6m
Upper floor – Kitchen - south	6m	4.3m	1.7m
Upper floor – Deck - south	7.5m	4.1m	3.4m
Upper floor – Master Bedroom - south	4.5m	4.4m	0.1m

The amended plans have resulted in several changes to visual privacy through the removal of certain major openings and raised outdoor living areas, and the introduction of new ones.

Games room

The ground floor Games Room facing north is considered to meet the Design principles of the R-Codes in the following ways:

- The cone-of-vision does not directly impact on the primary outdoor living area of the adjoining site;
- The predominant outlook from the opening is towards existing outbuildings located at the rear portion of the northern neighbouring site; and
- The cone-of-vision does not unreasonably impact on the privacy to major openings on the adjoining site.

Kitchen/Living Room

The upper floor Kitchen/Living room facing north is considered to meet the Design principles of the R-Codes in the following ways:

- The cone-of-vision does not adversely impact on any primary outdoor living areas of the adjoining site, given it primarily overlooks a moderately vegetated area of open space, containing outbuildings and a garage (see Figure 6 below); and,
- The cone-of-vision does not unreasonably impact on the privacy to major openings on the adjoining site.

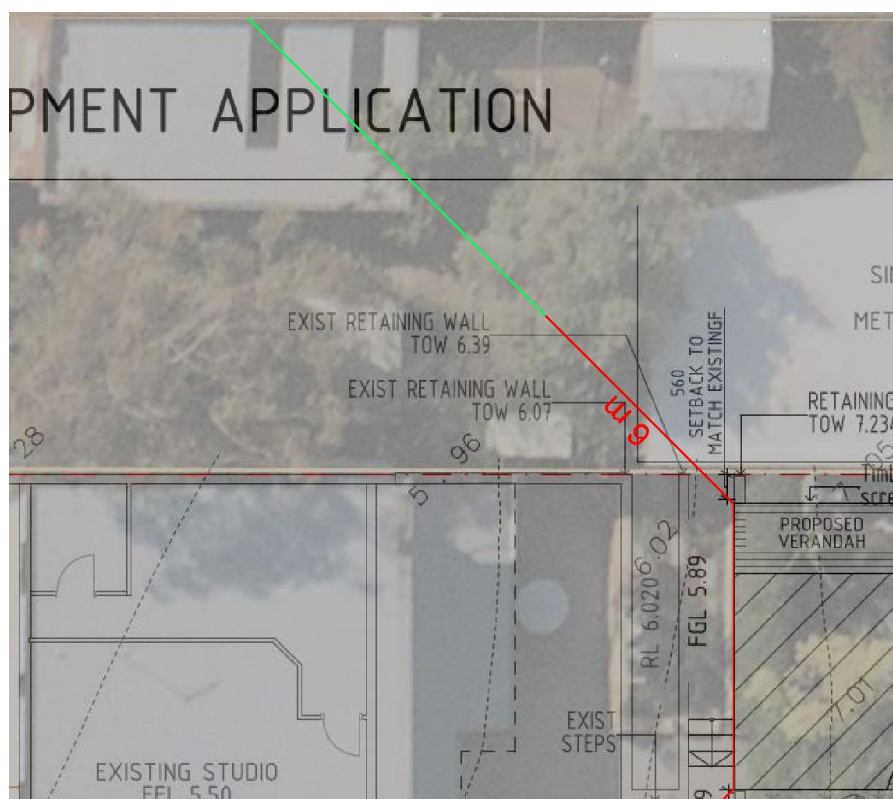


Figure 6. Area of northern neighbour overlooked by upper floor Kitchen/Living Room facing north.

The upper floor Kitchen/Living room facing south is considered to meet the Design principles of the R-Codes in the following ways:

- The cone-of-vision does not adversely impact on any primary outdoor living areas or major openings of the adjoining site, given it primarily overlooks southern neighbours studio roof area. It is noted that the studio has a hi-light window facing north, however given it is not a major opening, and the awning obscures views to the window when viewed from a high angle, it is considered that there is minimal capacity for adverse visual privacy impacts to be posed to the studio by the subject major openings.

It is considered that the Ground floor Games Room (impacting southern neighbour), Gallery/Deck (facing south), Kitchen/Deck (upper floor- south) and Upper floor Master Bedroom (impacting southern neighbour) aren't considered to meet the Design Principles. Therefore, the above Major Openings/raised Outdoor Living Area are recommended to have a condition imposes requiring screening be provided.



Open space

Element	Requirement	Proposed	Extent of Variation
Open space (original proposal)	216m ² (45%)	Original plans: 183m ² open space (38%)	Original plans: 33m ² (7%)
Open space (amended proposal)	216m ² (45%)	Amended plans: 196m ² (40%)	Amended plans: 20m ² (5%)

The amended plans have marginally increased the amount of open space due to the redesigned extension, comprising an upper floor area of open space.

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

- The amount of open space is offset by the provision of several outdoor living areas in the back yard and on the roof deck, with a cumulative area of approximately 98m², 74m² greater than that specified by the deemed-to-comply criteria. This ensures suitable, useable outdoor space is available to residents of the dwelling;
- The locality surrounding the subject site generally consists of similar scale of site cover, with a character of development with reduced open space;
- The scale of development presented to the public realm is generally consistent with other dwellings in the streetscape, with all additions to the rear; and,
- The exercise of discretion is considered relatively minor and similar to a proposal that otherwise meets the deemed-to-comply criteria.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Overshadowing (original proposal)	168m ² (35% of southern neighbours parent lot)	201m ² (41% of southern neighbours parent lot)	33m ² (6% of total site area of southern neighbours parent lot)
Overshadowing (amended proposal)	168m ² (35% of southern neighbours parent lot)	190m ² (39% of southern neighbours parent lot)	22m ² (4% of total site area of southern neighbours parent lot)

It is noted that due to the amended form of the proposed addition, the shadow falls marginally over new areas (such as further over a portion the neighbours patio roof and rear portion of back yard and rear detached addition), however the overall extent of overshadowing is reduced by approximately 11m² from the original proposal. It is noted that the extent of discretion is now 4% from compliance.

It is considered that the amendments constitute a minor improvement to the impact of overshadowing to the neighbour, and are supportable on the basis of the below Design Principle assessment:

- The patio contained on No. 7 Manning Street, whilst still partially affected by shadow, will only have shadow cast to a height of 0.7m at its greatest impact, with the majority of the usable area having sunlight access. This is due to the amended building form, the raised floor level of the patio (see Figure 8 below), and the topography of the site;
- The affected site retains approximately 37m² of uncovered outdoor living area, excluding the patio. It is noted that a 10m² portion of the neighbours outdoor living area will be overshadowed by the proposed rooftop deck pergola roof. Therefore, the shadow cast in this portion is considered to allow for a limited increase in solar access, though isn't considered unshaded area; and,
- Due to the amended form of the rear extension, in addition to its relocation on site, no overshadowing is posed that will adversely impact the affected neighbours solar panels.

In consideration of the above, the applicant provided the below cross section (Figures 7), which provide approximate indications of the fall of the shadow. It is noted that the shadow cast by the Master Bedroom (closest to the patio) will have a minor impact on solar access for the patio. In Figure 9, it is noted that the extent of shadow is greater, however as noted above, substantial portions of unshaded outdoor living area are preserved.

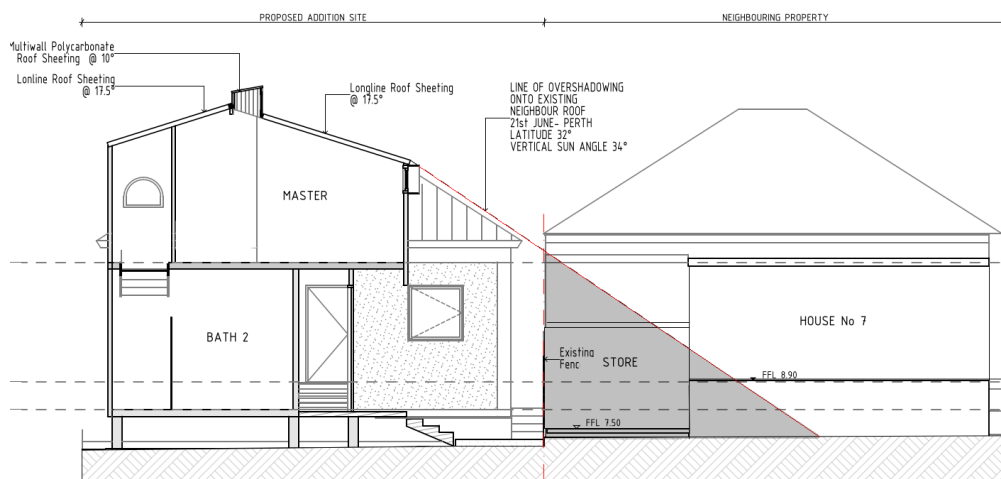


Figure 7: general cross section showing approximate impact of shadow from Master Bedroom to southern neighbours rear outdoor living area.

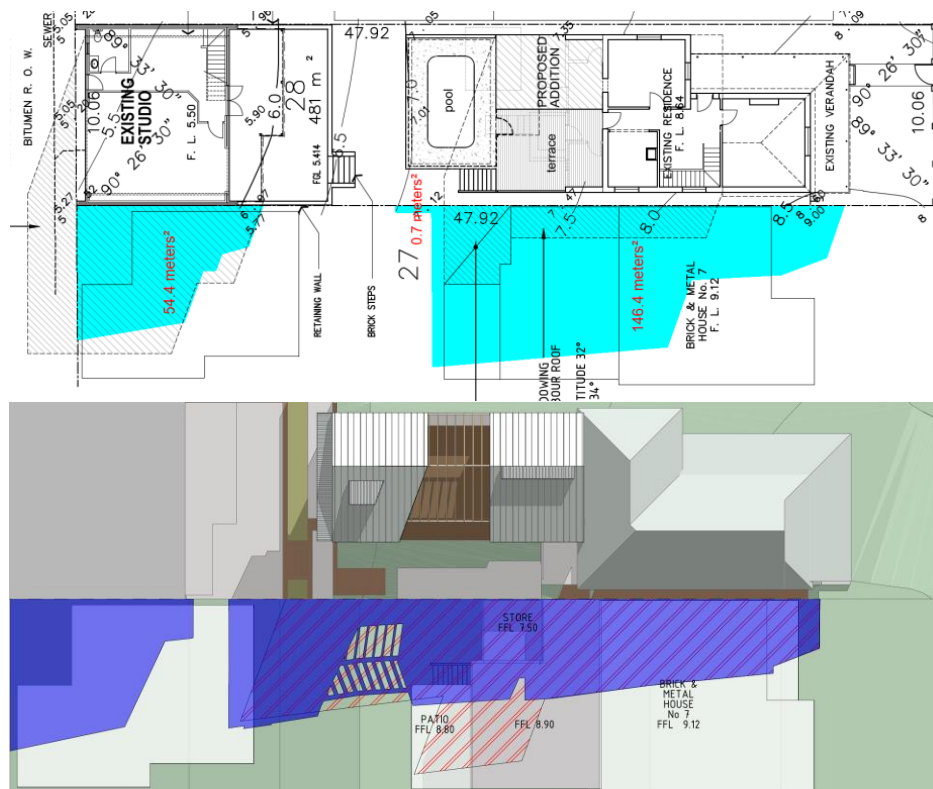


Figure 8: Overshadowing diagrams demonstrating difference in shadow cast by original proposed plans (top), and the current proposed set of plans in blue (bottom).

CONCLUSION

Based on the above assessment, it is considered that sufficient amendments have been proposed to allow the City’s officers to change its recommendation to approval for the proposal. It is considered that the overall bulk of the proposal has been amended to present a more acceptable outcome to the southern neighbour, whilst providing a substantial improvement to the impact of the development on the public realm.

Additionally, the amended proposal retains greater portions of the exiting heritage dwelling, which is supported by the City’s Heritage Department. Whilst some of the originally proposed variations remain, and several have been increased to varying degrees, it is considered that on-balance, due to the amendments made in areas of greatest impact, the application can be recommended for approval subject to the conditions contained in the Officers recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil



LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey additions and alterations to existing Single house at No. 5 (Lot 28) Manning Street, Fremantle subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 24 October 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. The 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 City of Fremantle.**
- 4. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the ground floor games room and deck as they face south, upper floor deck and kitchen (facing south) and the upper floor Master Bedroom as they impact on the southern neighbour, is to be screened in accordance with Clause 5.4.1C1.1 of the Residential Design Codes by either:**
 - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
 - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
 - c) a minimum sill height of 1.60 metres above the internal floor level,**

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



- 5. Prior to occupation/ use of the development hereby approved, the boundary walls located on the north lot 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.**
- 6. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

ADVICE NOTES

- i. A building permit is required 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, including the decking, must comply with Part 3.7 of the Building Code of Australia.**



10.2 Committee delegation

PC2212-2 HICKORY STREET, NO. 8 (LOT 30), SOUTH FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS INCLUDING A ROOF TOP TERRACE ADDITION TO EXISTING SINGLE HOUSE (ED DA0263/22)

Meeting Date:	7 December 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Attachments:	1. Amended Development Plans
Additional information:	1. Site Photos 2. Applicant additional information

SUMMARY

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

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Building Height**
- **Overshadowing**
- **Lot Boundary Setbacks**
- **Visual Privacy**

The application is recommended for refusal.

PROPOSAL

Detail

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

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



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

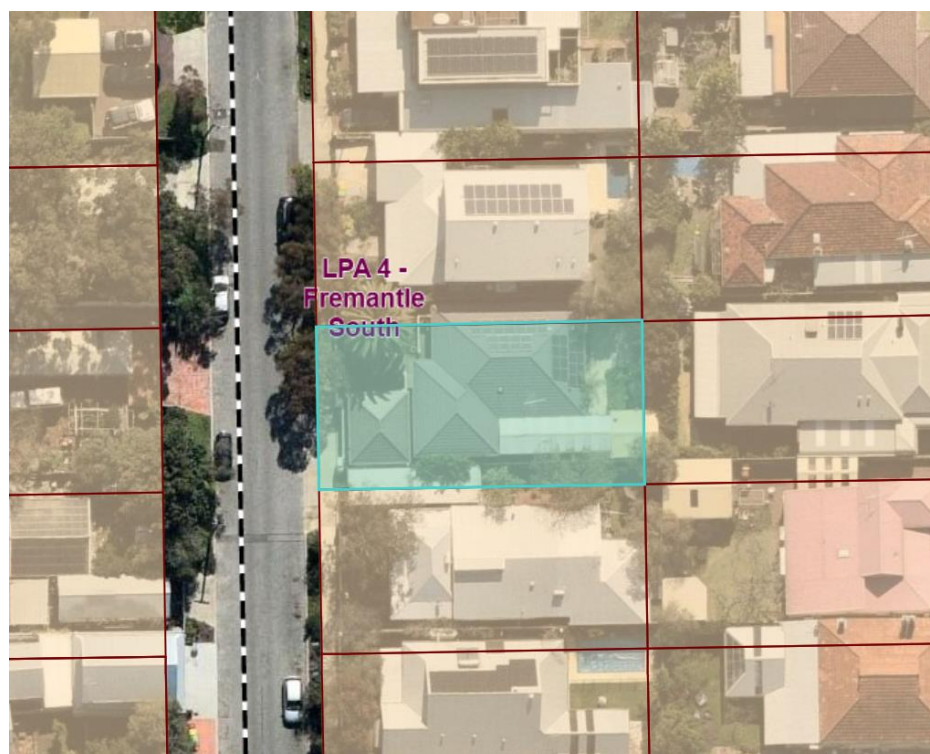
The applicant submitted amended plans on 18 November 2022 including the following changes:

- Increased height of side walls of open terrace to 1650mm to address visually privacy concerns for adjacent properties; and
- Reduce upper-level external (northern) stair wall height from 7.789m to 7.2m.

Amended development plans are included as attachment 1.

Site/application information

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





CONSULTATION

External Referrals

Nil required.

Internal Referrals

Heritage

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

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

Community

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

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



In response to the above, the applicant submitted revised plans to address the visual privacy concerns from the roof terrace and provided written responses and further justification to each of the above comments and planning assessment items (refer **Additional Information 2**).

Please note on 18 November 2022, the applicant provided a signed letter of consent from the northern neighbour (6 Hickory Street) in support of the proposed plans.

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

OFFICER COMMENT

Statutory and policy assessment

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

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

The above matters are discussed below.

Background

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

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

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

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



Primary Street Setback (1st Floor)

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

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

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



Figure 1. Aerial Image showing Hickory Street Streetscape



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

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

Building Height

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

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

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

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

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

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Maximum Permissible Overshadowing of Adjoining Sites (R-Codes 5.4.2)	Max. 25% shadow cover of adjoining site: No. 10 Hickory Street (Site Area: 455m ²)	34.94% (159m ²)	9.94% (45m ²)



The overshadowing of the adjoining southern lot (No. 10 Hickory Street) is not considered to meet the Design principles of the R-Codes for the following reasons:

- As depicted in the image created below the shadow cast by the proposed additions are expected overshadow some key north facing major openings to living spaces (Family Room) within the adjoining dwelling as well as portions of the primary outdoor living area and alfresco area of the dwelling. Given the fact the proposal seeks variations to the maximum building height (refer above) and the permissible level of overshadowing, the variations are cumulatively considered unacceptable.

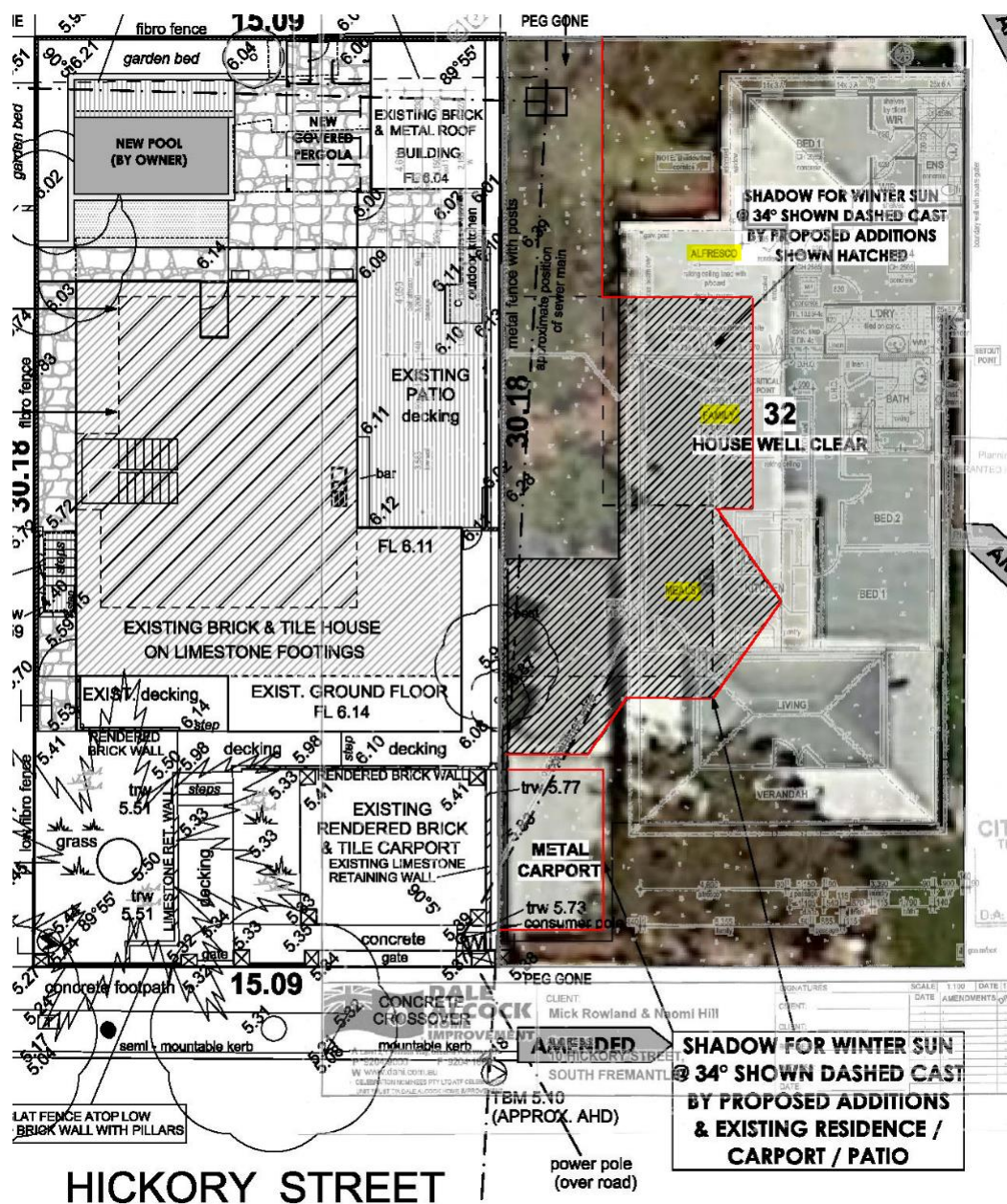


Figure 2. Overshadowing Impact Upon Adjoining Southern Property (No. 10)



It is noted that the design has considered the overshadowing impact and aimed to minimise it by setting back a majority the first and second floor addition 4.6m from the shared lot boundary with the adjoining southern dwelling which also serves to mitigate any building bulk impacts. It is also acknowledged that on these east-west orientated lots, avoiding overshadowing becomes difficult when adding storeys above ground level; however, this proposal also seeks variations to maximum building heights which are contributing to the overshadowing impact. It is considered there are design solutions possible to reduce the overshadowing impact upon the southern neighbouring property or at least reduce impacts over more sensitive habitable spaces.

Lot boundary setback

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

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

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

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



Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Cone-of-vision setback (New Open Terrace; view north-west)	7.5m	3.7m	3.8m
Cone-of-vision setback (New Open Terrace; view south-west)	7.5m	7.4m	0.1m
Cone-of-vision setback (First Floor New Upper Living; view north-west)	6.0m	3.8m	2.2m

All of the above visual privacy variations are supported under the Design Principles of the R-Codes for the following reasons:

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

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

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

CONCLUSION

It is considered that the subject proposal seeks to vary a number of the requirements of the R-Codes and Council policies which apply to development on the subject site and these elements combine to negatively impact the amenity of neighbouring properties.



While some aspects of the proposed additions are supported, the variations proposed to the building height, which in turn exacerbates the overshadowing impact upon sensitive habitable spaces of the adjoining southern dwelling, is seen as unacceptable. As such, the application, as currently proposed, is not supported and recommended for refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Two Storey Additions and Alterations Including a Roof Top Terrace Addition to Existing Single House at No. 8 (Lot 30) Hickory Street, South Fremantle, as detailed on plans dated 18 November 2022, for the following reasons:

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



**PC2212-3 NO. 122A (LOT 201) ATTFIELD STREET, SOUTH FREMANTLE
– TWO STOREY SINGLE HOUSE (JCL DA0126/22)**

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Amended development plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a two storey Single house at No. 122a 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 discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Primary street setback (ground and upper floor);**
- **Lot boundary setback (north and south);**
- **Boundary wall (south);**
- **Open space;**
- **Garage width;**
- **Outdoor living area;**
- **Site works; and**
- **Over-height dividing fence.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for two storey Single house to an existing vacant site at No. 122a Attfield Street, South Fremantle. The proposed works include:

- Construction of a two storey Single house with a basement at the currently vacant site;
- Provision of site works and retaining walls;
- Construction of primary street fencing; and,
- Provision of landscaping.



The applicant submitted amended plans on 25 October 2022, including the following primary amendments:

- 0.4m increase in the ground floor primary street setback of the garage;
- 0.5m increase in the ground floor southern lot boundary setback for the Scullery, Laundry, and Powder Room;
- 0.26m additional excavation, reducing the height of the dwelling;
- Amended primary street fence design to comply with vehicle sightlines;
- 0.1m decrease in overall length of southern boundary wall; and
- 0.5m portion of top of south wall (formerly portion of boundary wall) for Living and Kitchen is setback 0.63m from the southern lot boundary.

Development plans are included as attachment 1.

Site/application information

Date received: 8 April 2022
 Owner name: Paul Saverio Pensabene
 Submitted by: Imperial Homes Pty Ltd
 Scheme: Residential R30
 Heritage listing: South Fremantle Heritage Area, not individually Heritage 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*, due to the following identified variations:

- Boundary wall (south)
- Side and rear setbacks (north/south)
- Vehicle sightlines
- Front setback
- Open space
- Outdoor living area
- Site works
- Overshadowing
- Garage width

The advertising period concluded on 26 May 2022, and four submissions were received. The following issues were raised (summarised):

- Site works are an issue – excavation for basement and pool could cause damage to surrounding properties;
- South boundary wall will cause building bulk, overshadowing, and amenity impacts to adjoining property (particularly to the outdoor living area) due to topography difference between the properties, the 15m length of the wall, its proposed height, and its aesthetic appearance;
- Eastern boundary setback – whilst compliant, the setback and height of the wall will adversely impact neighbours access to sunlight to their only living area;
- Rear lot boundary setback – will cause overshadowing impacts;
- Primary street setback – non-compliant setback not supported and will have greater cumulative impact due to wide garage;
- Noise issues from air conditioning units and pool pump located close to southern boundary;
- Neighbour consent must be obtained to access their property for any works relating to the proposal;
- The windows to Bedrooms 3 and 4, whilst technically compliant, will still pose adverse amenity and privacy impacts;
- Neighbour consent must be obtained to access their property, noting that access to the sewerage easement is prohibited;
- Disagree with plans showing existing 1.8m high colourbond fence along subject sites southern boundary. This fence is rather comprised of limestone pillars, retaining wall and colourbond panels;
- Vehicle sightlines will cause safety risks to pedestrians, made worse by the reduced setback of the garage to the front boundary;
- Open space is insufficient – no space for landscaping and little usable open space;



- Outdoor living area has too much roof cover; and,
- Overshadowing will adversely impact indoor/outdoor living areas during winter. The building height combined with the topography differences between properties will result in an unacceptable amount of overshadowing.

In response to the above, the applicant submitted revised plans on 25 October 2022, as outlined in the Detail section of the report above. Furthermore, prior to the abovementioned amended plans, the applicant provided written justification in response to the submissions:

- The registered builder will have building insurance and all properties abutting the subject site will have a dilapidation report completed on their properties prior to construction;
- The chemical injection is a microfine cement injection to solidify the soil prior to excavation;
- The noise from the air conditioner and pool pump will be minimised; and,
- Water Corporation have provided consent for construction to occur into the sewer easement up to 600mm from the centre of the sewer with piling (or two meters without piling).

In response to the issues raised in the submissions, the following comments are provided by officers:

- It is noted that the eastern (rear) lot boundary setback, visual privacy, overshadowing and vehicle sightlines are all deemed to comply;
- Noise is to comply with applicable legislation;
- Access to neighbouring properties is dealt with under the Building Act; and
- The southern dividing fencing has been updated to show both metal and masonry 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 particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Primary street setback (ground and upper floor);
- Lot boundary setback (north);
- Boundary wall (south);
- Open space;
- Garage width;
- Outdoor living area;
- Site works; and,
- Over-height dividing fence.



The above matters are discussed below.

Background

The subject site is located on the eastern side of Attfield Street and is abutted by a vacant lot to the north, and two double storey dwellings directly to the south. The site has a land area of approximately 286m² 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, though is located within the South Fremantle Heritage Area. The subject site has a Water Corporation sewerage easement traversing north-south across the rear portion of the subject site.

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

- **WAPC132398 (freehold subdivision)**: Involved the demolition of existing Single house and two lot subdivision creating subject site and northern neighbouring site.

Land Use

A Single house is a 'P' use in the Residential Zone, which means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

Heritage assessment

The subject site is located in the South Fremantle Heritage Area and is thereby subject to an assessment against the provisions of Local Planning Policy 3.6 – Heritage Areas.

122a Attfield Street is not included on the Heritage List but is located within the South Fremantle Heritage Area. The property is one of several adjoining properties that remained vacant well after the development of the area between the 1890s and 1930s and the later infill of the area in the Post War Era. These properties have been gradually developed from the 1990s and all contain two storey houses with built-in two car garages on the ground floor. These houses form a group that has an identifiable character but little heritage streetscape value.

The proposal can be supported from a heritage perspective because it will have limited impact on the heritage significance of the South Fremantle Heritage Area and the streetscape value of this section of Attfield Street.

Further to the above general comment, the following assessment against the relevant provisions of the Policy is provided:



Provision	Proposed	Comment
<p>New infill development within a heritage area should:</p> <ul style="list-style-type: none"> a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns. b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then the new infill development should also be (or present as) single storey (at least to the front section of the lot). c) Have a plate height consistent with the original street pattern. New developments often propose a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern. 	<p>See primary street setback assessment in body of the report.</p>	<p>The development is located in a transitional portion of the streetscape where there is no unified primary street setback character or prevailing heritage aesthetic.</p> <p>Therefore, given the form of the upper floor, in addition to the proposed setbacks, it is considered that the apparent building bulk posed to the street is slightly less than that posed by the southern neighbouring two storey dwellings.</p>
<p>The form of the building is its overall shape, size and the general arrangement of its main parts.</p> <ul style="list-style-type: none"> i. New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing. ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced. iii. The treatment of new infill buildings in terms of the roof form, proportions, materials, 	<p>Proposal has a non-conventional appearance to the street scape, with several roof elements and</p>	<p>It is noted that the immediate streetscape to which this proposal belongs has limited heritage significance, and there is minimal consistency in overall design of dwellings.</p> <p>It is considered that the proposal has a neutral impact on the character of the immediately adjacent dwellings comprising the streetscape. This is due to the neighbouring properties (specifically to the south) having a contemporary aesthetic.</p>



<p>number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.</p> <p>iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.</p> <p>v. Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</p>		
<p>Materials, Colours and Detailing</p> <p>i. Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.</p> <p>ii. Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.</p> <p>iii. Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical precedent for their use can be demonstrated.</p>	<p>Variety of external cladding materials proposed, including:</p> <ul style="list-style-type: none"> • rustic brickwork; • Precast concrete; • Custom orb metal wall cladding; and, • Metal roof. 	<p>It is considered that the materials chosen provide a degree of visual interest and compatibility with the existing streetscape context.</p>



<p>Roofs</p> <ul style="list-style-type: none"> i. Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs. ii. Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered 	<p>Non-conventional roof form with 33° pitch to the south, and 5° pitch towards the north, in addition to flat roof for upper floor staircase, and pitched roof to garage</p>	<p>Whilst the roof forms proposed are unconventional, as there is no uniformity in this section of the streetscape, the design is supported.</p>
<p>Verandahs / Porches / Awnings</p> <ul style="list-style-type: none"> i. Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing. 	<p>Small porch to the front of the dwelling.</p>	<p>The porch is considered minor and unobtrusive.</p>
<p>Doors and Windows</p> <ul style="list-style-type: none"> i. All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows. ii. Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape. 	<p>Various windows of differing sizes and shapes.</p>	<p>Whilst the windows proposed are unconventional it is considered that its form is acceptable in this regard, due to the inconsistency that already exists.</p>



<p>Garages and Carports Carports and garages should be setback behind the building where possible, and visually unobtrusive.</p>	<p>See below</p>	<p>See below</p>
<p>ii. Notwithstanding this general principle, the following arrangements can usually be supported:</p> <ul style="list-style-type: none"> a) A single or double carport located to the side of an existing or new house set back a minimum of 1m from the front building line of the house. (This setback line is taken as the front wall of the building that is closest to the proposed addition and is not the verandah or porch line). The roof to the side carport is to be flat, skillion or simple hipped or gable. b) A single garage located to the side of an existing or new house set back a minimum of 1m from the front building line of the house. (This setback line is taken as the front wall of the building that is closest to the proposed addition and is not the verandah or porch line). The roof to the single side garage is to be flat, skillion or simple hipped or gable. The structure is to be no more than 3.5m wide. c) A double garage located to the side of the existing or new house set back a minimum of 2m from the front building line of the house. (This setback line is taken as the front wall of the building that is closest to the proposed addition and is not the verandah or porch line). The roof to the double side garage is to be flat, skillion or simple hipped or gable. The 	<p>The double garage is located 2.1m in front of the front wall of the dwelling.</p> <p>The roof is pitched.</p> <p>The width is 65% of the width of the lot.</p>	<p>Design principle assessment of the garage is included below.</p>



<p>width of the structure is to be no more than 45 percent of the width of the front of the dwelling or 6 meters (whichever is the lesser).</p> <p>d) A carport or garage to a new house that is under the main roof of the development and is set back in line with or behind the front building line of the new house (excluding its verandah / porch).</p>		
<p>Access ways and car parking should be designed to minimise the visual and physical impact on the heritage character of the streetscape (including landscaping) and generally should be no more than 3.5m wide at the street crossover</p>	<p>Tapered driveway to 4.5m at primary street boundary.</p>	<p>The driveway width doesn't meet the desired 3.5m maximum width, however there are driveways with equal or greater widths in the prevailing streetscape (Nos. 118, 124, and 124a Attfield Street).</p>
<p>Street fencing</p> <p>ii. The following fencing types are acceptable:</p> <ul style="list-style-type: none"> a) Solid fencing up to 0.9m in height. b) Traditional open style (picket, post and wire or slat) up to 1.2m in height. c) Hybrid with a solid portion up to 0.5m and open style of 0.7m above the solid portion, to a total of 1.2m in height. d) Piers up to 1.5m in height. 	<p>Primary street fencing has the following characteristics:</p> <ul style="list-style-type: none"> • Solid to 0.75m; and, • Visual permeable above 0.75m to a total infill and pier height of 1.8m. 	<p>Whilst the fencing doesn't meet the explicit provisions of the Policy as it relates to Heritage Areas fencing, it is supported for the following reasons:</p> <ul style="list-style-type: none"> • The location of the fencing is limited, comprising approximately 40% of the frontage; and, • The extent of the discretions posed are relatively minor.

Based on the above assessment, it is considered that the proposal can be supported on-balance when assessed against the provisions of LPP 3.6.

Primary street setback

Element	Requirement	Proposed	Extent of Variation
Ground floor	7m	5m (to garage)	2m
Upper floor	10m	6.9m – 7.6m	3.1m – 2.4m

Part 1.2 of LPP 2.9 allows for variations to the prescribed setback. In considering this above, the following is noted:

- The prevailing streetscape includes the following:
 - North
 - Vacant site at No. 122 Attfield Street
 - A large area of vacant backyard at No. 41 Lilly Street, which presents to the streetscape as a vacant lot, approximately twice the width of the subject site and
 - A single storey Single house at No. 118 Attfield Street.
 - South
 - No. 124 Attfield Street has a ground floor setback of 6m in lieu of 7m and an upper floor setback of 6m upper floor setback in lieu of 10m; and,
 - Ground floor for No. 124a Attfield Street is 5m in lieu of 7m. The upper floor setbacks range from 7.1m to the entryway and 9.1m to the upper living room.
 - 126 Attfield Street which is single storey, with a 4.9m setback.



Figure 1: Prevailing streetscape including the ground and upper floor setbacks of the adjoining southern two Single houses.



Given the above, an assessment against the Design Principles of the R-Codes relating to the street setbacks is provided below:

- The proposed setbacks are considered to be consistent with the properties to the south;
- The proposed setback allows sufficient open space and privacy for the subject site while also providing a decent area to contribute to the streetscape;
- Sufficient space is provided on site to allow for parking, landscaping, and utilities to be adequately provided;
- The design of the building is such that no sheer walls face towards the street. Rather, the irregular façade design with multiple articulations and materials with varying setbacks from the street presents an element of visual interest to the street, whilst breaking up and minimising building bulk and scale impacts to the public realm; and
- The overall presentation to the streetscape minimises the area occupied by utilities, blank walls, and other undesirable built form elements.

Therefore, on the basis of the above, it is considered that the ground and upper floor setback variations posed by this development are supportable.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
North - Staircase/Bed 3	1.5m	1.2m	0.3m
South – Kitchen/Living/Double garage	1.5m	0.63m	0.87m

The north lot boundary setback variation 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;
- 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 result in any new merit based decision relating to visual privacy.

The south lot boundary setback variation 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 it is marginally visible from the southern neighbours outdoor area (see Figure 2 below);

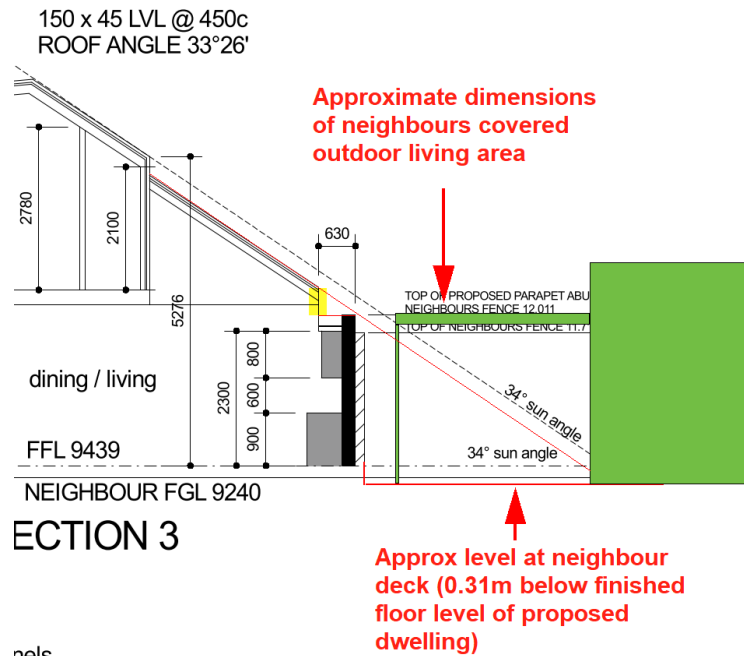


Figure 2: Cross section demonstrating impact of south lot boundary setback variation (section of wall subject of this assessment highlighted).

- The lesser setback does not contribute adversely to a loss of direct sun, light generally or ventilation to major openings given it doesn't result in any additional shadow being cast that is not already cast by the compliant upper floor of the proposal (see Figure 2, noting the red line demonstrates the angle of shadow cast by the section of wall). Notwithstanding, given the gap between the wall and the neighbours covered outdoor living area, at other times of the year, sunlight will still be able to access the area; and
- The lesser setback does not result in any new merit based decision relating to visual privacy.

Boundary wall

Element	Requirement	Proposed	Extent of Variation
South	1.5m	Nil	1.5m

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

- Whilst the proposed boundary wall partially impacts on the neighbouring property by reducing the sunlight access to their outdoor living area, it is considered acceptable (on balance) for the following reasons:



- The neighbour has a portion of outdoor living area which will remain available to northern sunlight access, and is predominantly unshaded by the boundary wall (see Figure 3 below). Per Figure 3, approximately 13m² of covered and uncovered outdoor space outdoor living area (in orange) is impacted by the boundary wall. Approximately 11m² of outdoor services area (in blue) is impacted by the wall, and the remaining 54m² outdoor space (capable of use as an outdoor living area, in green) is unaffected by the boundary wall;

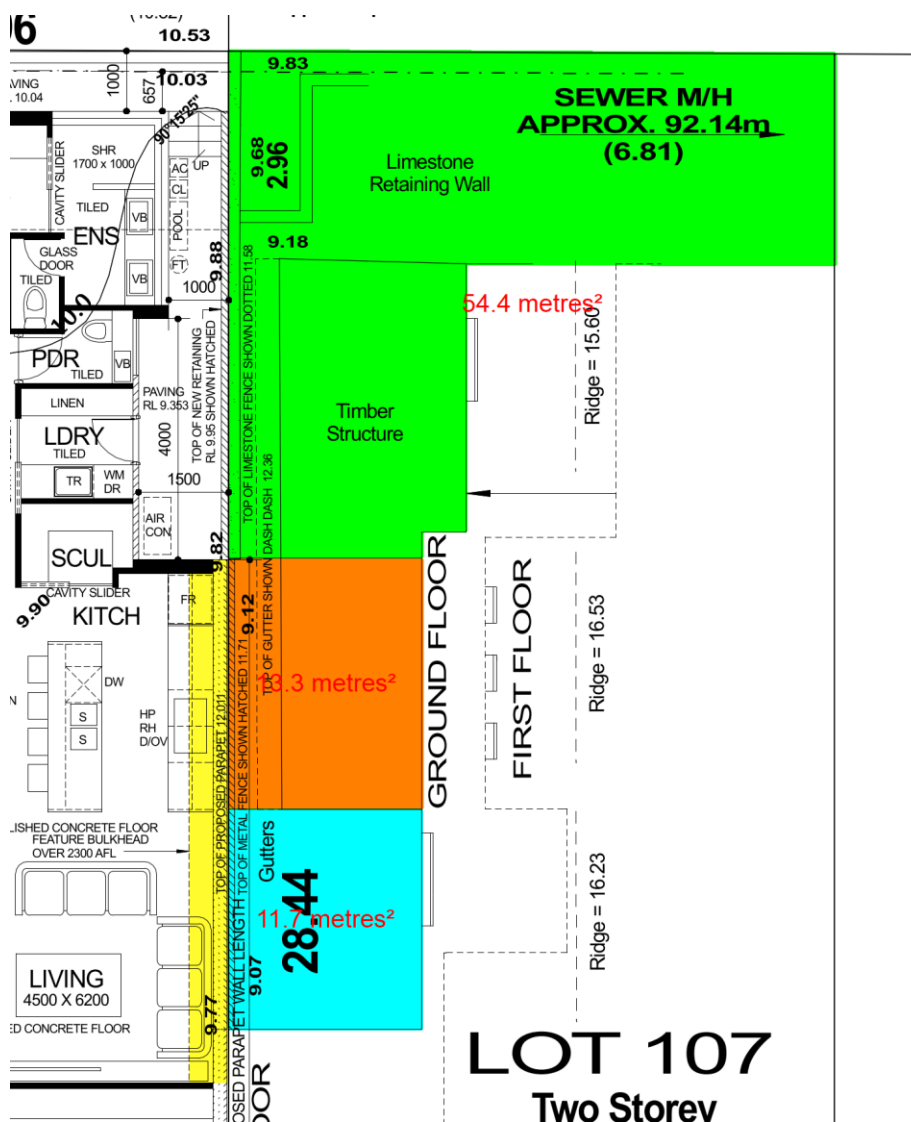


Figure 3: Outdoor areas affected and unaffected by proposed boundary wall and southern lot boundary setback variation (in yellow).

- The section of boundary wall posing the greatest restriction of sunlight to the southern neighbour has a 2.9m height above the ground level at the affected neighbours site, with 0.3m of that wall above the existing masonry fence (see Figure 4 below). It is noted that whilst not a boundary wall, the top 0.5m portion of the wall facing south is setback 0.63m from the boundary, thereby reducing the impact of shadow (see Figure 5 below);

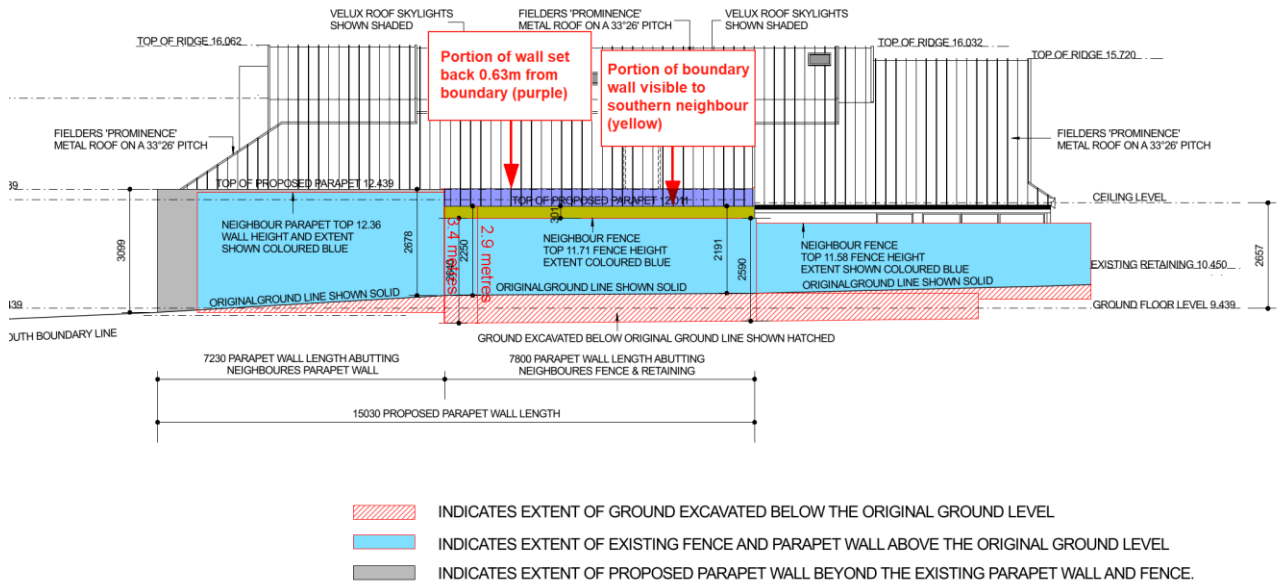


Figure 4: View of proposed boundary wall from southern neighbours property

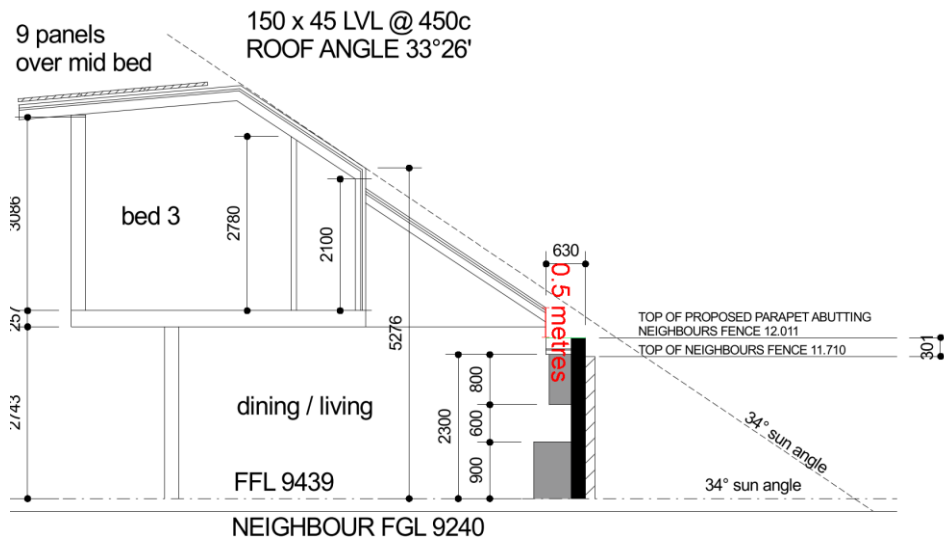


Figure 5: Cross section of boundary wall as it faces towards the neighbours outdoor spaces.



- The boundary wall is not considered to contribute to an overall sense of confinement or building bulk at it affects one portion of the boundary and the rest of the development is sufficiently setback from this boundary; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

Open space

Element	Requirement	Proposed	Extent of Variation
Open space	45% (128m ²)	41% (118m ²)	4% (10m ²)

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

- An outdoor living area greater than that specified by the deemed-to-comply criteria has been provided. This ensures suitable, useable outdoor space is available to residents of the dwelling;
- The locality surrounding the subject site contains examples of similar sized developments on comparable sized lots with a character of development with minimal open space;
- While the lot is narrow, with a driveway for a double garage provided, a courtyard and tree is provided in the front setback area; and
- The scale of development is generally consistent with several other dwellings in the streetscape.

Garage width

Element	Requirement	Proposed	Extent of Variation
Garage width	5m	6.5m	1.5m

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

- The visual connectivity between the street and the dwelling is maintained. Views from the upper floor Bedroom 2 major opening to the street remains unaffected;
- The proposal includes the planting of a tree within the primary street setback area, which will reduce the visual impact of the garage as viewed from the streetscape; and
- The width of the garage structure is not considered to unduly contribute to a sense that the street is dominated by garage doors given the varied design of the garages of other dwellings in the locality.



Outdoor living area

Element	Requirement	Proposed	Extent of Variation
Size of outdoor living area	Total area: 24m ²	23m ²	Total area: 1m ²
Amount of uncovered outdoor living area	Total uncovered area: 16m ²	Total uncovered area: 12m ²	Total uncovered area: 4m ²

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

- A 14m² uncovered pool area is readily accessible from the outdoor living area, which compensates for the minor discretions above; and,
- The outdoor area provided takes best advantage of the northern aspect of the subject site and is easily accessible from the main living areas of the dwelling.

In addition to the above, it is noted that additional area that doesn't meet the minimum dimensions required to be considered as-of-right outdoor living area is provided. Specifically, this relates to the proposed pool, which has a width of 3.1m. The total area of the pool is 14m². Therefore, the overall area which can be practically considered outdoor living area is 37m², which is 13m² greater than the Deemed-to-Comply requirement.

Site works

Element	Deemed-to-comply	Provided	Merit based assessment
Excavation – north and south	0.5m	Up to 0.6m	Up to 0.1m

The proposal is considered to meet the design principles of the R-Codes relating to site works (excavation) in the following ways;

- The extent and impact of the proposed excavation is relatively minor, and will have no adverse impact by way of visibility to neighbouring properties. It is noted that the excavation will reduce the impact of the proposed built form of the development on the southern neighbour;
- The site works proposed are located in the rear portions of the site and will not alter the impression of natural ground level when viewed from the public street; and,
- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy that are not dealt with by appropriate conditions.



Over-height dividing fence

Element	Requirement	Proposed	Extent of Variation
Over-height dividing fence – north	1.8m	Up to 2.7m	Up to 0.9m

The over height dividing fence is considered to meet the Discretionary Criteria of Local Planning Policy 2.8 in the following ways:

- The fencing is not considered likely to have any impact on future development contained in the currently vacant northern neighbouring lot by way of overshadowing, visual privacy, or loss of views.

CONCLUSION

For the reasons contained in the Design Principle and LPP 2.4, LPP 2.8 and LPP 2.9 assessments above, it is considered that the proposal is supportable. Therefore, the application is recommended for approval, subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Single house at No. 122a (Lot 201) Attfield Street, South Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 25 October 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**



- 3. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 4. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 5. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, etc), shall be submitted to and approved by the City of Fremantle.**

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

- 6. Prior to occupation of the development hereby approved, the boundary wall located on the south 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.
- 7. 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 1.2 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.**
- 8. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 9. The pedestrian access gate, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.**



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

ADVICE NOTES

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**
- iii. The swimming pool safety barrier must comply with all provisions of AS 1926 Parts 1 & 2 – 2012. The boundary fence (part that is being used as part of the barrier) must be a minimum 1.8m in height to be used as part of the barrier, in accordance with AS1926.1. A 900mm non-climbable zone quadrant on the inside only, in accordance with AS 1926.1 must be complied with.**
- iv. The City’s crossover specifications can be found via the following link: <https://www.fremantle.wa.gov.au/crossovers>.**
- v. The applicant is advised that a crossover permit must be obtained from the City’s Engineering Department. The new crossover shall comply with the City’s standard for crossovers, which are available on the City of Fremantle’s web site.**

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

- a minimum of 2.0 metres in the case of verge trees**
- a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment’s or street furniture), and**
- a minimum of 1.0 metre in the case of power poles, road name and directional signs.**



PC2212-4 NO. 285 (LOT 6) HIGH STREET, FREMANTLE - DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION OF TWO STOREY SINGLE HOUSE WITH REAR SITE WORKS AND RETAINING (JCL DA0316/22)

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Amended development plans
Additional information: 1. Site Photos
2. Heritage assessment

SUMMARY

Approval is sought for the demolition of the existing Single house and outbuildings and construction of new Single house and associated site works and retaining walls to facilitate future subdivision at No. 285 (Lot 6) High 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 and due to the subject site being included in the City’s Heritage List. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Primary street setback**
- **Demolition of Single house with Heritage listing (Limestone features)**
- **Side setbacks (west)**
- **Building height (external wall)**
- **Visual privacy (east / west)**
- **Site works**
- **Outdoor living area**

The application is recommended for conditional approval.



PROPOSAL

Detail

Approval is sought for the demolition of the existing Single house and outbuildings and construction of new Single house and associated site works and retaining walls to facilitate future subdivision at No. 285 (Lot 6) High Street, Fremantle. It is noted that the subdivision isn't considered as part of this application. The proposed works include:

- Demolition of existing Single house, retaining walls, outbuildings, and driveway; and,
- Construction of two storey Single house with undercroft garage.

The applicant submitted amended plans on 26 October 2022 including the following primary amendments:

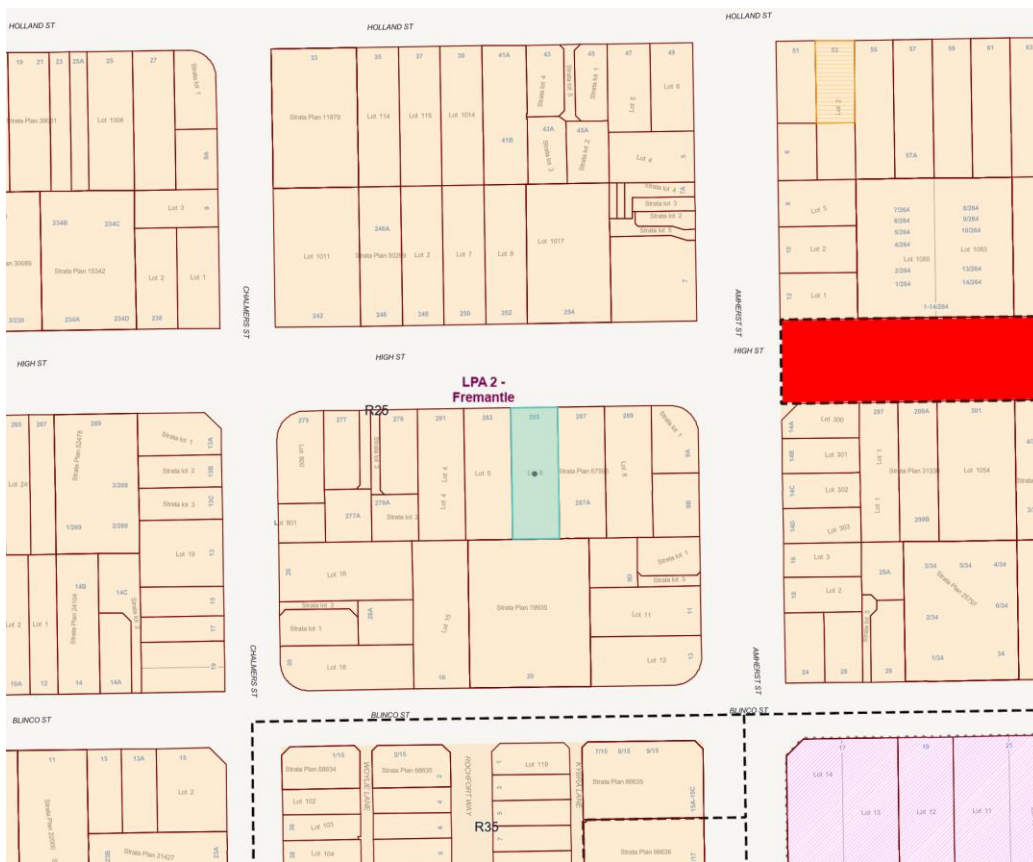
- Decreasing the width of the garage by 0.2m;
- Reduction in length of Guest bedroom/Ensuite/Porch ground floor wall facing west by 0.7m;
- Increase setback of Dining/Kitchen ground floor wall facing west by 0.3m;
- Internal reconfigurations to all floors (no changes to room names);
- Reduction in width of porch wall facing north by 0.3m;
- Reduction in width of upper floor deck facing west by 0.7m and shifting 0.2m north;
- Increased setback of upper floor Bed2/Powder room/Lounge room and staircase facing west by 0.3m;
- Increased setback of upper floor staircase facing north by 0.5m;
- Increased setback of upper floor Bedroom 3 facing north by 2.2m;
- Various modifications to the roof plan to increase the setbacks from the north and to incorporate the abovementioned amendments; and
- Modification of major and minor openings, posing no new discretions.

Development plans are included as attachment 1.



Site/application information

Date received: 9 September 2022
 Owner name: Rosey Gumina
 Submitted by: Rosie Norris
 Scheme: Residential, R25
 Heritage listing: Individually Listed (Limestone Features)
 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*, for the following identified variations:

- Primary street setback
- Demolition of Single house with Heritage listing (Limestone features)
- Side setbacks (west)
- Building height (external wall)
- Visual privacy (east / west)
- Site works
- Outdoor living area

Additionally, the visual privacy variations are considered to be addressed, given screening is proposed to the non-compliant major openings and raised outdoor living area (roof deck). Moreover, whilst there is a minor portion (60mm) of the façade encroaching into the primary street setback area, it is considered to be negligible, and as such is supported.

The advertising period concluded on 6 October 2022, and two submissions were received. The following issues were raised (summarised):

- Who is financially responsible for demolition of rear outbuilding boundary wall?;
- The demolition of the rear outbuilding boundary facing our property will leave our property exposed and damage our garden;
- The rear outbuilding boundary wall (proposed to be demolished) is aesthetically pleasing, has assumed heritage value, and offers protection;
- If the proposal proceeds, advise how our property will not be damaged when removing the rear outbuilding boundary wall. If there are damages, who will cover the cost?;
- How much time will there be between the demolition of the wall and a fence going up, what is the plan to prevent trespassing, and how will dust be prevented from drifting into our property?

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

"...The owner has obtained 2 x demolition quotes and both contractors have verbally confirmed that the structural integrity of the brick wall along the boundary would be comprised once the garage is removed which would mean that it is safer to remove the entire structure all at once. In addition the replacement of the boundary fences would comply with the 'Dividing Fences Act' and would be managed during the Demolition process, therefore avoiding any undue time where there is no fence present..."

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

- The City notes the response provided by the applicant above. It is further noted that concerns relating to financial responsibility, construction processes,



and dividing fences are not planning considerations, and are subject to separate legislation, which must be abided by as relevant and appropriate; and,

- The City notes the comment regarding the removal of the rear outbuilding boundary wall as it relates to it having aesthetic and potential heritage value. It is noted that the only portions of the subject site that have a degree of official heritage value are the limestone features at the front of the site. There is no indication that the subject boundary wall has any heritage significance.

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 of Single house with Heritage listing (Limestone features)
- Side setbacks (west)
- Building height (external wall)
- Site works
- Outdoor living area

The above matters are discussed below.

Background

The subject site is located on the southern side of High Street, approximately 65m west of Amherst Street, and 90m east of Chalmers Street. The site has a land area of approximately 802m² and is currently a Single house. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and not within a Heritage Area.

It is noted that the subject site has significant slope, with a difference in height of approximately 4.4m at the western side, and 4.8m on the eastern side of site. There is a slight crossfall throughout the site, with a maximum extent of approximately 0.9m at the rear portion of site. Currently, the site is lightly vegetated, and contains terraced retaining walls, in addition an outbuilding at the rear part of the property.



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

- **WAPC362-22** - *Two lot survey-strata subdivision with CP accessway.* The City advised to the WAPC on 18 May 2022 that it doesn't support the subdivision application as it proposed the demolition of a building on a heritage site which required approval. This subdivision application has been deferred, pending the outcome of this application.

Land Use

A Single house is a 'P' use in the Residential Zone, which means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.

Heritage

In considering demolition of Heritage listed places, the City must be satisfied that all parts of Clause 4.14.1 of LPS4 are met, giving regard to the City's Heritage assessment. Clause 4.14.1 states:

Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure: (a) has limited or no cultural heritage significance, and (b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.

Demolition of any place requires careful consideration because it removes all its heritage significance except for intangible historical and social values that are not dependant on physical fabric.

Information provided in the heritage listing for this place was very limited. The limestone features would appear to refer to the side boundary walls and not the front wall although they would appear to be contemporaneous.

The house and limestone retaining walls both date from between 1953 and 1965 and have limited heritage value especially because they are not part of a significant heritage streetscape.

The proposed demolition of the house and part of the front retaining wall at 285 High Street to allow subdivision of the block is acceptable on heritage grounds as the place has little significance and does not have collective value as part of a significant heritage streetscape.

Based on the above, the City is able to support the proposed demolition.



Side setbacks (west)

Element	Requirement	Proposed	Extent of Variation
Ground floor – west - Guest bedroom/Ensuite/Porch	2.5m	1.1m	1.4m
Upper floor – west – roof deck	3.3m	1.3	2m

The Guest bedroom/Ensuite/Porch 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 extent of the wall is minor, and partially comprises the proposed porch, which is an open structure. Further, the wall faces towards the western neighbours driveway (see Figure 1 below);
- 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 introduce visual privacy issues.

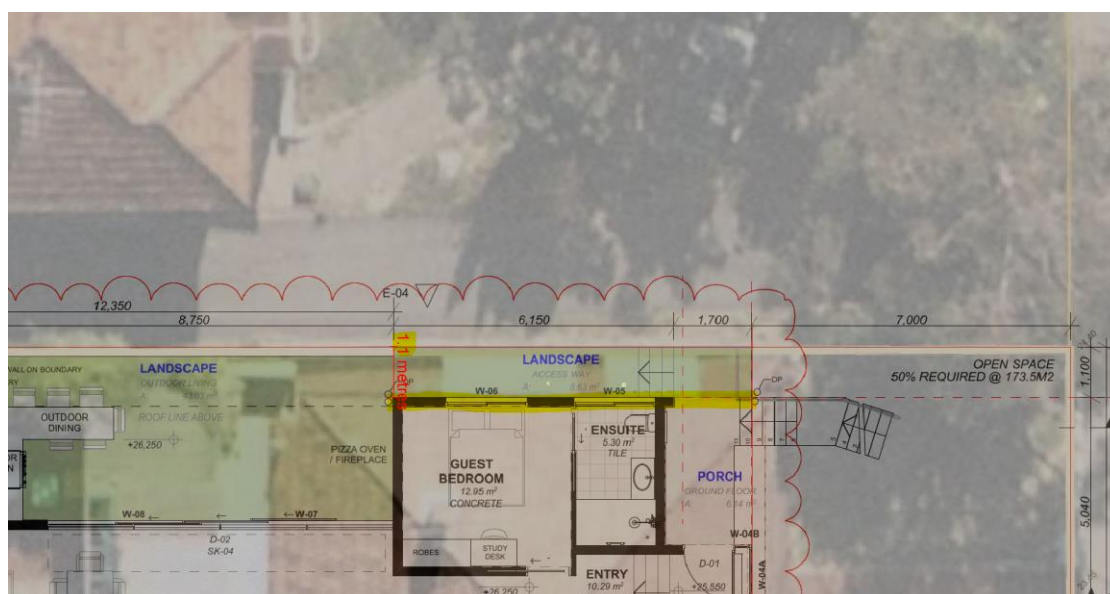


Figure 1: Location of ground floor western lot boundary setback variation relative to western neighbours dwelling.

It is noted that the 3.3m required setback of the roof deck is due to the significant slope of the site which increases the wall height from natural ground level. The roof deck 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 it has a relatively minor length and has no roof. Further, the roof deck faces the western neighbours driveway (see Figure 2 below);
- 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 result in any new merit based decision relating to visual privacy.

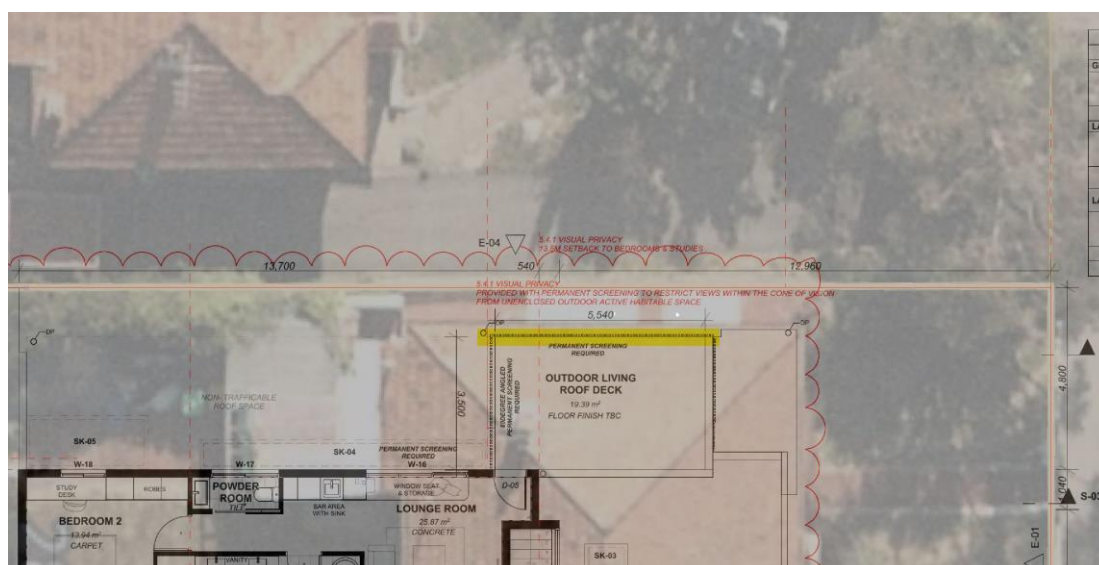


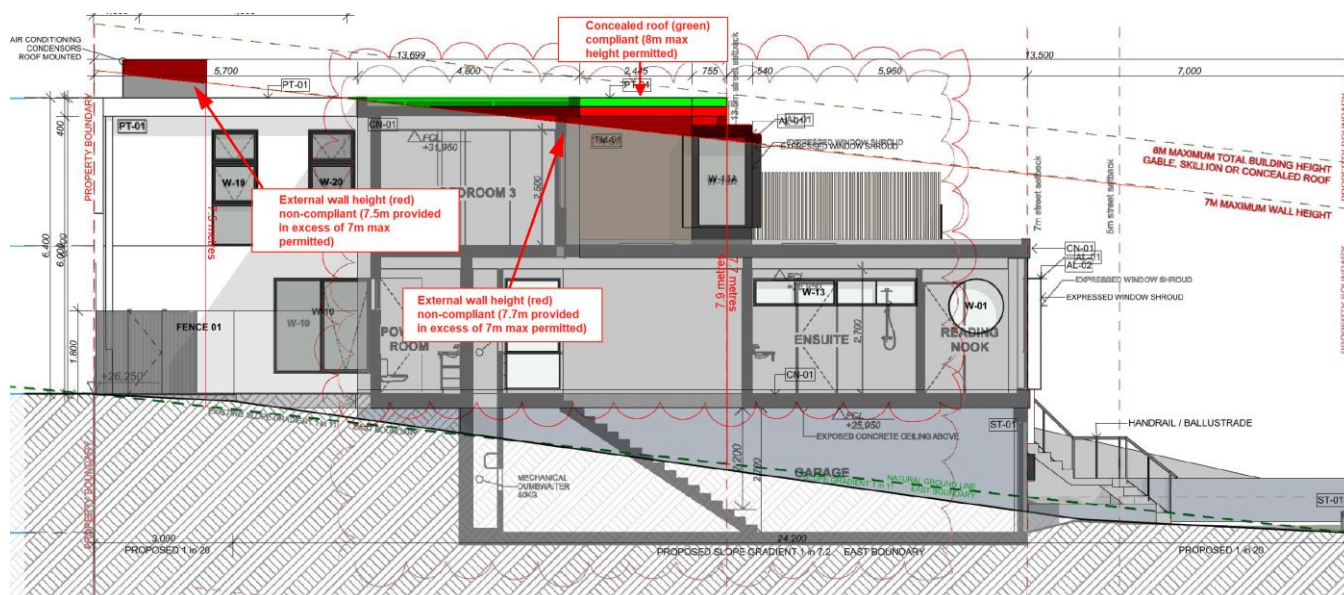
Figure 2: Location of upper floor western lot boundary setback variation relative to western neighbours dwelling.

Building height (external wall)

Element	Requirement	Proposed	Extent of Variation
External wall height (concealed roof above)	7m	Up to 7.7m	0.7m

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

- The application proposes a concealed roof and an air conditioner condenser, which exceed the maximum external wall allowance of 7m for a concealed roof. The proposed roof form, while above the external wall limit is significantly below the height of a deemed-to-comply concealed roof (8m) and is considered to be of significantly less bulk and scale;
- The air conditioner condenser is located so as to not be visible from the street, and to have a minimal visual impact to the neighbouring properties;
- The orientation of the land means the additional height has limited impact on access to light to adjoining properties;
- There are no views of significance apparent in the locality; and
- The whole development is considered appropriately set back, generally in accordance with the topography of the site, which is the clear intent of this design element of the R-Codes. It is noted that the variation is posed due to the significant slope of the site and only applies in a small section.



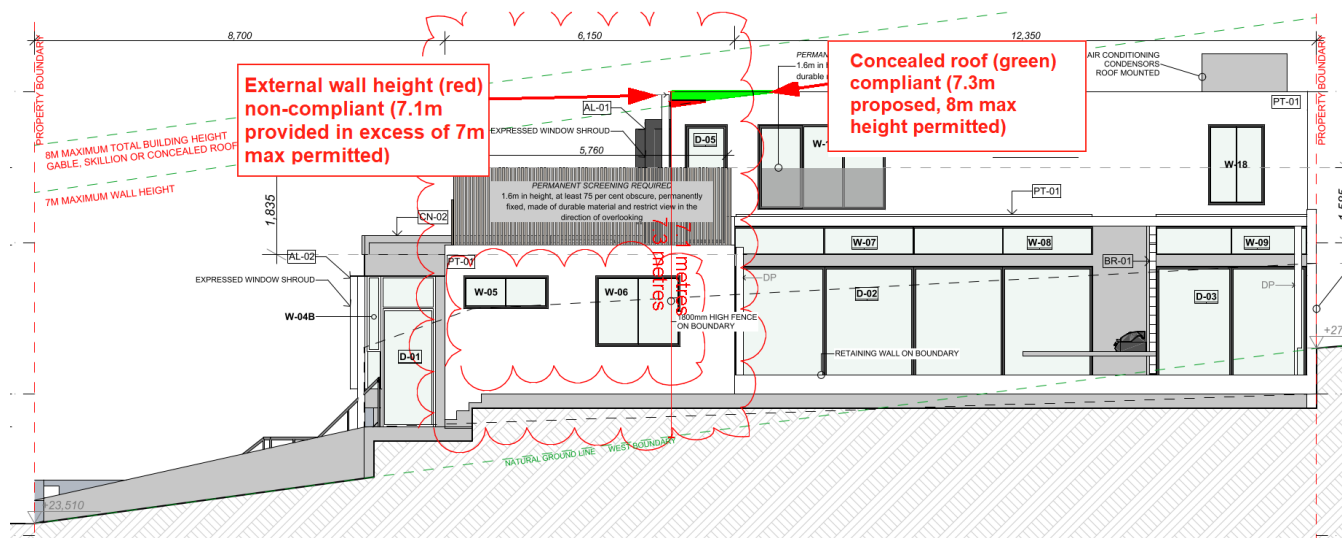


Figure 3: Building height (east – top, west - bottom)

Site works

Element	Requirement	Proposed	Extent of Variation
Fill and retaining walls (west)	0.5m	Fill up to 1.2m Retaining up to 0.9m	Fill up to 0.7m Retaining up to 0.4m
Excavation (west)	0.5m	Up to 1.3m	Up to 0.8m
Fill and retaining walls (north)	0.5m	Up to 0.9m	Up to 0.4m
Retaining walls (east)	0.5m	Fill and retaining up to 0.9m	Up to 0.4m
Retaining walls (south)	0.5m	Up to 0.95m	Up to 0.45m

The fill, excavation, and proposed retaining walls proposed to the western lot boundary are considered to meet the Design principles of the R-Codes in the following ways:

- The majority of site works proposed are located towards the mid-portion of the site and will not alter the impression of natural ground level when viewed from the public street, given the site currently contains a significant slope. The site works proposed in the front area of the site will not alter the impression of natural ground level when viewed from the public street, given they give the appearance of a low-rise primary street fence, and are minor in their extent; and,
- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy.



The fill and proposed retaining walls proposed to the northern lot boundary are considered to meet the Design principles of the R-Codes in the following ways:

- The site works, whilst proposed in the front area of the site will not alter the impression of natural ground level when viewed from the public street, given they give the appearance of a low-rise primary street fence, and are minor in their extent; and,
- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy that are not dealt with by appropriate conditions.

It is noted that the proposal contemplates the provision of retaining walls of varying heights to the east, south, and western elevations of proposed lot 2, which is at the southern portion of the parent lot of this development. It is noted that the subdivision is not approved as part of this application, though the retaining is proposed in anticipation of a potential future approval. It is noted that the proposed extent of excavation and fill to proposed Lot 2 complies, and the internal terraced retaining doesn't seek discretion.

The proposed retaining walls to the east, south, and western elevations of the subject site are considered to meet the design principles of the R-Codes in the following ways;

- The site works proposed are located in the rear area of the site and will not alter the impression of natural ground level when viewed from the public street. The following sub-points are relevant in this regard:
 - The southern neighbouring property is located higher topographically than the subject site. Therefore, the retaining will have an acceptable impact;
 - The retaining to the eastern neighbour will face towards an existing dividing fence;
 - The retaining to the western neighbour will abut an existing parking area and outbuilding; and,
- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy.

Outdoor living area

Element	Requirement	Proposed	Extent of Variation
Outdoor living area (dimension)	Minimum 4m x 4m dimension	Width of 3.7m.	0.3m
Outdoor living area (roof cover)	20m ² uncovered	13.2m ² uncovered	6.8m ²



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

- The size of the outdoor living area is 10m² larger than the deemed-to-comply requirement. It is further noted that other areas capable of use as secondary outdoor living areas are present. These include the roof deck (19m²), and rear courtyard (18m²); and,
- The outdoor area provided takes best advantage of the northern aspect of the subject site and is easily accessible from the main living areas of the dwelling.

CONCLUSION

On the basis of the above it is considered that the proposal can be supported. Therefore, the application is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and construction of two storey Single house with rear site works and retaining at No. 285 (Lot 6) High Street, Fremantle, subject to the following conditions

- 1. This approval relates only to the development as indicated on the approved plans, dated 26 October 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**



- 4. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, etc), shall be submitted to and approved by the City of Fremantle.**

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

- 5. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 6. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

ADVICE NOTES

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.**
- iii. 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. Any works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, requires a separate approval from the City of Fremantle's Infrastructure Business Services department who can be contacted via info@fremantle.wa.gov.au or 9432 9999.**



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

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

- **a minimum of 2.0 metres in the case of verge trees**
- **a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment’s or street furniture), and**
- **a minimum of 1.0 metre in the case of power poles, road name and directional signs.**

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

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

- viii. **The applicant is advised that the /The new/ modified vehicle crossover shall be separated from any verge infrastructure by:**
- **a minimum of 2.0 metres in the case of verge trees**
 - **a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment’s or street furniture), and**
 - **a minimum of 1.0 metre in the case of power poles, road name and directional signs.**

- ix. **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 Class B asbestos removal licence holder for. All asbestos removal is to be carried out in accordance with the *Work Health and Safety Act 2020* 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 Class A asbestos removal licence holder and an application submitted to WorkSafe, Department of Commerce.

<https://www.commerce.wa.gov.au/worksafe/>.

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

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

- xi. **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.**



**PC2212-5 CYPRESS LANE, NO. 14 (LOT 214), NORTH FREMANTLE –
TWO STOREY SINGLE HOUSE (ED DA0299/22)**

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a two-storey single house at No. 14 (Lot 214) Cypress Lane.

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;**
- **Visual Privacy; and**
- **Rear Setback.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two-storey single house at No. 14 (Lot 214) Cypress Lane, North Fremantle. The proposed works include:

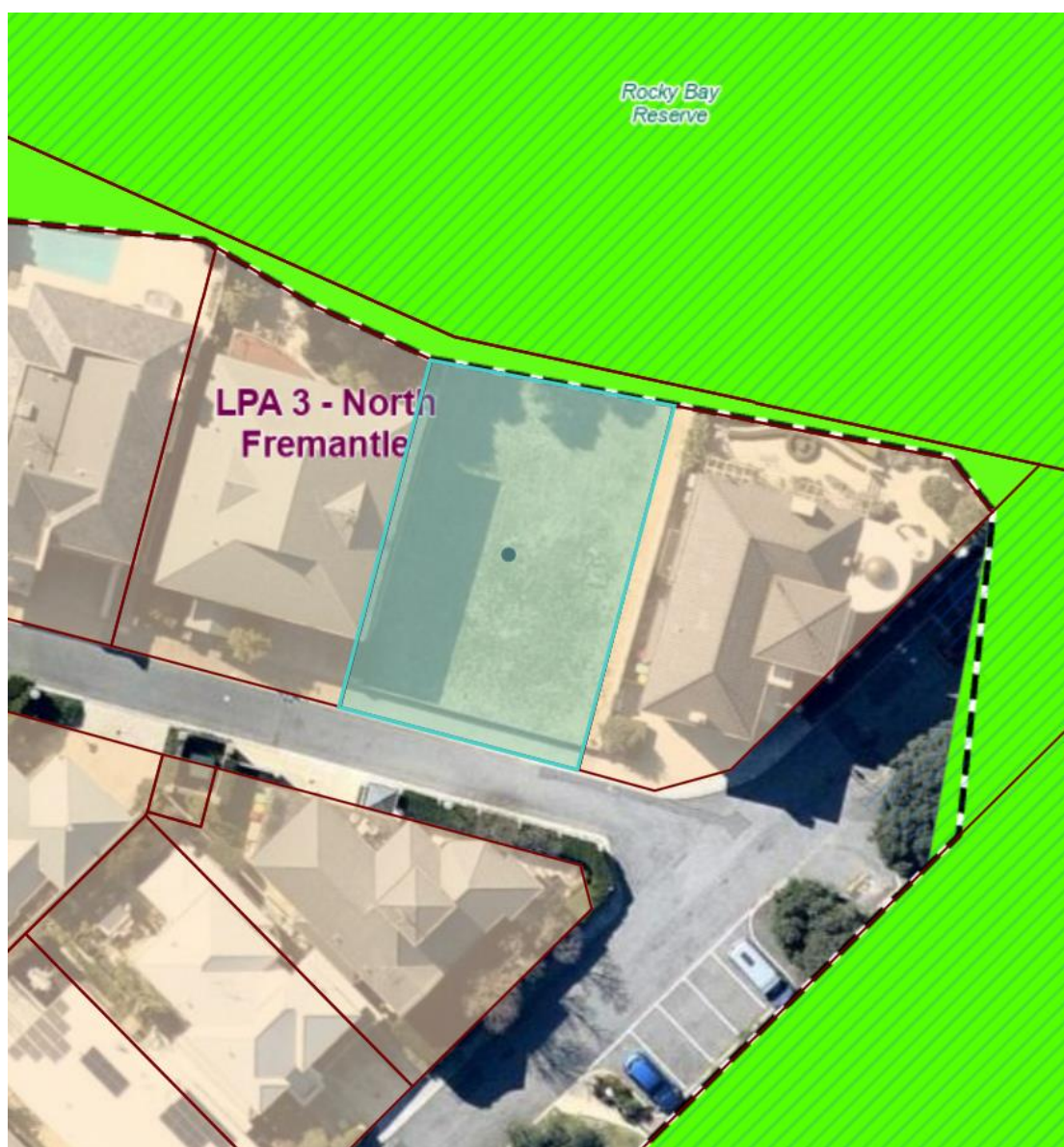
- Construction of a four-bedroom, two-storey single house with an undercroft and including a pool on the currently vacant lot.

Development plans are included as attachment 1.



Site/application information

Date received: 25 August 2022
Owner name: Susan Hovell
Submitted by: Coastview Australia Pty Ltd
Scheme: Residential (R25)
Heritage listing: North Fremantle Heritage Area
Existing land use: Vacant
Use class: Single House
Use permissibility: P





CONSULTATION

External referrals

Department of Fire and Emergency Services (DFES)

The *Planning and Development (Local Planning Schemes) Regulations 2015* and State Planning Policy 3.7 (Planning in Bushfire Prone Areas) specifically exclude development applications for single houses and ancillary dwellings on a lot or lots less than 1,100m² from requiring further assessment against bushfire requirements. In these situations, planning can only play a limited role in reducing the bushfire risk to those properties. Where lots of less than 1,100m² have already been created, the application of the appropriate construction standard at the building permit stage is the instrument used to reduce the residual bushfire risk to those properties. A referral to DFES confirmed this approach.

Department of Biodiversity Conservation and Attractions -Rivers Planning (DBCA)

The DBCA assessed the application on behalf of the Trust against State Planning Policy 2.10: Swan-Canning River System and Swan Canning Development Control Area policies and advised that there is no objection to the proposed development, subject to a number of conditions of approval and advice notes. These are included in the recommendation for approval.

Internal referrals

Heritage

The new house proposed at 14 Cypress Lane, North Fremantle does not impact significantly on the heritage area due to relatively contemporary the age of the surrounding dwellings and subdivision.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, discretionary assessment against some planning policies were required. The advertising period concluded on 21 September 2022, and one (1) submission was received. The following issues were raised (summarised):

- *There are quite stringent rules put in place by Fire Authorities which need to be fully observed by the planning department.*

Officer comment: The application was referred to DFES (refer comment above) and any bushfire prone area requirements will need to be addressed accordingly as part of the building permit process.

- *The entire eastern ground floor wall is built up to the boundary and not broken up or setback from the boundary.*

Officer comment: Detailed comments on the boundary wall are provided in the officer assessment comment below.



- *There is a fire hydrant near the property that must never be blocked at any time as it serves half the houses along this end of Cypress Lane. The Fire Brigade tend to it on a regular basis. I therefore think it is imperative that any builder or subcontractor must be made aware of this and must not be allowed to dump any building material or skips or any other hindrance in this space.*

Officer Comment: Any use of the verge will require a verge permit from the City and any relevant requirements relating to the hydrant will need to be adhered to in full.

- *There are existing wind tunnel issues on our property that are very dangerous and it appears that this building proposal with walls on the boundary will exacerbate this issue.*

Officer comment: Unfortunately, any existing wind tunnel issues are not a relevant planning consideration and any potential increase in such impacts from the design cannot be assessed as part of this application.

Further to the above, the applicant also provided written responses to each of the above comments in an email dated 7 October 2022 that was subsequently provided to the submitter for review. The submitter responded reconfirming their concern about bushfire in the reserve at the rear of the properties.

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;
- Rear setback; and
- Visual Privacy

The above matters are discussed below.



Background

The subject site is located on the northern side of Cypress Lane in North Fremantle. The site has a land area of approximately 399m² and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed though is located in the North Fremantle Heritage Area.

The application site abuts the DBCA Development Control Area (Swan River) which is also a Bushfire Prone Area. Adjoining and surrounding development is characterised by predominantly two-storey single houses.

The proposal is subject to Design Guideline Policy D.G.N11 (Cypress Hill) and Local Planning Area 3 (Sub-Area 3.3.2) development controls.

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

Boundary Wall (east)

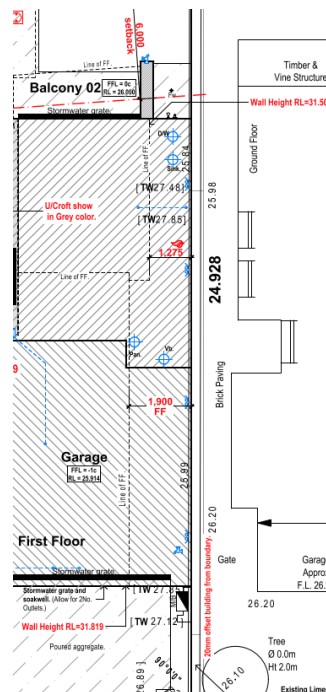
Element	Requirement	Proposed	Extent of Variation
Lot Boundary Setback	1.5m	Nil	1.5m

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

- It is noted that Design Guideline Policy D.G.N11 (Cypress Hill) allows boundary walls to be considered and approved so long as they do not exceed 3.5m in height which is the maximum height of the wall proposed as per the development plans. Further assessment against LPP 2.4 Boundary Walls is set out below as the policy only sets maximum height.
- The proposed boundary wall is to be located opposite the garage and non-habitable, non-sensitive side access and ground floor of the adjoining property (16 Cypress Lane) which does not have any major openings nor any outdoor living areas that will be overshadowed or impacted by building bulk by the proposed wall (see image below). As such, the proposed boundary wall is not expected to have a significant adverse amenity impact upon this adjoining property.



- The extent of the wall is to align and match up with the front wall of the adjoining property (16 Cypress Lane) garage and rear wall of the adjoining dwelling (refer site plan extract below) and will not extend forward of this dwelling nor impose on the rear outdoor living area of this dwelling.



- The proposed wall is setback in accordance with required street setback of policy DGN 11 – Cypress Hill (4.0m minimum) and aligns with the adjoining property and is therefore to have no impact on the streetscape character of Cypress Lane.

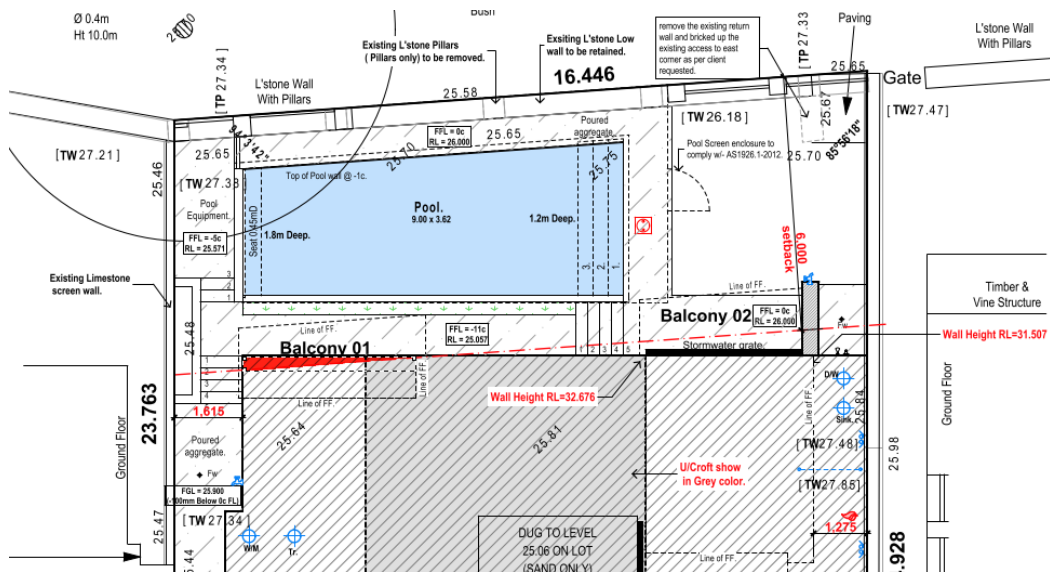


Rear Setback

Element	Requirement	Proposed	Extent of Variation
D.G.N11 Clause 6.3	All building on lots abutting the Swan River Foreshore Reserve is to be set back a minimum (not an average) of 6.0m from the rear boundary. Development of small, single storey, free standing structures of open construction, such as pergolas, will be considered within the rear setback, to within 4 metres of the rear boundary, on their merits.	5.629m	371mm

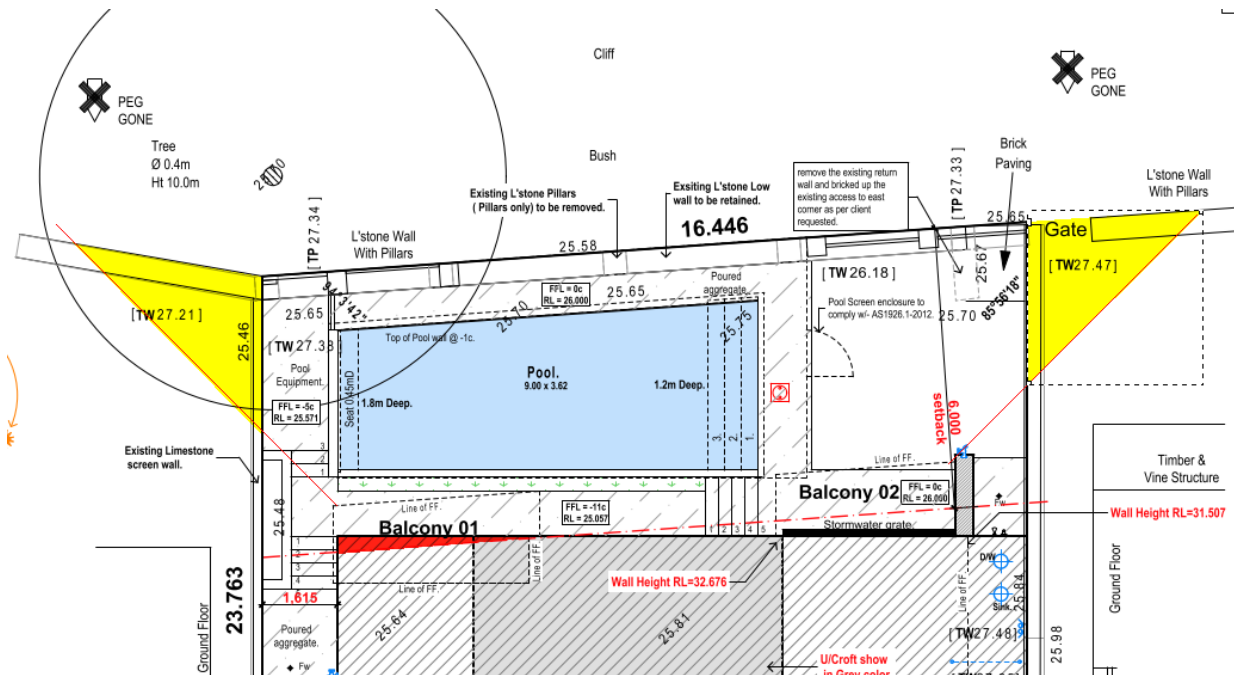
The rear setback variation is considered acceptable for the following reasons:

- The minor incursion into the rear setback area is only for a small portion of the rear of the western side of the dwelling and is largely due to the angled rear lot boundary (refer marked up plan below, incursion highlighted red).
- It is also noted this setback aligns and is consistent with the rear setbacks of the two adjoining dwellings on either side of the subject site (refer image below).
- The minor portion of building that is seeking discretion is not likely to have a significant impact on the visual amenity of the house in its setting as viewed from the river.



Visual Privacy

The visual privacy cone-of-vision from the first floor balconies encroach into rearmost western corner of the property at No. 16 Cypress Lane and the rearmost eastern corner of the property at No. 12 Cypress Lane respectively as shown highlighted yellow in the image below, with the view being sought being directly forward to the Swan River rather than over the private spaces of neighbours.



Clause 9.3 of policy D.G.N11 (Cypress Hill) provides the following:



Council acknowledges that because of lot sizes and residents' desire to obtain river views, some level of overlooking is likely to occur. Therefore, Council may consider variations to Policy D.C.10 "Visual Privacy for Dwellings" to facilitate river views and vistas were it can be demonstrated that the amenity of adjoining lots will not be adversely affected by such variations. The privacy of courtyard areas on adjoining lots must not be compromised.

As such, is seen that the cone-of-vision encroachments achieves the above as the areas overlooked are the rearmost corners of these sites and does not provide any direct overlooking of any sensitive primary outdoor living areas of these lots and therefore can be supported under the design principles of the R-Codes in this instance.

It should be noted that outside of the above matters, the proposal is entirely consistent with all other requirements of policy D.G.N11 (Cypress Hill), Local Planning Area 3 (Sub-Area 3.3.2) controls and all other relevant planning policy considerations, subject to the recommended conditions below.

CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Two Storey Single House at No. 14 (Lot 214) Cypress Lane, North Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 25 August 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**



- 2. Prior to occupation/ use of the development hereby approved, the boundary wall located on the eastern 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.
- 3. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. The applicant shall take appropriate measures to ensure that no woody debris, construction material, sediment (including as a result of stormwater run-off), or rubbish enters the Parks and Recreation reserve, stormwater system, or river as a result of the works to the satisfaction of the City of Fremantle, on advice from Department of Biodiversity, Conservation and Attractions.**
- 5. Stormwater run-off from constructed impervious surfaces generated by small rainfall events (that is, the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter the river untreated to the satisfaction of the City of Fremantle, on advice from Department of Biodiversity, Conservation and Attractions.**
- 6. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 7. No dewatering effluent is to enter the River, either directly or indirectly (via the stormwater system), unless approved by the Department of Biodiversity, Conservation and Attractions.**
- 8. No wastewater/backwash from the swimming pool is to be discharged onto the land, into the river or the local government drainage system to the satisfaction of the City of Fremantle, on advice from Department of Biodiversity, Conservation and Attractions.**
- 9. 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.**



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

Advice Notes:

- i. A Building permit is required 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.
- ii. The owner/applicant is advised that the subject site has been identified as being within a bushfire prone area as designated by the Fire and Emergency Services (FES) Commissioner. As a result:

A Bushfire Attack Level (BAL) Assessment and/or additional construction methods may be required as part of the Building Permit.

Further information about the designated bushfire prone areas and SPP3.7 can be found on the Department of Fire and Emergency Services (DFES) website: <https://www.dfes.wa.gov.au/> and the Department of Planning website: <http://www.planning.wa.gov.au/>

- iii. 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.
- iv. The approval does not provide authority for the landowner or proponent to access the foreshore. Should access be required to undertake the works the landowner/ proponent will need to contact rivers.planning@dbca.wa.gov.au to seek approval to access/utilise the foreshore.



- v. The Department of Biodiversity, Conservation and Attractions advises the applicant with regard to the adjoining Swan Canning Development Control Area (DCA):**
 - a. no earthworks are to encroach into the DCA**
 - b. no stormwater / groundwater drainage is to be discharged onto the DCA (including via the local stormwater system)**
 - c. no waste materials (including sediment as a result of stormwater run-off), building materials or any other deleterious matter is to encroach into the DCA (including via the local stormwater system)**
 - d. the applicant shall make good any damage to the foreshore, riverbank or waterway (including infrastructure and vegetation) within the DCA**
 - e. any incidents of pollution or spills within the DCA are to be reported immediately to the Department of Biodiversity, Conservation and Attractions on 9278 0981 (Riverpark Duty Officer) or 9480 9924 (Marine Pollution Response).**

- vi. In the event it is proposed to dewater effluent either directly or indirectly (e.g. via the stormwater system) to the river, a dewatering management plan, demonstrating that the dewatering effluent discharge standards contained within the Department of Biodiversity, Conservation and Attractions' Policy 50: Planning for dewatering affecting the Swan Canning Development Control Area will be met, is to be approved by the Department of Biodiversity, Conservation and Attractions.**

- vii. The applicant is advised that the Department of Biodiversity, Conservation and Attractions does not permit the discharge of swimming pool water or backwash water into the river as the treated water may contain chemicals that are detrimental to riverine ecology. The use of limestone-lined soakwells may be appropriate to carry out this function.**

- viii. The applicant is advised that the selected colour scheme and finishes for the development should be consistent with the character and landscape setting of the Swan River and surrounding foreshore. In addition, glazing is to be of a low reflective standard to avoid glare to the river reserve.**



**PC2212-6 SOUTH TERRACE, NO. 65 (LOT 12), FREMANTLE –
EXTENSION TO TERM OF APPROVAL OF SIX STOREY HOTEL,
OFFICE AND SHOP (SDAU REFERRAL) – (CJ DA0111/21)**

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Applicant’s submission referred by SDAU
Additional information: Nil

SUMMARY

In accordance with Part 17 of the *Planning and Development Act 2005* (the Act), the Western Australian Planning Commission, via the State Development Assessment Unit (SDAU) has referred an application for an extension of term of substantial commencement for a six storey Hotel with Offices and Shops at 65 South Terrace, Fremantle, to the City of Fremantle for comment.

a

The proposal has been considered in accordance with policy *LPP 1.11: Planning and Development Act 2005, Part 17 Development Application Submissions* with the report below providing details of the proposed development, relevant background, a statutory assessment against the City’s LPS4 or local planning policies, design matters, economic benefits and a recommendation.

It is recommended that the Planning Committee advise the SDAU that the proposed extension of term is supported.

PROPOSAL

Detail

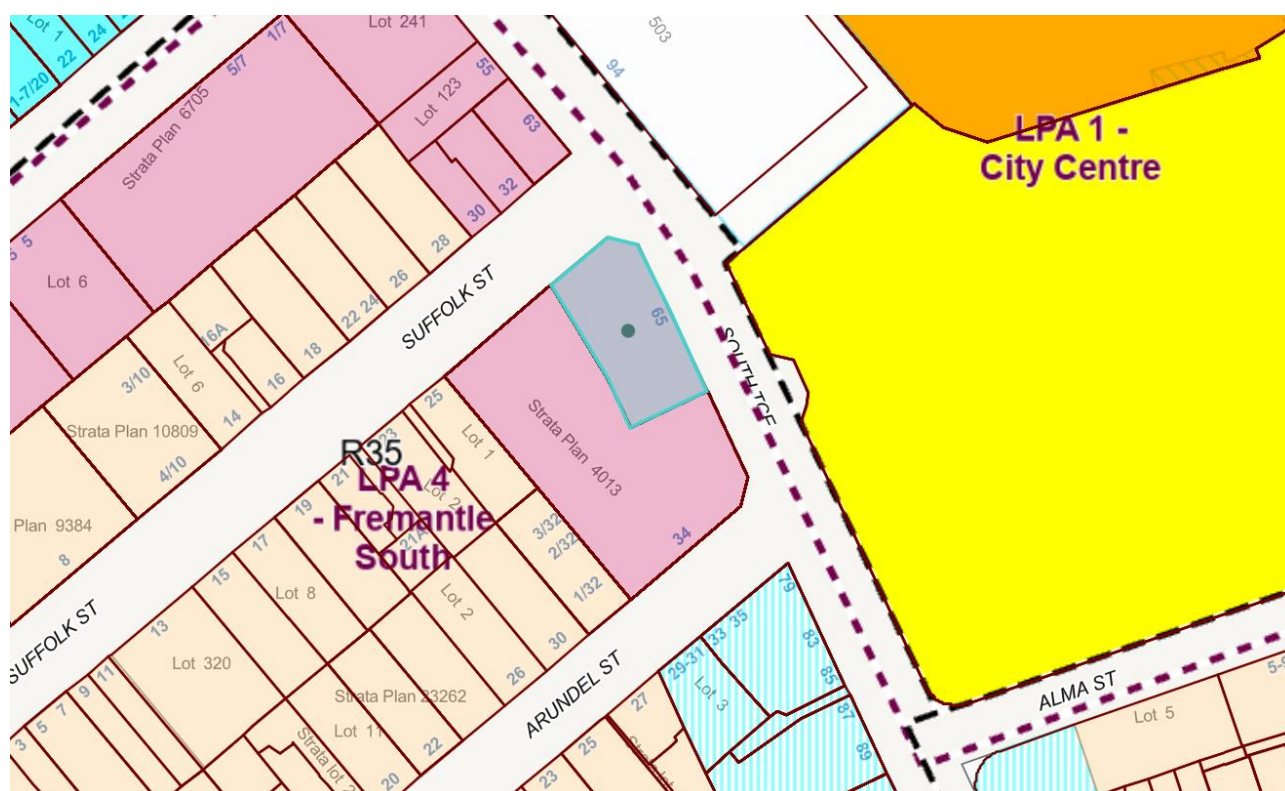
Approval is sought for the extension to the term of substantial commencement for an approved six storey, plus basement building comprising Hotel and Office uses at 65 South Terrace, Fremantle on the corner of Norfolk Street. No changes to the approved plans are requested.



The applicant’s justification for the extension is included as attachment 1.

Site/application information

Date received:	24 November 2022
Scheme:	Mixed Use
Heritage listing:	Limestone features
Existing land use:	Vacant lot
Use class:	Hotel, Office, Shop
Use permissibility:	A,P,A



CONSULTATION
Community

The SDAU is responsible for community consultation for all significant development applications submitted to it. The application is being advertised by the unit between 24 November and 8 December 2022. Submissions on the proposal are to be submitted to them directly.



OFFICER COMMENT

Statutory and policy assessment

In accordance with LPP 1.11: Planning and Development Act 2005, Part 17 Development Application Submissions, Officers assessed the original proposal against the relevant provisions of LPS4 and relevant Council local planning policies when previously referred. The discretions that were sought by the applicant can be summarised as follows –

- Land use – Hotel (A), Office (P) and Shop (A)
- Building height – 7m permitted, 20.6m proposed
- Car parking – 146 required, 43 proposed

There are no amendments to the approved development plans, with only an extension of term of approval sought in this application.

Background

The subject site is located on the southern corner of South Terrace and Suffolk Street, Fremantle, along a key entry route into the Fremantle CBD. The site has a land area of approximately 1169 m² and has been a vacant lot since the early 1990s.

The site is zoned Mixed Use and has a density coding of R35. The lot is located within sub area 4.3.1 of the South Fremantle Local Planning Area. The site is not located in a Heritage Area, however it is individually heritage listed for limestone features.

In May of 2021, Council reviewed the application for a six storey Hotel, Office and Shop development. Officers were supportive of the proposed development, however the Council submission was to *not* support the development due to the proposed building height. The proposal was subsequently approved in July 2021 by Western Australian Planning Commission (WAPC).

Extension of term

The Act was recently amended to allow for the submission of applications to extend the term of substantial commencement of development. The applicant has submitted an application to extend the term of approval to commence their development but has not proposed any changes to the development's design.

The City's local planning policy for these Part 17 applications does not contemplate extensions of term as this is only a recent inclusion into the Act. However, for other applications submitted with the City, Council must have due regard to LPP 1.1 Amendment and Extension to the Term of Planning Approval, which requires consideration of the following –

- a) Whether the scheme or a relevant planning policy has changed in a material way since the planning approval was granted;*
- b) Whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and*



- c) *Whether a material change has occurred to either the site to which the planning approval relates or the surrounding locality since the planning approval was granted.*

There have been no changes to the scheme requirements for this site, nor have there been material change to the site or its surroundings since July 2021. The applicant is not seeking any changes to the level of discretion sought, nor any design changes to the approved development.

The proposal to extend the term is therefore supported.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle
- Increase the net lettable areas of office space
- Increase the net lettable area of retail space

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

That the City of Fremantle advises the Western Australian Planning Commission that it supports the proposed extension to term of substantial commencement for the approved six storey mixed use development at No. 65 (Lot 12) South Terrace, Fremantle.



PC2212-7 NICHOLAS CRESCENT, NO. 74 (LOT 201), HILTON – NEW DRIVEWAY AND ALTERATIONS TO FRONT YARD OF EXISTING SINGLE HOUSE – (CM DA0353/22)

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a new driveway and alterations to the front yard of the existing Single house at No. 74 (Lot 201) Nicholas Crescent, Hilton.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought. 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:

- **Vehicular Access**

The application is recommended for refusal.

PROPOSAL

Detail

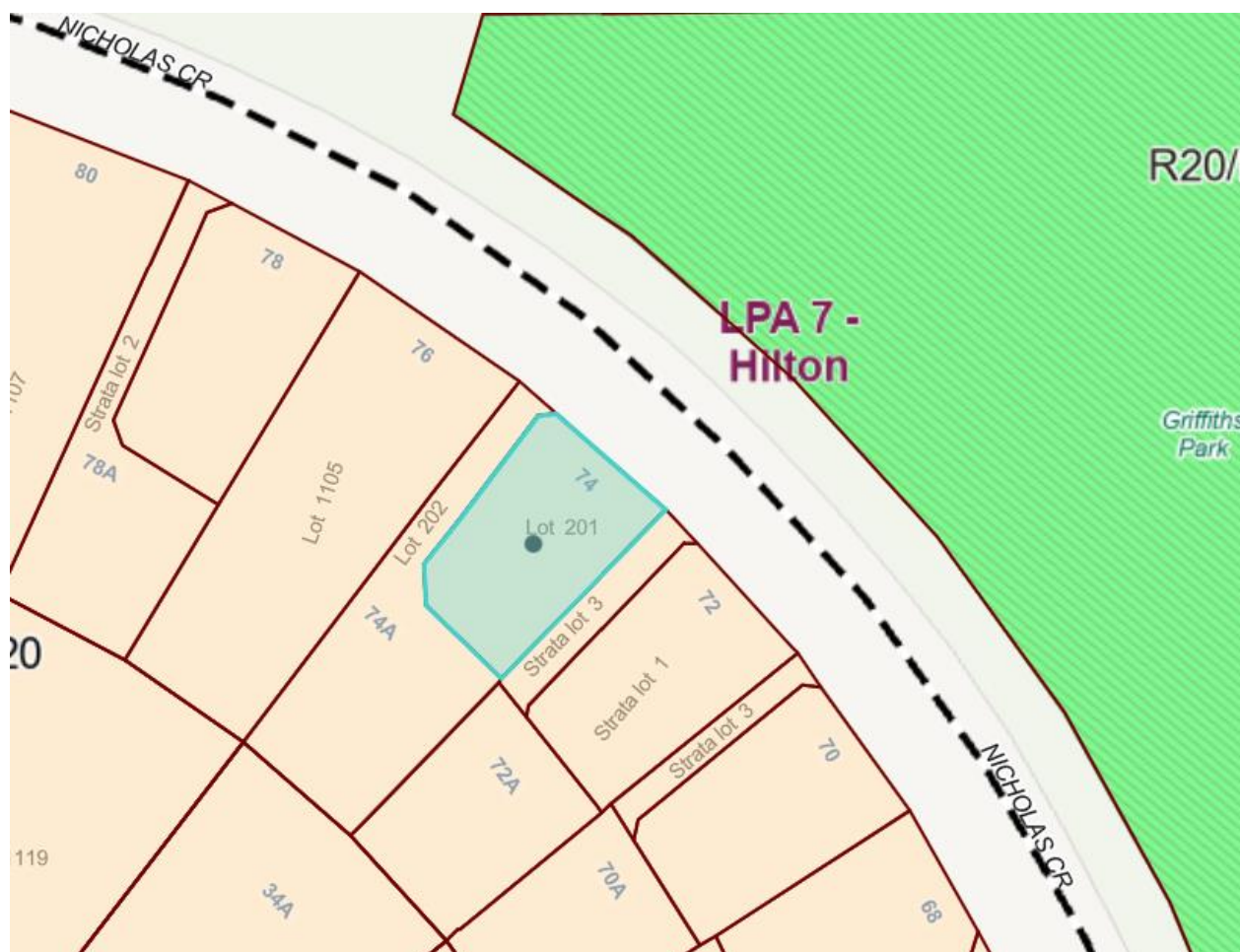
Approval is sought for a new driveway and alterations to the front yard to an existing single house at No. 74 (Lot 201) Nicholas Crescent, Hilton. The proposed works include the construction of new vehicle access onto Nicholas Crescent rather than the existing shared access easement.



Development plans are included as attachment 1.

Site/application information

Date received:	13 October 2022
Owner name:	Mr Nicholas Gareth Main
Submitted by:	Mr Nicholas Gareth Main
Scheme:	Residential (R20)
Heritage listing:	Hilton Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	Permitted



CONSULTATION

External referrals

Nil required.

Community

Nil required.



OFFICER COMMENT

Statutory and policy assessment

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

- Vehicular Access

The above matters are discussed below.

Background

The subject site is located on the southern side of Nicholas Crescent in Hilton. The site has a land area of approximately 407m² and is currently a Single House. The site is zoned Residential and has a density coding of R20. The site is located within the Hilton Heritage Area. The surrounding area is predominantly characterised by single storey single houses and grouped dwellings.

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

- The site has an approved 2 lot freehold subdivision (ref: WAPC157093) which was approved by the Western Australian Planning Commission (WAPC) in 2018 and subsequently received subdivision clearance approval from the City in June 2019.

The WAPC approval dated 22 October 2018 imposed the following condition (condition 4):

4. An easement, in accordance with Section 136C of the *Transfer of Land Act 1893*, for the benefit of proposed Lot A, is to be placed on the certificate of title of proposed Lot B specifying access rights, for the purpose of ensuring that vehicles are able to enter and exit both lots in forward gear via a single crossover. Notice of this easement is to be included on the diagram or plan of survey (deposited plan). The easement is to show the area of the lot which has a right of carriageway, and which lot this right of carriageway benefits. (Local Government)

The Deposited Plan (DP 416004) indicates a right of carriageway easement exists to the benefit of the subject site. The site received subdivision clearance from the City satisfying condition 4 of the WAPC approval with two hardstand bays being provided at the front of the subject site, gaining access from the existing driveway and associated crossover (see images below). The lots are now created.



Figure 1 – Existing Crossover and Hardstand

An assessment against the relevant policies and legislation has been undertaken below in regard to vehicular access.

Vehicular Access

State Planning Policy 7.3 – Residential Design Codes Volume 1

Element	Requirement	Proposed	Extent of Variation
5.3.5 Vehicular Access	<p>Access to on site car parking spaces to be provided:</p> <ul style="list-style-type: none"> where available, from a communal street or right-of-way available for lawful use to access the relevant site and which is adequately paved and drained from the property boundary to a constructed street; or from a secondary street where no right-of-way or communal street exists; or from the primary street frontage where no secondary street, right-of way, or communal street exists. 	<p>Additional driveway directly to Nicholas Crescent.</p> <p>Subject site has legal rights of access to exiting driveway and crossover for the property to the rear of the site.</p>	<p>Additional vehicle access proposed.</p>
	<p>Driveways to primary or secondary street provided as follows:</p> <ul style="list-style-type: none"> driveways serving four dwellings or less not 	<p>Driveway has width of 3.0 metres.</p>	<p>Compliant</p>



	<p>narrower than 3m at the street boundary;</p> <ul style="list-style-type: none"> no driveway wider than 6m at the street boundary and driveways in aggregate no greater than 9m for any one property. 		
	<p>Driveways shall be:</p> <ul style="list-style-type: none"> no closer than 0.5m from a side lot boundary or street pole; no closer than 6m to a street corner as required under AS2890.1 Parking Facilities: Off street Parking (as amended); aligned at right angles to the street alignment; located so as to avoid street trees, or, where this is unavoidable, the street trees replaced at the applicant’s expense or re-planting arrangements to be approved by the decision-maker; and adequately paved and drained. 	<ul style="list-style-type: none"> Portion of frontage; Crossover isn’t located on a corner, however is located on a crescent shaped street; Crossover located at a right angle to the street alignment; Crossover avoids street trees and proposes a 2.0 metre plus setback to the existing street tree; The crossover will be concrete (or other material as approved). The driveway will be adequately paved and drained. 	<p>Compliant</p>

Local Planning Policy 3.7 – “Hilton Garden Suburb Precinct” Heritage Area (LPP3.7)

Clause 1.6.1 of LPP 3.7 states the following:

“Where two or more lots share a vehicular access point (via an access easement, common property driveway, or the like), such a shared vehicular access point is to be the sole vehicle access points for all of those lots to that street front.”



Variations to the above may be considered against the design principles of the R-Codes, with additional due consideration being given to the impact on any place of heritage significance. Where variations are permitted, the development is required to provide a landscaping plan to soften the impact of the additional hardstand on the streetscape appearance.

The vehicular access is not considered to meet the Design principles of the R-Codes or the requirements of LPP 3.7 in the following ways:

- Given a crossover exists servicing the rear lot, an existing easement ensuring reciprocal rights (vehicle access) benefitting the front allotment it is considered that the provision of an additional crossover to a prominent location of the verge doesn't reduce the impact of vehicle access points on the streetscape, nor does it minimise the number of crossovers in the streetscape.

CONCLUSION

In accordance with the above assessment, the proposal is considered to be inconsistent with the relevant statutory requirements of the City's Local Planning Scheme No.4, relevant State Planning Policies including SPP7.3 – R-Codes and relevant Council Local Planning Policies, including *LPP3.7 – "Hilton Garden Suburb Precinct" Heritage Area*. Therefore, the City is not supportive of the proposal and recommends a refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Addition of new crossover and alterations to front yard of existing Single house on the plans dated 13 October 2022 at No. 74 (Lot 201) Nicholas Crescent, Hilton, for the following reasons:

- 1. The proposal is inconsistent with the City of Fremantle's Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy, specifically Part 1.6 – Vehicle access and Vehicular access under the Residential Design Codes.**



PC2212-8 SOUTH TERRACE, NO. 41 (LOT 2090) FREMANTLE – PARTIAL CHANGE OF USE TO TAVERN AND ADDITIONS AND ALTERATIONS TO EXISTING BUILDING (ED DA0321/22)

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Development Plans
Additional information: 1. Site Photos
2. Applicant’s Summary of Proposal
3. DPLH Heritage Comment
4. Applicant Acoustic Report & Noise Management Plan

SUMMARY

Approval is sought for a partial change of use to Tavern and additions and alterations to the existing buildings on site at 41 South Terrace, Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought. 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 (Tavern).
- On site car parking.

On 24 March 2021 an application for a '*Partial Change of Use to Hotel and Alterations and Additions to the Existing Building*' on the subject site was granted temporary conditional approval at an Ordinary Meeting of Council. The applicant had also lodged an application with the Department of Racing, Gaming, and Liquor (DRGL) for an Extended Trading Permit from the Norfolk Hotel to 41 South Terrace, hence the 'Hotel' land use classification chosen for the previous development application. DRGL subsequently advised that a standalone Tavern (Restricted) License was required. This change of use application to 'Tavern' is therefore necessary to align the subject site land use with that of the required Liquor License for the proposal. In addition to seeking a different land use type, the overall proposal has reduced in scope by proposing that the outdoor 'existing carpark' area, shown on the development plans, no longer forms part of the licensed venue (previously approved as a large, open, outdoor 'events area').

The proposal has been reviewed against relevant planning requirements and is recommended for on balance conditional approval.



PROPOSAL

Detail

Approval is sought for a change of use to Tavern and associated works to an existing building and courtyard on the subject site at 41 South Terrace, Fremantle. The subject site is the site of the former Old Girls School and Fremantle Technical College, comprising existing buildings listed on the State Register of Heritage Places.

The applicant has described the proposal as a food, beverage and event venue with changing themes, food and entertainment offerings. It is proposed that the venue will accommodate up to 500 patrons and seeks the flexibility of trading 11:00am to Midnight seven days per week.

The design proposes to utilise the Old Girls School Building for a range of uses and spaces including a cafe, bar, function room and outdoor courtyard area to the rear (southern side) of the existing building. It should be noted that the existing Fremantle Technical College building (Essex Street, eastern, side of site) and 'existing carpark' area (Norfolk Street, south-western, side of site), also on the subject site, do not form part of this proposal. The previous approval on the subject site for the hotel use (ref. DA0410/22) proposed that the existing carpark area would be used as a large outdoor 'events area' but in an effort to reduce the scope of the proposal, this has been omitted from this current application and the existing carpark area will not form part of the licensed venue.

The proposed floor plan indicates the following:

- Bar, café, function, lounge and storeroom spaces within the existing Old Girls School Building and a 160m² outdoor courtyard area to the rear of the existing building (Norfolk Lane); and
- No use is currently proposed within the Fremantle Technical College building (Essex Street) and this does not form part of the application. Furthermore, the existing car park on the southern (Norfolk Street) side of the subject site is to remain as existing, with no changes proposed as part of this application and this area is not intended to form part of the licenced venue.

The proposed works to existing buildings:

- Internal refurbishment and repair works to the new function, café, bar, lounge, lobby and storage spaces.
- New openings to the courtyard and building from lobby and lounge area.
- Modifications to the existing toilet facilities.
- New secure bin store on western side (Norfolk Lane) of site.
- Landscaping, seating and bicycle rack additions near the entry point of the site (South Terrace)

The proposed business is intended to operate separately to, though in association with, the Norfolk Hotel on the opposite side of Norfolk Street from the subject site.



Development plans are included as Attachment 1 and the applicants summary of the proposal can be found at Additional Information 2.

Site/application information

Date received: 14 September 2022
Owner name: Trafalgar Investments Pty Ltd ATF Prendiville Property Unit Trust
Submitted by: Trafalgar Investments Pty Ltd ATF Prendiville Property Unit Trust
Scheme: City Centre
Heritage listing: Individually Listed Category 1A and Central Fremantle Heritage Area
Existing land use: Educational Establishment
Use class: Tavern
Use permissibility: A





CONSULTATION

External referrals

Department of Planning, Lands and Heritage (DPLH) Heritage Services

The application was referred to DPLH as the subject site is listed on the State Register of Heritage Places. DPLH officers confirmed the proposal, in accordance with the plans submitted, is supported, subject to a number of conditions of approval and advice notes that will be imposed should the application be approved. Full details of the DPLH advice can be found in the **Additional Information 3** attachment to this report.

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. The FP have advised that they have no objection to the proposal subject to compliance with the standard built form requirements for Area 2 in the Fremantle Port Buffer Area Development Guidelines. These matters can be dealt with as relevant conditions and advice notes.

Internal Referrals

Heritage

Officers have reviewed the proposal and DPLH recommendations, agreeing with their findings and comments. An additional condition is recommended requiring some further detail regarding conservation works, materials and finishes be provided at the building permit phase, should the application be approved.

Environmental Health

Officers have reviewed the applicant's supporting acoustic report and noise management plan (**Additional Information 4**).

The acoustic report indicates that noise from the development will not strictly comply with the *Environmental Protection (Noise) Regulations 1997* during night-time periods. However, it is acknowledged that the noise levels generated will be below the existing background level of noise at the location, of which traffic is a large component.

Notwithstanding the non-compliances, officers accept the acoustic report's assessment and conclusions that noise from the premises is not expected to significantly impact the surrounding community given the other impacting land uses and noise sources within the locality, including road traffic that exceed levels.

Technical officer advice is therefore to support the development proposal but to advise that the requirements of the *Environmental Protection (Noise) Regulations 1997* will remain in force and be applicable should issues arise in relation to noise emitted from the premises.



All recommendations within the acoustic report in relation to noise management, need to be secured via appropriate conditions of approval, should the application be supported. This will likely prevent noise from the proposed development causing noise nuisance issues for surrounding noise sensitive receivers.

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 comprised a land use which required advertising and the exercise of discretion was required with respect to the provision of on-site car parking. The advertising period concluded on 26 October 2022, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. The following elements of the proposal require the exercise of discretion with regard to the requirements of Local Planning Scheme No. 4:

- Land Use (Tavern)
- On site car parking

The above matters and other notable matters such as managing the impact of noise which are to be considered in the determination of the application, are discussed below.

Background

The subject site is located on the corner of South Terrace and Norfolk Street, bound by Norfolk Lane to the rear and Essex Street to the north-west. The site has a land area of approximately 2444m² and is currently unoccupied but is the former site of the Old Girls School Building and the Fremantle Technical College, which comprised the two existing buildings on site, one of which is subject to this development application. The site is zoned City Centre. The site is heritage listed on the State Register of Heritage Places and on the City's heritage list under LPS4 (category 1A). The site is also located within the Central Fremantle Heritage Area.

The site is generally flat, with two buildings to the northern and central portions of the site. The south-eastern portion of the site is vacant with the exception of several trees, and was previously used as a car parking area for the former Technical College.



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

- DA0410/20 - Partial Change of Use to Hotel and Alterations and Additions to Existing Building.
- DA0402/21 - Restoration to Existing Technical College and Girls & Infants School;
- PW0005/18 – Conservation and maintenance works to existing building; and
- DA0258/13 – Repair of lintel to existing heritage building.

With respect to application ref. DA0410/20 above, on 24 March 2021 an application for a 'Partial Change of Use to Hotel and Alterations and Additions to the Existing Building' on the subject site was granted conditional approval at an Ordinary Meeting of Council. Concurrently, the applicant had also lodged an application with the Department of Racing, Gaming, and Liquor (DRGL) for an Extended Trading Permit from the Norfolk Hotel to 41 South Terrace, hence the 'Hotel' land use classification chosen for the previous development application. DRGL subsequently advised that a standalone Tavern (Restricted) License was required for the subject site based on how they intended to operate. This current change of use application to 'Tavern' was therefore deemed necessary to align the subject site land use with that of the required Liquor License for the subject site.

The previous application was originally recommended to be refused by officers on the basis the applicant was unable to strictly demonstrate that the proposal is capable of complying with the requirements of the *Environmental Protection (Noise) Regulations 1997* and as such was considered to have the potential to adversely impact on the amenity of the locality.

Notwithstanding, Council supported an alternative recommendation for approval on the basis the proposal was limited to a temporary term of 5 years following occupation (so as not to prejudice longer term development proposals for adaptive reuse of all of the existing buildings on the subject site) and an additional Business Management Plan was to be provided for approval that detailed the proposed operation of the venue and appropriate measures to minimise and mitigate potential noise and other impacts on the immediate locality (further to recommendations of the acoustic report).

While the current Tavern proposal is similar to the previous Hotel application, the key difference is the omission of the previously proposed 640m² 'events area' in the existing, open carpark area (south-eastern side of subject site) which is now proposed to remain as the existing car parking area and not form part of the licensed venue (see former application site plan below). The only proposed outdoor area is now in the more contained, 160m² rear courtyard of the building. As such, the reduction in the outdoor area of the venue and particularly of that area closer to more sensitive noise receptors, is seen to further reduce the potential for adverse noise impacts from the proposal.

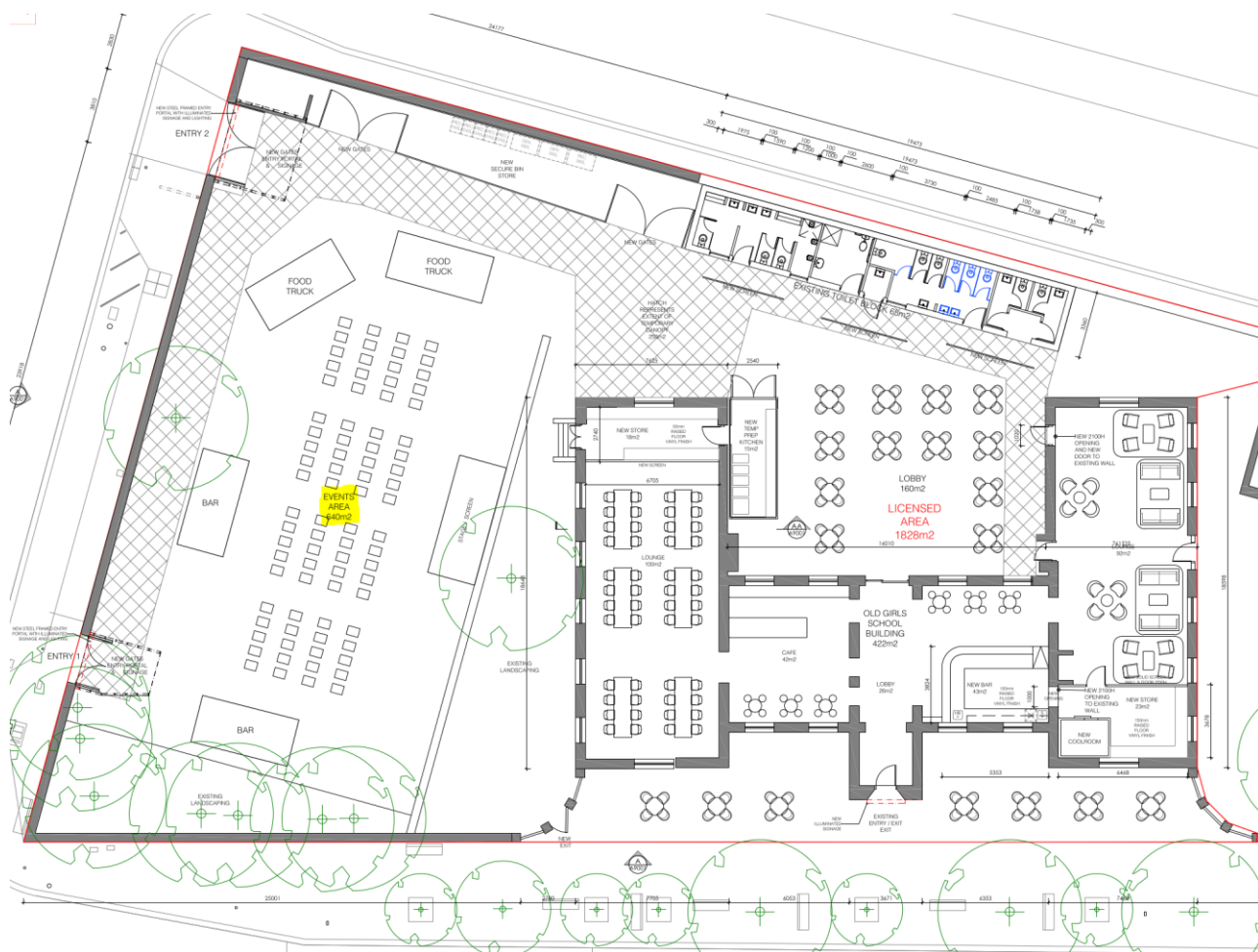


Figure 1. Former hotel application site plan (ref. DA0410/20) showing 640m² 'events area' (highlighted) in existing carpark which has since been omitted from the current application (now proposed to remain as existing carpark, not to form part of venue).

Land Use

LPS4 defines various land uses such as Taverns, Hotels and Small Bars by the liquor license type that they operate under. As noted above, the development is considered to be a Tavern use as the proposed premises is to required to operate under such a Liquor Licence as advised by DRGL.

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

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*



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

- The proposed land use and development is considered compatible and consistent with existing businesses in the City Centre area and consistent with the objectives of the City Centre Zone.
- The proposed physical works are not considered to unduly impact adjoining properties by way of its appearance noting it is a corner lot adjoining a road and laneway. Furthermore, the proposed external works are considered minor and will only marginally alter the appearance of the building in the existing circumstance.
- Consultation undertaken by the City received no responses in support of or opposing the proposal.

It is acknowledged that there is general support for an 'Entertainment' type use for this site within the City Centre locality however, as detailed further in this report the applicant is unable to demonstrate that the proposed use is capable of complying with the *Environmental Protection (Noise) Regulations 1997*. Notwithstanding, it is accepted that the applicant's acoustic report concludes that noise from the premises is not expected to significantly impact the surrounding community given the other impacting land uses within the locality, including road traffic, that will generate greater background noise levels than expected from the proposed use.

It is therefore the officer position to support the development proposal but to advise that the requirements of the *Environmental Protection (Noise) Regulations 1997* will of course remain in force and be applicable should issues arise in relation to noise emitted from the premises. Further, all recommendations within the acoustic report in relation to noise management, shall be secured via appropriate conditions of approval to minimise and mitigate noise from the proposed development causing noise nuisance issues for surrounding noise sensitive receivers and users. The acoustic report concludes that with all noise management measures in place, the venue is expected to comply with noise regulations in a typical operating scenario providing an acceptable risk level.

On the basis of the above, the Tavern land use is supported at the subject site, subject to other relevant policy considerations below.



On Site Car Parking

Element	Requirement	Proposed	Extent of Variation
Vehicle parking Tavern 1 per 2.5m ² of public bar area 1 per 5m ² of lounge/garden area	Function – 100sqm 40 bays Café – 42sqm 16.8 (17 bays) Lounge – 92sqm 26.8 (37) bays Bar – 42sqm 16.8 (17) bays Courtyard area – 160sqm 32 bays Total – 143 bays	18 (existing on site)	125 bays
Delivery bays 1 per Service/Storage area	1 bay	Existing carpark and entrance on southern side (Norfolk Street) side of site to be for servicing and delivery parking.	Nil - complies
Bicycle bays Class 1: 1 per 25m ² bar floor area and 1 per 100m ² lounge and beer garden Class 3: 1 per 25m ² bar floor area and 1 per 100m ² lounge and beer garden	Class 1 (11) + (2) = 13 Class 3 (11) + (2) = 13	4 proposed plus 4 existing class 3 bicycle bays existing (8 total) class 3.	13 class 1 bays & 5 class 3 bays

In accordance with clause 4.7.3.1 Council may waive or reduce car parking requirements subject to the following –

- i) *The availability of car parking in the locality including street parking:*



Public parking is available in nearby streets, as well as larger public car parks (Fremantle Oval, Kings Square, Cappuccino Strip and Collie Street Car park) all of which are within a reasonable walking distance (<400m) of the subject site.

ii) The availability of public transport in the locality;

The City Centre is well serviced by public bus and rail transport, as well as taxis and other ride share providers. It is also noted that the proposed lack of onsite parking encourages the use of alternative modes of transport for a land use which is likely to result in the consumption of alcohol.

For the reasons outlined above, the proposed variation to the car parking requirements of LPS4 can be supported in this instance.

Bicycle parking

In relation to bicycle parking for the proposed use, the applicant has provided details of only 4 additional class 3 bike racks beyond the existing on the subject site. In relation to their provision, it is considered that the full provision of 13 individually contained class 1 bicycle parking bays may impact the heritage significance of the subject site. Accordingly, it is recommended that the applicant provide an additional 13 class 2 bicycle parking bays, being a lockable compound with communal access.

Due to the State Heritage listing of the subject site, the provision of the shared (class 2) bike store will need to be agreed with, and proposed to the satisfaction of the City of Fremantle and Heritage Services at DPLH.

With respect to the provision of the required class 3 bicycle bays, these are recommended to be provided due to both the proposed capacity of the site and its potential to attract customers from the immediate locality who may visit the site by bicycle. The existing bicycle parking facilities are noted, and sufficient space appears to be available on the subject site to provide the additional class 3 bicycle bays within minimal impact upon heritage significance.

It is considered that the end-of-trip facilities normally required in association with class 1 bicycle bays can be waived in this instance as these are not required to support the development.

Delivery Parking

Delivery/servicing bays are to be provided in the existing car park on the subject site which will be dedicated for such a purpose and intends to utilise the existing vehicular access point on Norfolk Street to accommodate deliveries/servicing. Furthermore, the existing loading bays on Norfolk Lane will also assist in accommodating deliveries.



It is recommended that a delivery management plan be provided to the City and approved prior to the commencement of the use to ensure that the amenity impact for deliveries to the site can be appropriately controlled and managed.

Demolition/Building modification works

The proposal involves some demolition works to facilitate the occupation of the subject site for its intended use. In accordance with advice from DPLH Heritage Services (**Additional Information 3**) and support from the City’s heritage officers, the works proposed are considered to appropriately address the requirements of Local Planning Scheme No. 4 cl. 4.14, in that the demolition works are considered minor and not to unduly impact the heritage significance of the property or locality.

Waste Collection

The applicant has provided a waste management plan which is supported provided waste collection trucks enter the site during collection and do not obstruct the footpath or nearby traffic lights.

Should the application be supported, a condition of approval is recommended for the applicant adhere to the waste management plan provided for the life of the development along with the added recommended condition of the City’s Waste team.

Noise Management Plan

The applicant submitted an Acoustic Report and Noise Management Plan in support of the proposed development (**Additional Information 4**). The report concludes:

The impact on the acoustic amenity of the area will be determined by the change in existing noise levels, if any, due to the proposed development.

The dominating noise source at all receivers was observed to be traffic, with continuous music and patron noise from nearby venues clearly audible. As the project site is surrounded by bars (Norfolk Hotel, The Old Synagogue, Tonic & Ginger, Arbor, Sail and Anchor), a nightclub (Metropolis Fremantle), and Food and Beverage tenancies Restaurant), background noise levels are higher than the assigned levels of the Environmental Protection (Noise) Regulations (ENPR).

Based on noise monitoring and predicted noise emissions, the project is not expected to have any impact on the existing acoustic amenity of the community. Noise management measures to ensure the ongoing maintenance of the existing level of acoustic amenity in the area are provided in Section 5 (refer report).

Noise management measures have been provided and are particularly relevant for “night-time”. Based on the assessment detailed in this report and noise management measures recommended, the venue is expected to comply with the ENPR in a typical operating scenario. The venue operator must ensure that noise emissions from the proposed development do not increase noise levels at the nearest noise sensitive receivers.



Officers have reviewed the proposal and the above report with comment provided earlier in this report.

It is noted that the subject site is located on South Terrace in the city centre of Fremantle and is also in close proximity to other existing late-night venues (Norfolk Hotel, The Old Synagogue, Tonic & Ginger, Arbor, Sail and Anchor, and Metropolis Fremantle). As such, the applicant's contention that there is a higher expectation of noise in this locality is generally accepted by officers.

Generally speaking, where a proposal is unable to demonstrate the ability to strictly comply with the relevant *Environmental Protection (Noise) Regulations 1997* it would not be supported. However, in consideration of the existing noise environment surrounding the subject site, advice from the City's Environmental Health Officers and the previous Council decision that approved a very similar proposal for the subject site with a similar acoustic impact; officers recommend that the proposal can be conditionally supported.

Furthermore, a key difference in this current application is that the previously proposed 640m² 'events area' in the existing, open, carpark area (south-eastern side of subject site) is now proposed to remain as the existing car parking area and not form part of the licensed venue (to also be conditioned as such). The only proposed outdoor area is now in the more contained, 160m² rear courtyard of the building. As such, the reduction in the outdoor area of the venue and particularly of that area closer to more sensitive noise receptors, is seen to further reduce the potential for adverse noise impacts from the proposal and allow operators to better manage noise and activity in the more contained courtyard which is enclosed on three sides.

Additionally, all recommendations within the acoustic report and noise management plan will be secured by conditions of approval and be required to be implemented to avoid or mitigate any adverse noise nuisance and to help ensure the venue complies with the noise regulations in a typical operating scenario.

Lastly, the noise regulations will remain in force and be applicable should any issues arise in relation to noise emitted from the premises and enforcement action can be taken if necessary.

It is in consideration of all of the above reasons, officers are of the mind to change their recommendation from refusal of the previous Hotel application (ref. DA0410/20) on the basis of potential noise impact, to one of support for the current, amended proposal.



DBU6 – Late Night Entertainment Venues Serving Alcohol

In accordance with the general provisions of DBU6 (Late night entertainment venues serving alcohol), it is considered the local area is well serviced by public streets and Taxi ranks to allow for safe transport to and from the site without significantly disrupting through traffic. The adjoining footpaths and streets are well lit to allow for adequate safety for patrons late at night. The policy also requires development to reduce the opportunity for conflict between uses in the locality. As detailed above, officers are of the view that, in its proposed form, the venue will adversely impact on the amenity of the locality, particularly the nearby residential developments.

CONCLUSION

In consideration of the existing surrounding environment, advice from the City’s Environmental Health Officers and the previous Planning Committee decision that approved a very similar proposal for the subject site with a similar acoustic impact (that also included a larger, open outdoor event space in the existing carpark, that has been omitted from this application); Officers recommend that, on balance, the proposal can be conditionally supported.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle
- Increase in commercial and retail development within 800m of Fremantle train station

Green Plan 2020

- Encourage the retention of vegetation on private land.
- No existing trees are affected by this development.

Alcohol Management (SG50)

- Potential impacts of the proposed Licensed Premises can be appropriately managed

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Council

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Tavern and Additions and Alterations to Existing Building at No. 41 (Lot 2090) South Terrace, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 15 September 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. The 'existing carpark' area, shown on the approved plans, does not form part of this approval, nor is it to form part of the licensed venue and is to be used for the purpose of deliveries, servicing or carparking only.**
- 3. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 4. Prior to issue of a building permit for the development hereby approved, the owner is to submit a Delivery Management Plan for approval detailing the timing of and access for deliveries to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.**
- 5. Prior to the issue of a building permit for the development hereby approved, the applicant is to provide detailed drawings, to the satisfaction of the City of Fremantle on the advice of the Director, Heritage Development, Department of Planning Lands and Heritage.**

The drawings are to detail the following items: -

- The two proposed new door openings, along with works to any existing openings where door or window furniture may be being introduced or replaced.**
- The proposed canopies and/or covered walkways.**
- The proposed secure store along the southern limestone boundary wall.**
- The integration of the former metallurgy classroom chimney and bench into the proposed café fit out.**
- The proposed food prep/store areas at the end of each wing.**



- **Information about any proposed repairs and finishes to the timber floors and plaster walls.**
 - **The proposed alfresco area on South Terrace, including any proposed shade or shelter structures.**
 - **All proposed signage.**
- 6. Prior to the issue of a building permit, the proposed timber lap fencing to the store area along the southern limestone boundary wall is to be reduced to no higher than 1800mm, to the satisfaction of the City of Fremantle.**
- 7. Prior to the issue of a Building Permit, further information/details shall be submitted to, and approved by the City on the following aspects of the works hereby approved:**
- **To demonstrate that the repairs and modification work to limestone walls will be in accordance with good conservation practice by the provision of mortar and render mixes and colours to be used in the works. These mortars and renders are to match original existing mortar and render and contain no cement or sealers.**
 - **To confirm that CFC sheet underlay to Vinyl sheeting in wet areas will not be stuck or fixed to timber floor boards.**
 - **To confirm that existing timber floors will be only lightly and treated with an oil finish like a Tung Oil or similar.**

To the satisfaction of the City of Fremantle.

- 8. Notwithstanding condition 1, the 'future corner opening' shown on the plans hereby approved on the limestone wall along Norfolk Street is not supported and is to be deleted from the proposal prior to the issue of a building permit for the development hereby approved.**
- 9. Prior to the issue of a Building Permit, detailed drawings are to be submitted to demonstrate that the entrance statement at the existing entrance to the site from Norfolk Street is freestanding, to the satisfaction of the City of Fremantle.**
- 10. Prior to the issue of a Building Permit for the development hereby approved, a plan detailing the provision of 13 Class 2 and 5 Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided, to the satisfaction of the City of Fremantle on the advice of the Department of Planning, Lands and Heritage (Heritage Services).**

Prior to occupation of the development hereby approved the required bicycle racks must be installed in accordance with the



approved plan and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

- 11. The waste management plan, prepared by 10 Waste Service in association with Cleanaway, shall be updated to include a requirement that all waste collection trucks shall fully enter the site during collection and shall not obstruct the adjacent footpath of traffic lights during collection. The revised waste management plans shall be submitted to, and approved by the City of Fremantle prior to the issue of a building permit.**

The approved waste management plan is to be implemented at all times, for the life of the development, to the satisfaction of the City of Fremantle.

- 12. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of City of Fremantle.**

- 13. Prior to the issue of a Building Permit a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:**

- a) Use of City car parking bays for construction related activities;**
 - b) Protection of infrastructure within the road reserve;**
 - c) Security fencing around construction sites;**
 - d) Access to site by construction vehicles;**
 - e) Contact details;**
 - f) Site offices;**
 - g) Forward works for the site;**
 - h) Delivery of materials and equipment to the site;**
 - i) Storage of materials and equipment on the site;**
 - j) Parking arrangements for contractors and subcontractors;**
 - k) Sand drift and dust management;**
 - l) Noise - Construction work and deliveries;**
 - m) Construction Waste management;**
 - n) Traffic management; and**
 - o) Works affecting pedestrian areas; and**
 - p) other matters likely to impact on the surrounding properties;**
- The approved Construction Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.**



- 14. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 15. This development approval does not relate to any works within the road reserve other than awnings for weather protection and signage.**
- 16. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn etc), shall be submitted to and approved by the City of Fremantle.**
- 17. 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.**
- 18. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.**
- 19. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:**
 - a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.**
 - b) Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
 - c) Roof insulation in accordance with the requirements of the Building Codes of Australia.**



- 20. Prior to the issue of a Building Permit, details of how the recommendations contained in the Acoustic Report and Noise Management Plan prepared by Stantec Australia Pty Ltd (dated 18 February 2022 (Ref: 301250036) are to be implemented into the design/operation of the development are to be submitted and approved to the satisfaction of the City of Fremantle.**

All such recommendations must be installed/implemented at all times, for the life of the development, to the satisfaction of the City of Fremantle.

- 21. Prior to the issue of a Building Permit, a Business Management Plan, outlining the proposed operation of the venue and appropriate measures to minimise the potential noise and other impacts on the immediate locality is to be submitted and approved by the Council, and thereafter implemented, to the satisfaction of the City of Fremantle.**
- 22. All air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points shall be suitably located, screened or housed, to the satisfaction of the City of Fremantle.**
- 23. The access gates, as indicated on the approved plans, shall open into the subject site only and shall not impede the road reservation adjoining the subject site.**
- 24. 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) All noise from the proposed development must comply with the requirements of the Environmental Protection (Noise) Regulations 1997 (as amended), such as:**
- 1. mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;**
 - 2. vehicles;**
 - 3. amplified acoustic systems; and**
 - 4. patron noise.**



It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.

- (ii) The proponent must:**
- a. make application 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;**
 - b. once construction has been completed, make application to Environmental Health Services via Form 2 - *Application for a public building certificate*;**
 - c. once construction has been completed, complete and submit Form 5 - *Certificate of Electrical Compliance for a Public Building* to Environmental Health Services.**

Note that Section 1 does not apply to or in relation to building work, as defined in the *Building Act 2011* section 3, for which a building permit is required under that Act.

For further information and a copy of the application form contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.

- (iii) 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.**
- (iv) Public Building Amendments Required: All exit doors must be hung to open in the direction of egress, in accordance with the Health (Public Buildings) Regulations 1992.**
- (v) 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 Class B asbestos removal licence holder for. All asbestos removal is to be carried out in accordance with the Work Health and Safety Act 2020 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 Class A asbestos removal licence holder and an application submitted to WorkSafe, Department of Commerce.
<https://www.commerce.wa.gov.au/worksafe/>.**

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

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

- (vii) A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- (viii) A BA9 – Occupancy Permit application form is required to be submitted for the change of use. A Certificate of Building Compliance (BA18) must be submitted with the application and signed and completed by a Registered Building Surveyor Contractor (private sector). A list of Registered Building Surveyors can be obtained from the Western Australian Building Commission website -
<https://www.commerce.wa.gov.au/building-commission>.**



**PC2212-9 JOHANNAH STREET, NO.5 (LOT 2), NORTH FREMANTLE –
DEMOLITION OF EXISTING SINGLE HOUSE AND
CONSTRUCTION OF TWO STOREY SINGLE HOUSE (JL
DA0289/22)**

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Amended Development Plans
Additional information: 1. City’s Heritage Assessment
2. Site photos

SUMMARY

Approval is sought for demolition of the existing dwelling and the construction of a two storey Single house at No.5 (Lot 2) Johannah Street, North Fremantle.

The proposal is referred to the Planning Committee (PC) as the proposal includes the demolition of a dwelling in a Heritage Area.

Amended plans were received 10 November 2022 following Department of Water, Environment and Regulations (DWER) advice relating to the property falling within a known floodplain area.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for demolition of the existing dwelling and construction of a replacement two storey Single house on the subject lot.

It is noted that the submitted overshadowing diagram is incorrect with shadow shown to be cast on the neighbouring eastern property. Notwithstanding the diagram, an assessment has been undertaken and it’s confirmed the shadow is compliant with the Deemed to comply criteria of the R-Codes.

Revised plans were submitted on 10 November 2022, that increased the floor level of the dwelling due to the site being identified as being floor prone.

Revised development plans are included as attachment 1.



Site/application information

Date received: 29 August 2022
Owner name: P. Adrian Jones and C. Medhurst
Submitted by: MAEK Pty Ltd
Scheme: Residential R25
Heritage listing: North Fremantle Heritage Area
Existing land use: Single house
Use class: Single house
Use permissibility: P





CONSULTATION

External referrals

Department of Water, Environment and Regulation (DWER)

The application was referred to DWER as the property falls within a known floodplain area. When dealing with development application impacted by potential flooding Council is required to have due regard to DWER's advice. DWER responded late October 2022 stating that an amended AHD level for the dwelling of 2.2AHD was considered acceptable, "as it would provide 1 in 100 Annual Exceedance Probability flood protection, albeit with no freeboard by 2110 to account for local variations (such as surface waves generated by wind, boats, vehicles, etc)."

Accordingly, the applicant opted to amend the plans and proposed raising the finished floor level of the dwelling and filling the site to address DWER advice.

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 dwelling in a Heritage Area and discretion was sought against the R-Codes and LPS4. The advertising period concluded on 21 September 2022, and no submissions were received.

OFFICER COMMENT

Background

The subject site is located on the southwestern side of Johannah Street adjacent to Gilbert Fraser reserve. The site has a land area of approximately 805m² and is currently occupied by a single storey 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 North Fremantle Heritage Area.

Statutory and policy assessment

Demolition requires careful consideration because it potentially removes all its heritage significance except for intangible historical and social values that are not dependant on physical fabric.

In considering this application, 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.*

This clause provides the authority for the decision maker to issue approval for demolition only if it meets both triggers of the clause. If it does not, there is no ability for Council to approve demolition. In making an assessment on this, Council is to have regard to any heritage assessment prepared.



If both triggers of the clause are met, meaning the building or structure has been assessed to have limited or no cultural heritage significance AND does not make a significant contribution to the broader cultural heritage significance of the locality, the decision maker has the authority to grant approval. The decision maker is then obligated to give due regard to all remaining relevant sections of the planning framework, specifically in this instance being LPP 3.6 Heritage Areas (LPP 3.6).

LPP3.6 sets out specific provisions applicable to the assessment of applications for demolition where a place is considered to be contributory. A contributory place, does not necessarily have to be a place on the heritage list, and is set out by the policy to be –

...determined by Council having due regard to an assessment against the criteria of the Burra Charter and may include representative examples of a place type, period or style, places which contribute to the streetscape; and/or one which combines with other related places to demonstrate the historic development of a heritage area.

If a place is not determined to be contributory, the additional assessment criteria of the policy do not apply and demolition can be supported.

The policy clarifies, that if mapping of these contributory places has not been undertaken per the Heritage Area requirements of the Regulations, that Council shall make a determination as to whether it is contributory at the time of Development Application. Mapping of Contributory Places for North Fremantle has not been adopted by Council and therefore a Heritage Impact Assessment (HIA) has been undertaken and included as Additional information to this report.

Heritage and demolition

Demolition of any place requires careful consideration because it removes all its heritage significance except for intangible historical and social values that are not dependant on physical fabric.

5 Johannah Street was constructed between 1965 and 1974 and then substantially modified in the 1980s when a second floor was added, and the face brick walls were rendered. This house has very little heritage significance and it does not contribute to the heritage significance of the North Fremantle Heritage Area.

The Heritage Impact Assessment (HIA) prepared to assess this proposal, advises that 5 Johannah Street is not considered to contribute to the significance of the north Fremantle Heritage Area and the demolition of the place will therefore not reduce the identified significance of the North Fremantle Precinct Heritage Area.



In summarising the findings of the HIA against the required sections of the planning framework:

- The place is considered to have limited to no heritage significance in its own right,
- It is not considered to significantly contribute to the character of the immediate locality, and
- It has not been established to be a contributory place to the North Fremantle Heritage Area.

Therefore, in accordance with Clause 4.14 of LPS4 and LPP 3.6, the demolition is supported.

Building Height

Element	Requirement	Proposed	Extent of Variation
Building height – Local Planning Scheme No. 4 LPA3 – North Fremantle	5.5m wall height	8m	2.5m

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

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

- No. 1/4 Johannah Street (external wall height of 7.7m at gable end facing Johannah Street);
- No. 5 Johannah Street (external wall height of 6.4m to Johannah Street);
- No. 10 Johannah Street (external wall height of 7.9m at gable end facing Johannah Street); and
- No.6 Johannah Street (Concealed roof 7m facing Johannah Street)

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

- The height variation is considered to have an acceptable amenity impact to the locality, as it complies with lot boundary setbacks and visual privacy.
- Considering 1m of the additional height is being derived from required fill to address flooding issues for the area, the overall built form of the dwelling is consistent with the built form of numerous properties in the immediate area (mentioned above).
- The proposed height is considered to effectively graduate the scale of other dwellings in the street in street particularly Nos. 4, 6 and 10 Johannah Street.



- The streetscape is not considered to have significant cultural heritage value. The only listed place is located 46m to the south-east, and is not considered to be adversely impacted by the proposed development; and,
- There are no applicable provisions relating to building height for the site contained in LPP D.G.N2 – *Stirling Highway, John and Johannah Streets Local Area*.

Site Works

Element	Requirement	Proposed	Extent of Variation
Fill	500mm	1m	500mm

The proposal is considered to meet the design principles of the R-Codes relating to site works (filling) in the following ways:

- The site works are essentially being required to address floodplain issues associated with this particular area of North Fremantle. The fill is proposed as a result of DWER advice dealing with future flooding potential safeguarding future dwellings.
- The site is buffered by vehicle access driveways on either side, minimising the amenity impact on neighbouring properties.
- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy that are not dealt with by appropriate conditions.

Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Raised outdoor living area	7.5m	nil	7.5m

The proposal is not considered to meet the Design principles of the R-Codes as the raised 1m site level contributes to direct views over current outdoor living areas on the adjoining residential properties.

Notwithstanding the above, suitable visual restriction could be achieved by the provision of a 1.8m high boundary fence to the newly proposed ground level. A condition of approval requiring screening or the provision of a boundary fence to the same effect is therefore recommended.



Heritage Impact

As the proposed development is located within the North Fremantle Heritage Area, it is subject to heritage assessment in accordance with LPP 3.6 – Heritage Areas Local Planning Policy. The proposal is supported in the context of the Heritage Area, as per the following excerpt from the Heritage Impact Assessment:

The North Fremantle Heritage Area consists of a number of heritage areas of different built character and history. Johanna Street was largely developed in the Post War era and does not contribute to the heritage character of the Bruce area of which it is a part. As there is no heritage context provided by the Johanna Street streetscape new development in this street can respond more broadly to the built characteristics of this residential area.

The proposed new house responds to the established front and side setback patterns together with the bulk and scale of the surrounding development. The double garage is smaller in scale than the house but it is integrated into the design of the façade. The house has a contemporary design but the articulation of the façade, balancing of horizontal and vertical elements and use of materials is broadly sympathetic with the late nineteenth and early twentieth century built character of North Fremantle.

In accordance with LPP 3.6, new development in heritage areas needs to satisfy the following criteria:

Element	Officer Comment
Siting and scale	
<p>New infill development within a heritage area should:</p> <ul style="list-style-type: none"> a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns. b) Have a consistent bulk and scale in relation to the original street pattern. E.g. If the original street pattern is single storey then the new infill development should also be (or present as) single storey (at least to the front section of the lot). c) Have a plate height consistent with the original street pattern. New developments often propose a lower plate height than the earlier and original buildings. To ensure a 	<p>The proposed development is setback from Johannah Street 5.5m ground floor and 7m upper floor which is compliant with LPP2.9 requirements. The development is of a very similar building bulk to existing developments located at 4,6 and 10 Johannah Street.</p>



consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.	
Street setbacks deemed to comply with the above are specified in Schedule 1 for some areas.	Complies
Building Form	
New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing.	The proposed dwelling is supported in accordance with the attached heritage assessment.
Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.	The building form provides a variety of openings and setbacks.
The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.	A range of architectural designed homes exist in Johannah Street with ranging roof forms (concealed roof, ridge roof and skillion roofs). and ranging in single and two storey form. The house has a contemporary design but the articulation of the façade, balancing of horizontal and vertical elements and use of materials is broadly sympathetic with the late nineteenth and early twentieth century built character of North Fremantle.
Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.	There are new two storey buildings in the Johannah Streetscape, with no heritage homes facing this side of street within the prevailing streetscape.
Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.	In accordance with the attached heritage assessment, the proposed building design is supported.



Materials, Colours and Detailing	
Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.	The proposed materials for the development are supported in the context of the surrounding properties.
Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.	A modern contemporary design for the dwelling can be more readily considered for the site. As supported in Heritage Impact Assessment.
Use of original or traditional colours is encouraged. Glossy materials or finishes should be avoided unless a historical precedent for their use can be demonstrated.	The applicant has provided colour elevations of the development demonstrating the intended appearance and materials of the dwelling. Refer to Attached plans A000 and A300.
Roofs	
Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.	As discussed above, the dwelling sits in an area without a prevailing streetscape, and the proposed concealed/ skillion roof appearance of the dwelling can be considered in this context.
Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.	There is no prevailing streetscape of other dwellings facing Johannah Street. Roof forms range from traditional ridged roof to concealed and skillion roof designs for the newer additions.



Verandahs/Porches/Awnings	
Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing.	The proposed development includes an entry porch.
Doors and windows	
All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.	Supported as proposed
Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.	As proposed

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

CONCLUSION

In accordance with the above considerations, the proposal is considered to be worthy of support, subject to the recommended conditions.



OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of the existing Single house and construction of a two storey Single house at No.5 (Lot 2) Johannah Street, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 10 November 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to occupation/ use of the development hereby approved, the garage wall located on the northern 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.**
- 4. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 6. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**



- 7. Screening shall be erected along the western, southern and eastern common boundaries. Screening shall be a minimum height of 1.6 metres above the approved finished ground level, and comply with the definition of screening under the Residential Design Codes. All screening shall be at least 75 percent obscure, permanently fixed, made of durable material, and restrict view in the direction of overlooking into any adjoining property. All screening shall be installed and maintained to the satisfaction of the City prior to occupation of the dwelling.**
- 8. Prior to the issue of a building permit for the development hereby approved, the property driveway is to taper from garage to the street at a maximum rate of 1:5, and be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.**
- 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 and demolition permit are 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 3.7.2 of the Building Code of Australia.**
- iii. With regards to privacy screening requirement the applicant is advised that a 1.8m high dividing fence would also be considered an appropriate form of screening to comply with the condition.**
- iv. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**



v. 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>



**PC2212-10 HAMPTON ROAD, NO.32 (LOT 76), FREMANTLE –
DEMOLITION OF EXISTING SINGLE HOUSE AND
OUTBUILDINGS (JL DA0343/22)**

Meeting Date: 7 December 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1. Development Plans
Additional information: 1. Site photos
2. City’s Heritage Assessment

SUMMARY

Approval is sought for demolition of the existing Single house and outbuildings at No.32 (Lot 76) Hampton Road, Fremantle.

The proposal is referred to the Planning Committee (PC) as the proposal includes the demolition of a dwelling in a heritage area.

The application is recommended for conditional approval.

PROPOSAL

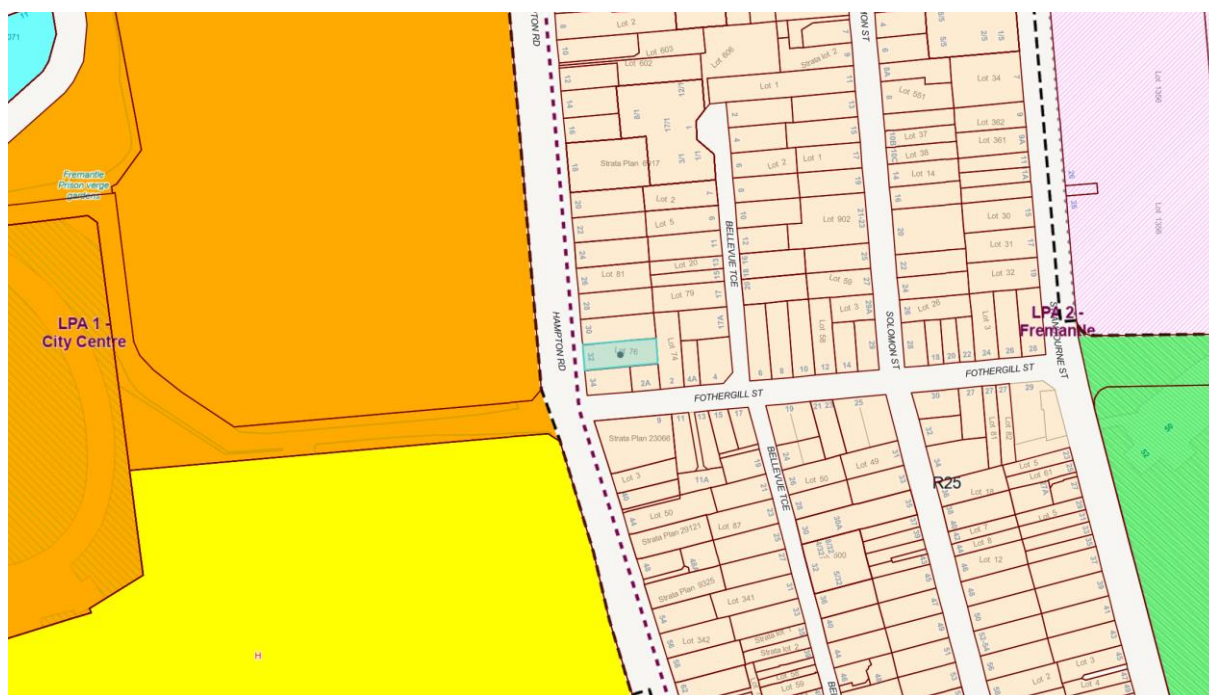
Detail

Approval is sought for the demolition of a Single house, outbuildings, and all other structures on the subject lot.

Development plans are included as attachment 1.

Site/application information

Date received: 11 October 2022
Owner name: Est. Frank Lendich
Submitted by: Kathleen Summers
Scheme: Residential R25
Heritage listing: Central Fremantle Heritage Area
Existing land use: Single house
Use class: n/a
Use permissibility: n/a



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal included the demolition of a dwelling in a Heritage Area. The advertising period concluded on 14 November 2022, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

Demolition requires careful consideration because it potentially removes all its heritage significance except for intangible historical and social values that are not dependant on physical fabric.

In considering this application, 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.*



This clause provides the authority for the decision maker to issue approval for demolition only if it meets both triggers of the clause. If it does not, there is no ability for Council to approve demolition. In making an assessment on this, Council is to have regard to any heritage assessment prepared.

If both triggers of the clause are met, meaning the building or structure has been assessed to have limited or no cultural heritage significance AND does not make a significant contribution to the broader cultural heritage significance of the locality, the decision maker has the authority to grant approval. The decision maker is then obligated to give due regard to all remaining relevant sections of the planning framework, specifically in this instance being LPP 3.6 Heritage Areas (LPP 3.6).

LPP3.6 sets out specific provisions applicable to the assessment of applications for demolition where a place is considered to be contributory. A contributory place, does not necessarily have to be a place on the heritage list, and is set out by the policy to be –

...determined by Council having due regard to an assessment against the criteria of the Burra Charter and may include representative examples of a place type, period or style, places which contribute to the streetscape; and/or one which combines with other related places to demonstrate the historic development of a heritage area.

If a place is not determined to be contributory, the additional assessment criteria of the policy fall away and demolition can be supported.

The policy clarifies, that if mapping of these contributory places has not been done per the Heritage Area requirements of the Regulations, that Council shall make a determination as to whether it is contributory at the time of Development Application. Mapping for Fremantle has not been adopted by Council and therefore a Heritage Impact Assessment (HIA) has been undertaken and included as Additional information to this report.

Background

The subject site is located on the east side of Hampton Road, Fremantle adjacent to the Fremantle Prison to the west. The site has a land area of approximately 658m² and is currently occupied by a single storey 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 Central Fremantle Heritage Area.



Heritage and demolition

32 Hampton Road is a single storey, Post-War era, fibrous cement clad timber house with a hipped tile roof and limestone foundations. The building is austere with little detail but shows the characteristics of Post War era style with a projecting room and feature rendered brick front porch enlivening the façade and horizontal format windows, horizontal cover battens to the walls and boxed eaves to give it horizontal emphasis.

No.32 Hampton Road makes a very limited contribution to the character of the streetscape on the east side of Fremantle Prison. While this Post-War house is much more recent than the surrounding development, it continues the earlier established pattern of residential development and has similar planning, scale, massing and form but the details and materials are much simpler and the articulation shows design influences popular in the Post-War era. The dwelling makes a minor contribution to the existing streetscape but its demolition and replacement with a sympathetically designed building will have only a minor impact on the heritage significance of the Central Fremantle Heritage Area or the setting for Fremantle Prison.

The contributory places mapping for the central Fremantle Heritage Area has not been completed. However, the Heritage Impact Assessment (HIA) prepared to assess this proposal, advises that the dwelling is not considered to contribute to the significance of the Central Fremantle Heritage Area or the heritage character of Hampton Road and the demolition of the place will not reduce the identified significance of the Central Fremantle Precinct Heritage Area. It is therefore not classified as a contributory place.

Further, the minor aesthetic and historic values of this place in its own right can be captured by recording the information uncovered as part of this assessment in Inherit as a Historic Record Only listing and by lodging a photographic record of the place in the City of Fremantle Local History Collection.

In summarising the findings of the HIA against the required sections of the planning framework:

- The place is considered to have limited to no heritage significance in its own right;
- It is not considered to significantly contribute to the character of the Hampton Road locality of the setting of the Fremantle Prison, and
- It has not been established to be a contributory place to the Central Fremantle Heritage Area.

Therefore, in accordance with Clause 4.14 of LPS4 and LPP 3.6, the demolition is supported.



STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of the existing Single house and outbuildings at No.32 (Lot 67) Hampton Road, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 October 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**

- 2. An archival record will be prepared and submitted to the City of Fremantle for approval before the commencement of any works. The archival record should consist of the following:**
 - Measured Drawings**
The measured drawings should be sketch standard, freehand drawings will be accepted provided they are neat and clearly presented. All drawings should be approximately to scale, with key dimensions shown.
 - Site plan (1:500 or 1:200)**
 - Floor plan/s (1:100 or 1:50)**All documents are to be of A4 size or folded into A4 size.

 - Photographs**
Digital photographs are to be taken of the building (once vacated). Photographs are to be in colour, of a high quality, and are to show the current state of the place. Each image should be clearly labelled, with a description of what is depicted in the photograph and the date it was taken. The photographs are to include:
 - a general/overall photograph of the building to be demolished, showing its setting including the streetscape;**



- **photographs of the four external facades, all rooms and any special architectural features;**
- **the plans are to show the position, direction and number of each photograph.**

ADVICE NOTES:

- 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.**
- In regards to the Archival Record Brief, the documentation required for the “detailed” archival record can be found here: <https://www.dplh.wa.gov.au/getmedia/8ffcb91d-93cf-4478-ba68-1b96de5efc6a/HER-Guide-to-Preparing-an-Archival-Record-2019>**

- 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>



PC2212-11 INFORMATION REPORT - DECEMBER, 2022

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

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

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

Responsible Officer: Manager Development Approvals
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
DAP003/22
Site Address and Proposal
130 Stirling Highway, North Fremantle – Proposed 20 storey mixed use development, comprising three (3) residential apartment towers (198 multiple dwellings) and various non-residential uses (restaurant, shop, tavern, office, reception centre and industry light)
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> • At its meeting held on 2 November 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with additional emphasis on the sites significance as a former Ford Factory. • At its meeting on 14 November 2022, the Joint Development Assessment Panel (JDAP) resolved to defer determination of the development for 120 days, for the following reasons: <ul style="list-style-type: none"> ○ To consider more detail on the Coventry Parade access and roundabout and its implementation. ○ To consider North and South connectivity for vehicles, pedestrians and cyclists through the site, with regard to the link road through to McCabe Street.



- To provide further detail on the contribution to regional road upgrades.
- To address affordable housing and/or housing diversity.
- To provide more detailed plans demonstrating how the recommendations of the pedestrian wind assessment are to be implemented.
- To provide more detail on the likely development of Stage 2.
- To review the treatment of the upper floor to the administration wing.
- To review of the treatment of the 1929 saw tooth structure.
- To submit an updated traffic impact assessment, modified to respond to the most recent request for further information from Main Roads WA.
- To suitably address and respond to the significant shortfall in parking allocated to support the non-residential uses.
- Further detail regarding the areas to be protected for public access, including a plan that shows the location of any proposed easements for public access.
- An addendum to the RAR to respond to any changes proposed by the applicant will be due for submission to JDAP on 3 March 2023.
- At the time of writing the report, Officers had not received any formal advice from the applicant on how they intend to proceed.

2. Application Reference
DAP001/22
Site Address and Proposal
34-38 Amherst Street and 2-4 Stack Street, Fremantle – Proposed 56 Grouped Dwellings
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> ● At its meeting held on 7 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development. ● At its meeting on 19th September 2022, the Joint Development Assessment Panel (JDAP) resolved to defer the application for a period of 12 weeks and requested the applicant consider refining the proposal to address concerns. ● The applicant provided amended plans which were considered by Planning Committee at its November meeting. Planning Committee resolved that it was not satisfied with the extent of changes made and provided a recommendation of refusal for JDAP’s consideration. ● At its meeting on 24 November 2022, the Joint Development Assessment Panel (JDAP) resolved to refuse the development in accordance with the Planning Committee’s recommendation, with the addition of reasons relating to SPP 7.0 Design of the Built Environment.



OFFICER'S RECOMMENDATION

Council receive the following information reports for December 2022

- 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

PC2212-12 ROE 8 (WEST) AND ROE 9 CORRIDOR PLANNING STUDY – PRELIMINARY COMMENTS

Meeting date:	7 December 2022
Responsible officer:	A/Manager Strategic Planning and City Design
Decision making authority:	Council
Attachments:	None
Additional information:	<ol style="list-style-type: none">1. Planning study draft concept plan2. Planning study existing Metropolitan Region Scheme3. Planning study potential amended Metropolitan Region Scheme

SUMMARY

The Department of Planning, Lands and Heritage (DPLH) has commenced preliminary public engagement on potential future land use and zoning opportunities for the western section of the land corridor originally reserved for the Roe 8 (West) and Roe 9 Highway extension from North Lake Road, Coolbellup to Healy Road, Hamilton Hill.

This corridor is currently reserved for Primary Regional Road purposes under the Metropolitan Region Scheme (MRS). The objective of the Roe 8 (West) and Roe 9 Corridor Planning Study is to understand existing values and opportunities to inform longer-term land uses and promote development and revitalisation opportunities for the study area. DPLH has prepared an informal draft concept plan for the corridor, showing a potential mix of land uses that could be considered in the study area. The draft concept plan aims to promote discussion and community feedback.

Following engagement on the study, a formal MRS rezoning process would be required to replace the existing Primary Regional Road reservation with more suitable classifications under the MRS (likely 'Urban' and 'Parks and Recreation' reserve). This would provide a framework for the local government to update its local planning framework to facilitate appropriate land uses and development.

Only a small portion of the corridor lies within the City of Fremantle, at the boundary with City of Cockburn on the south-eastern corner of Clontarf Hill. However, the uses for the remainder of the corridor may have implications for the City, particularly with regard to transportation links.



This report recommends that Council lodge a submission with the DPLH on the Roe 8 (West) and Roe 9 Corridor Planning Study:

- a. Expressing support for the land included in the study within the City of Fremantle being designated as 'Urban' in the Metropolitan Region Scheme;**
- b. Expressing support for the land to the south-east of Clontarf Hill being designated as 'Parks and Recreation' in the Metropolitan Region Scheme;**
- c. Acknowledging that Clontarf Hill is outside the study area but highlighting its importance as an area of environmental and Aboriginal heritage significance, and requesting that it be considered as a regional Parks and Recreation reserve under the Metropolitan Region Scheme as a part of any future planning work in the area; and**
- d. Suggest that in future planning within the study area, a continuous east-west shared path route is considered to enable active travel to and from the coast, as this would help address transport connectivity.**

BACKGROUND

The Perth Freight Link was a state government infrastructure project proposed in 2014, to improve the road freight link between Kewdale and Fremantle Harbour. It would have included multiple stages: a five-kilometre extension of Roe Highway to Stock Road (Roe 8); a second stage linking Roe 8 to Stirling Highway, bypassing fourteen sets of traffic signals (Roe 9); and a final stage connecting into the Port of Fremantle. The extension would have taken the highway from its current terminus at Kwinana Freeway, approximately five kilometres further west, through the Beeliar Wetlands to Stock Road, near Forrest Road in Coolbellup.

In 2015, preliminary site works began on the project and in early 2017, approximately 18 hectares of native vegetation was cleared in Bibra Lake, North Lake and Coolbellup. After extensive lobbying by the community against the project, the new state government cancelled the project in 2017 and in August 2021 passed the *Metropolitan Region Scheme (Beeliar Wetlands) Act 2021*. The Act rezoned approximately 34 hectares of the wetlands from a Primary Regional Roads reserve to a Parks and Recreation reserve, stopping any future destructive road development in this area and strengthening its A-Class conservation reserve status.

The DPLH is now investigating whether the Roe 8 (West) and Roe 9 corridor – from North Lake Road, Coolbellup to Healy Road, Hamilton Hill – which is currently reserved for Primary Regional Road purposes under the MRS, has suitability to be rezoned for other purposes.



The objective of the Roe 8 (West) and Roe 9 Corridor Planning Study is to understand existing values and opportunities to inform longer-term land uses and promote development and revitalisation opportunities for the study area. DPLH has prepared an informal draft concept plan for the corridor (refer to additional information 1), showing a potential mix of land uses that could be considered in the study area. The draft concept plan aims to promote discussion and community feedback.

Following engagement on the study, a formal MRS rezoning process would be required to replace the existing Primary Regional Road reservation with more suitable classifications under the MRS (likely 'Urban' and 'Parks and Recreation' reserve). This would provide a basis for the local government to update its local planning framework to facilitate appropriate land uses and development.

The draft concept plan does not have any formal status or endorsement and will continue to evolve over time to inform future strategic planning for the area.

FINANCIAL IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Nil.

CONSULTATION

Once comments have been received and reviewed by DPLH through this preliminary comment process, a report may be presented by the Department to the Western Australian Planning Commission (WAPC) recommending the initiation of an amendment to the MRS. Should an amendment be initiated, the WAPC will again contact the City seeking formal comment on the amendment proposal and will advertise the amendment for widespread public comment.



Roe 8 West and Roe 9 Corridor Planning Study Metropolitan Region Scheme major amendment



Figure 1. DPLH timeline on the Corridor study and MRS engagement

OFFICER COMMENT

DPLH are undertaking preliminary engagement on whether the Roe 8 (West) and Roe 9 corridor has suitability to be rezoned for other purposes. This would ultimately require an MRS amendment to rezone the land from 'Primary Regional Road' to urban and reserve land, meaning the land could no longer be earmarked for a primary regional road corridor and would instead consist of a mixture of residential and commercial uses, local roads, reserves etc.

An MRS amendment is a separate process, though a 'potential amended MRS' map is provided as part of the engagement material (refer to additional information 3).

Following an MRS amendment, the affected local governments (predominantly City of Cockburn) would undertake local-level rezoning processes to provide for appropriate and desired land uses, local roads, and reserves in the area.

For the purposes of this engagement exercise, DPLH have prepared an informal draft concept plan for the corridor, showing a potential mix of land uses that could be considered in the study area. The draft concept plan is non-statutory and aims to promote discussion and community feedback.

The City of Fremantle only has a small portion of the corridor within of its boundary, being on the south-eastern corner of Clontarf Hill at Healy Road, directly abutting the City of Cockburn – refer to Figure 2.



Figure 2. Excerpt from the DPLH draft concept plan – the pink line delineates the City of Fremantle boundary; the red triangle highlights the study area within the City of Fremantle.

In the draft concept plan, the portion of the study area within the City of Fremantle is nominally identified as 'Residential'. This is likely due to the non-detailed nature of the concept plan and reflecting the land use opposite, on the south side of Healy Road. The accompanying potential amended MRS map shows the land under the 'Urban' zone. This would also be consistent with the surrounding land in the Region Scheme, including Clontarf Hill (though it is zoned as an 'Open Space Reserve' under Town Planning Scheme No. 4). At this preliminary stage, as it is a concept only, the correct local zoning does not need to be established as this can be determined once the MRS amendment has been completed.



Two key “Transport and connectivity” outcomes of the City’s Strategic Community Plan include Fremantle being recognised as a pedestrian and cycle-friendly city and public and active transport being the preferred methods of transport. By placing Healy Road under the ‘Urban’ zone in the MRS, this east-west link between Hamilton Hill and South Fremantle would be maintained, allowing for active transport between the two suburbs.

Additionally, to enhance (pedestrian and cycle) transport and connectivity, Council may wish to suggest that future planning within the study area considers a continuous east-west shared path route to enable active travel to and from the coast.

The draft concept plan also identifies Clontarf Hill and the land to the south-east, within the City of Cockburn, as Aboriginal heritage places (refer to figure 2). Both are part of a Registered Aboriginal Heritage site for artefacts / scatter, ceremonial and mythological significance, and as a natural feature, camp and hunting place. A key “Character, culture & heritage” outcome of the City’s Strategic Community Plan is to recognise and celebrate Aboriginal heritage and culture by strengthening sense of place, history and heritage. Although Clontarf Hill lies outside of the study area, it forms part of the Manjaree Trail developed by the Noongar community of Fremantle and Cockburn, and there is interpretation signage installed on site. Lot 860, Clontarf Road (see Figure 3. below), which forms part of Reserve 21680 over Clontarf Hill, is also eligible for inclusion in the Noongar Land Estate and is currently being processed through the phases of the Noongar Land Base Strategy, meaning that it may be offered to the Noongar Boodja Trust as part of the South West Native Title Settlement.

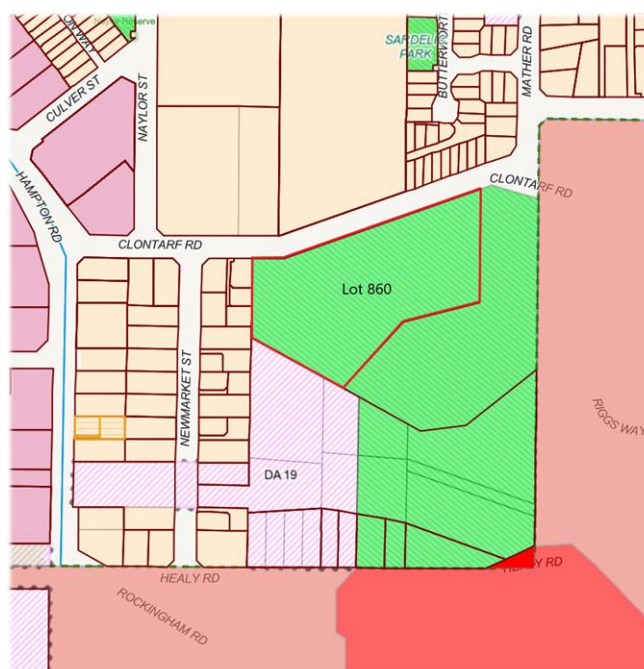


Figure 3. Lot 860, Clontarf Road – the red line delineates the lot boundary.



Due to the Aboriginal heritage significance of the overall site, Officers are supportive of the portion of land within the study area, in the City of Cockburn, being designated as 'Parks and Recreation' in the MRS, as this would afford it a further layer of statutory protection.

Furthermore, Officers suggest that as part of the MRS amendment process, Clontarf Hill be considered for designation as a 'Parks and Recreation' reserve. Although Clontarf Hill is not included in the study area, it directly abuts the area in the City of Cockburn to be rezoned to 'Parks and Recreation' (Refer to figure 2) and shares commonalities with this land (being Aboriginal and environmental significance). In doing so, Clontarf Hill could be included as an area of priority conservation, as it is an important junction of both a north-south regional ecological linkage and a rare east-west ecological linkage that connects the coast to the Beeliar wetlands. It also contains a remnant stand of tuart trees. Tuart woodlands and forests of the Swan Coastal Plain are listed as Critically Endangered and recognised as a Threatened Ecological Community under the Environment Protection and Biodiversity Conservation Act 1999.

At the Ordinary Meeting of Council on 27 January 2021, Council resolved that:

"With the objective of increasing canopy cover and biodiversity, the City of Fremantle should investigate the following and return a report to FPOL on 14 April 2021:

- 10. Increasing protection and support for Clontarf Hill as an important public open space, noting the City of Fremantle's previous resolution in August 2018 that the loss of A Class from the High Street reserve be offset for Main Roads land on Clontarf Hill."*

A report was then returned an Ordinary Meeting of Council on 28 April 2021, where it was resolved that:

"Council:

- 5. Note the following:*
 - c) Officers will include the operational programs as part of the annual business planning process, and will submit budgets to Council for consideration in the annual budget process, including:*
 - iv. \$18 500 in the 2021/22 financial year to support the Friends of Clontarf Hill bushland restoration works.*
 - d) The Department of Planning, Lands, Heritage has advised the City they will be progressing a significant volume of land through the Phases of the Noongar Land Base Strategy to ready land for Offer to the pending Noongar Boodja Trust and it is likely that Reserve 21680 will be included in this body of work, noting in the interim officers will contact*



Main Roads Western Australia requesting confirmation that they support actions to restore the natural bushland and/or contribute funds to prevent further bushland degradation.

- e) *The imminent deletion of the Roe 8 and 9 from the Metropolitan Region Scheme (MRS) by the Labor Government now provides the first meaningful opportunity for Clontarf Hill and other linkage lands owned by MRWA to be vested as a Reserve for the purpose of bush land restoration and protection.”*

In addition to the above resolution of Council, the City’s planning strategies further support Clontarf Hill being designated as a ‘Parks and Recreation’ reserve under the MRS. Specifically:

- The City’s Local Planning Strategy (2001) notes that Clontarf Hill was affected by the Fremantle Eastern Bypass reservation but was partly recognised for its regional open space contribution (as Parks and Recreation under the MRS). The strategy further states that should the Fremantle Eastern Bypass reservation be removed, the land should be wholly reserved as a regional Parks and Recreation reserve; however, despite the Bypass reservation having been removed, a Parks and Recreation reserve has not been implemented.
- The City’s draft Local Planning Strategy (2022) recommends that the reserve boundaries for Clontarf Hill Reserve be reviewed to ensure that areas of environmental and Aboriginal heritage significance are protected.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required.

OFFICER'S RECOMMENDATION

Council request officers to lodge a submission with the Department of Planning, Lands and Heritage on the Roe 8 (West) and Roe 9 Corridor Planning Study that:

- 1. Expresses Council’s appreciation to the State Government for the opportunity to provide comment on the Roe 8 (West) and Roe 9 Corridor Planning Study.**
- 2. Advises the Department of Planning, Lands and Heritage that it supports the general aspirations contained within the Roe 8 (West) and Roe 9 Corridor Planning Study, specifically:**
 - a. Expressing support for the land included in the study within the City of Fremantle being designated as ‘Urban’ in the Metropolitan Region Scheme;**



- b. Expressing support for the land to the south-east of Clontarf Hill being designated as 'Parks and Recreation' in the Metropolitan Region Scheme;**
 - c. Acknowledging that Clontarf Hill is outside the study area but highlighting its importance as an area of environmental and Aboriginal heritage significance, and requesting that it be considered as a regional 'Parks and Recreation' reserve under the Metropolitan Region Scheme as a part of any future planning work in the area for the reasons outlined in this report; and**
 - d. Suggest that in future planning within the study area, a continuous east-west shared path route is considered to enable active travel to and from the coast, to help address transport connectivity.**
- 3. Provide a copy of this report to the Department of Planning, Lands and Heritage as a summary and background to the submission points above.**



PC2212-13 URBAN ENHANCEMENT – THE ‘TRIANGLE’ CNR WILLIAM STREET AND PARRY STREET

Meeting date: 7 December 2022
Responsible officer: Director Planning, Place and Urban Development
Decision making authority: Council
Attachments: 1. UDLA Design Drawings (6): L010B; L011B; L101F; L102F; L201F; L202F
Additional information: Nil

SUMMARY

This Report recommends that council approves the final set of landscape plans for the redesign of ‘The Triangle’, corner William Street and Parry Street, noting that the developer anticipates Works commencing in early 2023.

The council previously granted approval in principle to developer Silverleaf Investments to upgrade this small site – agreeing to the removal of the existing parking bays. The previous approval also noted that all costs associated with this urban enhancement project will be covered by the developer.

Since this initial support from council, the developer, together with their consultant team lead by UDLA Landscape Architects, have consulted extensively with various departments within the City to arrive at this final design.

City officers are satisfied that the complexities and inter-relationships around the following elements have now been successfully resolved:

- **Heritage**
- **Place, legibility, materiality, landscape elements**
- **Pedestrian movements**
- **Vehicle movements and servicing requirements**
- **Asset creation / design standards and policies**
- **Potential interface/alignment with future modifications to William Street in response to development on the Spicer Site.**

BACKGROUND

On 23 May 2018, the council resolved the following:

Council:

- 1. Approve in-principle the conversion of the indicative area marked 'A', from its current use as a public car park 24 to a high quality public space that does not include any form of commercial activity, subject to development of an acceptable design proposition for this important civic location.*



- 2. Note that the conversion of the area 'A' shown in 1 above into a high quality public space that does not include any form of commercial activity is expected to result in a loss of approximately \$90,000 per annum in commercial parking revenue from car park 24.*
- 3. Invites Silverleaf Investments to work with key stakeholders to prepare, for council's consideration at the next appropriate meeting, professionally produced draft urban design plans for area 'A'...shown in 1 above in accordance with the following principles:*

The design must:

- Demonstrate an understanding and interpretation to cultural heritage and context - recognising that this important site signifies the transition between the city centre and former Convict Establishment precinct.*
- Prioritise the visual connection / pedestrian axis with the prison entrance over all other design parameters, materiality, structures and soft landscaping giving particular emphasis to the interpretation of the former ramp.*
- Respond adequately to other pedestrian desire-lines, for example along Parry Street; entrance to Fremantle Markets; and William Street to and across the Oval.*



- *Select materials, furniture and colours to be consistent with, and reinforce, the broader character and legibility of the public realm, to be approved by the City of Fremantle.*
- *Provide good amenity and create a great place for pedestrians to pass through and be in.*
- *Remain, present, and appear as part of the City’s public realm network –welcoming to all.*
- *Consider the ongoing maintenance implications and make best endeavours to minimise ongoing maintenance costs.*

4. *Request officers liaise with Silverleaf Investment and their designers to ensure that the principles in 3 above are adequately reflected in the design proposals, prior to being submitting to council.*

FINANCIAL IMPLICATIONS

There are no financial implications to the City from this report – noting that the anticipated loss of income from Carpark No.24 was previously considered by council in 2018.

LEGAL IMPLICATIONS

N/A

CONSULTATION

Following council decision to support this initiative in principle, community engagement has not been undertaken on the detail design.

Consultation regarding fine-tuning the design has been ongoing, iterative and extensive between the developer/consultant and officers from within the City, including:

- Heritage Coordinator
- Manager Strategic Planning and City Design
- Manager Landscape Services
- Senior Landscape Architect
- Principal Design Engineer
- Traffic and Transport Engineer
- Manager Economic Development



OFFICER COMMENT

The final design, as illustrated in the Attachment to this report, is considered to address key principles, as previously presented to council in 2018 which were considered to be important for this site. The following table sets out how the design achieves this:

Principle	Design Response
<i>Demonstrate an understanding and interpretation to cultural heritage and context - recognising that this important site signifies the transition between the city centre and former Convict Establishment precinct.</i>	There is clear legibility within the design around the main axis / ramp to Prison (which is reflected in the materiality of the Prison Ramp/convict establishment) vs the 'standard' city palette of materials and the areas 'outside' of the Convict Establishment precinct.
<i>Prioritise the visual connection / pedestrian axis with the prison entrance over all other design parameters, materiality, structures and soft landscaping giving particular emphasis to the interpretation of the former ramp.</i>	The design makes a strong visual connection with the Prison ramp, which is reinforced through materiality and careful alignment. Location / alignment of tree planting has been carefully balanced between maintaining views to the Prison and providing shade for pedestrians.
<i>Respond adequately to other pedestrian desire-lines, for example along Parry Street; entrance to Fremantle Markets; and William Street to and across the Oval.</i>	All pedestrian desire lines have been identified and responded to with appropriate paving material and alignments.
<i>Select materials, furniture and colours to be consistent with, and reinforce, the broader character and legibility of the public realm, to be approved by the City of Fremantle.</i>	Except for materiality associated with the prison ramp, all other materials and elements are consistent with the City's standard palette - reinforce the surrounding 'base' character of the public realm.
<i>Provide good amenity and create a great place for pedestrians to pass through and be in.</i>	The design has a good balance of maintaining views to the Prison, being functional, whilst providing a high level of amenity for pedestrians.
<i>Remain, present, and appear as part of the City's public realm network – welcoming to all.</i>	All materiality and elements are designed to reinforce the public nature of the place and connection to the rest of the City's public realm network.



<i>Consider the ongoing maintenance implications and make best endeavours to minimise ongoing maintenance costs.</i>	The City’s Landscape and Engineering teams have been consulted to ensure all aspects of future asset maintenance are adequately considered.
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In addition to responding positively to the above principles, the design is considered to align with other urban projects and strategies in the location, most notably the Fremantle Oval Masterplan.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council

- 1. Approves the final set of landscape plans for 'The Triangle', corner of William Street and Parry Street, (as illustrated on UDLA plans L010B; L011B; L101F; L102F; L201F; L202F) subject to the following CONDITIONS that the developer, Silverleaf Investments, will be responsible for:**
 - a. All costs associated with the Works;**
 - b. Submitting detailed documentation and specifications to the satisfaction of the City;**
 - c. Project communication, including an image of the proposed improvements, to be provided on site to advise the community about the project – at the same time, or prior to, site fencing being erected;**
 - d. Applying and obtaining all necessary permits and licences for the Works;**
 - e. Ensuring site tidiness and public safety is maintained at all times;**
 - f. providing evidence to the City that Silverleaf – or their contractor - have current public liability insurance (\$10m) and workers compensation (\$10m) to cover the Works, prior to commencement on site;**
 - g. Commencing the Works within 6 months of this approval, otherwise the approval is void and the proposal will be subject to a new submission, with no expectation that it will gain council support;**
 - h. Completing the Works within 4 months of erecting site fencing;**
 - i. Providing a minimum of 2 weeks' notice to the City to remove and retain any existing infrastructure it may wish to keep, e.g., ticket machines for parking; paving; street furniture;**



- j. **On completion of works, a full site inspection to be undertaken with a nominated City representative, to confirm works/assets are built to specifications, noting that any rectification work is to be funded solely by the developer, to achieve Practical Completion;**
 - k. **Maintain the works for a period of 12 months from date of Practical Completion to the satisfaction of the City;**
 - l. **Arranging a 12 months' defects liability period inspection (prior to expiry date) with the contractor, and to invite a nominated City representative to be present.**
 - m. **All rectification works required to reach Final Completion.**
2. **Noting the current volatility of construction costs, advises the developer Silverleaf Investments, that based on the importance of this piece of public realm - connecting the City to the World Heritage Listed Prison - no reduction in design quality, materiality or scope will be considered, following this final approval;**
3. **Noting the potential risk to the City regarding incomplete or substandard work by a future contractor, Silverleaf Investments are required to provide a cash bond to the City, prior to site possession being granted, of 5% of tendered construction cost. The full bond will be returned to Silverleaf following the City's acceptance of the completed works.**



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