



Minutes

Planning Committee

Wednesday, 7 October 2020, 6.00pm

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PLANNING COMMITTEE

Minutes of the Planning Committee Meeting
held in the North Fremantle Community Hall
on **Wednesday, 7 October 2020** at 6.00 pm.

1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00 pm.

2.1. Attendance

Dr Brad Pettitt	Mayor
Cr Bryn Jones	Presiding Member/North Ward
Cr Geoff Graham	Deputy Presiding Member/Beaconsfield Ward
Cr Andrew Sullivan	Deputy Mayor/South Ward
Cr Su Groome	East Ward
Cr Rachel Pemberton	City Ward
Cr Sam Wainwright	Hilton Ward
Mr Philip St John	Chief Executive Officer
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Julia Kingsbury	Manager Development Approvals
Ms Kayla Goodchild	Meeting Support Officer

There were approximately 25 members of the public and 15 Governance Students from Curtin University in attendance.

2.2. Apologies

Nil

2.3. Leave of absence

Cr Frank Mofflin

3. Disclosures of interests

Cr Andrew Sullivan declared a financial interest in item number PC2010 - 2. Cr Sullivan leases a building adjacent to the site.

4. Responses to previous questions taken on notice

Nil

5. Public question time

The following members of the public spoke against the Officer's Recommendation for item PC2010 – 1 :

Jessamy Stirling
Kim Stirling
Eric Swan
Jeff Day
Michael Patroni
Shane Turner

The following members of the public spoke against the Officer's Recommendation for item PC2010 - 3:

Matt Giudice
Dimmity Walker

The following member of the public spoke against the Officer's Recommendation for item PC2010 - 2:

Steve Gorman

The following members of the public spoke in favour of the Officer's Recommendation for item PC2010 – 4:

Anke Van Eekelen
Anne Neil

The following members of the public spoke against the Officer's Recommendation for item PC2010 – 4:

Christine Lovering
Lindsay Lovering

The following member of the public spoke in favour of the Officer's Recommendation for item PC2010 - 5:

Liz Clements

The following member of the public spoke in favour of the Officer's Recommendation for item PC2010 - 6:

James Alexander

The following member of the public spoke against the Officer's Recommendation for item PC2010 - 6:

Emir Kuc

The following member of the public spoke in favour of the Officer's Recommendation for item PC2010 - 7:

James Robinson

6. Petitions

Nil

7. Deputations

7.1 Special deputations

Nil

7.2 Presentations

Nil

8. Confirmation of minutes

COMMITTEE DECISION
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Su Groome

The Planning Committee confirm the minutes of the Planning Committee meeting dated 2 September 2020.

Carried: 7/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

9. Elected member communication

Nil

10. Reports and recommendations

10.1 Deferred Items

PC2010 - 1 KNUTSFORD STREET, NO. 6 (STRATA LOT 2) FREMANTLE - TWO STOREY SINGLE HOUSE (TG DA0180/20)

Meeting Date:	7 October 2020
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Development Plans
Additional information:	1. Site Photos 2. State Heritage Assessment (DPLH) 3. Heritage Assessment 4. Limestone wall Heritage Assessment

SUMMARY

Approval is sought for a two storey Single House at 6 Knutsford 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:

- Building height (external wall)
- Primary street setback
- Boundary wall (east and west)
- Lot boundary setback (east, west and north)
- Open space
- Vehicle sightlines
- Site works and retaining walls
- Visual privacy (north, east)

The application was considered by PC at its meeting on 2 September 2020 and deferred for the applicant to make amendments to the proposal and provide additional information to address the following concerns from PC:

- The dwelling could be set back further from the eastern property boundary to reduce the scale of the building as viewed by the eastern neighbour and minimise the impact that the setback has on their amenity, particularly access to light and ventilation;
- The proposal did not provide adequate sightlines for vehicle movement;
- Additional detail was required with respect to the existing limestone retaining wall and how the northern elevation of bedrooms 2 and 3 and the balcony will be screened.

Amended plans and additional details were provided by the applicant on 22 September 2020. In addition, the City's Heritage team provided an updated report on the proposal which addressed the removal of the existing limestone retaining wall, supporting its removal.

The application as amended is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two storey Single House to an existing vacant property at 6 Knutsford Street, Fremantle. The proposed works include:

- Ground floor.
 - Two car garage.
 - Study/Guest room.
 - Kitchen/Living Room.
 - Powder room.
 - Outdoor living area.
- Upper floor
 - Three bedrooms and bathrooms.
 - Balcony.

The applicant submitted amended plans on 18 August 2020 including the following:

- The atrium structure was reversed to reduce the prominence of this element when viewed from the street.
- Making amendments to the wall to the return to the western boundary to include a high level window to the first floor bathroom and, increase the height of the arch leading to the rear yard and adding a breeze wall.

The applicant submitted further amended plans on 21 September 2020 in response to the concerns raised by PC including the following amendments:

- The setback of the upper floor beyond the proposed boundary wall from the eastern property boundary was increased from 1.05m to 1.5m.
- The crossover and garage door width were reduced to 4.5 metres.
- A wall to the south east corner of the site was removed to improve vehicle sightlines.
- The sill of north facing bedroom windows was increased to 1.6m above floor level.
- A planter box balustrade was added to the proposed balcony to mitigate overlooking of the northern neighbouring property.
- The proposed material for the eastern boundary wall was confirmed (banded concrete blockwork).

The City's heritage team also completed an assessment concerning the age and condition of the existing limestone retaining wall on the subject site which supported the removal of the structure. The findings of this report are included in Additional Information document 4 and discussed further in the officer comment section below.

Amended development plans are included as attachment 1.

Site/application information

Date received: 29 May 2020
 Owner name: Wave Bay Holdings Pty Ltd as trustee for the Smith Family Trust
 Submitted by: Slavin Architects Pty Ltd
 Scheme: Residential R25
 Heritage listing: Ord Street Precinct Heritage Area, Heritage Listed
 Existing land use: Vacant site
 Use class: Single House
 Use permissibility: P



CONSULTATION

External referrals

Heritage Service (DPLH)

The original application was referred to Heritage Services as the subject site is located in the Ord Street Heritage Area and adjoins several individually State Heritage Listed properties. Heritage Services recommended several amendments to the proposal so it better reflected the existing streetscape. The applicant incorporated these amendments into the design and upon review DPLH Heritage Services advised that they had no objection per the attached assessment. The amended plans were not required to be referred back the DPLH for additional comment.

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the development proposed variations to several deemed-to-comply criteria and policy requirements. The advertising period concluded on 22 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

Submitter concern	Officer comment
The submitter was concerned that the new build does not attempt to relate to the existing visual language of the heritage streetscape beyond a superficial reference on the front facade. The flattened rooflines that sit behind the equally shallow front verandah pitch do not provide enough depth and articulation to the streetscape to relate to the rhythm of the existing pitched rooflines (note the contemporary Klopper style build opposite that does reference the angle of the surrounding pitched roofs).	The design of the building has been reviewed for its consistency with the existing streetscape of Knutsford Street by the City's internal Heritage Officers and the Heritage Services Department of the Department of Planning, Lands and Heritage. The application has been supported.
The submitter was concerned with the double garage dominating the front elevation, and reading as a flat front to the streetscape. It was noted that there are no double roller door garages with minimum setback in the area. Where they do exist, they are recessed well back into a lot so as not to detract from the existing houses as a dominant feature. From an established heritage precinct perspective, this is an anomaly in the streetscape. Particularly when the verandah does not overhang the garage and it has been designed as a prominent feature fronting the ground level pedestrian streetscape.	While it is noted that none of the other dwellings have a garage facing the streetscape at a reduced setback, it is considered that the proposed garage responds well to the streetscape in contributing to the appearance of a solid foundation, resulting in the dwelling being more consistent with the streetscape.
The submitter was concerned with the materials that maybe chosen for the western side wall, particularly if it is a continuation of solid limestone. The submitters concern in this regard was as follows: "From our ground level to the rear in our courtyard in sections we already have over 3m in height of solid limestone retaining wall, to follow on top of that with the same material would read as a bit like Freo Prison". A change in materials above this would mitigate the look and feel of a contiguous solid wall of the same material that would reach a height of almost 5m from our ground level.	The applicant has submitted amended plans which specify the finish of the eastern boundary wall to be banded concrete blockwork. The proposed finish is considered to be suitable and assist in providing some visual interest to the wall given its height and length.
The submitter was concerned with the potential incursion of privacy from overlooking on the west from bathrooms,	The applicant has demonstrated the barriers to overlooking through the submission of section B, the applicant

study window, and from the large void expanse. The submitter noted that obscured glass on these windows would help and additional confirmation of the angling and movement potential of the angled louvres that are proposed to restrict overlooking potential was requested. <i>“Essentially its not so much whether they really physically can look into our rear courtyard(our only private area) but rather the perception of overlooking from several windows and a particularly large void window looking down on us.”</i> The front balcony was also of concern the submitter from overlooking into neighbouring rear space, particularly should the existing Sugar Gum be pruned.	has included a vertical blade privacy screen to protect mutual privacy between the two sites. Otherwise it is noted that overlooking from bathroom/ensuite windows and hallways such as the far side of the void is not able to be controlled by the R-Codes deemed-to-comply criteria. Overlooking from the upper floor master bedroom is controlled by a privacy screen which is required to meet the screening definition listed in the R-Codes. The applicant has also included a screen structure to the void. Overlooking towards the west from the front balcony and atrium/living area is discussed below in the officer comment section.
Proposed setbacks to the west were considered fairly minimal which unfortunately and were considered to increase the potential feel of overlooking to the neighbouring rear area.	Lot boundary setbacks facing west are considered to satisfy the relevant design principles of the R-Codes as discussed in the officer comment section below.
The submitter noted that it was ‘difficult to imagine’ how the building will insert itself into the rhythm of the existing heritage streetscape without confirmation of building materials and external paint finishes etc. Construction materials and render/paint finishes will have the potential to soften the insertion of the contemporary style of the build or create too much contrast and compete with the existing heritage buildings.	In accordance with the assessments completed by the DPLH and City’s internal heritage officers the building is considered to respond positively to the prevailing streetscape character.
A submitter considered that the proposed house was ‘grossly oversized’ for such a small site, and out of scale in an historically sensitive area. The submitter felt that will be overwhelming and obstruct both natural breeze and views of importance.	Per the below assessment, the building is considered to satisfy the relevant design principles of the R-Codes with respect to on site open space, building height and street setbacks.
Submitter objected to the width of the crossover due to the impact it would have on street parking availability in the cul-de-sac. It was requested that the crossover	The applicant has submitted amended plans which specify a crossover of 4.5m which is consistent with the requirements of LPP 2.9.

be reduced to 4m or less and relocated to the western side of the frontage for safety and sightline reasons, and to preserve existing street parking.	
The submitter was concerned about the loss of south-westerly views which would be obscured by the atrium/clerestory.	The limited depth of this element and open character of the structure are considered to permit any views which will be enjoyed over the building and site to be at least partly retained.
The submitter was concerned upper that the proposed street setback did not allow for graduation in the street setback as the proposed atrium/clerestory is set well forward of the neighbouring floor.	The applicant has amended their plans to reverse the orientation of the atrium/clerestory element to the roof, resulting in the roofscape better reflecting the existing dwellings in the street and reducing the prominence of this element.
The submitter objected to the boundary wall and reduced lot boundary setbacks to the eastern boundary for the following reasons: ○ The bulk of the wall was considered visually overwhelming. ○ Ventilation would be inhibited, the submitter noted that their dwelling relies on cross ventilation from the south west which may be limited by the development. ○ The adverse impact of the development and setback upon access to views.	In accordance with the below assessment, the boundary wall to the eastern site boundary is considered to appropriately address the design principles of Local Planning Policy 2.4.
The submitter was concerned in relation to overlooking from bedroom 2 towards the property to the west and the potential impact upon the privacy of the neighbouring dining room.	It is recommended that this opening be appropriately screened to protect mutual privacy.

The remaining comments are addressed in the officer comment below.

In accordance with LPP1.3, as the amended proposal does not include any further variation the amended plans were not required to be re-advertised.

OFFICER COMMENT

Statutory and policy assessment

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

- Building height (external wall)
- Primary street setback
- Boundary wall (east and west)
- Lot boundary setback (east, west and north)
- Open space
- Vehicle sightlines
- Site works and retaining walls
- Visual privacy (north, east)

The above matters are discussed below.

Background

The subject site is located on the northern side of Knutsford Street, Fremantle. The site has a land area of approximately 287m² and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located in the Ord Street Precinct Heritage Area.

The site is currently occupied by several retaining walls, having been subdivided from the rear yard of the adjoining property at 24 Ord Street. Topographical information indicates an approximate slope of 1.5m metres across the site.

The original application was considered by PC on 2 September 2020, where the Committee resolved to:

Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the construction of two storey Single house at No. 6 Knutsford Street, Fremantle based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to improve vehicle sightlines and increase the setback of the development from the eastern boundary to reduce the scale of the dwelling as viewed from the eastern neighbour and minimise the impact that the current setback has on the amenity of the adjoining dwelling in particular its access to light and ventilation. Additional details are to be provided in regard the existing limestone retaining wall and how the northern elevation of bedrooms 2 and 3 and the balcony will be screened.

On the 22 September, the applicant submitted amended plans in response to the above concerns. These plans are the subject of this amended officers report.

Heritage

In addition to being considered and supported by the State Heritage officers, the proposal has been considered by the City's Heritage Officers. The subject site is individually heritage listed, located in the Ord Street Precinct Heritage Area and adjoins several properties which are individually State Heritage Listed.

The Heritage Council's documentation on the property contains Management Strategies for the precinct that confirm that new development should be controlled so as to retain the heritage significance of the precinct and its diverse components. While the need for the evolution of the place is recognised, change is to be managed to conserve the visual harmony of the precinct.

In considering the design of the proposed dwelling, the City's Heritage Officers found that many elements of the proposal were 'cleverly designed' and were able to be supported from a heritage perspective. The initial assessment identified two areas of concern with the proposal, being the orientation of the skylight/atrium structure, and the upper floor ensuite wall (located to the return in the western boundary) being a flat wall facing the street.

In response to these concerns, the applicant submitted amended plans reversing the orientation of the atrium and providing additional articulation to the ensuite wall. These amended plans were supported by the City's Heritage Officers as they had appropriately addressed their concerns. Accordingly the development is considered to be worthy of approval with respect to its impact on the heritage significance of the immediate streetscape.

Existing Limestone Wall – Additional Heritage Comment

The subject site includes an existing retaining wall which is to be removed to accommodate the proposed dwelling and associated works. In response to concerns raised by PC with respect to the potential heritage significance of this wall, the City's Heritage officers completed a further investigation of this wall, which is attached to this report (Additional Information document 4). The findings of the report are summarised as follows:

- An 0.8 to 1.2m high retaining wall is located along the boundary of the site.
- The wall appears to have been constructed in various stages and is in various states of condition.
- This wall has not been identified as a heritage wall in either the HCWA listing for the Ord Street precinct or the City's listing in the Municipal Heritage Inventory.
- The City's mapping identifies two features running along the boundary of the site, a limestone wall of later construction and a retaining wall. This does not date the wall but does indicate that the wall is not an original wall and dates to sometime after 1910.
- An inspection of the site found that the wall was in poor condition.
- The construction date of the wall is considered to be between 1975 to 1986.
- In regard to its condition, the wall generally in poor condition, it is patchy in nature, features later poor repairs which would require removal, and is likely to be impacted further on by the removal of existing vegetation around the wall.

Given the above review, the wall is not considered to be worthy of retention and its removal is supported on heritage grounds.

Primary Street setback

Element	Requirement	Proposed	Extent of Variation
Ground Floor – Garage and Study/Guest Room	5m	0.8m-1.5m	4.2m (max)
Upper Floor – Master Bedroom	7m	2.6-3.5m	4.4m (max)

The upper floor setbacks are considered to satisfy the discretionary criteria of Local Planning Policy 2.9 – Residential Streetscapes for the following reasons:

- The proposed dwelling design is considered to appropriately reflect the streetscape character through the provision of a modern dwelling which still reflects the character of the setbacks of the buildings in the streetscape.
 - a) The ground floor is considered to be consistent with the large limestone foundations for the remaining dwellings in the streetscape, with the upper floor sitting above this structure consistent with the ground floors of the other dwellings in the streetscape. The windows into the study will be partially screened by the retained limestone wall to the street boundary.
 - b) The upper floor, with the verandah element in front of the main building is likewise consistent with the design characteristics of the other dwellings along Knutsford Street which all exhibit verandahs facing the street.
- Overall the height of the dwelling appropriately steps down the street in accordance with the character of the streetscape, with higher elements such as the clerestory set back from the street and not as readily visible to pedestrians.
- The development is considered to appropriately reflect the streetscape character and will therefore not result in a projecting element into the street.
- The initial proposal included the roof clerestory element however this was oriented to face south, resulting in a bulkier structure facing the street. This element was not supported by DPLH Heritage Services, nor the City's Heritage officers and accordingly the applicant reversed the orientation of this element.
- The imagery submitted by the applicant below demonstrates how the development will exist in the Knutsford Street streetscape.



Figure 1: View of dwellings along Knutsford Street with proposed dwelling inserted.



Figure 2: 3D view of proposed dwelling and adjoining property.

Building Height (external wall)

Element	Requirement	Proposed	Extent of Variation
Atrium roof structure (light well) – wall height	6m	8.4m	2.4m
Wall height (east)	7m (wall with concealed roof)	7.1m	0.1m

The height of the roof light well atrium structure is considered to meet the Design principles of the R-Codes in the following ways:

- The subject lot is oriented such that shade from the building at midwinter generally falls over the streetscape, the lightwell structure is located centrally on site and therefore shade cast by this element will generally be contained by the development.
- The limited depth of this element and open character of the structure permits any views which will be enjoyed over the building and site to be at least partly retained.
- The lightwell is set back from the front of the building and oriented such that it will not be readily visible from the streetscape in front of the property and will not result in an impression of building bulk onto the streetscape.



Figure 3: Eastern elevation showing area of atrium above 6m wall height requirement

The height of the eastern wall of the building exceeds the 7m permitted wall height for walls with concealed roofs. This minor variation considered to meet the Design principles of the R-Codes in the following ways:

- The minor variation to height requirements results from the approximate 0.5m fall across the subject site, the area of discretion is considered to be minor with the area of wall exceeding the applicable height requirement highlighted below in green.
- Any views across the subject site are not unduly impacted by this element, as the opposite side of the building is the same height above AHD and meets the deemed-to-comply requirement.
- The shade cast by this portion of wall will predominantly fall over the streetscape when measured at midday on midwinter, when shade cast by buildings is greatest.



Figure 4: Portion of western wall which exceeds height requirements for walls with concealed roofs.

Boundary walls

The amended plans do not alter the height, length or location of the originally proposed boundary wall, however the applicant has specified that the wall is intended to be finished as banded concrete blockwork.

Notwithstanding the additional criteria of LPP2.4, in general, boundary walls are assessed in accordance with the lot boundary setback requirements of the R-Codes. In accordance with the deemed to comply requirements, a wall may be built up a lot boundary where the wall does not exceed certain dimensions relating to its length and height. Where a wall does not meet these requirements, it is still defined as a boundary wall, being a wall built up to the lot boundary, however this component of the proposal requires an assessment against the design principles of the R-Codes (and Council's Local Planning Policy 2.4) for lot boundary setbacks (P3.2 and P3.1) which relate to building bulk, access to sun light and ventilation, loss of privacy, the effective use of space and the contribution to the prevailing context and streetscape.

Element	Requirement	Proposed	Extent of Variation
Garage and Master (East)	2m	Nil	2m
Ensuite (South/West)	1.2m	Nil	1.2m

It is noted that the Officer's assessment above has been amended to update the required setback of the eastern boundary wall from 1.5m (stated in the original report) to 2m due to a review of the interpretation of the setback requirements for walls with multiple articulations (figure 4c of the R-Codes), where the setback of the boundary wall is determined from the entire length of the eastern elevation. As the assessment against the design principles of the R-Codes is a qualitative assessment against specific design objectives (the design principles), Officers consider the potential impacts of the proposed nil setback to be the same as originally reported as follows:

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

- The majority of the high portion of this boundary wall abuts a section of wall to the adjoining property which does not exhibit openings. The wall is also set behind the line of the adjoining verandah, thereby not unduly limiting views out towards the streetscape.
- The remainder of the boundary wall element is set at a similar height to a dividing fence (approximately 1.8m).
- The wall/building will cast shade at midwinter over the street, rather than adjoining properties due to lot orientation.
- Based on the attached heritage assessments, the development as amended is considered to positively contribute to the prevailing development context and streetscape.
- With respect to privacy, the wall is not considered to impose significant privacy impact due to a lack of openings in the wall.

The western/southern boundary wall is considered to meet the Design principles of the R-Codes and the discretionary criteria of LPP2.4 in the following ways:

- The wall is of a minimal dimension along the boundary and is angled perpendicular to the adjoining property, resulting in limited bulk impact.
- The applicant has amended the wall to include 'green wall' elements which contribute to a reduction in building bulk.
- Shade cast by the wall would fall over the extended rear yard and retaining wall areas of the adjoining property.
- Based on the attached heritage assessments, the development as amended is considered to positively contribute to the prevailing development context and streetscape.
- With respect to privacy, the wall is not considered to impose significant privacy impact due to a lack of openings in the wall.

Lot boundary setback

It is noted that the original proposal included a 1.1m setback from the eastern boundary to the upper level stair, ensuite and Bed 2 in lieu of a 1.5m deemed-to-comply requirement. In response to the PC's concerns, the applicant amended the proposal to increase this setback to 1.5m, being compliant with the deemed-to-comply requirement and no longer an individual variation. This amendment is considered to improve access to light and ventilation of the windows of the property located to the east. The windows of this immediately adjacent property are elevated above ground level and noted to be habitable rooms including a bedroom, study and kitchen (referenced from Building Permit Plans in Council Records from 2016). Given the location of the windows, as indicated on the eastern elevation of the amended plans, the increased setback of the proposed upper floor is considered to improve the separation between the portions of the two dwellings containing windows to minimise the impact the overall development may have on the amenity of the adjoining dwelling.

The remaining setbacks are detailed as follows:

Element	Requirement	Proposed	Extent of Variation
Kitchen (GF East)	1.5m	1.1m	0.4m
Garage nib (GF East)	1m	0.8m	0.2m
Verandah (UF East)	3.3m	0.7m	2.6m
Living -Atrium (GF West)	1.5m	1m	0.5m
Void – Verandah (UF West)	1.5m	1.1m (minimum to screen)	0.4m

It is noted that the Officer's assessment above has been amended to update the required setback from the eastern boundary of the proposed verandah from 1m (stated in the original report) to 3.3m due to a review of the interpretation of the setback requirements for raised unenclosed outdoor living areas, which are to be setback as if they included a wall with a major opening to a habitable room. As the assessment against the design principles of the R-Codes is a qualitative assessment, Officers consider the potential impacts of the proposed 0.7m setback to be the same as originally reported as follows:

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

- The walls along this property boundary are appropriately articulated with a variety of openings and materials to appropriately reduce building bulk impacts.
- With respect to privacy, the windows along this boundary are either onto non-habitable spaces or set well below the level of the adjoining property such as the windows onto the kitchen.
- The shade cast by these walls will predominantly fall over the subject site, especially at midwinter due to lot orientation.

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

- The building utilises varied setbacks and materials in order to assist in ameliorating building bulk, the building facing this boundary is also well articulated with a variety of openings and screens.
- With respect to privacy, the development generally provides non-major openings along this boundary or openings onto habitable rooms are otherwise screened.
- The shade cast by these walls will predominantly fall over the subject site, especially at midwinter due to lot orientation.

Open Space

Element	Requirement	Proposed	Extent of Variation
On site open space	50% (143.5m ²)	41.2% (118m ²)	25.5m ²

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

- The building is considered to reflect the existing and desired streetscape character for the immediate area in being designed so as to appropriately reflect the appearance of adjoining dwellings.
- The dwelling is provided with outdoor living area open to northern sunlight in winter at the rear of the building.
- Open space is predominantly provided to the side and rear of the dwelling, as the dwelling has been located close to the street in accordance with the streetscape character.
- External facilities and fixtures are provided for appropriately on site.
- The building is provided with additional outdoor living areas in the form of the balcony and verandah to the front and rear of the dwelling.

Vehicle Sightlines

In response to the PC's concerns with respect to the vehicle sightlines, the applicant has submitted amended plans which remove the 'return' of the front wall (also proposed to be demolished) located along the eastern boundary between the front boundary and the location of the pedestrian gate of property to the east. This section of wall previously encroached into the view of reversing vehicles from the proposed garage as well as the view towards the garage from pedestrians heading west along the existing footpath. Although the amendment does not result in compliant sightlines due to the 1m to 1.3m setback of the garage, the amendment considerably improves views between the footpath and the garage. The technical assessment remains as follows:

Element	Requirement	Proposed	Extent of Variation
Garage sightlines	1.5x1.5m truncation at vehicle access point	1mx1.5m (east) 1.3x1.5m (west)	Per proposed

The amended proposal considerably improves the sightlines for the garage access point and the variation is considered to meet the Design principles of the R-Codes in the following ways:

- The removal of the eastern boundary portion of the front wall is considered to substantially improve the sightlines between the footpath and the garage particularly close to the eastern boundary of the site.
- The proposed sightlines do facilitate views to and from the garage and the footpath and is clear of further obstructions including proposed fencing, utilities and/or planters etc.

In addition to amending the plans to improve the sightlines the applicant also amended the previously proposed width of the crossover to a maximum width of 4.5m consistent with Council policy.

Site works and retaining walls

Element	Requirement	Proposed	Extent of Variation
Site fill and retaining (western boundary)	0.5m (max)	0.9m	0.4m

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

- The levels across the site generally provide for the appreciation of the natural slope along Knutsford Street while bringing the western portion of the site level with the remainder of the property.
- With respect to privacy the building itself is provided with an angled privacy screen and the side access of the dwelling is not an active habitable space, being an accessway only but is otherwise screened by a standard dividing fence.

Visual Privacy

In response to the PC's concern regarding how the applicant will intend to screen the rear facing openings of bedrooms 2 and 3 and the balcony, which were considered to overlook the adjoining properties to the west, east and north, the applicant has submitted amended plans modifying the bedroom openings to highlight windows and the inclusion of a planter box located in front of the balcony intended to block views from the balcony down into the property located to the north. The proposed amendments result in bedrooms 2 and 3 being compliant with the deemed to comply visual privacy requirements of the R-Codes, however as the proposed method of screening for the balcony is not consistent with the R-Codes a discretionary assessment is still required. Officers revised assessment is as follows:

Element	Requirement	Proposed	Extent of Variation
Front verandah (west)	7.5m	2.5m	5m
Rear balcony (north/east)	7.5m	3.5m	4m
Atrium/Living (west)	6m	2.1m	3.9m

Overlooking from the front verandah is considered to meet the Design principles of the R-Codes in the following ways:

- Although the verandah partially overlooks the extended rear yard of the neighbouring property to the west, the property's primary outdoor living areas are well set back beyond the cone of vision from the proposed verandah..
- Although the verandah may afford views behind the front setback of the property to the east, the views are towards an unscreened verandah in view of the street, the front portion of the neighbours western elevation that does not feature any windows and a pedestrian walkway between the house and boundary. The verandah does not afford views towards the primary outdoor living areas of the adjoining property which are located behind the dwelling.
- Generally the verandah is oriented towards the streetscape and accordingly any overlooking would be likely to be oblique only, with users of the balcony generally facing south.

With respect to the ground floor atrium/living area, this area is raised greater than 0.5m above natural ground level and therefore subject to visual privacy assessment. This area is considered to satisfy the design principles of the R-Codes for the following reasons:

- The area is considered to be a transitional zone between the dwelling entry and living area and is unlikely to be occupied frequently or for long periods of time.
- Section B submitted by the applicant demonstrates how overlooking towards the rear yard of 24 Ord Street will be limited by existing fencing due to the difference in lot levels and the inclusion of the void screen.
- The below extract from section B submitted by the applicant demonstrates measures to limit overlooking towards the neighbouring property.

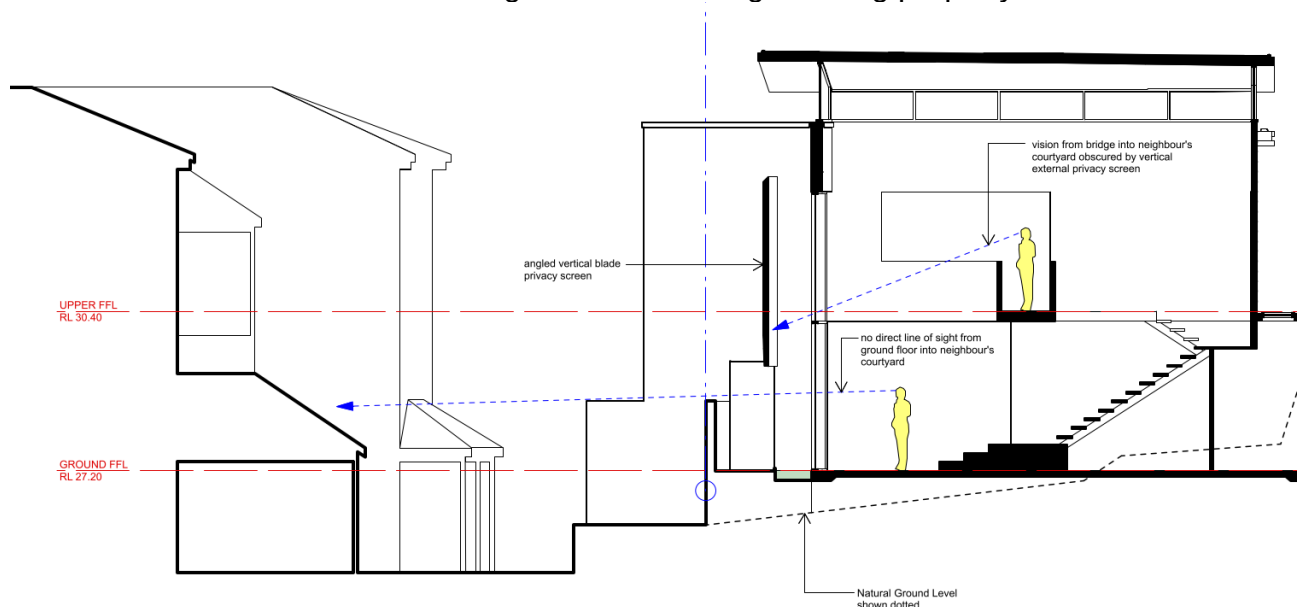


Image 5: Section B, illustrating the view towards 24 Ord Street

Although the amended plans introduce a planter box across the length of the rear balcony, the proposal is still considered to afford views into the outdoor living area of the property to the north. In this regard, the overlooking from the rear balcony is not considered to meet the Design principles of the R-Codes for the following reasons:

- The balcony provides for almost full overlooking of the rear yard of the neighbouring property to the north and partial overlooking to the eastern property.

- The inclusion of a planter box to provide some additional screening and potential vegetative screening to the rear balcony helps to address the design principles of the R-Codes, however it is considered that in accordance with the submitted section below, the balcony will remain with significant view into the adjoining property and should therefore be screened in accordance with the relevant deemed-to-comply criteria of the R-Codes (generally a 1.6m high opaque screen).
- While it is noted that heavy vegetation provides some screening at this time, in the future the mutual privacy of these properties may be unduly impacted.

In accordance with the above consideration, it is considered that screening should be provided to the rear balcony. A condition of development approval is recommended to this effect.

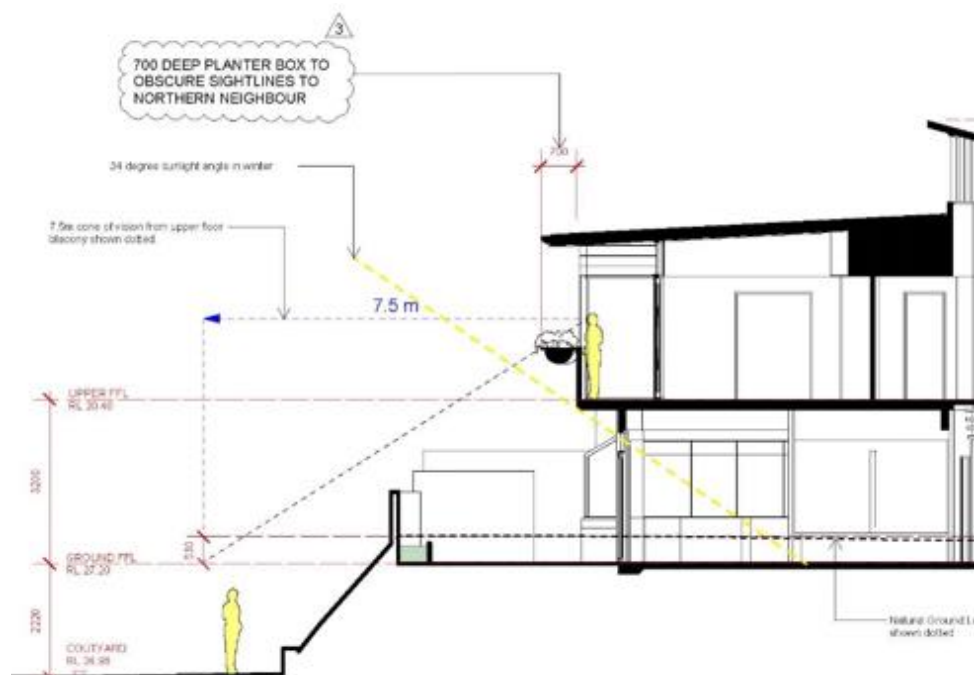


Image 6: Section A, illustrating the view towards the northern property

CONCLUSION

As discussed above, the majority of the development as amended is considered to appropriately satisfy the relevant deemed-to-comply criteria or design principles of the Residential Design Codes and relevant Local Planning Scheme No. 4 and Local Planning Policy Requirements. Some elements such as visual privacy overlooking from the rear of the building to the north is considered to require modification to appropriately protect the privacy of adjoining properties. Conditions of approval are recommended to address this.

Generally, the development is considered to comprise an appropriate addition to the immediate streetscape and is supported by State Heritage Officers and the City's Heritage Officers, utilising design elements which reflect the streetscape while providing for a modern dwelling. Further investigation of the existing limestone wall on site has led the City's Heritage Officers to conclude that the wall most likely dates from the later part of the 20th century and due to its age and condition does not warrant retention on heritage significance grounds.

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Mayor, Brad Pettitt

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Single House at No. 6 (Strata Lot 2) Knutsford Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 18 August 2020 and 21 September 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
5. The pedestrian access and / or vehicle 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.
6. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, is to be submitted and approved to the satisfaction of the City of Fremantle, on the advice of the Department of Planning, Lands and Heritage (Heritage Services).

7. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the **Balcony**, located on the **northern** elevation, are to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:
 - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 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.
8. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the screen to the upper floor master bedroom window to the western elevation is to satisfy the deemed-to-comply requirements of Clause 5.4.1 C1.1 of the Residential Design Codes is to be submitted to the satisfaction of the City of Fremantle. Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.
9. Prior to occupation/ use of the development hereby approved, the boundary walls located on the eastern southern boundaries shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,and be thereafter maintained to the satisfaction of the City of Fremantle.
10. 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.
11. 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 owner is advised that an obstruction permit may be required from the City for any future obstruction of the Knutsford Street road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au
- 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) Levels as per existing footpath and/or ROW
 - a) Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - b) Any adjustment in levels is to be achieved within the property boundaries;
 - c) Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

Lost: 0/7

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

PROCEDURAL MOTION

At 6.35 the following procedural motion was moved:

COMMITTEE DECISION

Moved: Cr Rachel Pemberton

Seconded: Cr Bryn Jones

That the item be referred to the Ordinary Council meeting on 28 October 2020 with a request for officers to prepare a recommendation for refusal based on the adverse amenity impacts of the eastern boundary setback variations, the potential for overlooking to the north from the first floor balcony and the detailing of the front elevation.

Carried: 7/0

Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright

10.2 Committee delegation

PC2010 - 3 TRAFFORD STREET, NO. 21 (SL 1), BEACONSFIELD - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF NEW SINGLE STOREY SINGLE HOUSE – (NB DA0257/20)

Meeting Date:	7 October 2020
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Plans
Additional information:	1. Site photos 2. Applicant's Justification 3. Streetscape Perspectives

SUMMARY

Approval is sought for the demolition of the existing house and construction of a new single storey Single house and carport.

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:

- Demolition of a building in Heritage Area
- Primary street setback
- Secondary street setback
- Streetscape – carport
- Site works (excavation)
- Visual privacy (west)
- Lot boundary setback (west)

The application is considered to have a detrimental impact on the Trafford and Martha Street streetscapes by virtue of the reduced setbacks and is recommended for refusal.

PROPOSAL

Detail

Approval is sought for the proposed works:

- Demolition of existing single storey house and pool
- Storeroom, two bedrooms and a bathroom below ground facing Trafford Street
[NB: This level of the building has the majority of its volume below the natural ground level and is therefore not considered to be a 'storey' as defined in LPS4]
- Carport facing Trafford Street
- Two single storey 'blocks' set back from each other so as to surround an inner courtyard and outdoor living area.
- Rooftop terrace with pergola facing Martha Street.

Amended plans were submitted on 11 August 2020 clarifying the vehicle sightlines and providing notations for other aspects of the development including building height and visual privacy.

Amended development plans are included as attachment 1.

Site/application information

Date received:	10 July 2020
Owner name:	Jenny Giudice and Matthew Giudice
Submitted by:	Space Agency Architects
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.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involves the demolition of a building within a Heritage Area and discretion was also sought against the R-Codes, local planning policies, and LPS4. The advertising period concluded on 5 August 2020, and one (1) submission was received raising the following issue:

- Concern that the Martha Street elevation would overlook the backyards of the houses across Martha Street. *[NB: Some of the houses on the southern side of Martha Street are oriented to face Agnes Street to the south, and therefore have backyards directly adjacent to Martha Street.]*

The Martha Street road reserve is approximately 10m wide, meaning that any overlooking from Martha Street to houses across the street is compliant with the Deemed-to-comply setback provisions of the R-Codes. While there may still be apparent overlooking, the City is unable to condition screening for those elements that are fully compliant with the R-Codes.

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 a building in Heritage Area
- Primary street setback
- Secondary street setback
- Streetscape – carport
- Site works (excavation)
- Visual privacy (west)
- Lot boundary setback (west)

In support of the proposed variations, the applicant has submitted written justification in regard to each matter. This justification has been included as Attachment 2 and summarised below where appropriate.

The above matters are discussed below.

Background

The subject site is located on the northwest corner of Martha Street and Trafford Street in Beaconsfield. The site has a land area of approximately 442m² and is currently an old strata lot consisting of a single storey single house on the eastern strata lot (the subject of this application) and a two storey house on the western strata lot fronting Martha Street. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

There is a sharp ground level drop-off of approximately 2m directly along the Martha Street boundary.

The applicant's response to each variation is provided below, along with City Officer comments.

Demolition and Heritage

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

Clause 4.14.1 of LPS4 states:

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

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

Evidence illustrates that the subject site was developed in 1953, however this house was demolished, the site subdivided and new houses constructed during 1989 and 1995. The existing house is a single storey limestone block and corrugated zincalume house built in the late 20th century Australian Nostalgia style with traditional elements. The site is situated on a limestone outcrop which, together with other limestone features in Martha Street, can be viewed from the street. It is considered that the demolition of the c1980s house on 21 Trafford Street will have minimal impact on the heritage values of the South Fremantle Heritage area and can be supported.

In addition to an assessment against the demolition clause of the LPS4, the suitability of the proposed infill dwelling in regard to the South Fremantle Heritage Area has been considered particularly considering the different Trafford and Martha Street streetscapes.

The retention of the natural face of the limestone outcrop on Martha Street is considered to be a good outcome as it protects the limestone features that demonstrate the history of the area.

The proposed dwelling is considered to have minimal impact on the heritage values of the Trafford Street streetscape as the underground storey and sunken courtyard facilitates the appearance of a single storey house to Trafford Street which compliments the scale of the Trafford Street streetscape. There are however considered to be some minor impacts on the Martha Street streetscape. Although Martha Street features a mix of development, including era and orientation, the houses generally feature some setback from the street. The proposed orientation of the rear portion of the dwelling and its nil setback to Martha Street is considered to result in a projecting element that is not consistent with the character of Martha Street. The secondary setback variation is discussed further in this report.

Primary street setback

Element	Requirement	Proposed	Extent of Variation
Ground floor setback	7m	6m	1m

In support of the proposed variation, the applicant has provided a full response included as Attachment 2 and summarised as follows:

- The corner lot location should be taken into account and existing setbacks of houses along both Trafford Street and Martha Street should be considered.
- The streetscape along both streets varies widely, and the minor variation will fit in with the existing local context.
- Landscaping and open fences soften the boundary between the street and the house.
- The building is sympathetic to its surroundings and is of a small scale so as not to detract from the surrounding lots while remaining consistent with the streetscapes and providing excellent amenity for the occupants.

Policy LPP 2.9: Residential Streetscape prescribes the minimum primary street setback for development in South Fremantle, which in this instance exceeds the requirements of the R-Codes. Where the setback does not meet the deemed to comply setback of the Policy, the Policy sets out the following discretionary criteria for consideration:

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

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

The primary street setback is not considered to meet the requirements of policy LPP2.9, or the Design principles of the R-Codes for the following reasons:

- None of the criteria of clause 1.2 above are applicable, though it is noted that the clause permits taking into account lots adjoining a corner lot, but not the corner lot itself.
- The houses along the prevailing streetscape (as defined by the Policy being the 3 houses directly to the north along Trafford Street, being the primary street) all have their main walls set back in excess of the 7m setback requirement. The proposed development is therefore considered to be inconsistent with the prevailing streetscape as defined in the policy as it sits forward of each of these properties. The applicant notes that houses across the street and along Martha Street are set closer to the street (see Figure 1 below), however, as per Council

Policy, these lots are excluded from the definition of “prevailing streetscape” and cannot be taken into account when applying the discretionary criteria of the Policy.

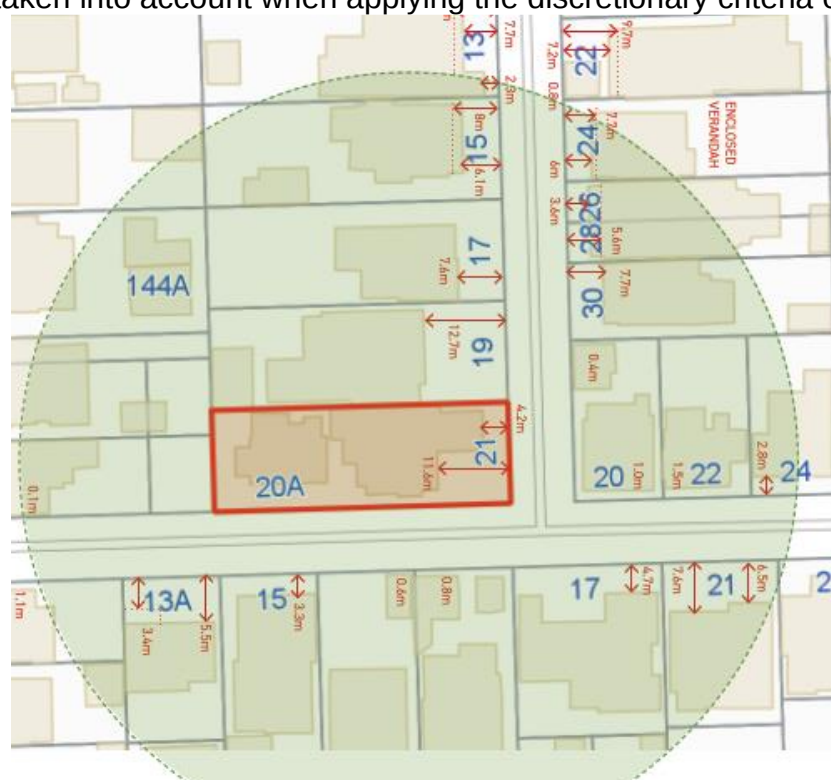


Figure 1: Existing streetscape setbacks, illustrating the setbacks of the properties in the prevailing streetscape as well as the broader streetscape.

The proposed setback does not comply with the minimum requirements of the Policy, nor does it meet one of the specific discretionary criteria to allow a variation to be considered. The proposed dwelling has been designed around a central outdoor living which is considered to enhance the amenity for future occupants of the dwelling, however it is considered to be at the detriment of the streetscape as defined within policy LPP 2.9.

Secondary street setback

Element	Requirement	Proposed	Extent of Variation
Living (south)	1.5m (min)	Nil (min) – 1.5m	Up to 1.5m

In support of the applicant has provided the following justification:

- The wall in question is 3.9m high above natural ground level which is constructed on top of an existing retained edge and natural limestone rock outcrop and as such the wall is a single storey wall and is therefore not a two storey wall.
- Along Martha St there are several other examples of walls of varying heights with little to nil set back (See Figure 1 above). The building set back is 1.5m for the majority of the length, the 'nil set back' relates to a single point along the length of the wall where a wall is angled towards the boundary. As this boundary is the secondary street and not an adjoining property, the effect of this projection is to bring the primary living room of the house out the boundary in the manner of a 'bay window' or similar architectural feature to engage directly with the street rather than be set back 1.5m and behind a solid fence, as per the existing condition, thus improving the street surveillance and opportunity for

neighbourhood interaction. The reason for this architectural gesture is primarily contextual - the streetscape on Martha St. has a uniquely Fremantle quality where many of the houses are set close to the street and some are right on the boundary, which is part of the character of the street.

The secondary street setback is not considered to meet the Design principles of the R-Codes for the following reasons:

- The ground level drops away sharply towards the street where the corner of the building is proposed. Even though the building is single storey at this point, the design and siting in relation to the drop in ground level gives the impression of a two storey mass on the streetscape, which is inconsistent with the other houses along Martha Street, which are primarily single storey with any nil setback relating to open verandahs with the exception of the heritage listed house at the corner of Solomon Street and Martha Street, which has a nil setback to the house.



Figure 2: Proposed Martha Street elevation.

Similar to the proposed primary street setback, as the proposed dwelling has been designed around a central outdoor living which is considered to enhance the amenity for future occupants of the dwelling, it is considered to be at the detriment of the Martha Street streetscape.

Streetscape - Carport

Element	Requirement	Proposed	Extent of Variation
Carport	Unenclosed within the setback area	Floor to ceiling screening provided within setback area	1m of screening

In support of the variation, the applicant has provided the following justification:

- The existing carport has timber lattice screening to the north, and there are existing plants to the fence line. It is possible to reduce the screening as recommended above, however as it acts as a screen and 'dividing fence' between the properties it serves no purpose to set it back to 7m.

The carport is not considered to meet the Design principles of the local planning policy LPP 2.9: Residential Streetscape or the R-Codes for the following reasons:

- The screening compounds the already reduced streetscape setback and gives the appearance that the entire first floor is one mass set forward of the setback line.
- The carport screening is approximately 3m in height, which is 1.2m higher than a typical dividing fence, and projects 1m into the setback area.
- Should Council wish to approve the development, the following condition is recommended:

Prior to the issue of a building permit, all portions of the carport within the front setback are to be unenclosed along the northern boundary to the satisfaction of the City of Fremantle.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
West boundary	1.5m	0.4m (min)	1.1m

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

- The building is angled to the boundary such that only a corner of the building intrudes into the setback area, with the majority of the building meeting or exceeding the setback requirement. It is noted that the setback variation is a result of the outdoor living area being created within the centre of the lot and therefore the surrounding house is being pushed out towards the other boundaries and the streets.
- There is an existing single storey parapet wall that is proposed to remain, which will screen the extent of the variation from the adjoining site.

Site works

Element	Requirement	Proposed	Extent of Variation
Excavation	0.5m (max)	2.4m	1.9m

In support of the variation, the applicant provides the following justification:

- The R-Codes provides for excavation if required for natural light for a dwelling. In addition, the proposed sunken courtyard and lower ground floor to the east is in the location of an existing below ground swimming pool which is to be removed, so that the majority of the 'excavation' is existing. The intention of the excavation is to reduce the building bulk and scale in the street scape and does not adversely affect any adjoining property.

The site works are not considered to meet the Design principles of the R-Codes for the following reasons:

- The design principles support excavation where it responds to the natural features of the site and requires minimal excavation/fill. The proposed excavation not considered to be minor as it creates an underground “storey” which is not considered to be in response to the natural contours of the site.
- As a portion of the excavation is located within the Primary Street setback area, these works are considered to adversely contribute to the Trafford Street streetscape concerns as detailed above.

Should the Council support the proposed street setbacks, the proposed excavation may be considered acceptable.

Visual privacy

Element	Requirement	Proposed	Extent of Variation
West (Roof terrace)	7.5m	2.6m	4.9m

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

- All overlooking is directed primarily towards Martha Street and the front setback of the adjoining house, with some oblique overlooking of the area behind the front setback of the house to the west.
- The house to the west has no major openings facing the subject site. Overlooking to this adjoining lot will not impact outdoor living areas or major openings to habitable rooms.

CONCLUSION

Demolition of the existing dwelling is supported as it does not make a positive contribution to the significance of the South Fremantle Heritage Area. In regard to the proposed dwelling, in isolation the variations may be supportable as part of what officers recognise is a carefully considered, one-off design. However the overall impression is that the house is maximising the internal courtyard and outdoor living areas to the detriment of the Martha and Trafford Street streetscapes, in terms of how streetscape is defined in the relevant local planning policy. Therefore on balance the application is recommended for refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Nil

Planning committee acting under delegation 1.1:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of Existing Dwelling and Construction of Single Storey Single House at No. 21 (Strata Lot 1) Trafford Street, Beaconsfield, as detailed on plans dated 13 July 2020 for the following reasons:

1. The primary street setback is inconsistent with policy LPP 2.9: Residential Streetscape and is inconsistent with the prevailing streetscape as defined in the policy and the character of the street.
2. The secondary street setback is inconsistent with clause 5.1.2 of the Residential Design Codes by virtue of the building projection detracting from the streetscape.
3. The site works are inconsistent with clause 5.3.7 of the Residential Design Codes by virtue of not responding to the natural topography of the site as viewed from the street.

Lapsed due to no seconder

COMMITTEE DECISION ITEM PC2010 – 3 **(Alternative officer's recommendation)**

Moved: Cr Geoff Graham

Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of Existing Dwelling and Construction of Single Storey Single House at No. 21 (Strata Lot 1) Trafford Street, Beaconsfield, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 11 August 2020. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.

- 3. Prior to the issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 1.0 metres above natural ground level as per policy LPP 2.8: Fences and thereafter maintained to the satisfaction of the City of Fremantle.**

ADVICE NOTES:

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- ii. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- iii. 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. It is recommended that the applicant obtains Structural Engineers / Dilapidation Report regarding the integrity of the existing adjoining and adjacent single houses, so to ensure that any works alleviate any damage that may occur as part of the proposed development.

Carried: 7/0

Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright

Reason for change

The proposed Trafford and Martha Street setbacks are considered to be minor and will not have a detrimental impact on the existing or desired streetscapes of the locality.

Cr Andrew Sullivan declared a financial interest in item number PC2010-2. He left the meeting at 6.49 and was absent during discussion and voting of this item.

**PC2010 - 2 PAKENHAM STREET NO. 15 (LOT 4), FREMANTLE - ROOFTOP
TERRACE ADDITION TO EXISTING TOURIST ACCOMMODATION
BUILDING - (JCL DA0508/19)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Management Plan
2. Site photos

SUMMARY

Approval is sought for a rooftop terrace addition to an existing Tourist Accommodation building at No. 15 Pakenham Street, Fremantle.

The proposal is referred to the Planning Committee (PC) due to the 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 for an extension of a 'D' land use (Tourist Accommodation).

Subject to conditions relating to the ongoing management of the proposed roof terrace, the application is recommended for approval.

PROPOSAL

Detail

Approval is sought for a rooftop terrace addition to an approved Tourist Accommodation building at No. 15 Pakenham Street, Fremantle. The proposed works include:

- Removal of section of roof sheeting at the rear of the premises to create a roof terrace of approximately 140 m²
- New roof cover (approximately 32m²) over a portion of the new roof terrace
- New tiled steps to terrace with balustrading
- Additional balustrading to existing parapet walls
- Existing brick parapet with cap/soaker flashing modified and made good to various portions of the terrace

The applicant submitted a short operational plan (Management Plan) for the proposed rooftop terrace on 6 April 2020 detailing following management measures:

- Accessible to guests of the accommodation only.
- Accessible between 7.00am and 8.00pm Sunday to Thursday, and 9.00am to 10.00pm Friday and Saturday.
- Access to the terrace will be blocked off and prohibited outside of the above times.
- A maximum number of 80 guests will be permitted on the roof terrace which is consistent with the Lodging license for the premises.

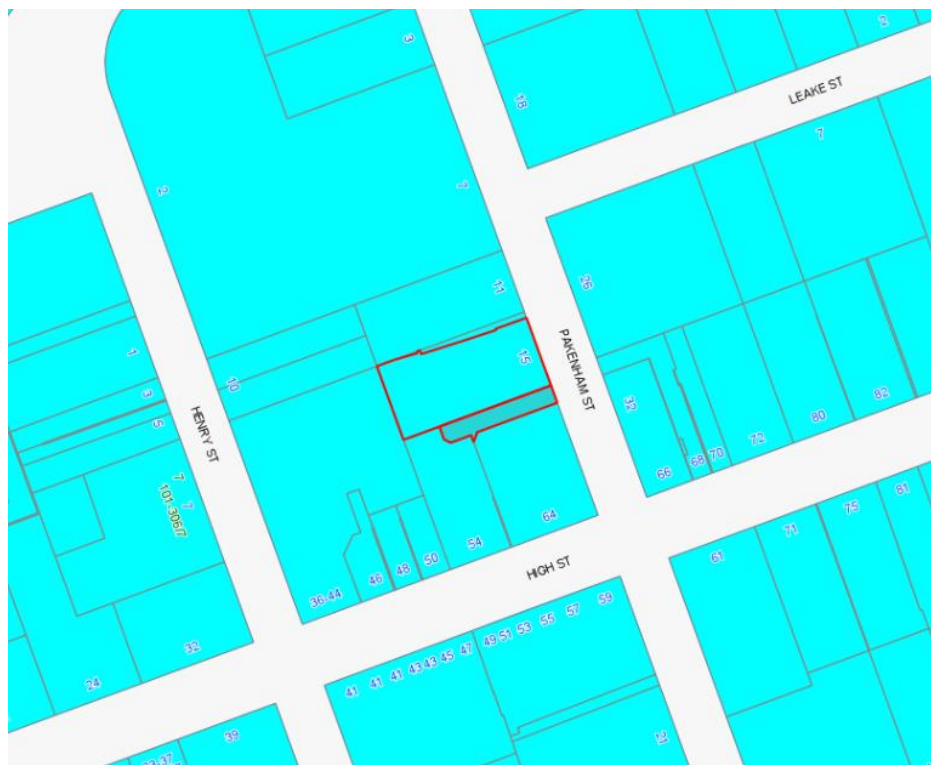
- Guest will not be permitted to utilise their own personal devices for amplified music
- Any sound device will be supplied and managed by staff.
- Special events will only be allowed on Fridays and Saturdays, and will be discussed and planned, with immediate neighbours notified.
- Contact details for management provided to the City.

The proposal does not include any increase in the number of guests to be accommodated at the premises and there are no other works associated with this application.

Development plans and the Management Plan are included as attachment 1.

Site/application information

Date received:	23 December 2019
Owner name:	Mario Marra and Silvia Marra and Artecasa Pty Ltd
Submitted by:	Mario Marra
Scheme:	City Centre Zone
Heritage listing:	Individually Listed Category 1B and West End Heritage Area
Existing land use:	Tourist Accommodation
Use class:	Tourist Accommodation
Use permissibility:	D



CONSULTATION

External and Internal referrals

State Heritage Office (DPLH)

The application was referred to the State Heritage Office (SHO) as the subject site is located within the West End Conservation Area, and is adjacent to an individually State Registered property. The SHO has advised that the proposal does not significantly impact on the identified cultural significance of *Lance Holt School*, and raised no objection to the proposal.

City of Fremantle Heritage Officers

In addition to the site being located in the State Registered West End Conservation Area, the application property is also individually listed on the City's MHI and Heritage List as a Level 1B property. This means that the City has identified this place as being of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. As such the proposed works were also referred to the City's Heritage Team for comment. The proposed changes to the roof deck are considered to be minor in nature and will have little impact upon the heritage values of the property and the West End. The deck and sun shelter will only be partially visible when viewed obliquely down the adjacent right of way and only a small section of the original brick parapet will be cut away to provide access from the stair landing to the roof deck and the original form of the sawtooth shaped parapet will still be clearly visible. Given the above, it is considered that the proposed works will not be detrimental to the heritage significance of the site.

Fremantle Ports (FPA)

The application was referred to FPA as the subject site is located within Fremantle Port Buffer Area 2. The FPA have advised that they have no objection to the proposal.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal includes the extension of a 'D' use. The advertising period concluded on 15 June 2020, and six submissions were received, five objecting to the proposal and one offering conditional support for the proposal. The following issues were raised (summarised):

Objections

- The venue has existing noise, anti-social behaviour, and public health issues, which will be intensified by this proposal;
- Doubt the venue management will abide by caveats or restrictions placed on the proposed rooftop terrace;
- Recent removal of mature trees nearby will intensify impact of noise as they previously absorbed the noise;
- There are no mechanisms to dampen noise increases; and,
- The location of the terrace will make it level with bedrooms and living rooms of surrounding homes.

Support (conditional)

- Fully support the proposal if it is demonstrated it will achieve the following (with details provided):
 - Move inconsiderate patrons off the street;
 - Eliminate or drastically reduce noise;
 - Improve behaviour of patrons;
 - Prevent patrons from living in their cars on Pakenham St and presumably using non-guest services;
 - Respect council noise laws; and,
 - Improve response to neighbourhood noise complaints.

Matters relating the management of the proposed roof terrace are discussed further in this report. In response to the concerns relating to ongoing compliance with conditions of any approval it is noted that the City has the ability to enforce any conditions of approval through the City's Compliance Department should that be necessary.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council Local Planning Policies. The application has been assessed as seeking a discretionary assessment against the Local Planning Scheme No. 4 for an extension of the existing 'D' land use (Tourist Accommodation). This matter is discussed below.

Background

The subject site is located on the western side of Pakenham Street between Leake and High Streets. The site has a land area of approximately 620m², is zoned City Centre Zone and is currently occupied by a Tourist Accommodation premises. The site is individually heritage listed, with a Level 1B Management Category and located within the State Registered West End Conservation Area.

On 4 August 2015, the City granted planning approval for a change of use to Hotel and additions and alterations to the existing building. This application approved additions and alterations to the building, including a rooftop deck similar to the one proposed in the subject application. In October 2019, an application for a Building Permit was submitted to the City for the works associated with the approved roof terrace. These works were considered to be different to the works approved in 2015 and the applicant was advised that a new application for Planning Approval would be required.

It is noted that the 'Hotel' use of the 2015 approval does not appear to have been acted upon, as no Liquor License has been granted for the premises by the Department of Racing, Gaming, and Liquor, nor have any of the approved works substantially commenced. Therefore, the application is considered to have not been acted upon and is no longer valid as the approval will have expired in August 2019.

The site is currently approved as a Tourist Accommodation, and the works do not involve any expansion of beds or rooms, therefore there is no increase in the intensity of the use. The subject application is solely for the works comprising the rooftop terrace.

D.G.F14 – Fremantle West End Conservation Area Policy

The physical works associated with the proposed roof terrace have been assessed against the relevant criteria of D.G.F14 – *Fremantle West End Conservation Area Policy* and are discussed in the below table.

Policy Requirement	Officer Comment
The appropriate height is one which respects the scale and reinforces the integrity of the existing streetscape. The Council's officers and advisers believe that in principle this is to be a maximum height of three storeys, on the street frontage. The height will be assessed by appropriately considering its relation to and effect on the existing landmarks, on recognised vistas, skyline and in particular on the heights of the adjacent buildings.	The proposed works are considered to comply with this requirement as roof terrace is proposed on the roof of an existing two storey (and basement) building. The proposed patio is considered to form part of a third storey which is also consistent with these requirements. The deck and patio will only be partially visible when viewed obliquely down the adjacent right of way and only a small section of the original brick parapet will be cut away to provide access from the stair landing to the roof deck and the original form of the sawtooth shaped parapet will still be clearly visible.
The appropriate setback is that which is the dominant in the area or the street and in particular that of adjacent buildings. In this respect most properties in the West End have nil front and side setbacks.	The proposed rooftop terrace is located within existing building envelope. As discussed above, the proposed patio is setback 3.5m from the closest side of building and will only be partially visible when viewed obliquely down the adjacent right of way.
In considering any application within the West End the Council will have regard to the existing cultural environmental, historical, scenic and, scientific interest as defined by this policy and in particular: • Elements of townscape such as the relationships of buildings along a street in terms of horizontal and vertical alignments, skyline, siting of buildings; the relationships of new to existing buildings and roof shapes, refinement of details, material, colours and finishes of proposed building work, advertising and other signs, location and protrusion of plant rooms, external furniture displays and hoardings, landscaping and public space provisions within the development.	The proposed alterations required for the roof deck are considered to be minor in nature and will have little impact upon the heritage values of the property and the West End. The deck and patio will only be partially visible with viewed obliquely down the adjacent right of way and only a small section of the original brick parapet will be cut away to provide access from the stair landing to the roof deck and the original form of the sawtooth shaped parapet will still be clearly visible. It is considered that the proposed works will not be detrimental to the heritage significance of the site.
The Council will ensure that heritage values of the entire West End Conservation Area be conserved.	For the reasons discussed above, the proposed works are considered to not be

	detrimental to the heritage significance of the site.
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Land Use

A Tourist accommodation' use is a D' 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. Although the subject premises is currently approved for 'Tourist accommodation', the proposed roof terrace could be viewed as an increase in the intensity of the existing use on the subject site. As such, officers have assessed the roof terrace in regard to its use and considered the following matters:

- a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- b) *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*
- c) *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*
- d) *Any submissions received on the application.*

The current amenity of the locality generally is influenced by the existence of mixed land uses including licensed venues, educational buildings, shops, offices, and residences in an inner-city context with a significant heritage character.

It is understood that the existing premises has been subject to some previous complaints regarding noise, the use of the laneway and the presence of rubbish in relation to the existing premises. The noise complaints have primarily been in relation to guests and visitors utilising the right of way and the existing parklet in front of the premises in Pakenham Street.

The applicant has submitted a management plan to manage the use of the rooftop terrace in order to minimise the potential impacts on the surrounding properties. These restrictions relate to hours of use, the manner in which the roof top is to be used and how access will be restricted when not in use. These measures, specifically the hours of use and the restriction of its use after these hours is considered to be an appropriate measure to assist to minimise noise and other impacts on surrounding properties. It is noted that the management plan will prohibit guests from using their own devices to amplify music, however music may still be provided by the operator of the premises. It is also proposed to permit the occasional event on the rooftop. As no further details in relation to music and/or special events has been provided these aspects of the management plan are recommended to be removed from the management plan. A condition of approval is recommended requiring relevant updates to the management plan.

The proposal is considered to be consistent with the established character of the locality consistent with the objectives of the City Centre zone to provide a range of commercial, entertainment, recreational uses that provide services for the region as well as residential land use. Subject to appropriate management provisions relating to the use of the rooftop terrace, the proposal is considered to be compatible with the existing surrounding land uses and is recommended for approval.

CONCLUSION

As detailed above, the proposed works are considered acceptable and will not adversely impact on the heritage significance of the existing building or the West End Conservation Area. The proposed use of the rooftop terrace, subject to conditions relating to its ongoing management is also considered to be acceptable. As such the application is recommended for conditional approval.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the rooftop terrace addition to existing Tourist Accommodation building at No. 15 (Lot 4) Pakenham Street, Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 31 January 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
3. The rooftop terrace is to be accessible to guests of the Tourist Accommodation only, to the satisfaction of the City of Fremantle.
4. Access to the rooftop terrace is permitted between the hours of 7.00am and 8.00pm Sunday to Thursday, and 9.00am to 10.00pm on Friday and Saturday only, to the satisfaction of the City of Fremantle.

5. No amplified music from any source is permitted to be played on the rooftop terrace at any time, to the satisfaction of the City of Fremantle.
6. Prior to the issue of a Building Permit, a revised Premises Management Plan detailing appropriate measures to implement conditions 4, 5 and 6 is to be submitted and approved, to the satisfaction of the City of Fremantle. The approved Premises Management Plan is to be implemented on an ongoing basis to the satisfaction of the City of Fremantle.
7. 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.

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.

PROCEDURAL MOTION

At 6.55 the following procedural motion was moved:

COMMITTEE DECISION

Moved: Mayor, Brad Pettitt Seconded: Cr Rachel Pemberton

The item be deferred to the next appropriate Planning Committee to allow for further information to be provided in regard to the community consultation process and further assessment of the potential amenity impacts on nearby residents prior to determination of the application.

Carried: 6/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

Cr Andrew Sullivan returned to the meeting at 7.00.

**PC2010 - 4 RULE STREET, NO. 27 (LOT 15), NORTH FREMANTLE – TWO
STOREY SINGLE HOUSE - (JL DA0202/20)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for the construction of a two storey Single house.

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**
- **Boundary wall (south)**
- **Lot boundary setback (south and north)**
- **Building height (external wall)**
- **Visual Privacy (south and north)**
- **Site works and retaining walls**
- **Overshadowing**

The applicant submitted amended plans on 10 September 2020 in response to officer and neighbour concerns regarding building height, overshadowing and building bulk impacts.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the construction of a two storey Single House at 27 Rule Street, North Fremantle. The proposed works include:

- **Ground floor**
 - Three bedrooms,
 - Bathrooms,
 - Laundry,
 - Workshop,
 - Outdoor living area.
- **Upper floor**
 - Kitchen/Living Room/Dining Room.
 - Front Terrace, and
 - Balcony.

On 10 September 2020, the applicant submitted amended plans in response to the concerns raised during the community consultation period. The proposed amendments included:

- Reduction in the southern elevation wall height from 7.3m to 6.6m,
- Reduction in level of shadow from 32.7% (135.705m²) to 27.8% (115.4m²), and
- Introduction of a screening device to the northern elevation of the front terrace,
- Introduction of an obscured window to the middle portion of the southern elevation.

A copy of the amended development plans are included as attachment 1.

Site/application information

Date received:	15 June 2020
Owner name:	Pieter Gabriels and Johanna Van Eekelen
Submitted by:	Officer Woods Architects
Scheme:	Residential R25
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Single house
Use class:	P
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the development proposed variations to several deemed-to-comply criteria and policy requirements. The advertising period concluded on 13 July 2020, and two (2) submissions were received. The following issues were raised (summarised):

- The choice of Zinalume cladding is problematic as it is highly reflective unlike corrugated iron that 'greyed off' in time.
- The house is large and bulky and is very close to the property to the north which will impact on our access to the south westerly breeze.
- Overlooking of both the northern and southern adjoining sites and respective sensitive rear backyard areas
- The existing brick wall on the boundary line between 27 and 29 Rule Street is proposed to be removed. This wall forms an integral part of the pergola infrastructure, the jamb of the side door, the paving and low brick garden walls. During preliminary discussions with the new owners regarding this wall, it was agreed that this wall would be retained.
- The proposed building overshadows a first-floor courtyard and a significant proportion of the rear outdoor living space and swimming pool on No.25 Rule Street, which have been designed to maximise solar access.
- It is not considered that the proposed maximum building height achieves the objectives of the policy with regard to the provision of solar access on adjoining sites.
- The retaining works proposed within the front setback area including the ramp and associated balustrading (2m height) and a bin store (2.2m height) negatively impact on both side neighbouring properties.
- The building materials should be revised to complement the existing built heritage and the established streetscape.

In response to the above concerns, the applicant submitted amended plans including the following modifications:

- Reduction in the southern elevation wall height from 7.3m to 6.6m,
- Reduction in level of shadow from 32.7% (135.705m²) to 27.8% (115.4m²), and
- Introduction of a screening device to the northern elevation of the front terrace,
- Introduction of an obscured window to the middle portion of the southern elevation.
- Retention of the existing boundary wall.

Concerns in relation to building height, setbacks, visual privacy and overshadowing are discussed in the Officer's comments.

OFFICER COMMENT

Statutory and policy assessment

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

- Primary street setback
- Boundary wall (south)
- Lot boundary setback (south and north)
- Building height (external wall)
- Visual Privacy (south and north)
- Site works and retaining walls
- Overshadowing

The above matters are discussed below.

Background

The subject site is located on the western side of Rule Street between Letitia Road and Fay Street in North Fremantle. The site has a land area of approximately 412m² and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed however it is located within the North Fremantle Heritage Area. The site slopes from the street to the rear of site by 2.8m and crossfall form north to south up to 500mm.

On the 5 May 2020 the Planning Committee granted planning approval (DA0482/19) for the demolition of the single storey dwelling onsite. The dwelling has since been demolished and the site is currently vacant.

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Upper floor	5m to walls 4m high; 7m to walls greater than 4m	6m	1m

Although the development presents as a single storey dwelling from Rule Street, a portion of the first floor elevation, approximately 1m, exceeds 4m in height, therefore the proposal requires a discretionary assessment against the discretionary criteria of LPP2.9 in relation to the primary street streetscape.

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

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

- i. *The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*

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

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

- Of the prevailing streetscape there are two dwellings (out of four), being 25 and 33 Rule Street, that are two storeys or more, being of a comparable height to the proposed development, albeit the proposed dwelling presents as a single storey dwelling from Rule Street.
- The proposed setback of 6m is consistent with the setback of the dwellings at 25 and 33 Rule Street and therefore does not result in a projecting element into this streetscape.

Boundary Wall

Element	Requirement	Proposed	Extent of Variation
Ground floor – Bin Store (south)	1m	Nil	1m

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

- The bin storage structure is very limited in size (being 3.2m long and max 2m high) and will abut front setback and side access way only of the southern adjoining property,
- The use of the proposed boundary wall is considered to comprise an effective use of a side setback area which would be of limited utility.
- The boundary wall abuts a portion of the neighbouring side setback area which has no major openings, and otherwise has limited bulk impact given the wall is 1.8m high (max) and 2.4m long).

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Bed 3, Bath and Laundry (Ground floor - South)	1.5m	1.3m	0.2m
Living and Kitchen (Upper Floor - South)	2.2m	1.3m	0.9m
Bath, WIR and Store (Ground floor -North)	1.5m	1.3m	0.2m
Store and terrace (Upper floor - North)	1.9m	1.3m	0.6m

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

- The northern elevation wall ranges in height from 5.1m (eastern corner) to 7.3m (western corner). The elevation not only incorporates several elements of articulation (terrace and dining room portions of wall being set into the property), the wall also includes multiple minor openings which combined assist in significantly reducing any perceived building bulk impacts on the adjoining property.
- With regards to the reduced setbacks for the southern wall, whilst it is noted that shadow does result from the development the amended plans have assisted with reducing such shadow impacts resulting on the southern adjoining site and particularly its upper floor northern terrace area (refer to Photo 6 in 'Additional information').
- This wall ranges in height from 5.1m (eastern corner) to 5.5m (western corner) when measured from the existing natural ground level of the southern common boundary (higher side). The southern wall mainly abuts the neighbouring side access area, which is not considered to be susceptible to undue building bulk impact as majority of this elevation will be readily visible from existing major openings or internal habitable spaces of the southern adjoining dwelling.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Shade cast over adjoining property to the south.	25% (max) (102m ²)	28% (115m ²)	3% (13m ²)

- A portion of the shadow cast by the development falls onto an existing first floor terrace of the adjoining dwelling (see additional information attachment photo 6).
- This upper floor courtyard includes an obscured glazed window to its entire northern elevation providing privacy whilst maintaining light into the centre area of the southern adjoining dwelling.

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

- The original proposal resulted with a casting shadow which fell 2.2m into the subject terrace area and the applicant was advised of the City's concerns to this level of impact. The applicant/ owners has opted to amend the original design to address the level of impact, fundamentally reducing the entire southern elevations wall height by 900mm. This amendment ultimately results in greater light access and less shadow being cast onto the neighbour's upper floor terrace. The diagram below shows the shadow impacts form the original proposal (green highlighted area) compared to the amended plans shadow impacts (yellow highlighted area). Whilst some shadow would still fall on this space (approx. 1m into the terrace), the actual area impacted is not considered to be readily occupiable area on the terrace.



Image 1: No.25 Rule Street first floor plan

- Again, with regards to the remaining portions of the southern dwelling, the entire northern elevation includes no north facing major openings and shadow would mainly fall on wall and side access area of the property.
- With regards to assessing impacts on the adjoining site's other outdoor living areas, it is acknowledged that the southern site features several outdoor living areas including rear pool area (30m²), terrace from the study (30m²), first floor terrace (12m²) and southern deck area (25m²) and rooftop terrace (100m²) all of which will not be significantly impacted by the proposal.
- Based on the additional detail provided by the applicant, it is considered on balance that an acceptable level of solar access and a light corridor will be maintained for the adjoining southern dwelling.

Site works and retaining walls

Element	Required	Proposed	Discretion
Retaining wall height	0.5 m	1.6 m (max) north boundary	1.1 m
		1.4m to south boundary	900mm

The site works are considered to meet the Design principles of the R-Codes for the following reason:

- The site has a steep slope from Rule Street to the rear of site (approx. 3m) and the proposal includes only excavation to the middle portion of site, preserving the view of natural ground level of site when viewed from the street. The level of excavation is also considered to help with reducing amenity building bulk impacts on the adjoining properties.

Visual Privacy

Element	Required	Proposed	Discretion
Upper floor rear balcony (northern and southern elevation of both dwellings)	7.5 m	1.6 m	5.9 m

It is noted that the City did receive objections regarding visual privacy impacts on the northern adjoining dwelling from the front terrace addition. Amended plans were submitted proposing a screening device to a portion of northern elevation of the front terrace preventing any views behind the front setback area of the dwelling onsite. This amendment brings the development into compliance with the Residential Design Codes Deemed to comply provisions as stated in DE5.4.1.

With regards to the rear western facing balcony, this design principle assessment is supported for the following reasons:

- The aerial image below indicatively shows the spaces of the adjoining site impacted from this opening:



Image 2: Cone of vision from west facing balcony

- Overlooking from the northern end of the is primarily towards an existing outbuilding of the adjoining dwelling to the north.
- Overlooking from the southern end of the balcony is towards the sunken rear grassed area of the backyard of the southern neighbouring property. Whilst the backyard does include a pool, the actual downwards view captured from this elevated opening would be adequately restricted by an existing over height dividing fence positioned along this area of the southern common boundary. See image below for subject fence.



Image 3: View of southern adjoining property and area of boundary fence applicable to visual privacy justification.

- Overall the overlooking from the upper floor western facing balcony is supported as the it is oblique and primarily to non-visually sensitive areas of either adjoining properties. The clear intent of the balcony is to access the primary view of the Indian Ocean to the west of site.

Building Height

Element	Permitted	Proposed	Variation
Storeys	2	2	Complies
Wall height	5.5m	5m to 7.3 m	Up to 1.8m (max)

The development seeks a wall height variation under clause 4.8.1.1 of LPS4, which states:

Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 8, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—

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

The southern adjoining house (No.25 Rule Street) has a maximum wall height of 9.8m high, thereby providing the “trigger” to assess the proposed development under provisions (a) through (d) above.

In regard to (a), the development is not considered to be detrimental to the amenity of the adjoining properties in terms of building bulk, front setbacks, solar access, lot boundary setbacks, and visual privacy as discussed above in the relevant sections of this report. The proposal is therefore considered to meet part (a).

In regard to (b), several houses in the immediate locality have been approved with a building height significantly greater than that proposed, notably No. 25 Rule Street, No. 25 Herbert Street and No. 23 Herbert Street. The dwellings on these sites include heights of between 8m and 11m. The dwellings to the north of site, consist mainly of single storey form with wall heights ranging from 3m to 4m and roof ridges of 5m to 6m. In summary, the development is not anticipated to set any undesirable graduation of built form allowing for a better stepping of built form within the locality. Overall the proposed two storey development is considered to graduate the scale between buildings of varying heights within the immediate North Fremantle locality and as such the proposal is considered to meet part (b).

In regard to part (c), the northern adjoining house (Nos. 29) is heritage listed as being of significance for its contribution to the streetscape. On this basis, it is necessary that Council is satisfied that the proposed addition will not detrimentally impact the heritage significance of the adjoining property. As a means of guidance, the City's D.G.N13 which applies to the general locality of the subject site states that mock historical style housing, poorly proportioned, with excessive use of reproduction will not be supported. On this basis, it is considered that the modern appearance of the proposal is consistent with the objective of this requirement in that there will be a clear distinction between the heritage and contemporary components of the streetscape.

Under part (d), Council is required to consider any other relevant matter outlined in the local planning policies. Accordingly, the City's policy D.G.N13 outlines specific height guidelines for the area bound by Thompson Road, Alfred Road, Rule Street and Harvest Road.

The development is assessed against D.G.N13 as follows:

D.G.N13 Maximum Requirements	Provided	Variation
Height - 2 storeys permitted	2	Complies
5.7m (additional 1.5m for sloping sites) to overall Height of 7.2m	6.075m (averaged as per DGN13)	Complies

The proposal therefore satisfies the requirements of DGN13. Based on the above, the proposal does not meet part (d).

DGN13 – Thompson, Alfred, Rule and Harvest Road Area policy

DGN13 states that, *'Buildings should be articulated and provide visual interest and variety through the use of front doors and windows addressing the street directly; verandahs; windows and doors with vertical emphasis. Mock historical style housing, poorly proportioned, with excessive use of 'reproduction' detailing will not be supported.* The proposed dwelling incorporates an elevated floor with stepped treatments and a front terrace with an articulated façade which includes several windows addressing Rule Street directly. With regards to DGN13's statement of *'excessive use of reproduction detailing'* this statement is considered to be aligned with designs replicating a mock heritage style. This dwellings design is considered to of contemporary design and therefore meets these provisions of DGN13.

CONCLUSION

As discussed above, the development is considered to appropriately satisfy the relevant deemed-to-comply criteria or design principles of the Residential Design Codes and relevant Local Planning Scheme No. 4 and Local Planning Policy Requirements.

Whilst there are several discretionary matters being supported the cumulative impacts resulting from the proposal is considered acceptable, as minimal adverse amenity impacts to adjoining and nearby neighbours is anticipated.

Generally, the development is considered to comprise an appropriate addition to the North Fremantle locality and its immediate streetscape. In accordance with the above considerations, the development is considered to be worthy of support, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2010 - 4 **(Officer's recommendation)**

Moved: Cr Bryn Jones

Seconded: Cr Geoff Graham

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Single house at No. 27 (Lot 15) Rule 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 September 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, 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 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.**
- 5. Prior to occupation/ use of the development hereby approved, the bin storage boundary wall located on the southern boundary shall be of a clean finish in any of the following materials:**
 - coloured sand render**
 - face brick**
 - painted surface****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 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 NOTE:

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- ii. Fire separation for the proposed building works must comply with Part 3.7.1 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. 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. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Rule Street road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au.
- vi. The applicant is encouraged to maintain the adjacent verge in accordance with the City's Verge Garden Policy which can be found on the City website at: <https://www.fremantle.wa.gov.au/residents/trees-and-verges#Verge> G
- vii. Levels as per existing footpath and/or ROW
 - a) Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - b) Any adjustment in levels is to be achieved within the property boundaries;
 - c) Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

Carried: 7/0

Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright

**PC2010 - 5 ALFRED ROAD, NO. 24 (LOT 3), NORTH FREMANTLE -
DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A
TWO STOREY SINGLE HOUSE – (NB DA0230/20)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for the demolition of the existing house and the construction of a two storey house at 24 Alfred Road in North Fremantle.

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

- Demolition of a building within a heritage area
- Lot boundary setback
- Wall height
- Visual privacy

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the following proposed works:

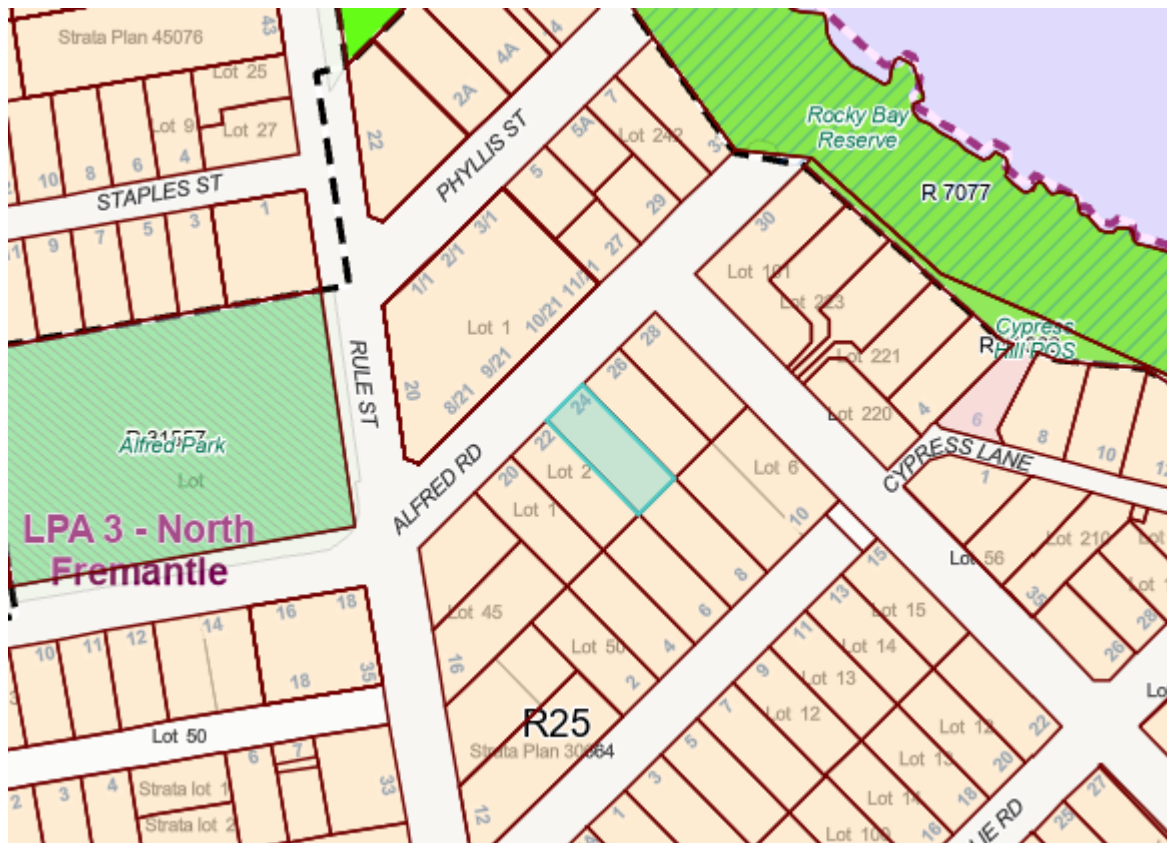
- Demolition of the existing house
- Construction of a two storey dwelling consisting of a ground floor (undercroft) garage and workshop, and an upper floor consisting of:
 - Two bedrooms
 - Two bathrooms
 - Study
 - Yoga studio
 - Scullery
 - Living/Kitchen/Dining Room

The applicant submitted amended plans on 13 July 2020 including more details on the front fence.

Development plans are included as attachment 1.

Site/application information

Date received: 30 June 2020
 Owner name: Elizabeth Clements and Paul Gazey
 Submitted by: Ross McAndrew Architect
 Scheme: Residential R25
 Heritage listing: North Fremantle Heritage Area
 Existing land use: Single house
 Use class: Single house
 Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the R-Codes and LPS4. The advertising period concluded on 30 July 2020, and two (2) submissions were received from two properties located behind the subject site on Higham Road. The following issues were raised (summarised):

- Concerns that the height of the new dwelling will block the existing views of the ocean to the west and of the river to the north east from the ground level of the properties on Higham Road behind the subject site.
- The dwelling will still obtain spectacular views from their proposed balcony if the dwelling was a compliant height.

The comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, 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 a building within a heritage area
- Wall height
- Lot boundary setback
- Visual privacy

The above matters are discussed below.

Background

The subject site is located on the south-eastern side of Alfred Road between Rule Street and Corkhill Street in North Fremantle. The site has a land area of approximately 427m² and is currently a two storey (inclusive of undercroft garage) single house, similar in form and scale to the proposed development. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

The site slopes upwards approximately 3.5m from the street to the rear.

Demolition and Heritage

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

Clause 4.14.1 of LPS4 states:

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

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

This house has not been identified in the Local Heritage Survey (LHS) as having heritage significance and it does not contribute to the identified heritage values of the heritage area, so it only has minimal heritage value. Demolition of 24 Alfred Road will not reduce the overall significance of the North Fremantle Precinct Heritage Area.

The proposal to demolish 24 Alfred Road is supported on heritage grounds as it does not contribute to the character of the North Fremantle Precinct Heritage Area.

Demolition of the existing house is supported under clause 4.14 of LPS4 as the house has little or no heritage significance and makes a minimal contribution to the heritage significance of the area.

Wall height

Element	Requirement	Proposed	Extent of Variation
Wall height	5.5 m (max)	6 m	0.5 m

LPS4, allows for 0.5m of additional height above the permitted maximum in accordance with Clause 4.8.1.2 which states:

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

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

The proposed wall height complies with the above clause for the following reasons:

- The ground level slopes up 3m beneath the footprint of the building from the street to the rear of the building.
- The portion of building over the prescribed height is towards the street where the natural ground level is lowest.

Notwithstanding the above, the proposed wall height is also considered to meet the Design principles of the R-Codes in the following ways:

- The proposed development is similar in form and scale to the existing dwelling. Both have a ground floor undercroft facing the street, with the upper floor constructed to be at the same level as the ground level at the rear of the block. This results in any loss of views being contained within the allowable building height (see Figure 1).



Figure 1: View from the rear lot towards the subject site.

- The portion of building exceeding the wall height is at the street front of the development, with the majority of the single storey rear of the proposed dwelling well below the maximum wall height. The angle of vision from the rear lot(s) is such that the portion of wall height exceeding the maximum will not considerably block any views not already blocked by the portion of building that complies with wall height.
- The over height portion of wall is facing the street and will not impact direct sun to major openings or outdoor living areas of adjoining lots.
- The building height at the front of the proposed house is graduated the height down from the three storey house to the north, to the two storey house to the south.
- The rear of the subject site could be a double storey addition to a maximum of 5.5m high and still be compliant under the scheme, but would block more views than the proposed single storey addition.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Stairs (north)	1 m	Nil	1 m

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

- The setback is to the outdoor stairs, which start out at ground level and end level with the top of the existing dividing fence in order to provide front door access from the street.
- The stairs abut a small pathway and a blank wall of the adjoining house to the north.
- A proposed screen wall at the top of the stairs will block overlooking towards the rear of the adjoining house to the north, notwithstanding that the first two floors of the south facing elevation of the adjoining house are composed of blank walls.

Visual privacy

Element	Requirement	Proposed	Extent of Variation
Rear courtyard (east setback)	7.5m	Nil	7.5 m

A raised central courtyard with a view to the north is provided with permanent screening to prevent overlooking to the north and is therefore compliant with the requirements of the R-Codes.

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

- The increase in ground level to the rear courtyard will bring it level with the natural ground level of the adjoining sites. Currently, the rear of the subject site is well below the natural ground level of the adjoining sites (see Figure 2 below). The rear lot has a ground level in excess of the proposed lot, and any overlooking can be blocked by a standard height dividing fence.

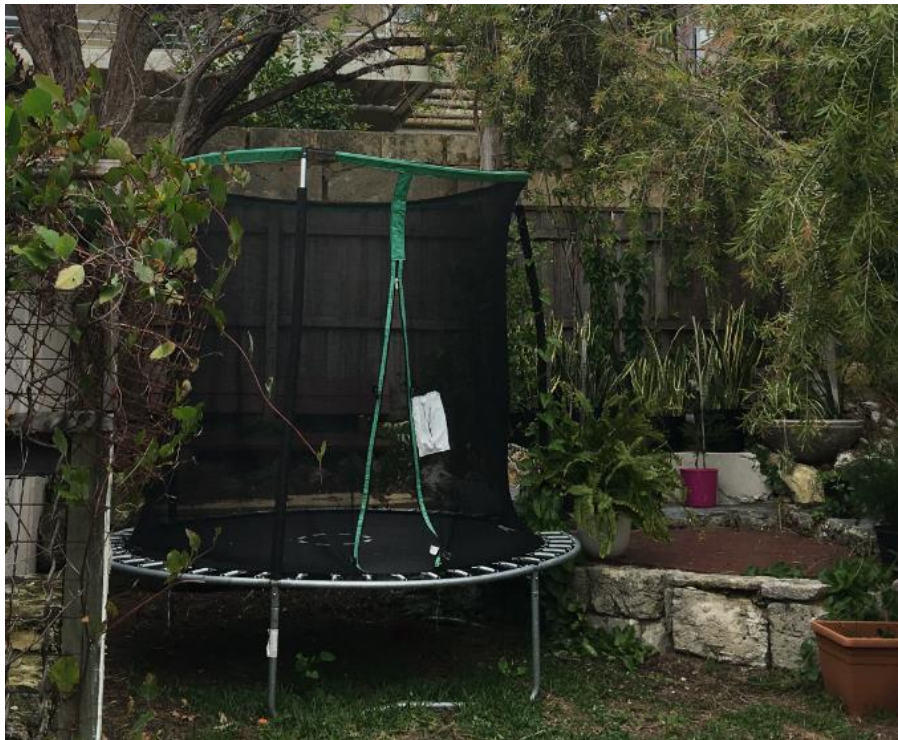


Figure 2: Rear of existing lot looking towards the rear lot. Note the limestone wall above the wood dividing fence.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2010 - 5 (Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of existing dwelling and construction of two storey Single house at No. 24 (Lot 3) Alfred Road, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 13 July 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the north-eastern elevation of the central courtyard is to be screened in accordance with Clause 5.4.1/6.4.1 C1.1 of the Residential Design Codes by either:**
 - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
 - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level**

Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.
- 5. Prior to occupation/ use of the development hereby approved, the boundary wall located on the north-east elevation shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,**

and be thereafter maintained to the satisfaction of the City of Fremantle.

- 6. Prior to the occupation of the development hereby approved, modified vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**

ADVICE NOTE:

- i. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**
- ii. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**

Carried: 7/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

**PC2010 - 6 HALE STREET NO.44 (LOT 62) BEACONSFIELD – TWO STOREY
ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (JL
DA0252/20)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for two storey additions and alterations to the existing Single house at 44 Hale Street, Beaconsfield.

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

- Boundary wall (south)

Amended plans were submitted on 16 September 2020, to address concerns raised regarding building bulk and the extent of the originally proposed southern boundary wall.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for two storey additions and alterations to an existing two storey Single house at 44 Hale Street, Beaconsfield. The proposed works include:

- Addition of a ground floor bedroom and walk in robe, laundry and lift and walk between the existing dwelling and the southern boundary.
- Addition of an upper floor bedroom, bathroom and lift.

The applicant submitted amended plans on 16 September 2020 including the following modifications:

- Setting the lift back from the southern boundary 1.4m,
- Subsequent reduction in the length of the previously proposed boundary wall from 6.8m to 5.2m.

Amended development plans are included as attachment 1.

Site/application information

Date received:	9 July 2020
Owner name:	Carmela Briguglio
Submitted by:	Alexander Consultants
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

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the development proposed variations to several deemed-to-comply criteria and policy requirements. The advertising period concluded on 31 July 2020, and one (1) submission was received. The following issues were raised (summarised):

- The addition should be set back in accordance with the rules, similar to other properties in Hale Street which have maintained respectable boundary setbacks, appropriate aesthetics and privacy.
- If a setback cannot be accommodated the owner should consider building to the rear of the dwelling where there is plenty of room.

In response to the submission and the preliminary concerns raised by officers the applicant submitted amended plans that reduced the length of the boundary wall by introducing a setback to the lift portion of the addition. An assessment of the proposed setback and its potential impact on the amenity of the adjoining property is discussed further in this report.

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 matter below does not meet the Deemed-to-comply or policy provisions and needs to be assessed under the Design principles:

- Boundary wall (south)

The above matter is discussed below.

Background

The subject site is located on the eastern side of Hale Street, Beaconsfield. The site has a land area of approximately 789m² and is currently improved by a two 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 in the South Fremantle Heritage Area. The site is located at the end of a cul da sac and two properties adjoin its southern boundary (being Nos. 46 Hale street and 18 Delamere Lane). The property to the south is improved by a large two storey dwelling which abuts a pedestrian access way and the Strang Court commercial precinct of South Fremantle.

Boundary wall

Element	Requirement	Proposed	Extent of Variation
Bedroom (South) Ground and upper floor	1.5m	0.37m	1.13m

The applicant amended the proposal to set back the proposed lift addition 1.4m from the boundary, which subsequently reduces the length of the proposed boundary wall from 6.8m to 5.2m in response to the neighbour's concerns.

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

- The wall is also set behind the line of the adjoining front verandah, thereby not unduly limiting views out towards the streetscape and ocean.
- Two-thirds of the upper floor portion of the boundary wall abuts a section of wall to the adjoining property which does not exhibit any major openings.
- The boundary wall is not located adjacent to the rear outdoor living area of the adjoining property, highlighted in the image below.



Image 1: Proposed addition shown in red above in conjunction with the adjoining sites primary outdoor living area which is highlighted in blue.

- Whilst, it is noted that the wall will cast some shade at midwinter over the southern dwelling, the area of this property directly impacted consist of side pedestrian access area, upper floor side wall with no major openings and ground floor garage / storeroom wall.
- The existing solar collecting devices located on the second storey roof of the southern site will not be impacted by way of shadow.

- The boundary wall will abut some existing windows on the northern elevation of the southern adjoining dwelling. After reviewing the property files for this property, all of the openings on the ground floor and upper floor do not constitute major openings as all windows are associated with non-habitable rooms of the dwelling (Storeroom, garage and bathroom). The three windows on the ground floor closest to the proposed boundary wall are to a storeroom and garage. The eastern most window is to a laundry. The upper floor window is associated with a bathroom. See images 1 and 2 below for the location of the adjoining properties windows in respect to the location of the proposed boundary wall.



Images 2 and 3: Proposed ground floor (left) and upper floor (right) additions in context of the ground floor of 46 Hale Street

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2010 - 6
(Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Geoff Graham

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey additions and alterations to existing Single house at No.44 (Lot 62) Hale Street, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 16 September 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 4. Prior to occupation/ use of the development hereby approved, the boundary walls located on the southern boundary shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

Advice 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.**

Carried: 7/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

**PC2010 - 7 COMMERCIAL STREET NO.6 (LOT 27), SOUTH FREMANTLE -
DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF A
SINGLE STOREY SINGLE HOUSE – (JL DA0316/20)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site photos
2. Heritage Assessment

SUMMARY

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

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

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

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the following proposed works:

- Demolition of the existing single storey Single house
- Construction of a single storey Single house consisting of:
 - Three bedrooms
 - Two bathrooms
 - Study/Home Office
 - Lounge
 - Scullery
 - Living/Kitchen/Dining Room

Development plans are included as attachment 1.

Site/application information

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

Use permissibility:

P



CONSULTATION

External referrals

Nil required.

Community

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

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

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

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

OFFICER COMMENT

Statutory and policy assessment

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

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

The above matters are discussed below.

Background

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

Demolition and Heritage

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

Clause 4.14.1 of LPS4 states:

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

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

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

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

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

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

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

Primary Street Setback

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

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

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

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

corner lot in addition to buildings in the prevailing streetscape.

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

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

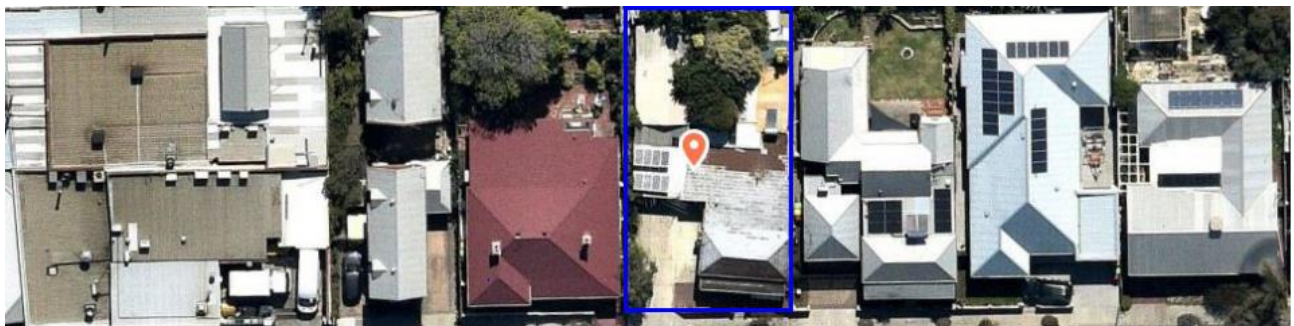


Image 1: Existing prevailing streetscape of Commercial Street (subject site highlighted in blue)



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

Lot boundary setback

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

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

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

Boundary Wall

It is noted that the proposed western boundary wall of the single width garage is technically compliant with the provisions of LPP2.4 – Boundary Walls policy, as it abuts an existing carport structure which is of similar dimensions and location. Although the adjoining carport is 'open', this structure includes three pillars on the boundary as shown in image 3 below. Notwithstanding the proposed boundary being compliant with the R-Codes and Council Policy, officers consider any the potential impact of the wall on the amenity of the neighbouring property to be minimal as the garage adjoining a tandem parking area and the only window of the adjoining property, adjacent to the proposed garage is setback 2.2 m from boundary, and therefore not considered to adversely impact on the its access to light and ventilation.



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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Mayor, Brad Pettitt

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of existing dwelling and construction of single storey Single house at No. 6 (Lot 27) Commercial Street, South Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 17 August 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.
4. Prior to the issue of a building permit, amended plans altering the form of the two windows to the Commercial Street elevation to be a pair of vertically proportioned windows is to be submitted and approved, to the satisfaction of the City of Fremantle.
5. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western elevation shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,and be thereafter maintained to the satisfaction of the City of Fremantle.
6. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:
 - a. A site plan prepared at 1:200 scale, floor plan(s) of the building and four elevations prepared at 1:100 scale.
 - b. Digital photographs taken of the building (once vacated) to include:
 - i) a general/overall photo of the building to be demolished;
 - ii) photos of each of the four elevations;

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

ADVICE NOTE:

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

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

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

- iv) The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.
- v) Levels as per existing footpath and/or ROW
 - a. Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
 - b. Any adjustment in levels is to be achieved within the property boundaries;
 - c. Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

PROCEDURAL MOTION

At 7.45 the following procedural motion was moved:

COMMITTEE DECISION

Moved: Cr Andrew Sullivan

Seconded: Cr Geoff Graham

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

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

Carried: 7/0

Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright

**PC2010 - 8 BEACH STREET NO.1, 1A AND 1B (LOTS 1, 170 AND 171),
FREMANTLE – EXTENSION TO TERM OF APPROVAL FOR
DAP011/15 (SIX- SEVEN STOREY MIXED USE DEVELOPMENT) (JL
DAPV002/20)**

Meeting Date: 7 October 2020
Responsible Officer: Manager Development Approvals
Decision Making Authority: Planning Committee
Agenda attachments: 1. Original Determination Letter and Plans
Additional information: 1. Applicant's Report
2. Site Photos

SUMMARY

Approval is sought to extend the term of planning approval for DAP011/15 a Six and Seven Storey mixed use development at 1, 1a and 1b Beach Street, Fremantle (DAP011/15) for a further four years.

The applicant has opted to have the application determined by the Metro Inner South Joint Development Assessment Panel (JDAP). The City's Responsible Authority Report (RAR) is referred to the Planning Committee for comment.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought to extend the term of planning approval for the construction of a six to seven storey Mixed use development, comprising a 119m² (Office, Restaurant, Small Bar) tenancy, 71 Multiple dwellings and vehicle parking.

Site/application information

Date received: 19 August 2020
Owner name: Nitric holdings Pty Ltd
Submitted by: Ian Birch
Scheme: Mixed use
Heritage listing: Not Listed
Existing land use: Vacant land
Use class: Multiple dwelling, Restaurant, Small Bar and Office
Use permissibility: 'A', 'A', 'A' 'P'



COMMITTEE DECISION ITEM PC2010 - 8
(Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Planning Committee:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the extension to term of planning approval for DAP011/15 (Six – seven storey Mixed use development) at Nos.1, 1a and 1b (Lots 1. 170 and 171) Beach Street, Fremantle, subject to the conditions outlined in the responsible authority report.

Carried: 7/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

Form 2 – Responsible Authority Report
(Regulation 17)

DAP Name:	JDAP Metro Inner South	
Local Government Area:	City of Fremantle	
Proposed Amendments:	Extension to term of approval for DAP0011/15 (Six to seven storey Mixed Use development (Multiple Dwellings and Commercial tenancy))	
Applicant:	Ian Birch	
Owner:	Nitric Holdings Pty Ltd	
Value of Amendment:	Nil	
Responsible Authority:	City of Fremantle	
Authorising Officer:	Manager Development Approvals	
LG Reference:	DAPV002/20 and DAP0011/15	
DAP File No:	DAP/15/00889	
Date of Original DAP decision:	25 February 2020	
Application Received Date:	19 August 2020	
Application Statutory Process Timeframe:	60 Days	
Attachment(s):	1. Original Determination Letter and Plans 2. Applicant's Report 3. Site Photos	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☒ Yes	Complete Responsible Authority Recommendation section
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Inner South Metro Joint Development Assessment panel resolves to:

- Accept** that the DAP Application reference DAP/15/00889 as detailed on the DAP Form 2 dated 19 August 2020 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
- Approve** DAP Application reference DAP/15/00889 and accompanying plans (DA00, DA01, DA02, DA03, DA04, DA05, DA06, DA07, DA08, DA09, DA10, DA11, DA12, DA13, DA14, DA15, DA16, DA17, SK01-E, SK02-E) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4 of the City of Fremantle's Local Planning Scheme No. 4, for the proposed minor amendment to the approved Six - seven storey Mixed Use development (Multiple Dwellings and Commercial tenancy at No,1, 1A and 1B (Lots 1, 170 and 171) Beach Street, Fremantle, subject to the following conditions:

Amended Conditions

1. This approval relates only to the development as indicated on the approved plans. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter. If the subject development is not substantially commenced within a 2 year period, the approval shall lapse and be of no further effect.

14. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle

New Conditions

16. Prior to the issue of a building permit, details are to be submitted that demonstrate that each dwelling will be individually metered for water use to the satisfaction of the City of Fremantle.

17. Prior to the issue of a building permit for the works hereby approved, the owner/developer is to demonstrate that the Multiple dwelling building exceeds the minimum requirements of the National Construction Code, such as a rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating (or equivalent), to the satisfaction of the City of Fremantle.

18. Prior to the issue of a building permit, additional information shall be submitted outlining how 20% of the approved dwellings meet the Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia) to the satisfaction of the City of Fremantle.

All other conditions and requirements detailed on the previous approval dated 25 February 2016 shall remain unless altered by this application.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Central City
Local Planning Scheme	Local Planning Scheme No.4

Local Planning Scheme Zone/Reserve	Mixed Use
Use Class (proposed) and permissibility:	Multiple Dwelling "D" Commercial tenancy (Small Bar "A", Restaurant "A", Office "P", Shop "P")
Lot Size:	807m ² , 782m ² and 421m ² (Total Site area of 2010m ²)
Net Lettable Area (NLA):	119m ² commercial
Number of Dwellings:	71
Existing Land Use:	Vacant Site
State Heritage Register	No
Local Heritage	☒ N/A ☒ Heritage List (See Officer Comments) ☐ Heritage Area
Design Review	☐ N/A ☒ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

On 19 August 2020 the City received an application to extend the term of planning approval for a six to seven storey Mixed use development approval at No. 1, 1a and 1b Beach Street, Fremantle by a further four years.

The approved development consisted of the following:

- 71 Multiple Dwellings in two buildings comprising;
 - 29 x 1-bedroom apartments;
 - 36 x 2-bedroom apartments; and
 - 6 x 3-bedroom apartments.
- Commercial tenancy – 107m² (multiple land uses proposed for flexibility- Office, Shop, Small Bar and Restaurant);
- Rooftop terrace and storerooms;
- Ground floor parking area (84 bays, in stackers) with storerooms and bicycle parking; and
- Awning over road reserve.

The proposal was previously considered and approved by the Metro South-West Joint Development Assessment Panel (JDAP) on 25 February 2016 (Attachment 2 refers).

The applicant has advised the City that the four year extension is required as the required contamination investigations and remediation of the property has taken considerable time to carry out and whilst obtaining these clearances, market conditions changed which affected the feasibility of the development. These factors have made it challenging to secure finance for the development and therefore the owner has been unable to commence construction up until now.

The previous approval expired a few weeks before the State Government introduced an automatic two-year extension period to planning approvals as part of its emergency COVID-19 planning response. However, this does not apply retrospectively to approvals which expired before the Government's emergency provisions were introduced.

Background:

No. 1, 1a and 1b Beach Street, Fremantle are located on the eastern side of Beach Street, Fremantle. The street block is bound by Beach Street to the West, Parry Street to the South, Queen Victoria Street to the East and James Street to the North. The site is located within sub area 2.3.1 (sub area 8) – Fremantle Local Planning Area of Local Planning Scheme No. 4. (LPS4) and is zoned Mixed Use, R-AC3.

The site is listed on the City's Heritage List however it is not located in a Heritage Area. The Heritage Listing refers to a previous building on the site which has now been demolished.

Planning history for the site is as follows:

- July 2013- DA0155/13 – Demolition of Office and Industrial General buildings and structures. An archival record was provided for historical purposes.
- October 2014- No. 1 Beach Street (Fremantle Foundry and Engineering Co) removed from Heritage List (LPS4) but remains on MHI for historic purposes.
- August 2015 - DA0285/15 – Site works and retaining walls (majority of fill to centre of site where there is an existing depression, creating a gradual slope between existing levels at the street boundary and rear of the site, with a range of 0m to 2.3m of fill).
- On 25 February 2016 the South West joint DAP granted approval for a six (6) storey development which included 71 Multiple Dwellings and a ground floor commercial tenancy at No. 1, 1a and 1b Beach Street, Fremantle.

Legislation and Policy:

Legislation

- Planning and Development Act 2005.
- Metropolitan Region Scheme (MRS).
- Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).
- City of Fremantle Local Planning Scheme No.4 (LPS4).

State Government Policies

- State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments (SPP7.3).
- State Planning Policy 7: Design of the Built Environment (SPP7).

Local Government Policies

- LPP1.1 - Amendment and Extension to the Term of Planning Approval

Consultation:

Public Consultation

The application was not required to be advertised in accordance with the provisions with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Council's Local Planning Policy *LPP1.3 - Public Notification of Planning Proposals* (LPP1.3).

Referrals/consultation with Government/Service Agencies

The original application was referred to for the following bodies:

- *Department of Water and Environmental Regulations (DWER)*
- *Fremantle Port Authority (FPA)*

All previous advice and comments remain valid and subject to appropriate conditions and advice notes included in the original recommendation.

Planning Assessment:

LPP1.1 – Amendment and Extension to the Term of Planning Approval

In accordance with Clause 77 of the Planning and Development (Local Planning Schemes) Regulations 2015, an applicant can apply to extend the term of approval for a development application.

Additionally, the City's Local Planning Policy 1.1 - Amendment and Extension to the Term of Planning Approval sets out requirements for consideration when reviewing an extension of time application. LPP1.3 states if an extension is to be granted, a period of up to a further two years may be granted. It is acknowledged that the proponent is seeking a 4 year extension but given the provisions of the City's LPP1.1, 2 years is only supported.

In considering this application LPP1.1 also states, that Council may have regard to the following factors;

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

With regards to sub cl (a), the only relevant legislation change is the adoption of SPP7.3. As stated above the original application was assessed under Part 6 of the former R-Codes. As part of the original assessment the following elements of the proposal

required discretionary assessment

- Building height,
- Onsite car parking (Total 49 bays – 11 residential visitor and 38 commercial),
- Bicycle parking (5 class 1 racks)
- Land use (Multiple dwelling, Restaurant, Small Bar and Shop),
- Vehicle Sightlines,
- Outdoor living area (Balcony sizes)

In relation to sub cl (b) none of the above discretionary assessment regarding the previous Part 6 R-Code assessment, would change due to the adoption of SPP7.3. The previous discretions relating to onsite car parking (previously granted 49 bays shortfall) has in fact reduced to 42 bays. Building height, land use and vehicle sightlines and outdoor living areas remain unchanged. However, SPP7.3 has introduced new guidelines for such residential development of which the original proposal didn't get assessed against.

For simplicity reasons these new elements are as follows:

<i>New Design guideline</i>	Acceptable outcomes	Assessment
Building Depth	20m max depth for single aspect apartments	Complies 11-12m depths proposed
Building Separation	12m (Within boundary)	Design Guidelines assessment 10.8m (Within boundary). The approved separation was the resulting amendment due to the City's Design Advisory Committee advice. The separation provided is considered to be proportionate to the built form on site and will provide for good residential amenity by allowing adequate natural ventilation, sunlight, visual and acoustic privacy separation.
Tree Canopy and Deep soil areas	10% (402m ²) of site Deep Soil Area	Design Guidelines assessment

	3 large trees	600m² area (380m² roof top and 220m² central corridor) 3 Large trees, 12 Medium and 13 small trees The site is somewhat limited with its inability to provide deep soil areas due to DWER advice. A Landscaping plan has been provided (See attachment 3) and is also a condition of planning approval. The newly submitted plan provided indicates the development provide above the Acceptable Outcomes in terms of the number of trees. DWER have placed restrictions on the ability to dig into site due to its historic contamination. A3.3.7 states that whereby deep planting areas cannot be provided, planting on structures with an area equivalent to two times the shortfall should be provided.
Solar and daylight access	70% of dwellings in development having 2hrs of direct sunlight to living rooms and private open space (balconies). Windows are designed and positioned to optimise daylight access for habitable rooms.	Complies 44 of the 69 dwellings comply with this requirement. All dwellings and living rooms.

Natural ventilation	60% of dwelling having cross ventilation	Complies 62% (43 dwellings) comply with this requirement
Size and layout of dwellings	Studio min 37m ² 1 Bed min 47m ² 2 bed min 67m ² 3 bed min 90m ²	Complies 40m ² 48m ² 72m ² 105m ²
Managing the impact of noise	Dwellings exceed the minimum requirements of the NCC.	To be conditioned. It is noted that condition 7 is still applicable as this condition merely relates to the close proximity of the site and Fremantle ports.
Universal Design	20% (14 units) of all dwellings meet Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia)	To be conditioned
Water Management and conservation	Dwelling to be individually metered for water use	To be conditioned
Waste management	Waste storage facilities are provided in accordance with the Better Practice considerations of the <i>WALGA Multiple Dwelling Waste Management Plan Guidelines</i> A Level 1 Waste Management Plan (Design Phase) is provided in accordance with the <i>WALGA Multiple Dwelling Waste Management Plan Guidelines</i> - Appendix 4A	Waste management plan a condition was imposed part of the previous determination. However, with the adoption of SPP7.3, the City's previous standard condition has been improved to address all SPP7.3 requirement. According the relevant condition is proposed to be amended.

Whilst acknowledging some new provisions have been introduced into the statutory assessment of the original application, these new elements themselves are not considered to warrant a complete reassessment of the application. Therefore an extension of term to the original approval could be entertained with the imposition of relevant new conditions and amended previous relevant conditions to address the SPP7.3 new guidelines.

Conclusion

The proposed extension to the previously approved Mixed-use development is considered supportable for the reasons outlined above, and in a COVID-19 recovery context, and the application is recommended for conditional approval.

Officer Recommendation

It is recommended that the South West Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/15/00889 as detailed on the DAP Form 2 dated 19 August 2020 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/15/00889 and accompanying plans (DA00, DA01, DA02, DA03, DA04, DA05, DA06, DA07, DA08, DA09, DA10, DA11, DA12, DA13, DA14, DA15, DA16, DA17, SK01-E, SK02-E) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4 of the City of Fremantle's Local Planning Scheme No. 4, for the proposed minor amendment to the approved to the approved Six - seven storey Mixed Use development (Multiple Dwellings and Commercial tenancy at No,1, 1A and 1B (Lots 1, 170 and 171) Beach Street, Fremantle, subject to the following conditions:

Amended Conditions

- 1 This approval relates only to the development as indicated on the approved plans. It does not relate to any other development on this lot and must substantially commence within 2 years from the date of the decision letter. If the subject development is not substantially commenced within a 2 year period, the approval shall lapse and be of no further effect.
14. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle

New Conditions

16. Prior to the issue of a building permit, details are to be submitted that demonstrate that each dwelling will be individually metered for water use to the satisfaction of the City of Fremantle.
17. Prior to the issue of a building permit for the works hereby approved, the owner/developer is to demonstrate that the Multiple dwelling building exceeds the minimum requirements of the National Construction Code, such as a rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating (or equivalent), to the satisfaction of the City of Fremantle.
18. Prior to the issue of a building permit, additional information shall be submitted outlining how 20% of the approved dwellings meet the Silver Level requirements as defined in the *Liveable Housing Design Guidelines (Liveable Housing Australia)* to the satisfaction of the City of Fremantle.

PC2010 - 9 INFORMATION REPORT – OCTOBER 2020

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Responsible Officer: Manager Development Approvals

Agenda attachments: 1: Schedule of applications determined under delegated authority

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

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

Responsible Officer: Manager Development Approvals

Agenda attachments: Nil

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

Nil

COMMITTEE DECISION ITEM PC2010 - 9
(Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Council receive the following information reports for October 2020:

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

Carried: 7/0

**Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Su Groome, Cr Rachel Pemberton, Cr Sam Wainwright**

10.3 Council decision

Nil

11. Motions of which previous notice has been given

Nil

12. Urgent business

Nil

13. Late items

Nil

14. Confidential business

Nil

15. Closure

The Presiding Member declared the meeting closed at 7.51.